

## “IS IT LAWFUL FOR A MAN TO DIVORCE HIS WIFE?”

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This question that the Pharisees addressed to Jesus (Mark 10:2) is still a troubling one today. If evangelicals identified the “law of the land” with the “law of God” in this matter, the question would be easy to answer. Divorce would then be lawful for all kinds of reasons. But if for the evangelical the Bible is the only infallible rule of faith and practice, then there is a higher authority than the “law of the land” to which he can and must turn for guidance.

In seeking to understand how the Bible answers this particular question it will be helpful to divide our investigation into three specific stages. The first stage is to seek to ascertain the *ipsissima verba*, the actual words, of Jesus.<sup>1</sup> Using the more technical terminology of form criticism and redaction criticism, one seeks at this stage to investigate the first *Sitz im Leben* of the gospel materials.<sup>2</sup> After arriving at what Jesus actually said, one can then seek to understand how the evangelists interpreted the words of Jesus for their congregations.<sup>3</sup> In so doing one finds that he possesses not only an authoritative saying of Jesus but also an authoritative interpretation of that saying by the evangelists. Since the evangelical has as one of his presuppositions that the evangelists were inspired and led by God in their interpretation of Jesus' words (note here John 14:26 and 16:12-14) he finds himself doubly fortunate, for he has both the authoritative word of Jesus and often an inspired commentary by the evangelists on those words. There is still a third step which should follow, however, and that involves the task of applying that teaching to one's own particular situation in the twentieth century.

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<sup>1</sup>If at times it may not be possible to ascertain the *ipsissima verba* of Jesus, it would appear in the majority of instances that we can still arrive at the *ipsissima vox*, the actual voice, of Jesus. The present writer agrees with J. Jeremias, *New Testament Theology* (trans. J. Bowden; New York: Scribner's, 1971) 37, who states: “In the synoptic tradition it is the inauthenticity, and not the authenticity, of the sayings of Jesus that must be demonstrated.”

<sup>2</sup>For a discussion of the various *Sitze im Leben* of the gospel materials see R. H. Stein, “What is Redaktionsgeschichte?”, *JBL* 88 (1969) 45-56; N. Perrin, *What Is Redaction Criticism?* (Philadelphia: Fortress, 1969).

<sup>3</sup>One could also seek to investigate how the early Church interpreted the sayings of Jesus—that is, the second *Sitz im Leben*. This area of investigation, however, has been omitted for two reasons: (1) Whereas the present writer attributes divine authority to both the words of Jesus and the writings of the evangelists, it seems unwise to attribute that same authority to the interpretation of the gospel materials during the oral period; and (2) whereas we possess the writings and as a result the final interpretation of the evangelists and thus can compare their actual words with the presumed words of Jesus, in seeking to investigate the second *Sitz im Leben* one must deal with the presumed words of Jesus as well as the presumed interpretation of the early Church. This is much more difficult because we are comparing two hypothetical reconstructions with each other rather than one such reconstruction with a given (the final interpretation of the evangelists).

Unless this is done the first two steps are little more than a fruitless exercise in historical study.

The purpose of this article, then, is to understand how Jesus actually answered the question on divorce, to see how the evangelists and the apostle Paul interpreted Jesus' answer, and to see if some conclusions can be drawn as to how we should apply this to our own situation today.

### I. JESUS' TEACHING ON DIVORCE AS FOUND IN MARK 10:2-12 AND MATTHEW 19:3-12

Although there are some scholars who have sought to argue that these two passages are two independent accounts and even two separate incidents, it appears quite clear that they refer to the same incident and that in fact one (Mark) was the source for the other (Matthew).<sup>4</sup> There are a number of reasons for concluding that both passages refer to the same incident. Some of these are:

1. Both accounts have the same geographical setting: the region of Judea beyond Jordan (Mark 10:1; Matt 19:1).
2. Both accounts have the same audience: the Pharisees (Mark 10:2; Matt 19:3).
3. In both accounts the question asked Jesus is essentially the same: "Is it lawful for a man to divorce his wife (for any cause)?" (Mark 10:2; Matt 19:3).
4. The OT quotations are the same: Deut 24:1 (Mark 10:4; Matt 19:7); Gen 1:27 (Mark 10:6; Matt 19:4); Gen 2:24 (Mark 10:7-8; Matt 19:5).
5. The reply of the Pharisees is the same: They refer to Deut 24:1 (Mark 10:4; Matt 19:7).
6. Jesus' explanation is the same: Moses allowed this because of the hardness of man's heart (Mark 10:5; Matt 19:8).
7. Both accounts are followed by the same incident: Jesus blesses the children (Mark 10:13-16; Matt 19:13-15).

As a result, it seems clear that although Jesus may have discussed this issue on several occasions it is most doubtful that Matthew and Mark can be referring to two separate incidents because of the great similarities involved. It is possible, however, that while Matthew and Mark refer to the same incident one of them (Matthew) may have inserted into the account a saying of Jesus that was uttered at a different time or that one (Mark) may have omitted a saying that was uttered at that time.<sup>5</sup>

It also appears from Matthew that the question addressed to Jesus was asked

<sup>4</sup>For the view that the accounts in Matthew and Mark are literarily independent and that the Matthean version is actually more authentic see D. L. Dungan, *The Sayings of Jesus in the Churches of Paul* (Philadelphia: Fortress, 1971) 122-125.

<sup>5</sup>This latter solution, however, does not solve anything but in fact raises a number of even more difficult problems for the evangelical. It is much easier to understand how Matthew could clarify a general overstatement made by Jesus. We have a number of examples of this elsewhere in the gospels (see n. 7 *infra*). On the other hand a Markan-Lukan-Pauline omission of the exception clause would no longer be a clarification of Jesus' overstatement but a removal of Jesus' one provision for divorce by Mark, Luke and Paul, and whereas the former is a clarification of Jesus' intention, the latter appears more like a rejection of at least part of what Jesus intended in his teachings.

in a framework of the rabbinic debates on divorce.<sup>6</sup> These debates centered around Deut 24:1-4 and the question of what the words "some indecency in her" signified. We have a record of this debate in the rabbinic materials (*Git.* 9:10; *b. Git.* 90a), where we read:

The School of Shammai say: A man may not divorce his wife unless he has found unchastity in her, for it is written, Because he has found in her indecency in anything [Deut. xxiv. 1a]. And the School of Hillel say: (He may divorce her) even if she spoiled a dish for him, for it is written, Because he has found indecency in anything. R. Akiba says: Even if he found another fairer than she, for it is written, And it shall be if she find no favour in his eyes. . . .

It is apparent from the above that the passage in Deut 24:1-4, which originally was meant to protect the wife and give her certain safeguards (possession of divorce papers, right to remarry, prevention of the former husband from interfering in a subsequent marriage, and so on), was viewed from the perspective of how one could divorce his wife. As a result the major concern of the debate seemed to involve defining what constituted "an indecency." It would appear therefore that Jesus, in answering this question, was doing so in a context of "easy divorce." It would not be surprising, then, if Jesus would emphasize one aspect of this issue in reaction to the attitude of his opponents. That Jesus uses "overstatement" and "hyperbole" in his teaching is evident from what we find elsewhere in the gospels.<sup>7</sup> At this point we cannot say that Jesus was in fact overstating in his reply to the Pharisees in Mark 10:11-12, but that this is a possibility should be acknowledged at this point.

In seeking to arrive at the exact words of Jesus the issue is clear. Did Jesus give an instance in which he considered divorce legitimate—that is, did he utter the "exception clause" as we find it in Matt 19:9, or did he not utter such a clause as Mark 10:11 suggests? The most accepted conclusion among scholars today is that Mark more accurately reflects the *ipsissima verba* or actual words of Jesus. There are several reasons for coming to this conclusion. The first is that if Matthew did in fact use Mark, then preference should be given to the earliest gospel.<sup>8</sup> Generally the later gospel writers are led by the Spirit to interpret what the earlier writer has written in his gospel, especially in cases when this may be somewhat misunderstood (cf. Mark 3:10 with Luke 6:19; Mark 10:18 with Matt 19:17). In this instance it is clear that the reading in Mark is much "harder" than the

<sup>6</sup>For the view that the *Sitz im Leben* of this question was an alleged Essene prohibition of divorce in contrast to the Pharisees' permitting of divorce for "any cause" see J. A. Fitzmyer, "The Matthean Divorce Texts and Some New Palestinian Evidence," *TS* 37 (1976) 213-223.

<sup>7</sup>See Matt 5:29-30, 38-42; 6:2-4; 7:3-5; 10:34; Luke 14:26; and so forth.

<sup>8</sup>Since the publication of W. R. Farmer's *The Synoptic Problem* (New York: Macmillan, 1964), a number of important works have come on the scene to challenge the still-prevailing view of the priority of Mark. Two of the more recent works that argue against Markan priority are T. R. W. Longstaff, *Evidence of Conflation in Mark? A Study in the Synoptic Problem* (Missoula: Scholars Press, 1977), and J. R. Rist, *On the Independence of Matthew and Mark* (SNTSMS; Cambridge: University Press, 1978). Although the criticisms of Farmer and others have pointed out some of the weaknesses of the theory of Markan priority and demonstrated that it is just that—a theory, not an established fact—it appears to this writer that the theory of Markan priority is the best (or least worst!) explanation of the synoptic problem.

reading in Matthew. It is far more likely therefore that Matthew would have sought to explain what Jesus meant by adding the "exception clause" than that Mark would have made the saying more difficult by omitting it.<sup>9</sup> Furthermore, the reaction of both the opponents of Jesus as well as his disciples is one of great surprise and doubt over the wisdom of marrying at all if divorce is prohibited. Even in the Matthean account the reaction of the disciples seems best understood in the light of a total prohibition against divorce (see Matt 19:10-12). Such a reaction would be surprising if Jesus had uttered the "exception clause" since this was essentially the position of the school of Shammai.<sup>10</sup> (It should be noted that the account in Matthew goes further than the school of Shammai, however, by relativizing Deut 24:1 as being given "due to the hardness of men's hearts.")

This conclusion is reinforced by another consideration. We have another parallel saying to the one in Mark 10:11-12 and Matt 19:9, which is found in Luke 16:18 and Matt 5:31-32. Most scholars believe that this saying comes from the Q material, the common source that both Matthew and Luke used in writing their gospels.<sup>11</sup> Here again we find the same situation that we have in the Mark-Matthew parallel. In Luke we have the simple statement that "every one who divorces his wife and marries another commits adultery. . . ." In the Matthean parallel, however, we once again find the "exception clause." Again it is difficult to see why Luke would have eliminated such a clause from the saying and made it "harder," but it is not difficult to see why Matthew would have sought to interpret this saying for his readers.

Another text that must be considered in our discussion is 1 Cor 7:10-11. Here Paul quotes from the oral traditions of Jesus concerning the subject of divorce. It should be noted that Paul quotes as an *agraphon* of Jesus "that the wife should not separate from her husband . . . and that the husband should not divorce his wife." In this quotation no "exception clause" is present. It would appear therefore that in the form that it was known to the apostle Paul the word of Jesus concerning divorce had no "exception clause."

<sup>9</sup>R. Farmer, *Synoptic*, 255-257, has sought to argue that Matthew's account is more primitive than Mark because Mark 10:12 must be secondary since it was not possible for a wife to divorce her husband under Jewish law. What is more important to note, however, is that it is much more difficult to explain the omission of the exception clause by Mark (and by Luke in the Q parallel) than its addition by Matthew. Furthermore, there is a natural *Sitz im Leben* in the life of Jesus for Mark 10:12 regardless of whether it was contrary to Jewish law. Was not Jesus' "cousin," John the Baptist, executed for protesting just such a divorce (cf. Mark 6:18)? Therefore it should not be thought strange for Jesus to make a statement such as we find in Mark 10:12, since (1) the ruler of his province, Herod Antipas, had married just such a person; (2) this marriage was a scandal not only in Galilee but also in Rome; and (3) the forerunner of Jesus had lost his life because he had said something quite similar to what Jesus was saying.

<sup>10</sup>See D. R. Catchpole, "The Synoptic Divorce Material as a Traditio-Historical Problem," *BJRL* 57 (1974) 93-95, 99-102. Note especially p. 99, where Catchpole argues that the Matthean account is awkward and somewhat incoherent in that vv 4-8 and 10-12 seem to presume an absolute prohibition of divorce. Catchpole also points out on p. 102 that the divergences and distinctive features of the Matthean account are all typical of Matthew's theological and literary interests. Concerning the latter he lists the following: (1) the "Question-Answer-Objection-Counterquestion-Conclusion" form; (2) the extension of the OT quotation; (3) the introductory formula *ouk anegnôte* in v 4 is typically Matthean (cf. Matt 12:3, 5; 21:16, 42; 22:31); and (4) "the wish to soften the impact of a collision with Moses is thoroughly understandable in someone so concerned with the eternal validity of the law." See also J. A. Fitzmyer, "Matthean," 208.

<sup>11</sup>See R. Bultmann, *The History of the Synoptic Tradition* (trans. J. Marsh; New York: Harper, 1968) 132; R. P. Martin, *New Testament Foundations* (Grand Rapids: Eerdmans, 1975), 1. 151; R. A. Edwards, *A Concordance to Q* (Missoula: Scholars Press, 1975), "Source Passages."

## II. THE INTERPRETATION OF JESUS' TEACHING ON DIVORCE BY THE EVANGELIST MATTHEW

In light of the discussion above, it would appear that when Jesus spoke on the subject of divorce he did not mention any exception clause but said something like this: "Whoever divorces his wife and marries another commits adultery against her; and if she divorces her husband and marries another, she commits adultery."<sup>12</sup> The context in which Jesus uttered this was one in which a man could divorce his wife for such causes as her burning his supper, his finding a prettier wife, and so forth. It would appear therefore that Jesus here, as he does in numerous other instances, exaggerates or overstates his point in order to reveal how contrary the whole concept of divorce is to the divine purpose. That Jesus' words are an overstatement is revealed by two considerations: 1. Matthew twice gives an exception ("except for adultery"); and 2. Paul gives an exception ("if the unbelieving partner desires to separate" [1 Cor 7:12-16]). Both Matthew and Paul, therefore, interpret Jesus' words as an overstatement by giving exceptions.

There are several ways in which we can look at these "exceptions." On the one hand we can say that Matthew and Paul have corrupted the original teaching of Jesus and are therefore betraying the original intention of Jesus.<sup>13</sup> For evangelicals this is a rather difficult option. On the other hand, the evangelical can say that Jesus in his saying on divorce did not teach a legalistic law that would cover every hypothetical situation that might come up. After all, Jesus was not a legalist. On the contrary, Jesus sought primarily to establish certain principles that would reveal the will of God to his listeners. He did this at times through the use of metaphors, similes, puns and proverbs, as well as through overstatement and hyperbole.<sup>14</sup> Jesus in his teaching sought to reveal that divorce is contrary to God's intention.<sup>15</sup> Marriage is for Jesus "until death do you part." Yet Matthew, led by the Spirit, teaches us that there is at least one instance in which divorce is permissible. In the case of adultery (whatever that means is not important for our discussion) divorce is permissible. It is not mandatory, but it is permissible. In his adding of the "exception clause" Matthew has therefore done us a great and most useful service. Led by the Spirit, he reveals to us that when Jesus uttered these words he was not seeking in one sentence to lay down a law to cover every situation. On the contrary he was giving us a general principle rather than the

<sup>12</sup>R. Banks, *Jesus and the Law in the Synoptic Tradition* (SNTSMS; Cambridge: University Press, 1975) 153, concludes: "Certainly the uniformity of the tradition in Mark 10.11; Luke 16.18 and 1 Cor. 7.10 makes it virtually inescapable that an addition [the exception clause] to the original words of Jesus is present here."

<sup>13</sup>So W. D. Davies, *The Setting of the Sermon on the Mount* (Cambridge: University Press, 1964) 388; G. Strecker, *Der Weg der Gerechtigkeit* (Göttingen: Vandenhoeck & Ruprecht, 1962) 132; E. Schweizer, *Neotestamentica* (Zürich: Zwingli Verlag, 1963) 405.

<sup>14</sup>For a discussion of the various forms used by Jesus in his teaching see R. H. Stein, *The Method and Message of Jesus' Teachings* (Philadelphia: Westminster, 1978) 7-33.

<sup>15</sup>In our discussion we ought not to lose sight of the Christology revealed in Jesus' handling of the question of divorce. R. Banks, *Jesus*, 150-151, points out that in his handling of the question "we are once again therefore, both through this method of argument and the conclusion drawn from it, brought face to face with the christological issue."

"letter of the law." Is Matthew's interpretation a corruption of Jesus' teaching or a clarification of it? Our decision on this will depend on our view of the authority of Matthew and the purpose of the gospels. In my understanding Matthew's interpretative comment is every bit as authoritative and binding on the believer as our Lord's teaching, for Matthew could also in one sense say, "The Spirit of the Lord is upon me."<sup>16</sup>

We must go even further, however, for the apostle Paul, who also believes that he possesses the Spirit (1 Cor 7:40), states that there is still another situation in which divorce is permissible. This is in the case of an unbelieving spouse deserting his/her partner (7:15). One cannot be dogmatic and claim that the believer "no longer being bound" (7:15) implies the right to remarry, but it would be equally wrong to be dogmatic and say that it excludes the right to remarry.<sup>17</sup> Nevertheless it would appear from this passage that Paul, like Matthew, did not believe that Jesus' words were meant to be an absolute law to cover all situations.

### III. THE APPLICATION OF THE BIBLICAL TEACHING TO OUR OWN SITUATION

We mentioned at the beginning that the study of the sayings of Jesus involves a three-step process. The first was to discover the actual words of Jesus. This we have done and discovered that when Jesus forbade divorce he did not state any exceptions. The second step was to see how the evangelists interpreted the sayings of Jesus. This we have also done and noted that both Matthew and Paul understood Jesus' words to be an overstatement which revealed a principle but was not meant to be understood as a legal maxim to cover every situation. Instead they list two instances in which divorce is permissible even if not mandatory: adultery, and desertion by an unbelieving spouse. Now we must seek to apply this Biblical teaching to our own situation and time.

"Is it lawful for a man to divorce his wife (and vice versa)?" To answer that it is in two specific instances would be to err in at least two respects. It would be to err first of all in that we have now made Matthew's and Paul's statements legal maxims to cover every hypothetical situation. Yet neither Matthew nor Paul was seeking to give specific laws to cover all possibilities that might arise. On the contrary they, like their Lord, sought to give certain principles that would be guides for the Church. It may be that there are other situations in which divorce would be permissible even though not mandatory.

A far more serious error, however, is in the fact that the very question tends to be a wrong one. The emphasis of Jesus is not on the "exceptions" in which divorce is permissible. Rather, he seeks to emphasize the permanence of marriage. The divine intention is a marriage "until death us do part." A divorce, any divorce, reveals a failure of the divine purpose of marriage. Divorce, for whatever the cause, witnesses to a failure somewhere of what God originally ordained for his creation. The ideal is a lifelong, monogamous marriage that resembles the

<sup>16</sup>For a similar view see S. S. Smalley, "Redaction Criticism," in *New Testament Interpretation* (ed. I. H. Marshall; Grand Rapids: Eerdmans, 1977) 190.

<sup>17</sup>See D. L. Dungan, *Sayings*, 95-99, for a helpful discussion of the problems involved in interpreting this verse.

love affair of Christ and his Church (Eph 5:22-33). To contemplate divorce and in what instances a divorce may be legitimate is to think very differently from the way in which Jesus thought. For Paul it is inconceivable that two Christians truly seeking to please God would seek divorce, for there is no reason why they could not achieve a successful marriage. He can conceive of an unbeliever's leaving his wife or her husband (1 Cor 7:15), but he must not be able to conceive of this in a setting in which both partners are Christian because he does not mention that possibility. It is clear that for Christians to contemplate divorce is to be on different wave lengths than Jesus. Whether there is a possible situation beside the ones mentioned by Matthew and Paul in which this is permissible I cannot say, but certainly the overwhelming burden of proof is on the believer who would seek such a divorce.<sup>18</sup>

Yet divorce does happen among Christians. What should the Church do in this regard? The present writer would pray that the Church would never forget that our God delights in forgiveness. A divorce signifies the failure of the divine purpose in the life of the couple. But what Christian could be so blind as not to see the failure of the divine purpose in his own life time and time again? We live by grace and in the light of the divine forgiveness, and daily we pray, "Forgive us our debts, as we forgive our debtors." The Church need not minimize the failure that divorce signifies, but it needs to assure both divorced sinners and nondivorced sinners that God delights in forgiveness and that God forgets. Then it must seek to help in every way possible to make any subsequent marriage an example of the divine ideal.

<sup>18</sup>J. A. Fitzmyer, "Matthean," 224, makes an interesting suggestion from a Catholic perspective: "If Matthew under inspiration could have been moved to add an exceptive phrase to the saying of Jesus about divorce that he found in an absolute form in either his Marcan source or in 'Q,' or if Paul likewise under inspiration could introduce into his writing an exception on his own authority, then why cannot the Spirit-guided institutional Church of a later generation make a similar exception?" Evangelicals would, of course, have great difficulty attributing such infallible authority to an institutional Church but, on the other hand, guided by the inspired commentary of Jesus' words found in both Matthew and 1 Corinthians, should we not seek to understand if the intent of Jesus, Matthew and Paul allows for other exceptions?