

Kidnap, kidnapping

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Kidnap, Kidnapping

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I. Hebrew Bible/Old Testament

Kidnapping is the forced taking away of a person without legal authority either to hold the person imprisoned for ransom or to sell the person into slavery. Kidnapping usually consists of two phases: false imprisonment expressed by *g-n-b* "to steal" and selling phrased by *m-k-r* "to sell." Kidnapping without selling could be expressed by *g-z-l* "to rob" (Gen 31:31; Judg 21:23).

The biblical prohibition of kidnapping (Exod 21:16) is part of the Covenant Code within laws concerning family values (Exod 21:15–17). Since children were often abducted, kidnapping is a capital offense to the parents. However, Exod 21:16 is all-inclusive and refers to the theft of a free Israelite citizen (*'is*) and not only of a family member. Since *'is* could be understood universally, TO and TP_s read "a soul from Israel's sons", it thus did not forbid kidnapping foreigners. The prohibition of kidnapping emphasizes the fact that God grants human liberty. "Stealing" a person requires the death penalty since people should not be treated as commodities as in the case of animal theft. If sold to a foreign country, the kidnapped person is irretrievably lost to his family. The text does not provide details on how capital punishment should be executed (i.e., hanging, stoning, sword) nor on the executor (i.e., blood relative, local resident, court, state). The second part of Exod 21:16 "and he sold him and he is found in his hand" is difficult to decipher due to the subjects and suffixes used. As in Deut 24:7 the kidnapper could be the subject of *m-š-* "find." Thus, the thief was "caught" *in flagrante delicto* since the victim was still "in his hand." The Vg. translates the second sentence as "convinced of guilt." The subject of the second sentence could also perhaps refer either to the payment ("it is found in his hand"), giving proof of the sale, or to

the purchaser, as the thief has already sold the kidnapped man ("he who has him in his hand"). In the second case not only the abductor but also the purchaser has to be killed. Similarly *Codex Hammurabi* § 6 punishes the thief and the purchaser of stolen goods from the temple or palace by the death penalty (cf. Roth). However, the subject apparently changes in the second sentence to the abducted person, although the suffix within the expression "in his hand" could refer to different people: the abducted person (the victim is still in his hand, i.e., property or land), the buyer (the victim has been sold which is the final evidence that kidnapping has taken place), or the abductor (the sold victim is still in the hand of the thief). This last interpretation is the most probable. Thus, the kidnapper is guilty even if the deal has not been finalized. Similarly, it is considered theft when the stolen animal is found in the hand of the thief (Exod 22:3). Involuntary imprisonment is already proof enough of someone's evil intention and this person has to be punished. Therefore, this law could be referring to two cases: kidnapping along with the sale and the continued detention of the person kidnapped (cf. *Codex Hammurabi* § 19). Thus, kidnapping has to be punished by death independently of the victim's fate.

The ambiguity of the text in Exod 21:16 is most probably the result of the supplementary addition of a short apodictic law: the death penalty should be carried out even if the victim has not been yet sold. Finally, Exod 21:16 could refer to one of two alternative cases: "whether he sells or retains him." The latter is dealt with at least in 1 Kgs 3:16–28 in which a harlot has abducted a child in order to raise it. However, King Solomon does not pronounce the death sentence as required for the woman who kidnapped the baby. According to rabbinic tradition, Exod 21:16 is also to be applied in the case of a woman being the kidnapper as well as a woman or child being the victim. The punishment should be in this case strangling (*MekhY* 3:44–46). The parallel Deuteronomic law with respect to kidnapping (Deut 24:7) added the formula for purging evil from the midst of Israel to the end the death penalty sentence because the treatment of a person like an object – expressed by *-m-r* (*hitpa'el*; "treat as a slave, deal with tyrannically") – is an offense according to Deuteronomy's ethic of brotherhood. The kidnapped person is called *nepeš* ("soul, living being") and therefore could refer to an Israelite or a non-Israelite who was taken "from his brethren, from the sons of Israel" because *min* must not necessarily be understood as a partitive in this case ("out of").

The prohibition of stealing in the Decalogue (Exod 20:15) also includes kidnapping, though this law should not be limited to kidnapping alone. Leviticus 19:13 also refers to kidnapping. *Codex Hammurabi* § 14 classifies kidnapping as a property

crime as well since it follows laws concerning theft and lost property. The punishment for kidnapping is either the death sentence (*Codex Hammurabi* § 14) or compensation (persons/money) depending on the status of the kidnapped person (cf. Hoffner; *Hittite Laws* § 19–24). According to Hittite law, the kidnapper's entire house is forfeited when a free person has been abducted (*Hittite Laws* § 19). Slaves were kidnapped as well, although a material compensation was most often required (*Hittite Laws* § 20–21).

A good biblical example of kidnapping can be found in the Joseph narrative. Joseph is first imprisoned in a cistern (Gen 37:24). Then, he is sold into slavery (Gen 37:28: *m-k-r*). Elsewhere it is stated that Joseph was stolen from the land of the Hebrews (Gen 40:15: *g-n-b*). In this case, Joseph's brothers prefer kidnapping to fratricide in order to get rid of their despised brother. Despite their crime, the brothers are tormented, but not killed. A positive example of kidnapping is told in the narrative on the stealing of Joash by Jehosheba to save him from danger (2 Kgs 11:2).

However, the legal sale of people within Israel is not forbidden in Exod 21:16 and was a common practice in Israel. Even free citizens could surrender their freedom due to their personal insolvency. Only the forced capture and sale as a slave of a free citizen was unacceptable since a citizen's freedom was sacrosanct. It is not surprising though that the slave trade with impoverished people (Amos 2:6) and the sale of Judeans by the Phoenician and Philistine city-states were severely criticized (Joel 4:4–8).

In contrast, deportation in time of war was a common practice in the ancient Near East. The HB/OT also alludes to this practice in the books of Judges and Kings: Canaanites raped women during their campaigns (Judg 5:30). Girls of marriageable age were kidnapped for the tribe of Benjamin (Judg 21). The Aramean army stole and enslaved a young girl from the land of Israel (2 Kgs 5:2). Jehoiachin was deported to Babylon most probably to put pressure on his relative Zedekiah (2 Kgs 24:15).

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