

Sam Williams:

Does Deuteronomy 22:28–29 really say that a rapist must marry his victim? I personally don't think this is the case since **שָׁחַט** is not the word used to indicate rape, but many would argue that verse 28 depicts a rape. They would usually point to how Tamar begged her brother to marry her after she was raped, or how Shechem asked to marry Dinah after he raped her as basis that a rapist must marry his victim. I just wanted to know your thoughts on this.

Phil Payne:

I wish my father were still alive to answer your question. He was an expert on the Hebrew Bible. Every day he would give fresh translations directly from the Hebrew text as we read through the Bible in family devotions. I never recall him ever stumbling on the translation of any passage in the Hebrew or Greek Bible. He had a good grasp of all the Semitic Languages and Coptic as well. He taught Semitic languages at Princeton.

I think the first thing he would say is that statements about case law in the Old Testament deal with specific issues. It is always best to consider all analogous passages before assuming that any one statement gives the whole picture. Similarly, in the New Testament, not all passages about divorce list the exceptions given in Matthew 5 and 19 and 1 Corinthians 7:15-16. One should not assume that prohibitions of divorce imply that there are no exceptions just because one or more passages do not identify the exceptions. Similarly, when considering the meaning of “man of one woman” qualification in 1 Timothy 3 and Titus 1, those who (I think wrongly) interpret this as excluding anyone who has been married more than once should consider Paul’s statement in 1 Corinthians 7:39, “A woman is bound to her husband as long as he lives. But if her husband dies, she is free to marry anyone she wishes, but he must belong to the Lord.” Interpretation should not conflict with other statements by that author.

Similarly, in the Mosaic law, if one passage explains an exception, it is generally safe to assume that the exception would also apply in analogous cases. So, for instance, Exodus 22:16 [Hebrew Masoretic Text Exodus 22:15] also addresses a similar case, though here the verb describing the man’s action is **בָּהֲרָה**, which HALOT 3:985 explains in this passage to mean “to persuade someone, by offering a tempting allurements”: “When a man seduces a virgin who is not engaged to be married, and lies with her, he shall give the bride price for her and make her his wife.” The next verse (22:17 NRSV), however, states, “But if her father refuses to give her to him, he shall pay an amount equal to the bride-price for virgins.”

I believe it is a mistake to assume that the exception stated in Exodus 22:16 should not apply to Deuteronomy 22:28–29 as well. After all, if in the case of seduction by means of persuasion by offering a tempting allurements, the father has the right to prohibit the marriage, how much more ought it be assumed that a father has the right to prohibit a marriage if his daughter has been seized to engage in sex?

However ever one defines rape, I believe this answers your question, “Does Deuteronomy 22:28–29 really say that a rapist must marry his victim?” The answer is “no” because the father could prohibit it. Furthermore, if his daughter did not want to marry the man, presumably, the

father would not permit it. Note that Deuteronomy 22:29 adds a further disincentive to rape that is not stated in Exodus 22:16: “he cannot divorce her all his days.”

The immediately preceding passage, Deuteronomy 22:26–27 addresses the case of the rape of an engaged girl in a field: “But you shall do nothing to the girl; there is no sin in the girl worthy of death.” The assumption is stated in 22:27, “When he found her in the field, the engaged girl cried out, but there was no one to save her.” It may be that “and they are discovered” in Deuteronomy 22:28c implies that she did not cry out. If she was a consenting adult and convinced her father that he would be a good husband, presumably the father would permit the marriage.

The verb describing the man’s action in Deuteronomy 22:28 is תָּפַס, which HALOT 4:1179 records as meaning in this passage, “to lay hold of, seize.” I would not expect this verb if the intention were to restrict the meaning to consensual sex. This same verb, can, however, as in Ezekiel 14:5 be used metaphorically with the meaning “to capture their hearts” (HALOT 4:1780). Because of this and “and they are discovered” in 22:28c in contrast with “the engaged girl cried out, but there was no one to help her” in 22:27, I do not think one should assume that Deuteronomy 22:28–29 must refer only to rape and cannot also address cases of mutual consent, or at least cases when the woman did not cry out.

Sam Williams:

Thank you very much for your reply! Your father sounds like a very remarkable and intelligent man. I wish I could have had the chance to converse with him. May his soul rest in peace. I am sure we will meet him again soon, when the Lord returns.

Phil Payne:

Yes, my father was a very remarkable and intelligent man. He had a song for every occasion and extraordinarily broad interests. As an undergraduate at the University of California Berkeley, he was immersed in many activities: the Chess Club, Classics Club, Calvin Club, a cheerleader (I have his Cal golden bears cap with the scores against each football game from 1939–1942 written on it), student colonel of the ROTC, Phi Beta Kappa in his junior year, and graduated with the second highest GPA in his class 1/1000th of a point behind a brilliant Chinese student. He completed his Th.M. in Biblical Literature at Princeton Theological Seminary in 1948 and his Th.D. in Old Testament in 1949, submitting his dissertation in March of 1949 after just nine months in the Th.D. program. He did this while being a teaching fellow in Old Testament Hebrew at Princeton from 1947–1949, taking courses at Westminster Theological Seminary, and being a beloved father to my brother John, born in 1947, and me in 1948. You can read about his life in the book, *Bible Interpreters of the 20th Century* edited by Walter A. Elwell & J. D. Weaver (Grand Rapids: Baker, 1999) 344–55.

Sam Williams:

Pardon me for being slow in understanding, but I want to confirm some things. You think that Exodus 22:16 is meant to be read along with Deuteronomy 22:28–29.

Phil Payne:

It is not that I think that Exodus 22:16 is meant to be read along with Deuteronomy 22:28–29 in the sense that they were intended to go together, but that because they deal with such closely related issues and are both recorded as part of the Law of Moses, they should not be interpreted in ways that conflict with each other.

Sam Williams:

Also, you are saying that in Deuteronomy 22:28, the girl might actually be giving consent as she is not depicted to have cried out, implying that the man had managed to convince her to lay with him through seduction? Is this a correct understanding of what you said?

Phil Payne:

Unlike Exodus 22:16 [22:25 MT], where “seduced” occurs, Deuteronomy 22:28 says he “seized” her. I would not expect this if the intention were to restrict the meaning to consensual sex. Nevertheless, because the same Hebrew verb can be used metaphorically for “captured her heart” and because of the “and they are discovered” in contrast to “the engaged girl cried out, but there was no one to save her” in the previous verse, the context does not seem to me to rule out consensual sex, or at least the possibility that she did not cry out.

Sam Williams:

If so, is it possible that these verses might not even actually be talking about rape after all?

Phil Payne

I am no expert on the definition of “rape,” but Exodus 22:16 speaks of seduction in the sense of persuading by allurements. Whether that is rape depends on one's definition of rape. Deuteronomy 22:28 “he seized her” sounds more forceful than Exodus 22:16, but even here, as I explained, “and they are discovered” opens the possibility that she did not cry out. So at least Exodus 22:16, and possibly also Deuteronomy 22:28, appear to address more than just forceful rape.

Sam Williams:

You may post this dialogue with me! I would love it if others were also to learn about what I am learning from you right now. I consider myself truly blessed to be able to talk with you like this, Mr. Payne. I admire you and look up to you, and I cannot help but thank God for this opportunity to be able speak with you.