

## **DIVORCE**

Matthew 5:32, 1 Corinthians 7:15, Malachi 2:16

By Raymond White

On the subject of divorce, the Bible is all over the place. The rabbis, particularly Hillel and Shammai who lived just a few decades before Jesus, debated considerably about the meaning of the law's permission to divorce.

But in addition to that Jewish tension (when is divorce allowed?), there is the Christian tension of Jesus' overly harsh insistence (if he indeed meant what he seems to have said) that any divorced woman — even an innocently divorced woman; that is, a woman who was abandoned by her husband — who remarries, is guilty of adultery, and so is her new husband. That seems unreasonable to any fair minded person.

Is it really true that infidelity is the only permitted reason for divorce? What about abandonment? What about wife beating? What if the husband murders their child as in Homer's Iliad when Agamemnon sacrificed his daughter Iphigenia? Is Jesus really saying that none of those situations is sufficient grounds for divorce, only infidelity and nothing else? Some may say, well, divorce may be allowed, but not remarriage. That's a petty distinction. Divorce always implies the right to remarry, that's what divorce is.

It is time to take on this awkward subject of divorce and particularly how Jesus deals with it. Let's start in the Torah then work our way through the Bible.

### **[1] DIVORCE AND THE LAW**

*Deuteronomy 21:14* *If thou have no delight in her, then thou shalt let her go whither she will.*

*Deuteronomy 24:1* *When a man hath taken a wife, and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house.*

The point of these verses is not to give men permission to divorce their wives, that's assumed as a given, but to protect divorced wives. When a man divorces his wife, he must give her a bill of divorcement which proves that she is legally free; that is, free to remarry. In other words, her ex-husband cannot come back to reclaim her — when he divorced her he relinquished all rights to her. Her bill of divorcement is her protection.

But the complication is: for what cause? Just what is 'uncleanness'? And that is what the rabbis debated and what Jesus weighted in on. Whatever uncleanness means, it means something. This was not no-fault divorce like what we have today. A Jewish man needed to have a reason, perhaps a poor reason but some reason anyway, to divorce his wife. And what that reason was, that's where Hillel and Shammai differed.

Hillel taught that uncleanness meant anything. She burned the bagels, she wore her hair wrong, whatever she did that annoyed her husband was sufficient grounds for him to divorce her.

Shemmai taught that uncleanness meant infidelity only. But that leads us to a next question which is: what exactly was infidelity? Neither Moses nor Jesus used the specific word “adultery” in the context of divorce. If adultery was meant, they certainly would have used that word. And besides, adultery could not have been meant because the penalty for adultery was death, not divorce. So infidelity, or Moses’ “uncleanness,” or Jesus’ “fornication” has to mean something broader — not quite burning the bagels, but something more than adultery.

Shemmai probably found his meaning in —

*Exodus 21:10 If he take him another wife; her food, her raiment, and her duty of marriage, shall he not diminish. :11 And if he do not these three unto her, then shall she go out free without money*

What this text is saying is that a man’s marriage vows bind him to three things: support (food and clothing), sexual attention, and sexual faithfulness. Fidelity then is all of that and not just sexual faithfulness alone. If he deprives her of any of these things for whatever reason, his deprived wife may opt out of the marriage by divorce. That gives infidelity (or Moses’ “uncleanness” or Jesus’ “fornication”) a broader meaning. Not just unfaithful sexually but unfaithful to his marriage vows generally.

## [2] DIVORCE NOT ALLOWED

The right to divorce is underscored by the fact that under certain circumstances, divorce was *not* allowed.

One example: If a groom accused his bride of not being a virgin and it turns out that she was indeed a virgin until their wedding night, then he may never divorce her.

*Deuteronomy 22:19 ... he may not put her away all his days.*

Another example: If a man seduces an unattached (not married, not engaged) girl, he not only is required to marry her, but he may never divorce her.

*Deuteronomy 22:28 If a man find a damsel that is a virgin, which is not betrothed, and lay hold on her, and lie with her :29 the man ... shall give unto the damsel’s father fifty shekels of silver, and she shall be his wife; because he hath humbled her, he may not put her away all his days.*

That the law details these special situations where divorce is not permitted proves that other than these situations divorce *is* permitted.

## [3] DIVORCE REQUIRED

I said above that on the subject of divorce, the Bible was all over the place. And it is. There was one time in fact when Jewish leaders thought that God demanded divorce.

When the Jews returned from the Diaspora, it seemed to Ezra the priest that a mass divorce was the only way to please God, if they were ever to have a functioning temple priesthood again.

*Ezra 10:3* Now therefore let us make a covenant with our God to put away all the [non-Jewish] wives and such as are born to them...and let it be done according to the law. :4 be of good courage and do it.

When Jewish pioneers finally began returning to Israel following the Diaspora, they wanted to rebuild their temple and reinstitute their priesthood. They had plenty of priests who could prove their lineage, but many of them had married foreign wives and the feeling was that because of their mixed marriages, these priests were polluted and therefore not suitable to perform the duties of a priest. In order to become suitable, they felt that they should divorce their foreign wives and abandon their children by these wives. The high priest Ezra oversaw the process and listed the name of the priests.

I find this story troubling for a number of reasons.

*First:* Did Ezra — who was not a prophet and did not claim to be — really have any prophetic right or direction from God to initiate such a mass divorce?

*Second:* Did this mass divorce please God? Was it really *according to the law*?

*Third:* Was there really no other way for these priests to get right with God? I don't know that this mass divorce was their only choice. Why did they not accept converts? Rahab and Ruth were both foreign born and they were allowed to convert to Judaism. Rahab was even a prostitute. So, what was Ezra's problem? Why did Ezra not give these foreign born wives a chance to become Jewish?

After Ezra's long list of divorces, he concludes with this.

*Ezra 10:44* All these had taken strange wives: and some of them had wives by whom they had children.

That there were children from these mixed marriages who are now abandoned by their fathers makes Ezra's mass divorce all that much more harsh.

#### [4] GOD HATES DIVORCE

Hindsight is of course 20/20, and it's hard to imagine the pressure on these returning Jews to get it right. But Ezra's mass divorce somehow feels wrong, particularly since Ezra might have had another option: Why not allow those wives to convert?

A century later, Malachi, their final prophet, made an astonishing declaration. He said simply: *God hates divorce!* No one had ever said that before.

*Malachi 2:13* And this have ye done again, covering the altar of the Lord with tears, with weeping, and with crying out, insomuch that he regardeth not the offering any more, or receiveth it with good will at your hand. :14 Yet ye say, *Wherefore? Because the Lord hath been witness between thee and thy wife of thy youth, against whom thou hast dealt treacherously: yet is she thy companion, and the wife of thy covenant.* :15 And did not he make one? Yet had he the residue of

*the spirit. And wherefore one? That he might seek a godly seed. Therefore take heed to your spirit, and let none deal treacherously against the wife of his youth. :16 For the Lord, the God of Israel, saith that he hateth putting away: for one covereth violence with his garment...*

What would prompt Malachi to write such a thing? Malachi was likely influenced by Ezra's mass divorce. Malachi knew his Jewish history well and I can see him reading that episode of Ezra and shaking his head at the "treachery" committed against the wives and children of these priests a century before.

I don't think Ezra acted rightly. The Bible doesn't say that any prophet concurred with Ezra's action and there were two contemporary prophets, Zechariah and Haggai, and neither of them had anything to say about the matter. I think all these women, and children, should have been allowed to become Jewish converts. But that's just me.

### [5] JESUS ON DIVORCE: THE HARSH INTERPRETATION

Now it's time to consider Jesus and try to understand his comments on the subject of divorce. He certainly agreed with Malachi. When he was asked about divorce, he gave a very conservative, ultra conservative answer. We needn't think that Jesus fumbled his words, because he said what he said twice.

First, at his Sermon on the Mount —

***Matthew 5:31** It hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement: :32 But I say unto you, That whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery: and whosoever shall marry her that is divorced committeth adultery.*

And second, answering a question posed to him by the Pharisees —

***Matthew 19:3** The Pharisees also came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause? :4 And he answered and said unto them, Have ye not read, that he which made them at the beginning made them male and female, :5 And said, For this cause shall a man leave his mother and father, and shall cleave to his wife: and they twain shall be one flesh. :6 Wherefore they were no more twain but one flesh. What therefore God hath joined together, led not man put asunder. :7 They say unto him, Why did Moses then command to give a writing of divorcement, and to put her away? :8 He saith unto them, Moses because of the hardness of your hearts suffered you to put away your wives: but from the beginning it was not so. :9 And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery; and whoso marrieth her which is put away doth commit adultery. :10 His disciples say unto him, If the case of the man be so with his wife, it is not good to marry.*

Jesus *seems* to be saying that a woman who is divorced for any reason other than her husband's infidelity has no legal right to divorce and remarry. She can be abandoned or brutalized or worse; it makes no difference, the law forbids her to divorce and remarry.

That sure seems unfair, and it jolted even his disciples who concluded: Well, if you can't get divorced, then isn't it better to just not get married?

And that leads us directly to this question: Is that really what Jesus meant?

I suppose Jesus could have meant that for the reason that he is so quick to forgive. For example he had no condemnation for the woman at the well for shacking up (**John 4:18**) nor the woman taken in adultery (**John 8:10-11**). So if you're going to be accused of adultery, you might hope that your accuser is someone who easily forgives adultery.

There is another reason why that harsh interpretation might be reasonable, and that is because Jesus held that righteousness bar high, *really* high.

**Matthew 5:27** *Ye have heard that it was said by them of old time, Thou shalt not commit adultery; :28 But I say unto you, That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart.*

**Matthew 5:48** *Be ye therefore perfect, even as your Father which is in heaven is perfect.*

In his demand for perfection, he taught that even a lustful thought of a woman was adulterous. We might argue that committing adultery in one's heart is certainly a different thing than committing adultery with one's penis, but Jesus' moral connection between wanting to do evil and actually doing it finds its legal footing in the tenth commandment:

**Exodus 20:17** *Thou shalt not covet thy neighbor's ... wife ...*

Well, if a mere thought of a woman is adulterous, it is not a long reach to see that even an *innocent* divorce and *innocent* remarriage are somehow adulterous. With *so* high a standard, it's easy to see why atonement was unavoidable — that very high standard makes every person a sinner who needs grace. That, of course, is Paul's point —

**Romans 3:23** *For all have sinned, and come short of the glory of God;*

To be sure, any divorce is a failure, but does that make any divorce adulterous? I hope not. Let's see if we can wiggle out of that harsh interpretation.

## [6] JESUS ON DIVORCE: THE KINDER INTERPRETATION

There is, I believe, a compelling reason to believe that Jesus did not mean that at all, that he did not say and did not mean that if an innocent divorced woman remarries, she is guilty of adultery. Can I prove it? I think I can. Here is my reasoning:

The question that the Pharisees posed to Jesus brought him squarely into the middle of the on-going debate about divorce: Hillel versus Shammai. They were asking

Jesus a Hillel question: *Is it lawful for a man to put away his wife for every cause?* Hillel would answer, yes! Shammai would answer, no! And Jesus was answering, no!

Jesus had a Shammai view and rooted his argument in Eden. He reminded them that at the beginning, in Eden, husband and wife were “one flesh.” Therefore since marriages are God’s handiwork, they ought not to be separated by divorce.

Ezra, on the other hand, had a Hillel view. Or, since Hillel wasn’t born yet, Hillel had an Ezra view. Ezra’s priests divorced their wives for no reason other than they were foreign born. He could have applied Jesus’ “one flesh” argument but choose not to. Ezra was careful to defend his decision by saying, “...and let it be done according to the law.” In other words, Ezra was interpreting the law as Hillel later did.

Let’s note that Jesus said, *Moses because of the hardness of your hearts suffered you to put away your wives.* That sort of chides Ezra. In other words, Ezra did have a legal right (under his interpretation) to have his mass divorce, but it took a hard heart to do it, especially to abandon all those children.

Jesus is saying that divorce is not trivial — that when a man divorces his wife, he must have more than just a reason (Hillel), but a *good* reason (Shammai), a reason that qualifies as fornication (Jesus’ word) or uncleanness (Moses’ word).

The issue focuses down to just this question: What did Jesus mean by fornication? Certainly not adultery because adultery was punishable by death (although it had softened by Jesus time — e.g.: Joseph would have put Mary away privately.) Here is what the Jews and Shammai and Jesus understood the law to mean: Divorce was permitted when the marriage vows were broken. And what marriages vows are at issue? Let’s review —

***Exodus 21:10*** *If he take him another wife; her food, her raiment, and her duty of marriage, shall he not diminish. :11* *And if he do not these three unto her, then shall she go out free without money.*

So when Jesus said, *except it be for fornication*, he meant except if her husband breaks his marriage vows; that is, if he will not support her and will not love her — and that necessarily includes if he abandons her, cheats on her, beats her, or threatens to kill her — then he is guilty of fornication and she has a right to divorce him *and* marry someone else.

For clarification, let’s make a list. Jesus allowed for divorce and remarriage for “fornication.” But what exactly does that mean? There are three possibilities:

1. Any reason at all, even trivial reasons (Hillel).
2. Only serious reasons. Infidelity certainly but also lack of support and lack of sexual attention (Shammi), and certainly that includes abandonment or violence.
3. Only sexual infidelity, so that an abandoned wife who remarries is an adulteress.

I believe that the correct answer is number 2.

I put you through all this because the words of Jesus *sound* like he is asserting number 3. Imagine a woman abandoned, divorced by her husband for no good reason so that she is innocent of any wrong doing. Yet if she remarries, then *she* is guilty of adultery.

That is unreasonable. My purpose has been to escape that absurd conclusion and I have done that. In the context of Mosaic law (specifically *Exodus 21:10-11*), and the thinking and debate of the times, Jesus could only have meant number 2: if a husband breaks his marriage vows, *any* of his marriages vows, then he is guilty of infidelity (he is unfaithful in the broad sense) and she is therefore allowed to divorce and remarry.

#### [7] WHY I AM RIGHT

There are two reasons this interpretation must be correct. The first reason is —

*Matthew 5:17* Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfill.

Had Jesus so radically altered the law to mean divorce was prohibited even if the woman's life was in peril, that certainly would have been "destroying the law" when the law so clearly says the opposite (*Exodus 21:10-11*).

The second reason is —

#### [8] PAUL'S OPINION

My interpretation must be correct because that is how Paul interpreted it.

*1 Corinthians 7:15* But if the unbelieving depart, let him depart. A brother or a sister is not under bondage in such cases: but God hath called us to peace.

If Jesus had really meant that an innocently divorced person, man or woman, cannot remarry without adultery, then Paul's "not under bondage" is impossible. Being not allowed to remarry would certainly be a very serious "bondage" indeed. "Not under bondage" has to mean "free to remarry." If "not under bondage" does not mean "free to remarry," then it means nothing at all. What other "bondage" could Paul have in mind?

#### [9] CONCLUSION

In Matthew 5 and in Matthew 19 Jesus interpreted the divorce laws of Exodus and Deuteronomy to mean that if someone divorced for a frivolous reason (meaning not covered by *Exodus 21:10-11*) then remarriage was adulterous. But if someone was innocently forced out of a marriage (adultery, lack of support, lack of sexual attention, violence, abandonment, etc.) then divorce was allowed and so was a remarriage. That is the message of the Bible, I do believe.