

MARK'S JESUS ON DIVORCE: MARK 10:1-12 RECONSIDERED

Robert W. Herron, Jr.*

The existence of several pieces of material in the NT dealing with the question of divorce is strong testimony that it was a profound concern of the Church. The synoptic gospels record Jesus' teaching about divorce in isolated sayings (Matt 5:31-32; Luke 16:18) and as controversy dialogues (Matt 19:1-9; Mark 10:1-12). Probably the earliest Christian statement on divorce to be written down is Paul's record and interpretation of the Lord's words in 1 Cor 7:10-16. The exact relation of each passage to the others is debated. In general the disagreement concerns which traditions provide the best means of access to the mind of Jesus. The task of this paper will be to critically analyze one tradition, Mark 10:1-12—not with the purpose of making a theological determination about divorce, but to offer some tentative conclusions regarding its historical accuracy and to detect possible theological concerns of the evangelist revealed in the presentation of the text.

The narrative itself can be divided into two sections, the kernel being the pronouncement story on the question of divorce in 10:2-9 to which is appended a dominical saying in 10:11-12. This division is legitimate inasmuch as scholars have long recognized a period of oral transmission preceding the writing of the gospels. There is no reason to assume that the units have no intrinsic connection, although Paul apparently drew on the same tradition that preserved Mark's dominical saying without any compulsion to include the pronouncement story. This at least provides a natural division for examining the text.

I. INTEGRITY OF PRONOUNCEMENT STORY: MARK 10:2-9

1. *Divorce in Judaism.* Divorce was an accepted facet of life during the first century. A Jewish man, for example, could put away his wife by providing her with a legal notice of divorce in accordance with the provisions of Deut 24:1. The debate during Jesus' lifetime focused on the acceptable grounds for divorce. Differences of opinion on this issue are preserved in extant Jewish sources:

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. 24:1a). 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. . . .¹

*Robert Herron is a doctoral candidate in religious studies at Rice University in Houston, Texas.

¹*M. Git.* 9:10; *b. Git.* 90a (y. *Soṭa* 1.1.16b; *Num. Rab.* 9:30), cited in D. R. Catchpole, "The Synoptic Divorce Material As a Traditio-Historical Problem," *BJRL* 57 (1974) 93. See also I. Abrahams, "Jewish Divorce in the First Century," *Studies in Pharisaism and the Gospels* (New York: Ktav, 1967) 66-78; M. R. Lehman, "Gen. 2:24 as the Basis for Divorce in Halakhah and New Testament," *ZAW* 72 (1960) 263-267.

Properly interpreted, Deut 24:1-4 cannot be construed as initiating or sanctioning the practice of divorce. It takes account of the practice of divorce and its attendant evils. It is intended to mitigate those evils on two fronts: (1) by placing obstacles and penalties before the husband contemplating divorce; (2) by affording some protection of the woman's rights during and after such a process.²

But these concerns had been upstaged by the first century. The permissibility of divorce was assumed, and the subsequent debate was over what constituted "something indecent" (Deut 24:1). As the primary source indicates, the Shammaite view was that this expression referred to infidelity while the Hillelite view regarded the intention to include not only moral faults but practically anything the husband found annoying or embarrassing. Because the historicity of this debate is so well established, the integrity of Mark's account of the controversy dialogue has been called into question. As R. H. Charles states the case:

The question put by the Pharisees to our Lord, as it appears in Mark, is likewise unhistorical. Mark represents the Pharisees as asking: "Is it lawful for a man to put away his wife?" Mark has generalised the question in order to appeal to a larger world than Judaism. He has omitted the technical phrase "for every cause," the full force of which was unintelligible outside Judaism. But thereby he has removed it from its historical setting and robbed it of its local colouring. . . . Here Matthew unquestionably preserves the question in its original form: "Is it lawful for a man to put away his wife for every cause?" This was the question, the burning question, of the day.³

In a similar vein Dungan writes: "Mark's version of the question is inconceivable in a Palestinian Pharisaic milieu. . . . If we simply transpose the whole story in Mark into the setting of the early Hellenistic church, everything immediately fits perfectly."⁴ Farmer concludes: "It could only be with the greatest difficulty that one could explain satisfactorily the history of the Synoptic tradition on divorce by a redactional process in which Mark is placed first."⁵

It is a common assumption that the Matthean and Markan passages are indeed related in some way. And while the hypothesis of Markan priority is not without its champions (especially concerning the tradition in question),⁶ establishing the dependence of Matthew on Mark is a more ambitious task than the scope of this paper can accommodate. There are also special problems relevant to

²R. C. Campbell, "Teachings of the Old Testament Concerning Divorce," *Foundations* 6 (April 1963) 174-178.

³R. H. Charles, *The Teaching of the New Testament on Divorce* (London: Williams and Norgate, 1921) 29-31. See also J. Schmid, *The Regensburg New Testament: The Gospel According to Mark* (Staten Island, NY: Alba, 1968) 184-185; E. Schweizer, *The Good News According to Mark* (Richmond: John Knox, 1970) 202; Lehman, "Gen. 2:24" 266.

⁴D. L. Dungan, *The Sayings of Jesus in the Churches of Paul* (Oxford: University Press, 1971) 11-12.

⁵W. R. Farmer, *The Synoptic Problem* (Dillsboro, NC: Western North Carolina Press, 1976) 257.

⁶C. E. B. Cranfield, *The Gospel According to Saint Mark* (Cambridge: University Press, 1963) 318; M. Grant, *Jesus: An Historian's Review of the Gospels* (New York: Scribner's, 1977) 85; G. Bornkamm, *Jesus of Nazareth* (New York: Harper, 1975) 99; Catchpole, "Synoptic" 101 ff.

the "exception clause" that cannot be dealt with here.⁷ But a reconsideration of the Markan pericope seems justified in light of data gleaned from several fields of study. Evidence available suggests that Mark's account reflects remarkable historical veracity. It can be demonstrated that Mark's version of the question is not inconceivable in a Palestinian milieu and even that the Pharisees possessed ulterior motives for putting such a "test question" to Jesus.

2. *Divorce in Mark.* (a) Palestinian Milieu: A Special Consideration. The objection raised against Mark's account is that the omission of the "exception clause" makes it inconceivable in Palestinian setting given the consensus of opinion on the permissibility of divorce. "The debate here certainly derives from the Church," says Bultmann. "The awkwardness of the construction shows its artificiality."⁸ But this objection is unwarranted. The discussion can no longer be limited to the Shammai-Hillel controversy but must be considered in light of two texts from Qumran. The more recently published text reads:

And he shall not take in addition to her another wife, for she alone shall be with him all the days of her life; and if she dies, he shall take for himself another [wife] (11QTemple 57:17-19).

This text establishes guidelines for the king and expands on Deut 17:14-17. The first regulation clearly forbids polygamy ("he shall not take in addition to her another wife") and divorce ("for she alone shall be with him all the days of her life"). Yadin observed that in the scroll God speaks in the first person singular and concludes that the text was intended to be received virtually as Torah.⁹ "If Yadin's opinion is valid," adds Fitzmyer, "then the regulations in it were undoubtedly to be normative for all for whom it was a virtual Torah."¹⁰

This conclusion is strengthened by a consideration of the second text:

The builders of the wall, who have gone after "Vanity"—"Vanity" is a preacher, of whom He said, "They only preach"—have been caught in unchastity in two ways: by taking two wives in their lifetime, whereas the principle of creation (is) "Male and female he created them"; and those who entered (Noah's) ark, "two (by) two went into the ark." And concerning the prince (it is) written: "He shall not multiply wives for himself" (CD 4:19-5:2).

Two observations may be made about this passage: (1) Fitzmyer has shown conclusively that this discussion concerns "an ensnarement in either polygamy or divorce—'by taking two wives in their lifetime,' i.e., while both the man and the women are alive, or by simultaneous or successive polygamy."¹¹ The text of CD 4:19-5:2 proscribes both polygamy and remarriage after divorce. (2) What was

⁷See J. A. Fitzmyer, "The Matthean Divorce Texts and Some New Palestinian Evidence," *TS* 37 (1976) 197-226; R. H. Stein, "Is It Lawful for a Man to Divorce His Wife?," *JETS* 22 (1979) 115-121.

⁸R. K. Bultmann, *The History of the Synoptic Tradition* (New York: Harper, 1963) 27.

⁹Y. Yadin, "The Temple Scroll," *BA* 30 (1967) 135-139.

¹⁰Fitzmyer, "Matthean" 216.

¹¹*Ibid.*, p. 220.

forbidden to the king of Deut 17:14 is extended to the prince—that is, a nonregal authority figure in the Qumran community. Further, Vermes points to the sectarian conviction that they were the faithful remnant of their time. They were not only to return to the Law of Moses but to do so “in accordance with all that has been revealed of it to the sons of Zadok” (1QS 5). Vermes comments:

As far as the Law itself was concerned, the revelations granted to these sons of Zadok, the sect's priestly hierarchy, added fresh severity and rigour to a legal code already strict in itself. Their marriage laws are an example. . . . In the Community . . . if the king was to be bound by such a law, so must every commoner.¹²

It seems, then, that some Jews did prohibit divorce altogether. Consequently the question put by the Pharisees—“Is it lawful for a man to divorce his wife?”—is not as “inconceivable” as some contend. Sandmel has said that “the supposition that an author such as Mark could have created the Jewish setting of his Gospel out of thin air or simply out of imagination remains unpersuasive to those of us who have worked in Rabbinic Literature.”¹³ We would conclude that Mark demonstrates here an intimate knowledge of Jewish affairs, theological and political. And we agree with Fitzmyer that “the Qumran legislation furnishes precisely the Palestinian background needed to explain how the question attributed to the Pharisees in Mark 10:2 is comprehensible.”¹⁴ All that is necessary is a knowledge of the Essene prohibition and some awareness that Jesus' position on this subject might be suspect. That the Pharisees possessed these qualifications is not only a possibility but also a persuasive probability.

(b) *Sitz im Leben: A Specific Case.* There is yet more evidence that tends to substantiate Mark's report. While the Qumran evidence provides an intelligible matrix for the question as posed in Mark, it does not answer the question of motive. Mark says the Pharisees were “testing him,” revealing hostility in their intentions. According to the Markan itinerary Jesus had just entered into territory under the jurisdiction of Herod Antipas. John the Baptist had been executed by Antipas in response to the scheming of Herodias because “John had been saying to Herod, ‘It is not lawful for you to have your brother's wife’ ” (Mark 6:18 *NIV*). This situation is explained by Josephus:

Herodias took upon her to confound the laws of our country, and divorce herself from her husband, while he was alive, and was married to Herod [Antipas], her husband's brother by the father's side (*Ant.* 18.6.4).

The whole question of the lawfulness of divorce and remarriage was the occasion for John's death. Mark carefully presented this and two other incidents in order to bring the situation sharply into focus for his readers. As early as 3:6 Mark writes that “the Pharisees went out and began to plot with the Herodians how they might kill Jesus.” Later in 12:13 the Pharisees and the Herodians approach Jesus expressly “to catch him in his words.” It is this cooperation between the Pharisees and the Herodians that is clearly presupposed in the narrative on di-

¹²G. Vermes, *The Dead Sea Scrolls in English* (Baltimore: Penguin, 1970) 36-37.

¹³S. Sandmel, *The First Christian Century in Judaism and Christianity* (New York: Oxford University Press, 1969) 90. Sandmel would not ascribe to Mark the same historical veracity as would I, but his point is well taken and appropriate.

¹⁴Fitzmyer, “Matthean” 222.

vorce. "The intention behind the question," remarks W. L. Lane, "was to compromise Jesus in Herod's eyes, perhaps in the expectation that the tetrarch would seize him even as he had John."¹⁶ Mark's important literary clues are the roles assumed by the Pharisees and the Herodians in his gospel, the knowledge that Jesus was ministering in the hostile region of Herod Antipas, and notice of the hostile intentions of the questioners revealed by the word "tempting." The literary connections and historical significance of Mark's narrative could not have gone unnoticed by his first-century readers.

II. INTEGRITY OF DOMINICAL SAYING: MARK 10:11-12

1. *Viable Alternatives: Internal Evidence.* Mark 10:11-12 is a bipartite statement of Jesus setting out in parallel the prohibitions of divorce and remarriage by either husband or wife in an original marital bond. This saying follows naturally and logically out of 10:2-9.

Mark 10:12, which contemplates the ending of a marriage by the wife, is held to be a Markan construction for a Gentile audience. It is quite unnatural in a Jewish setting where the woman was not allowed the same privileges as a man in such matters. Consider this statement of Josephus:

But some time afterward, when Salome happened to quarrel with Costobarus, she sent him a bill of divorce, and dissolved her marriage with him, though this was not according to the Jewish laws; for with us it is lawful for a husband to do so; but a wife if she departs from her husband, cannot of herself be married to another, unless her former husband put her away (*Ant* 15.7.10).

The opinion of many scholars is that 10:12 reflects the same social concern as the "rephrasing" of the Pharisees' question in 10:2. R. P. Martin concludes:

In so interpreting the Lord's mind, Mark has assumed (in v.12) that a woman can institute divorce action against her husband. This is a hallmark of Mark's own situation in which *he writes for a non-Jewish community*. . . . From this . . . we may deduce that Mark's intention is to address the teaching of Jesus to an audience in a Gentile church background as part of *his missionary concern*.¹⁶

Before this conclusion can be accepted as valid it is necessary to determine the correct form of the text of v 12.

There are three textual variants to consider. The difference between (1) and (2) is not significant. The third text, however, is clearly independent of the first two variants since it speaks not of divorce but of desertion.

(1) *kai ean autē apolysasa ton andra autēs gamēsē allon* is supported by Aleph B C L Δ Ψ 517 579 892 1342 so bo aeth. This reading is almost exclusively Alexandrian and thus, according to V. Taylor, "may be a stylistic and exegetical recast of an earlier text."¹⁷ The ASV renders "put away"; the RSV renders "divorce."

(2) *ean gynē apolysē ton andra autēs gamēthē allō* finds wider support, espe-

¹⁶W. L. Lane, *Commentary on the Gospel of Mark* (NICNT; Grand Rapids: Eerdmans, 1974) 354.

¹⁶R. P. Martin, *Mark: Evangelist and Theologian* (Grand Rapids: Zondervan, 1972) 221 (italics mine). See also Charles, *Teaching* 27-29; Schmid, *Regensburg* 187.

¹⁷V. Taylor, *The Gospel According to Saint Mark* (Macmillan: 1952) 420.

cially Byzantine, in A W λ 22 118 1071 pl f g² r² vg sy^p h geo¹ Augustine. It derives from the same root as (1).

(3) *gynē ean exelthē apo (tou) andros kai gamēsē allon* is supported by D θ φ 28 543 565 700 a b ff (k) q sy^s arm. This reading has support from two major texts—Western and Caesarean—and represents the textual tradition current at Antioch, Caesarea, Carthage, Italy and Gaul as early as A.D. 150.

If the discussion is limited to textual considerations alone, the third variant seems most likely to go back to Mark for two reasons. First, this variant is compatible with Jewish law. Although a woman could not divorce her husband, nothing could prevent her running away. Moreover, it has an almost identical counterpart in 1 Cor 7:10-11:

To the married I give this command (not I, but the Lord): A wife must not separate from her husband. But if she does, she must remain unmarried or else be reconciled to her husband. And a husband must not divorce his wife (NIV).

It is no small coincidence that two sayings attributed to the Lord agree in forbidding a man to divorce his wife and a woman to separate from her husband—both in keeping with the Jewish situation of which Jesus was a part.

Second, whichever reading is accepted, some account should be given for the evolution of the other. In other words, the options are that an original “to depart” was replaced by “to dismiss” or an original “to dismiss” by “to depart.” If Mark wrote *exelthē* a ready explanation is available as to why it was changed to *apoly-sasa* (or another derivative). First, since divorce is spoken of in v 11, v 12 could easily have been assimilated to it in order to obtain symmetry. Second, there would have been motivation for such a change in a world where a woman could divorce her husband. “Consequently,” concludes Daube, “as soon as Mark 10:12 fell into Hellenistic hands, it would be natural to substitute ‘to dismiss’ for ‘to walk out’.”¹⁸

No such explanations are available for the substitution of “to depart” for “to dismiss.” That an expression could have been Judaized is not impossible. “However,” as Daube has noted, “the opposite evolution, the Hellenizing of an expression of Rabbinic character, is more likely.”¹⁹

2. *Verified Account: External Evidence.* Frequently textual considerations can be decided when placed in an historical context. Such is the case here. It has been established that Jesus was ministering in the province ruled by Herod Antipas and that the Pharisees had seized this opportunity to bring Jesus into cross-purposes with the tetrarch. If Jesus had spoken not of divorce on the part of the woman but of desertion and remarriage while the former husband was alive, this was the precise situation of Herodias who had “separated” (*diastasa*)²⁰ from Philip in order to marry his brother Antipas. Josephus and John the Baptist are in agreement that her written notice of such action did not alter its adulterous nature. It was denounced unequivocally by Jesus. According to Lane:

¹⁸D. Daube, *The New Testament and Rabbinic Judaism* (University of London: Athlone, 1956) 367.

¹⁹Ibid. See also N. B. Stonehouse, *Origins of the Synoptic Gospels* (Grand Rapids: Eerdmans, 1963) 27-28.

²⁰Josephus *Ant.* 18.5.4. See Daube, *New Testament* 365.

The historical context of Jesus' statement and its vindication of the Baptist's denunciation of this adulterous union (Ch. 6:17f) was apparently lost to view in later strands of the textual tradition. The form of the text found in the ASV, RSV, which presupposes that a wife possesses the ability to divorce her husband, may represent an adaptation of Jesus' statement to the legal situation which prevailed in Rome and elsewhere in the Empire.²¹

It seems that Mark was meticulously accurate in his presentation of Jesus' encounter with the Pharisees and his teachings on the (un)lawfulness of divorce. The correct text speaks not of divorce but of desertion.

III. DETECTING THEOLOGICAL CONCERNS

Karl Ludwig Schmidt compared the gospel form to a string of pearls.²² Each evangelist is essentially an "editor" or "collector" of individual "stories of Jesus" that he arranged in a chronological scheme with a series of bridge passages.²³ By utilizing this image Schmidt expresses a basic concern of form criticism, which attempts to cut the "string" so that each "pearl" can be studied individually. In Doty's words: "It seeks to discover how these forms arise in the oral period preceding the literary stage, and it attempts to relate the use of the forms to the sociological settings in which they arise."²⁴

This is a wholly legitimate task. It can be assumed, for example, that the reason a unit on divorce appears in Mark's gospel at all is that divorce was a real issue in Mark's social context. It is clear that each evangelist chose to include or exclude materials available to them on the basis of their relevance to the situation. Form criticism, however, can be misguided if used to the exclusion of other critical disciplines. One might, for example, conclude with Bultmann that "the debate here [Mark 10:1-12] certainly derives from the Church; it is set out in a unified way, though use is made of material from the polemics of the Church."²⁵ Actually, by reconstructing the historical context, carefully applying textual critical methods, and comparing other extant literary sources it has been demonstrated that Mark's account is historically very accurate in its presentation.

Form criticism gave rise to redaction criticism. Redaction criticism chooses to see the gospel not as a string of pearls but rather as a carefully constructed labyrinth revealing a conscious purpose.²⁶ According to Lane: "In the construction of the framework of the gospel and in the use of techniques of style they [the evangelists] were guided by a distinctly dogmatic purpose."²⁷ It would be difficult to see

²¹Lane, *Commentary* 358.

²²K. L. Schmidt, *Der Rahmen der Geschichte Jesu* (Berlin: Trowitzsch, 1919) 281.

²³W. G. Doty, *Contemporary New Testament Interpretation* (Englewood Cliffs, NJ: Prentice Hall, 1972) 60.

²⁴*Ibid.*, p. 58.

²⁵Bultmann, *History* 27.

²⁶The most significant application of redaction criticism to the gospel of Mark is W. Marxsen, *Mark the Evangelist* (Nashville: Abingdon, 1969).

²⁷W. L. Lane, "Redaktionsgeschichte and the De-Historicizing of the New Testament Gospel," *BETS* 11 (1968) 27.

in the single pericope on divorce the theological concerns revealed in the gospel as a whole. Yet even in this one passage and its immediate context traces of purpose are evident. Failure to recognize this purpose leaves one without a full appreciation for the gospel, its writer and its first-century readers.

1. *The Pearl.* One of the first things to notice about the “pearl” is that it is not arbitrarily imposed on the text. The whole of chap. 10 resembles a carefully constructed unit. The encounter with the Pharisees regarding the question of divorce is accompanied by a specific geographical datum in 10:1 that, it will be recalled, placed the dialogue in an important historical context. For the rest, however, there is no such information, unless Judea and Perea are to be construed as the *Sitz im Leben*. While this is not unlikely, there are more important considerations. According to Sherman E. Johnson: “Behind the geographical arrangement . . . there are traces of topical organisation of the material for catechetical purposes.”²⁸

Mark has assembled in this section much of the instruction dealing with discipleship. “The primary purpose of this section,” contends Lane, “is to explain what it means for Jesus to be the Messiah and what it requires to be identified with him.”²⁹ The Master’s instruction to the disciples begins with a new orientation in 8:31. There are several pronouncements by the Lord on the nature of his ministry and the practical requirements for following him. The pattern is especially clear in chap. 10, which includes married persons (10:1-12), children (10:13-16), rich men (10:17-27), and requirements and rewards for the servants of Christ (10:28-30, 35-45). The passage on divorce, with its pungent criticism of a law written “for the hardheartedness” of men and its summons to assume a posture of absolute obedience to the will of God, is very appropriate.

2. *The String.* (a) Setting the Stage: Mark 10:1. The “string” (utilizing Schmidt’s image) that runs throughout the gospel amounts to those verses that the evangelist himself penned and that bind the “pearls” together. Here again we see a certain element of creativity and purpose. Mark 10:1 is generally recognized as having come from the pen of the evangelist and serves a dual purpose.³⁰

First, it serves in the movement of the gospel as a whole. Lane has noted that “throughout this section (i.e., Chs. 8:31-10:52) there is a sustained emphasis upon the journey to Jerusalem.”³¹ This can be detected in several verses: Jesus and the twelve are “on the way” (8:27) at Caesarea Philippi; they travel through Galilee (9:30) and Capernaum (9:33). In 10:1 Jesus indulges in a short-lived ministry in Judea and Perea. Mark 10:17 says that they are “on the way,” until in 10:32-33 it is announced: “We are going to Jerusalem.” As Lane notes: “The meaning of the journey to Jerusalem is defined by the repeated announcements of

²⁸S. E. Johnson, *The Gospel According to Mark* (New York: Harper, 1960) 168.

²⁹Lane, *Commentary* 292-294.

³⁰Marxsen, *Mark* 74.

³¹Lane, *Commentary* 293.

Jesus' passion: he goes to Jerusalem to fulfill his messianic destiny."³²

Second, 10:1 serves the more immediate context. As a transmitter of Jesus material Mark did not sacrifice historical accuracy to theological concerns. Verse 1 clearly implies that at some point Jesus crossed over Jordan into Perea. This was, of course, the territory of Herod Antipas. Jesus was returning to the very region where John's ministry had been terminated in imprisonment and martyrdom. Mark included this data in order to set the stage for the teaching of Jesus that follows immediately afterward. Unless one takes cognizance of this the passage is ill-informed and loses much of its historical significance.

(b) Behind the Scene: Mark 10:10. Mark 10:10 indicates a change of location where Jesus instructed the disciples further concerning the deeper implications of his public teaching. It is debatable whether the precise statement that Jesus was "in the house" when the disciples questioned him is redactional or reflects knowledge. There is no reason to assume it was not Jesus' custom to retire and ensue in private instruction (cf. 7:24; 9:33).

A withdrawal to the house and a question from the disciples furnish the introduction to private instruction on several occasions (4:10; 7:17; 9:28; 10:10). The most plausible explanation is that Mark capitalized on this piece of tradition and constructed a cue for his readers. It was the author's intention that on reading this verse his readers would immediately recognize teaching reserved for the disciples alone. This verse hints at one of the motivating factors behind the publishing of the gospel: If you are the Lord's disciple, hear his Word.

³²Ibid.