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Marriage, Divorce, and Remarriage: Old Testament Foundations and New Testament Implications

By Richard M. Davidson

The Divine Design for Marriage

According to the Edenic model for marriage, a man and woman are to “be joined” (Heb. *dabaq*) to one another in a permanent marital relationship (Gen 2:24).¹ This “joining” involves a lasting covenant bond between husband and wife, implied not only by the covenant term *dabaq* but by the “covenant oath” made by Adam concerning Eve with God as witness (Gen 2:23-24).²

Outside the Garden, the divine design is upheld throughout Scripture. Marriage is set forth as a permanent covenant bond between husband and wife, solemnized with a covenant oath (*verba solemnia*) between spouses witnessed by God Himself as well as humans.³ The permanence implied in the covenantal nature of marriage is the assumed pattern in the illustrations of lives of married couples throughout the OT.⁴ There is a call to covenant faithfulness on the part of both husband and wife.⁵

Divorce as a Distortion of the Divine Mandate for Permanence

The Edenic divine mandate for permanence in marriage was distorted by the practice of divorce. The OT passages related to the issue of divorce include at least six different Hebrew expressions occurring altogether 27 times,⁶ plus several references to remarriage.⁷ Despite the numerous occurrences of Hebrew terms referring to divorce in the OT, the surprising fact is that the OT contains no legislation in which divorce is prescribed! Divorce is tolerated, conceded, permitted, but never commanded, commended, or approved by divine legislation.

In this study we will look primarily at the passages dealing with divorce/remarriage in the Pentateuchal narratives and legal material, followed by a survey of divorce/remarriage passages elsewhere in the OT, and a cursory treatment of implications for interpreting relevant NT passages.

Divorce/Remarriage in the Pentateuch

Patriarchal “Divorce”: Genesis 21:9-14

In the book of Genesis we find one example of what some have labeled “divorce”: Abraham and Hagar. But the narrator’s clues makes plain that, while from Abraham’s perspective he had divorced— “driven out” [*garash*] and “sent away” [*shalakh*]—Hagar, in God’s eyes there had never been a valid marriage, and so there was really no divorce, only the dissolving of an illegitimate relationship.⁸

Patriarchal Remarriage: Genesis 25:1

Abraham is a prime example of an OT figure who remarried after the death of his first wife. Such seems to have been a normal practice in biblical times, in harmony with the divine will.

Divorce and Remarriage in Deuteronomy 24:1-4

This passage is of crucial importance in understanding the divine instruction with regard to divorce (in both the OT and NT), and I have published a detailed exegesis of this passage elsewhere.⁹ I here summarize the main results of that study.

1. Deut 24:1-3 gives the *description of conditions* (protasis) in this case law; only v. 4 contains the actual *legislation* (apodosis), forbidding the woman’s former husband to take her back to be his wife under the circumstances described in vv. 1-3. Thus God is in no wise legislating or even sanctioning divorce in this passage.

2. Deut 24:1 describes (not legislates) the concrete grounds for the divorce in this case— *’erwat dabar* (literally, “nakedness of a thing”), which I conclude refers to some type of serious, shameful, and disgraceful conduct of indecent exposure on the part of the wife, probably associated with sexual activity, but less than actual illicit sexual intercourse (which would have received the death penalty, Lev 20:10; Deut 22:22).¹⁰

3. In v. 4, an exceedingly rare Hebrew grammatical form (Hothpael, or passive reflexive/causative of *tame’* “defile”) provides an internal indicator that divorce does not meet with divine approval. When the husband divorces his wife the law explains that “she has been caused [by the first husband] to defile herself [i.e., commit what is tantamount to adultery]” when she is forced to marry again (for financial support in a patriarchal society), although the remarriage is not punished as adultery because the blame is placed upon the first husband and not upon the wife. Thus the breakage of the marriage bond on grounds less than illicit sexual intercourse is shown to be out of harmony with the divine will.

4. The legislation of Deut 24:4 is linked by crucial terminology and concepts to the permanent and universal legislation of Leviticus 18, which was valid for the non-Israelite as well as the Israelite, and therefore should be considered of contemporary relevance in its application today.

5. The overall purpose of the legislation in Deut 24:1-4 is indicated by its placement within Deuteronomy 12-26 (which amplifies the Decalogue, moving in order through each of the Ten Commandments);¹¹ it is not placed within the section amplifying the seventh commandment, as one might expect, but within the section dealing with theft! The ultimate goal of this legislation is thus to protect women from being robbed of their personhood, their dignity and self-respect—to prevent men from treating women as chattel, mere property to be swapped back and forth at will.¹²

6. In its tolerance of, but self-expressed disapproval of, inequalities afforded women due to the hardness of men’s hearts (Matt 19:8), this law points back to the Edenic ideal of permanence in marriage, and forward to the day when such inequalities will be resolved by a return to the Edenic pattern for marriage. Such a day is announced by Jesus in His teaching on divorce, as we will see below.

Other Pentateuchal References to Divorce

Leviticus 21 describes two special prohibitions against priests marrying divorced women: v. 7 prohibits the common priest, and v. 14 prohibits the high priest (cf. Ezek 44:22). Similarly, pastors and elders are held to a higher standard in the NT writings.¹³

Two Pentateuchal passages speak to the issue of divorced women’s rights. According to Lev 22:12-13, if a priest’s daughter is divorced and has no children she may return to her pre-marital status in her father’s house. Here is clearly a provision to care for the divorced woman if she has no other means of support. Num 30:9 upholds the right of a divorced woman to be accountable for herself in legal affairs, in contrast to a married woman, who is under the legal protection of her father or husband (see vv. 3-8).¹⁴

Two Deuteronomic passages prohibit divorce under certain circumstances. According to Deut 22:13-19, if a husband slanders his wife by claiming that she had concealed from him that she was not a virgin when he married her, and these charges are proven false by producing the “evidences of her virginity” (i.e., the blood-spotted bedclothes or garments of the wedding night), then the husband is fined, and “she shall be his wife: he cannot divorce [*shalakh*] her all his days” (Deut 22:19). Thus the newly-married bride was protected from the whims and slander of her husband, a protection not afforded elsewhere in the ancient Near East.

According to Deut 22:28-29, when a man was caught seducing an unbetrothed/unmarried virgin, he was required to marry her (if the woman and her father approved; cf. Exod 22:16-17 [HB 15-16]) and was not allowed to divorce her. This law served not only to discourage pre-marital sex but also to protect the woman and provide for her social and financial security in a patriarchal society.

Divorce/Remarriage in the Prophets and Writings

Former Prophets: Abandonment and Divorce

Two passages in the Former Prophets deal with a situation of abandonment (Judg 14:20; 15:2; 1 Sam 25:44). Although some have deduced from these two narratives that the practice of divorce on the grounds of abandonment was unrestrictedly allowed by God in OT times, the relationships in question were actually terminated by “unbelievers”—the uncircumcised Philistines and the reprobate King Saul respectively. This OT background material may have influenced Paul in his discussion of abandonment by an unbeliever (1 Cor 7:15; see below).

Pre-Exilic Latter Prophets: Divorce on the Metaphorical Level

Several passages in the pre-exilic Prophets refer or allude to (threatened or actual) “divorce” (i.e., exile) on the metaphorical level of God and His people, because of their spiritual harlotry (unfaithfulness to Yahweh their Husband): Hos 2:2 (HB 4) Isa 50:1; and Jer 3:1-8.¹⁵ The prophetic passages of Hosea 2-3 and Jeremiah 3 seem to imply the husband’s right of pardon toward an adulterous wife.¹⁶ God Himself points the way in this direction by seeking reconciliation with His wayward wife Israel (Hos 2:14-23 [HB 16-25]).

Post-Exilic Passages: Pagan Liaisons

The specific terminology used by the scribe Ezra for both “marriage” and “divorce” in Ezra 9-10 is different than elsewhere in the OT, and seems to indicate that the cohabitation of leading Jewish men with pagan women (upon the Jews’ return from exile) was not considered as legitimate, valid marriages, and thus the “putting away” of the wives was not an actual divorce procedure, but the dissolution of invalid relationships.¹⁷

In Mal 2:10-16 we have the flip side of the problem encountered in Ezra 9-10. Malachi encounters a number of cases in which a Jewish man has dealt treacherously with his Jewish covenant partner wife of his youth by divorcing her (v. 14) in order to enter into marriage with a pagan woman (v. 11). This situation clearly involves a divorce (*shalakh*, v. 16), and not a dissolution of an illegitimate marriage with pagan wives (as in Ezra 9-10).

In this context comes the most forceful statement in the whole OT indicating God’s attitude toward divorce (v. 16): “I [Yahweh] hate divorce!” As with Deut 24:1-4, the legality of divorce is not denied, but such practice is presented as morally repugnant to God.

The intertextual linkage with Gen 2:24 by use of the term “one” [Heb *ekhad*] in Mal 2:10, 15¹⁸ implies that the Sovereign Lord is here calling for a return to the divine ideal in Eden!

Implications for Relevant New Testament Passages

1. Jesus and Paul reaffirm the divine design for marriage found in Gen 2:24 (Matt 19:5-9; 1 Cor 6:16; and Eph 5:31).

2. The permanency of the marriage bond is emphasized in the NT as well as the OT. Jesus allows for its dissolution only in the case of *porneia* on the part of the spouse (Matt 5:31-32; 19:3, 8, 9). A striking intertextual parallel between Leviticus 17-18 and Acts 15:29 provides a decisive clue as to what was included in Jesus’ reference to *porneia* in the “exception clause”¹⁹ of Matthew: the various forms of illicit sexual intercourse set forth in Leviticus 18 are summarized in Acts 15:29 by the term *porneia*.²⁰ Thus the meaning of *porneia* in Matthew 5 and 19 also probably refers to any form of illicit extramarital sexual intercourse.²¹

3. The grounds for divorce in Deut 24:1 lie behind Jesus’ discussion with the Pharisees in Matthew 19. The School of Shammai interpreted *erwat dabar* “the nakedness of a thing” to mean indecent exposure as well as adultery and other illicit sexual intercourse (since these by the time of Shammai often no longer incurred the death penalty), and the School of Hillel interpreted the grounds to be any indecency even as trivial as a wife’s spoiling the husband’s food. Jesus’ exception clause is stricter than both Shammai and Hillel, including only *porneia* (illicit sexual intercourse) as legitimate grounds for divorce.

Jesus' grounds for divorce was the equivalent of those practices which in the Old Testament called for the death penalty (Lev 18 and 20). Therefore it may be stated that Jesus' exception clause in Matthew does not contradict the lack of such a clause in the other Synoptic Gospels. Mark 10:11–12 and Luke 16:18 do not have the exception clause, presumably because such an exception was assumed (via the death penalty which *de facto* dissolved the marriage) in Old Testament law. Matthew has the exception clause to preserve the meaning of Jesus' words in a setting where the death penalty for *porneia* was no longer in effect (the death penalty for adultery was abolished about AD 30, according to the Babylonian Talmud, *b.Sanh.* 41a).²²

4. The correct translation of Deut 24:4 (“she *has been caused to defile herself*”) lies behind Jesus' words in Matt 5:32: “whoever divorces his wife for any reason except *porneia* [illicit sexual intercourse] *causes her to commit adultery* [presumably when she remarries]. . . .” In pointing the Pharisees away from the divine “concession” in Deut 24:1–3 to God's ideal “from the beginning” (Matt 19:8), implied in Deut 24:4, Jesus was not shifting arbitrarily from the Deuteronomic law to the Edenic ideal, but pointing to the divine design already implicit in Deuteronomy 24.

5. Following OT precedent (Gen 25:1), Paul points out that the death of one's spouse brings about the *de facto* dissolution of a marriage and in such a case it is appropriate for the surviving spouse to remarry (Rom 7:1-3; 1 Cor 7:39).²³

6. Also possibly following an OT precedent (Judg 14:20; 15:2; 1 Sam 25:44), Paul describes a specific situation not addressed by Jesus' command: abandonment/desertion of a believer by his/her unbelieving spouse (1 Cor 7:15). Note that in this chapter Paul traces the authority of what he says to (a) the Lord's command (vv. 10-11; cf. 9:14), based on Matt 19:3-9/Mark 10:2-12, so that what he writes must not be construed in such a way as to contradict or contravene what Jesus says; and (b) his own commands as an apostle (vv. 12-17), called forth by a situation not within the purview of Jesus' command. Notwithstanding the stormy scholarly dispute over this passage, in which conclusions are heavily influenced by the writers' own denominational perspectives, the state of abandonment is clearly defined by Paul as a situation in which a believer and an unbeliever are yoked together in marriage (unimaginable in Jesus' Jewish, *mutandis mutatis* “pre-Christian” context) and the unbelieving spouse chooses to separate (*chōrizetai*, cf. Matt 19:6) from his/her marriage partner. This abandonment appears in contrast to the more amiable condition of vv. 12-13 in which the unbelieving spouse “is willing to live with” (*suneudokei oikein*) his/her mate and so the believing marriage partner is commanded by Paul not to divorce the unbelieving spouse (the formulation is specifically repeated for both husband and wife to underscore the equality of both marital prerogatives and responsibilities, irrespective of gender). Abandonment of the *believing* spouse *by the unbelieving* partner is the condition here. It is not contemplated as operating in reverse—thus the positive encouragement at the end of v. 15 that “God has called us to peace” as well as the mention of other benefits for remaining together in vv. 14, 16 which sandwich it.

7. Paul's statement that “a brother or sister is not in bondage [*dedoulotai*] in such cases” (7:15) means that, in the case of abandonment, he/she is discharged from all marital responsibilities to the unbelieving spouse.²⁴ The special dynamics that may affect the marriage relationship when only one spouse becomes a believer should also be kept in mind together with some prayerful self-examination by the believer who is called to remain in such circumstances:

Some unbelievers feel threatened by the conversion of a spouse to Christ, as they now live with someone whose ultimate loyalties and commitment is beyond their understanding, and not all recover from the experience. . . . The unbelieving spouse of a Christian ought to find in them a model of self-sacrificing love that is even more committed to the health of the marriage and to blessing their spouse than ever before, such that only a radical prejudice could explain their unwillingness to continue in the marriage.²⁵

Conclusion

The Bible speaks univocally, in both the Old Testament and the New Testament, about the permanence of the marriage relationship as long as both partners are alive. God is passionate that the one-flesh union of marriage not be torn apart by divorce unless the marriage covenant has already been ruptured by illicit sexual intercourse or the special circumstances in which an unbeliever abandons his/her believing spouse against the believer's will. Even in cases where one spouse has been unfaithful, God offers (and Himself demonstrates with His spouse Israel) the possibility for divine grace bringing reconciliation and restoration of the marriage covenant.

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