

Divorce and Remarriage in the Bible: The Social and Literary Context¹

Traditional Approach to Divorce and Remarriage²

- The early history of the church had consistently taught that divorce is allowed for adultery, but remarriage at all is forbidden (cf. Luke 16:18; Mark 10:1-12)
- Others in history said that remarriage is possible only after the death of the former spouse (Augustine)
- Catholic teaching is that marriage is a sacrament and indissoluble (cf. Eph 5:32- only death). This is why annulments came into use because it voided out the marriage as being non-existent. Thus, remarriage was allowed because it was not officially the 2nd marriage, but the first.
- Desertion by an unbeliever (1 Cor 7:15) did not allow for remarriage in Medieval Catholic teaching.
- The Reformation led to the most pervasive thinking in churches today that divorce is allowed for adultery and desertion, and remarriage is allowed only after a valid Biblical divorce (Erasmus).
- Luther argued that divorce could also occur if the husband or wife did not provide conjugal relations (1 Cor 7:4-5) or if a husband or wife was kidnapped and presumed dead (even without proof). However, divorce is not allowed if the person is mentally challenged and unable to perform their conjugal duty.
- Zwingli and others allowed divorce for other reasons than adultery. Calvin believed there were only two valid grounds, but for practical sake in governing Geneva he allowed impotence, extreme religious incompatibility, and abandonment.
- Thomas Cranmer, Archbishop of Canterbury, allowed divorce with remarriage for adultery, desertion, prolonged absence, mortal hatred, and cruelty.
- Modern conservative expositors such as John MacArthur teach that only hard-hearted adultery and desertion by an unbeliever are valid grounds for a divorce.³

Chapter 1 Summary of *Divorce and Remarriage in the Bible* by David Instone-Brewer

- Marriage in the Torah (“Pentateuch”- 1st five books of Bible) was a contract between two families and between two individuals. These contracts contained included financial arrangements and stipulations that could lead to divorce if the contract was broken. The penalty for breaking the marriage contract was divorce with the loss of dowry (Deut 24:1-4; Proverbs 2:17; Malachi 2:14)

Chapter 2

- The rights of women in the Torah were generally greater than the surrounding cultures. The Torah assumes that polygamy and divorce occur and interestingly neither is specifically criticized (see Deut 21:15-17). The Torah commanded that a woman received the divorce certificate so that she could be free to remarry (Deut 24:1-4).

Chapter 3

- The prophets Hosea, Jeremiah, Ezekiel and Isaiah present a picture of God who was married to Israel (Ezekiel 16), but later divorces Israel (Isaiah 50:1; Jer 3:8; Hosea 2:2) and separates from Judah (Isaiah 54:4-7).

Chapter 4

- The Intertestamental period (the time between the “Testaments”- roughly 400 B.C. and 20 A.D.) saw the development of greater instability in the marriage. Various rulings by Jews in the Land and outside of it (Egypt for example) provided greater protection for women if they were divorced. They were able to receive their dowries back after a divorce. The DSS spoke strongly against Polygamy and divorce.

Chapter 5

- During New Testament times (or times of rabbinic Judaism- 50 BC up to writing of Mishnah 200 A.D./Talmud 500 A.D.) only men could *enact* a divorce, but women were allowed to initiate one by persuading their husbands to act. This was primarily true in the Old Testament as well, although it wasn’t practiced much as women’s rights were less. It was during the NT times when most marriage contracts included stipulations and expectations of *BOTH* parties and if the marriage vows were broken this became the grounds for divorce.
- Divorce during 1st century B.C. was still frowned upon, but it was allowed in Judaism for a variety of reasons: impotence, sterility (Gen 1:28; 9:1), smelly husbands, deformed spouses, adultery, and the Biblical instructions found in Exodus 21:10-11: lack of providing food, clothing and marital rights.
 - ^{OKÉ} **Exodus 21:10** And if he take another to him, her food, her raiment, and her marriage due he shall not restrain.
 - ^{LXE} **Exodus 21:10** And if he take another to himself, he shall not deprive her of necessaries and her apparel, and her companionship *with him*.
 - ^{NET} **Exodus 21:10** If he takes another wife, he must not diminish the first one's food, her clothing, or her marital rights.
 - ^{NAU} **Exodus 21:10-11** "If he takes to himself another woman, he may not reduce her food, her clothing, or her conjugal rights. "If he will not do these three *things* for her, then she shall go out for nothing, without payment of money.
- The main issue for us to grasp is the 1st century understanding of divorce that is Biblically based. There were certain hermeneutical principles which were in use in the 1st century by the rabbis, but which originated earlier.⁴ Jesus and Paul both used these in their

¹ This is the title of a technical book by David Instone-Brewer. This study is based off his research as found in the book. For a pastoral-lay version of this book that is not as technical see his *Divorce And Remarriage in the Church: Biblical Solutions for Pastoral Realities*.

² Ibid. Chapter 9, “History of Divorce: Interpretations in Church History.”

³ MacArthur *New Testament Commentary: Matthew*; pp. 170-172.

interpretations of the OT. One of these is called *qol vahomer* (“light and heavy”). This is an argument from a minor point to a major point (or vice versa) and usually includes a phrase such as “how much more” (i.e. Deut 31:27; Matt 7:11; 12:10-12; Romans 11:12, 24; 1 Cor 6:3; Hebrews 9:13-14; 10:29). The point concerning the case law as found in Exodus 21:10 is that IF this is true for a SLAVE woman, then *how much more* for a free woman. If this is true for a free woman, *how much more* for a free man. Thus, it was understood in the 1st century that in addition to adultery, a violation of the Marriage vows concerning food, clothing, and other marital rights (including marital love) would be Biblical grounds for divorce. This law of divorce in the 1st century was applied in two categories: material neglect (food/clothing/etc.) and emotional neglect (marital/conjugal rights/cruelty/neglect).

Chapter 6

- In order to understand Jesus’ teaching on divorce and remarriage found in the NT (Matthew 19:1-12; Mark 10:1-12; Luke 16:18; Matt 5:31-32) it is important to understand the debate between two Rabbinic houses in the 1st century concerning marriage/divorce. The two different viewpoints came from the “house” of Hillel the Elder (110BC – 10AD) and the “house” of Shammai (50BC – 30AD).
- In the 1st century there arose a dispute between these two houses concerning the proper interpretation of Deuteronomy 24:1-4, but most specifically verse 1, “When a man takes a wife and marries her, and it happens that she finds no favor in his eyes because he has found some indecent *matter* in her.” The Hillelites believed that there were two grounds for divorce in this verse: 1) Indecency (a sexual sin such as adultery stemming from the word *indecent*); 2) a *matter* of anything. They believed this based on the TWO words in the passage and it resulted in them granting a divorce for “*any matter*” or “*any cause*”; this phrase and judicial ruling by Hillel became well known⁵ just as we are familiar today with “no fault divorce” or “irreconcilable differences”. The Shammaites only held to #1 but reversed the order of the words to “*matter* of indecency”. The Hillel ruling spread rapidly and it caused divorce to explode due to the opportunity now to divorce for “*any cause*.”
- Both houses and common Jewish understanding of the OT allowed for divorce and remarriage for adultery, violation of Ex 21:10-11, but had a disagreement for the “*any cause*” divorce of Deuteronomy 24:1. Since both houses of Rabbis accepted the judgments of the other, most people, due to human nature, went to the house of Hillel in order to get a “quick” and easy divorce. It seems that Joseph (husband of Mary) sought to do this as opposed to a full blown trial of Mary’s supposed adulterous pregnancy (Matt 1:19; see also Numbers 5:11-31 concerning the rite of “bitter water”).
- This debate between the houses continued to occur up until 70 AD, but Jesus was asked his opinion around 32 AD in Matthew 19:4. Before Jesus gave His position, He gave them a Biblical teaching on marriage from Genesis 1:27 and 2:24. He also ruled with the side of the Shammaites that “*any cause*” divorce was not allowed, but only for adultery as recorded in Matt. 5:32 (*logou porneia*- “*matter of indecency*”) and 19:9 (*porneia*- “*indecency*”).
- What do we learn from Matthew 19:1-12 from Jesus about marriage/divorce:
 - 1) Marriage is between a man and woman only... for life (quoting from Genesis 1:27; 2:24); similar to DSS Damascus Document 4:20-5:6.
 - 2) Marriage is honored and shouldn’t be dissolved because God is the one who joined them; divorce is not the ideal and is opposed to what God has joined.
 - 3) Marriage can end in divorce through adultery, but is not required. Forgiveness is laudable.
 - 4) “Any-cause” divorces are not valid and promotes adultery.
 - 5) Marriage can end in divorce only through heard-hearted unrepentance (Jer 4:4; Luke 17:3-4). Divorce harder.
 - 6) Marriage is not compulsory which eliminates infertility as grounds for divorce.
 - 7) Singleness is good and can be used for the kingdom of God.
 - 8) What is argued from silence is whether or not Jesus went along with the other undisputed grounds for divorce stemming from Exodus 21:10-11.
 - 9) Where else was Jesus silent on then-contemporary *Biblical* theology? Where did Jesus teach that God is holy (John 17:11)? Or eternal (8:58)? Or self-existent? Or immutable? Does Jesus disagree with Paul about desertion? Jesus did not give a full exposition on justification by faith alone (Gen 15:6), etc.

Chapter 7

- It is natural for us to ask whether Jesus gave the final and authoritative word on divorce as recorded in the gospels. Paul writes to the Corinthians (who were living in the Greco-Romans world) about divorce, but it is important to understand his words within the proper context and social situation of that time period.
- In the Greco-Roman world, men or women could actually finalize a divorce simply by “walking” out or having a “unilateral separation”. Today we have “no fault divorce”, but in these times, Roman law allowed for “divorce by separation” and would involve a spouse leaving the house or else being ordered to leave. There was no need to state any reasons and it was not able to be resisted from the victim. Long lasting marriages were uncommon as noted in a funeral inscription from around 10-20 BC which said, “Uncommon are marriages which last so long, brought to an end by death, not broken apart by divorce; for it was our happy lot that it should be prolonged to the 41st year without estrangement.”⁶

⁴ See *Techniques and Assumptions in Jewish Exegesis before 70 CE*, David Instone-Brewer, 1992; *Biblical Exegesis in the Apostolic Period*, Richard Longenecker, 1999.

⁵ This phrase or something very similar appears in Philo *Spec. Leg* 3.30 and Josephus *Ant* 4:253.

⁶ *Divorce and Remarriage in the Bible*, p. 191, n. 3.

- 1 Corinthians 7:1-40 provide the only other major exposition on marriage. He seems to be introducing a new section due to the *peri de* (“but concerning”) as found in 7:25; 8:1; 12:1; 16:1, 12. The context is Paul the Jewish apostle writing to a church that is primarily Gentiles (Greeks living under Roman rule). The passage in 1 Corinthians 7:1-9 speak about the emotional (by extension physical) responsibilities within the marriage. Additionally, 1 Cor 7:32-35 speak about the material necessities of marriage and all that it entails even in the context of difficult or stressful times. Paul was not anti-sex (cf. verse 1), but cautioned against marriage during the “present distress” (7:26).
- The passage in 1 Corinthians 7:10-12 is a summary of the Gospel accounts containing Jesus’ teaching on divorce and remarriage. Paul does not provide any background material but affirms Jesus’ teaching that divorce is to be avoided and if it does occur a man or woman need to be reconciled. What is not stated is the elucidation of “valid” reasons for divorce. It is simply stated in general terms with an abrupt end.
- Paul continues in 7:13-16 to give his exposition on matters relating to divorce and remarriage that the “Lord” did not specifically address in the *written* records (see 7:25). This is not an issue with Paul disagreeing with Jesus or that Paul had less authority to speak on the matter. He is simply reminding the Corinthians that he is speaking this information without the benefit of having any written records of Jesus’ opinion on the matter, but he also affirms that he does have the Spirit of God and is considered trustworthy to provide an authoritative judgment (cf. 7:25, 40). The main issue in this section is whether a Christian believer had the freedom to use the “no fault separation” of Roman law in order to divorce. Paul is teaching that they do not have this right, but must stay dedicated to the marriage. However, what if a non-believer sought to use this law against the believer, are they to stay single and “wait” for reconciliation? The answer is no, they are not bound in such cases because there was no way to guarantee any future “salvation” of the spouse and a subsequent change of heart which would bring them back to the marriage. Paul, for practical reasons, most likely based on the marital expectations of Exodus 21:10-11 allows them to be free and also to remarry.
- 1 Cor 7:26-31 give practical wisdom about whether someone should be married in times of great distress. Paul continues in verses 36-40 to give further admonitions about the wisdom of staying single, but participating in marriage is not sinful (v.36). Additionally, under normal circumstances death brings a dissolution of the marriage and all widow(er)s are allowed to remarry any person they wish, but only another believer (v.39). This also is a repudiation of the law of the levirate as found in Deut 25:5-10 which again affirms the Law of Moses is no longer in force (Hebrews 7:12, 18; 8:13; 2 Cor 3:7, 11).

Chapter 8

- Jewish marriage contracts and Christian marriage services both contain vows or promises made by the couple to each other. When examining Jewish marriage contracts from early centuries BC through modern times, there is conclusive evidence that these vows were based on the three marital obligations of Exodus 21:10-11. Primarily, the basis for divorce was a violation of these marital vows or promises in “contract” form.
- Greco-Roman marriage contracts contain similar vows, but they are more concerned with financial penalties and other arrangements that will take place after a divorce than with the grounds for divorce. Interestingly, the vow of sexual faithfulness was missing from almost all ancient contracts, both Jewish and non-Jewish. Yet it is important to remember that adultery was grounds for divorce in all ancient cultures. When a contract was entered into, it most likely was assumed that the contract was evidence of the vow of faithfulness.
- Karaite Judaism (7th century AD) affirmed marriage contracts that included a threefold reference to Exodus 21:10-11.
- Samaritan Judaism (8th century BC) also affirmed Exodus 21:10-11 in their marriage contracts.
- Most Christian vows are modeled in some form after ideas found in Ephesians 5:25-32 which in turn seem clearly modeled after “feed, clothe, and love” of Exodus 21:10-11. Husbands are commanded to love, nourish (“feed”) and cherish (“clothe” or “warm”) as in Deut 22:6 LXX) their wives as found in 5:28-29.

Chapter 9

- The summary of this chapter was brought to the front of this study for the purpose of setting the stage of the modern challenges in understanding Biblical Divorce. See **Traditional Approach to Divorce and Remarriage** above which provides a brief history of how divorce and remarriage was handled in church history.

Chapter 10

- Understanding the challenges and far reaching ramifications of a consistent teaching on divorce that honors the text, but also which is compassionate to the victims of difficult marriages, this chapter demonstrates the ways in which modern Bible scholars have tried to find valid reasons for divorce that are not explicit in the Scriptures. These attempts should be appreciated for their desire to approach the issue with compassion, but the hang up has been that most of them either include hermeneutical gymnastics or just outright dismissing of the Biblical text in order to grant divorce to those who might desperately need it. These approaches are not necessary, says Instone-Brewer, because the Biblical Text does provide a greater range of valid grounds for divorce based on a consistent interpretation of Exodus 21:10-11 as opposed to traditional interpretations.

Chapter 11

- Unfortunately, it has become common in some streams of the modern church that Divorce is considered in practical terms, the unpardonable sin. Biblically, we know this is not the case, and so there needs to be made avenues where a divorced individual who is not able to reconcile with their previous spouse, has the opportunity to be forgiven and be allowed to remarry. The church needs to move beyond its traditional approach to understanding divorce and remarriage and to fully integrate the comprehensive application of the grounds for divorce and remarriage as found in the whole of Scripture.