The Biblical Teaching on Divorce

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1. *Introduction*

THREE PRELIMINARY POINTS need to be made, in order to set the context and mark the limits of this discussion.

(a) *Scripture.* It is the *biblical* teaching which is to be examined. Legal questions are important, not least the respective places of irretrievable breakdown and matrimonial offence in secular and ecclesiastical courts. So are questions of personal relationship and pastoral care. But evangelicals rightly insist on going first to Scripture; we are unwilling to begin anywhere else. It is disappointing that in *Marriage Divorce and the Church* the biblical study is relegated to an appendix and declared inconclusive, and that the report's authors regard their conclusions as 'compatible with reason, the word of God in Scripture, and theological tradition' (p. xii)—in that order.

(b) *Marriage and Divorce.* The biblical teaching on divorce must never be studied in isolation, but always against the background of the biblical understanding of marriage. This emphasis in the report is welcome.

(c) *Divorce and Remarriage.* Where Scripture permits divorce it presupposes the right to remarry. This assumption clearly lies behind what is written in Deut. 24: 1-4, Matt. 5: 32, 19: 9, Mk. 10: 11 and Lk. 16: 18. E.g. A husband's illegitimate divorce of his wife 'makes her an adulteress' (Matt. 5: 32) only if she remarries; it could not do so otherwise. Although Paul envisages the possibility in 1 Cor. 7: 10, 11 of a *de facto* separation which does not carry with it the right of remarriage, the notion of a *legal* separation *a thoro et mensa* (from bed and board) without being *a vinculo* (from the marriage bond itself) is not contemplated in Scripture. Certainly neither the Jews nor the early Church had any tradition of legal separation as an alternative to divorce.

We shall examine in turn the teaching of the Old Testament, the teaching of Jesus and the teaching of Paul, and then draw some pastoral conclusions.

2. *The Teaching of the Old Testament*

(a) *Gen.* 2: 24. This verse supplies the basis for a biblical definition of marriage. A marriage exists in God's sight when a man leaves his parents with a view to cleaving to his wife and becomes one flesh with her. The 'leaving' and the 'cleaving' belong together, and they should take place in that order. They denote the replacement of one human relationship (child-parent) by another (husband-wife). There are similarities between these relationships, for both are complex and contain several elements—physical (in one case conception, birth and nurture, in the other intercourse), emotional ('growing up' being the process of growing out of the dependence of childhood into the maturity of partnership) and social (children inheriting an already existent family unit, parents creating a new one). Yet the biblical expression 'one flesh' clearly indicates that the physical, emotional and social unity of husband and wife is more profoundly personal than the relationship of children to parents.

So Gen. 2: 24 implies that the marriage union is exclusive ('a man . . . his wife . . .'), publicly recognised ('leaves his parents'), permanent ('cleaves to his wife') and consummated by sexual intercourse ('become one flesh'). This is not to affirm that marriage is 'indissoluble', for divorce (i.e. a dissolution of the marriage bond) is permissible in certain clearly prescribed circumstances, as we shall see. Yet even when permissible, dissolution is always a departure from the divine intention and ideal. In principle marriage is a lifelong union, and divorce is a breach of covenant, an act of 'treachery', which God 'hates' (Mal. 2: 13-16).

(b) *Deut.* 24: 1-4. (1) The purpose of this Mosaic legislation was neither to enjoin divorce, nor to encourage it, nor even to approve it, but to prescribe certain procedures if it took place. (The RSV interprets the Hebrew as hanging the instruction on a whole series of 'if' clauses.) In particular, it forbade a man to remarry his first wife after he had divorced her and she had remarried, even if her second husband subsequently divorced her or died. This was because she had become 'defiled' (v. 4) by her second marriage. It may also have been for her own protection. (2) The divorce which the Mosiac law assumed and tolerated took place because the husband had 'found some indecency' in his wife. This 'indecency' (literally the 'nakedness or exposure of a thing') cannot have been a synonym for adultery, since the latter was punishable by death, not divorce (Lev. 20: 10, Deut. 22: 22). Nor

can it have been a general term intended to cover any whim of the husband who took a dislike to his wife, because she was plain or barren or a bad cook (as Hillel maintained). Shammai will have been nearer the truth when he interpreted the phrase of some kind of unchastity.

(c) *The covenant principle.* It is clear that Scripture regards marriage as a covenant, as mentioned above, indeed—although between two human beings—as a 'covenant of . . . God' (Prov. 2: 17), instituted and witnessed by him. Now in the case of other covenants the violation of the covenant terms by one party makes him subject to divine judgment and releases the other party from his obligations. May the same be true of marriage?

Roger Beckwith has summarised the terms of the marriage covenant as five-fold: '(1) love (as in every covenant), but married love is of such a kind that it involves certain specific terms also, namely (2) living together as a single household and family (Gen. 2: 24), (3) faithfulness to the marriage bed (Gen. 1: 28; Ex. 20: 14), (4) provision for the wife by the husband (Gen. 30: 30) and (5) obedience to the husband by the wife (Gen. 3: 16).' He has further suggested to me in correspondence that 'if the terms of the marriage covenant are violated, the injured party is similarly released from his own undertakings, and though a Christian should forgive wrongs where there is penitence, if there is no penitence he may divorce his partner and remarry. The wrongs in question are not those to which human frailty is always liable, but violations of one of the five fundamental terms of the marriage covenant, for example by malicious cruelty, desertion for a period of years, adultery, refusal to provide for a wife with small children, or deliberate defiance of a husband's reasonable decisions in matters of importance.'

This is cogently argued, but it raises at least two questions. First, is it certain that Scripture regards the marriage covenant as entirely comparable to other covenants, and that the analogy may be pressed at every point? The covenant relationship envisaged in marriage ('one flesh') is certainly far deeper than that of a suzerainty treaty, a business deal or even a pact of friendship. May it not be, therefore, that nothing less than a violation (by sexual infidelity) of this fundamental relationship can break the marriage covenant? Secondly, if Scripture regards the marriage covenant as capable of being broken in several ways, how shall we explain the single offence mentioned in our Lord's exceptive clause? God's marriage covenant with 'Jerusalem', described at length in Ezek. 16, is germane to this discussion. God says to her: 'I plighted my troth to you and entered into a covenant with you, . . . and you became mine' (8). But Jerusalem 'played the harlot' or rather—because she gave hire rather than receiving it—was a wife guilty of promiscuous adultery (15-34). Therefore God said he would judge her 'as women who break wedlock . . . are judged' (38). Never-

theless, although her behaviour was worse than her 'sister Sodom' (46-52), and although she had 'despised the oath in breaking the covenant' (59), God said: 'I will remember my covenant with you in the days of your youth, and I will establish with you an everlasting covenant' (60) and 'forgive you all that you have done' (63).

This seems to be consistent with the thesis of this article, namely that only sexual infidelity breaks the marriage covenant, and that even this does not lead automatically or necessarily to divorce, but may rather be an occasion for forgiveness.

3. *The Teaching of Jesus*

OUR Lord's instruction was given against the background of contemporary rabbinic debate. It appears that the Pharisees tried to embroil him in the Hillel-Shammai controversy. According to Matthew they enquired: 'is it lawful to divorce one's wife *for any cause*?' (Matt. 19: 3). According to Mark they asked their question 'in order to test him' (10: 2).

By his answer Jesus certainly disassociated himself from the laxity of Hillel. Similarly, his teaching on divorce in the Sermon on the Mount occurs in one of the six antitheses ('you have heard that it was said . . . but I say to you'), in all of which he opposed tradition not Scripture, the perversions of men not the revelation of God. And these distortions all had the effect of lessening the demands of the law. In the divorce antithesis the scribal quotation ('it was also said "whoever divorces his wife, let him give her a certificate of divorce" ') appears to be a deliberately misleading abbreviation of Deut. 24: 1-4, suggesting that a divorce was permissible for a trivial cause, provided only that a certificate was given.

(a) *He endorsed the permanence of marriage.* Significantly Jesus did not directly answer their question about divorce, but spoke instead about marriage. He referred them back to Gen. 1 and 2, drawing their attention to the fact that human sexuality is a divine creation and human marriage a divine ordinance. For the same God who 'from the beginning made them male and female' also 'said' (in the biblical text) 'For this reason a man shall leave his father and mother and be joined to his wife and the two shall become one'. 'So,' Jesus added, 'they are no longer two, but one. What therefore God has joined together (literally, "yoked together") let no man put asunder' (Matt. 19: 4-6, Mk. 10: 6-9).

The teaching is plain. The marriage bond is not merely a human contract but a divine yoke. And the way in which God lays this yoke upon a married couple is not so much by creating some kind of mystical union as by declaring his will in his word. The 'death' or breakdown

of a relationship cannot therefore be regarded as being in itself a ground for dissolution if the basis of the union is not man's experience, but God's word.

(b) *He declared the Mosaic provision of divorce to be a temporary concession to human sin.* In answer to the Pharisees' second question 'why then did Moses command one to give a certificate of divorce and to put her away?' Jesus said 'For your hardness of heart Moses allowed you to divorce your wives, but from the beginning it was not so' (Matt. 19: 7, 8). Thus what they called a 'command' he termed a 'permission', and he gave human stubbornness rather than divine intention as its reason. His use of the word 'commandment' recorded in Mk. 10: 3, 5 is not necessarily inconsistent with this, for he seems there to have been referring either to the Mosiac legislation in general or in particular to the issuing of a certificate of divorce.

Since Jesus referred to the Mosaic provision as a concession to human sin, it cannot possibly be taken as indicating a divine approval of divorce. We must agree that it was a *divine* concession (since to Jesus what Moses said God said), but the divine concession of divorce was nevertheless contrary to the divine institution of marriage.

(c) *He called remarriage after divorce 'adultery'.* Putting together the teaching in the Synoptic gospels, and leaving aside the exceptive clause which we will consider in the next paragraph, we may summarise as follows: a man who divorces his wife and remarries both commits adultery himself (Matt. 19: 9, Mk. 10: 11, Lk. 16: 18) and, because it is assumed that his divorced wife will remarry, causes her to commit adultery (Matt. 5: 32). A woman who divorces her husband and remarries commits adultery (Mk. 10: 12). A man (and presumably a woman also) who marries a divorcee commits adultery (Matt. 5: 32, Lk. 16: 18).

(d) *He permitted divorce and remarriage on the sole ground of immorality.* The exceptive clause in Matt. 5: 31, 19: 9 is a familiar bone of contention. I would make three observations about it.

(i) *The exceptive clause should be accepted as authentic.* Anglican scholars appear to have been too ready to repudiate it as secondary. There is no MS evidence that it is a scribal interpolation. Even the alternative reading of Codex Vaticanus, retained in the RSV margin, does not omit the clause. Nor is its omission in Mark and Luke a sufficient reason for rejecting it as a Matthean interpretation, representing (perhaps) the view of the Palestinian Church within which the first gospel came to be written. The silence of Mark and Luke need not be explained as due to their ignorance of the exceptive clause; it may equally well have been due to their taking it for granted. For everybody (including both schools of Hillel and Shammai) were agreed that adultery was a legitimate ground for divorce. This was not in dispute.

Indeed, in the days when the Mosaic law was administered as a civil as well as a moral code, adultery received the death penalty. This was not formally abolished until AD 40 but the teaching of Jesus may well have contributed to its abolition (see Jn. 8: 1-11).

(ii) *Porneia means sexual immorality.* In seeking to interpret the meaning of the exceptive clause, we should avoid the two extremes of too much rigidity and too much laxity.

The 'rigid' view is that *porneia* means strictly either 'fornication' or 'adultery'. But we can hardly restrict the meaning to 'fornication', indicating that the only ground for divorce is the discovery by one partner that the other had been guilty of pre-marital immorality, although this offence was indeed punishable under the Mosaic law by death (Deut. 22: 13-21) or divorce (Matt. 1: 18-20). For the word was used with a wider reference in biblical Greek (meaning sometimes 'adultery', sometimes even 'harlotry') and would not therefore, without further qualification, be understood as necessarily referring to fornication. Besides, pre-marital immorality is likely to have been too rare among Old Testament Jews to warrant a special exceptive clause. Nor can *porneia* be identified with *moicheia* (adultery), for, although it certainly includes it and is sometimes used for it, it is also on occasions distinguished from it (e.g. Mk. 7: 21).

The 'lax' view is that *porneia* indicates offences which are 'sexual' in general rather than purely physical terms, and which undermine the foundations of married unity, including desertion and cruelty and even a basic temperamental incompatibility. Now it may be possible to use other arguments for the legitimacy of divorce on such grounds as these, but it is not possible to do so from the meaning of the word *porneia.*

We cannot accept either the 'lax' interpretation of *porneia* (because the word alludes to sexual sin understood in physical terms) or the 'rigid' interpretation (because its reference is wider than fornication or adultery). *Porneia* is, in fact, a general word for sexual infidelity, and includes 'every kind of unlawful sexual intercourse' (Arndt-Gingrich). And presumably the reason why immorality is the sole ground on which Jesus permitted divorce is that it violates the 'one flesh' principle which is fundamental to marriage as divinely ordained and biblically defined.

(iii) *Divorce for immorality is permissible, not mandatory.* Jesus did not teach that the innocent party must divorce an unfaithful partner, still less that sexual unfaithfulness *ipso facto* dissolves the marriage. He did not even encourage divorce for unfaithfulness. His whole emphasis was on the permanence of marriage and on the inadmissibility of divorce and remarriage. He added the exceptive clause to indicate that divorce and remarriage because of sexual infidelity is alone not tantamount to adultery. His purpose was not to encourage divorce for this reason, but to forbid it for every other reason.

How then did the teaching of Jesus relate to the teaching of Moses? He cannot be said to have entirely abrogated the Mosaic concession and prohibited all divorce. Rather he dissented from the laxity of the Hillel school; made divorce rather than death the appropriate penalty for immorality, but emphasised that even in this case it was a permission, not a command.

4. *The Teaching of Paul*

THE passage in question is 1 Cor. 7: 10-16, and in particular the so-called 'Pauline privilege'.

(a) *He is giving authoritative instruction.* It is quite wrong to imagine that in verses 10, 11 ('I give charge, not I but the Lord') and verses 12ff ('I say, not the Lord') Paul is setting Christ's teaching and his own in opposition to each other as respectively possessing and lacking authority. His contrast is not between what is divine and infallible and what is human and fallible, but between two forms of divine, infallible instruction, the one dominical and the other apostolic. See verses 17, 25, 40 and 14: 37 for other examples of the authoritative apostolic *ego.*

(b) *He echoes Christ's prohibition of divorce* (vv. 10, 11). Like Mark and Luke, and like his own teaching in Rom. 7: 1-3, he expresses the prohibition in absolute terms because he is stating the general principle. There is no need to suppose that he knew nothing of the Lord's exceptive clause.

In v. 11 he adds an important parenthesis to the effect that if a wife infringes the Lord's command and does separate from her husband, she should 'remain single or else be reconciled to her husband'. This provision neither enjoins, nor encourages, nor even approves the notion of either separation or divorce (NB Arndt-Gingrich say that *chorizo* was used of divorce both in marriage contracts in the papyri and in the Fathers). It simply states that 'if she does' separate (for reasons other than her husband's immorality), she is not at liberty to remarry. She is called to reconciliation (or the single state) not to remarriage.

(c) *He permits divorce on the desertion of an unbelieving partner.* Three successive paragraphs are addressed 'to the unmarried and widows' (v. 8, 9), 'to the married' (v. 10, 11) and 'to the rest' (v. 12-16). The context shows that 'the rest' are the particular case of mixed marriages. He gives no liberty to a Christian to marry a non-Christian, for a Christian 'is free to be married . . . only in the Lord' (c. 39 cf 2 Cor. 6: 14ff), but addresses himself to the situation which arises

when two non-Christians marry, one of whom is subsequently converted. The Corinthians had evidently sent him questions about this. Was the marriage unclean? Should the Christian partner divorce the non-Christian? Paul's reply is plain:

If the unbelieving partner 'consents to live with' the believer, the believer should not divorce the unbeliever (v. 12, 13). The reason given is that the unbelieving partner is in some sense 'sanctified' or 'consecrated' through the believer, and so are the children (v. 14).

But if the unbelieving partner 'desires to separate, let it be so; in such a case the brother or sister is not bound' (v. 15). The reasons given are that 'God has called us to peace' and that the believer cannot guarantee to win the unbelieving partner by seeking to perpetuate a union which the unbeliever is not willing to perpetuate.

It is important to grasp the precise situation which the apostle envisages and not to draw unwarrantable deductions from his instruction. Several negative points may be made about the freedom which the believing partner is here given ('the brother or sister is not bound'):

(i) The believer's freedom is due not to his conversion, but to his partner's unconversion and unwillingness to live with him. Evangelicals sometimes plead for what they call a 'gospel realism', arguing that because conversion makes 'all things new', a marriage contracted in preconversion days is not necessarily still binding. Then are all preconversion contracts cancelled by conversion? including all one's debts? Paul's teaching here lends no possible support to such a view. On the contrary, it positively contradicts it. His teaching is not that after conversion the believing partner is defiled by the unbeliever, but that the unbelieving partner is 'sanctified' by the believer. Further, in verses 17-24 he urges that a Christian should remain 'with God' in the state in which he was called.

(ii) The believer's freedom is due not to his initiative in divorce but to his acquiescence in his partner's desertion. The believer is not to take the initiative. On the contrary, if the unbelieving partner is willing to live with him, 'he should not divorce her', nor she him (v. 12, 13). The furthest Paul goes is to say 'let it be so' if the unbeliever is unwilling to remain. True, the phrase he/she 'is not bound' seems to imply a divorce (both the allusion to 'bondage' in the verb and its perfect tense indicate a permanent state of freedom), but it comes about through reluctant acquiescence in the unbeliever's initiative.

(iii) The believer's freedom is due not to desertion of any and every kind, nor to any form of unbelief (e.g. the RC teaching that marriage is not *ratum* if a partner is unbaptised), but to the specific unwillingness of an unconverted person (on religious grounds) to continue living with his/her now converted partner.

5. *Biblical Summary*

(a) God's intention in creating mankind male and female and in ordaining marriage is clear. Human sexuality finds fulfilment in marriage, and marriage is a permanent and exclusive union. This is the divine purpose and ideal.

(b) Divorce is nowhere commanded, nor even encouraged in Scripture.

(c) Nevertheless, divorce (and therefore remarriage) is permissible on two grounds. First, an innocent person may divorce his/her partner if the latter has been guilty of immorality. Secondly, a believer may acquiesce in the desertion of his/her unbelieving partner, if the latter refuses to go on living with him/her. In both cases, however, the permission is granted in negative (i.e. reluctant) terms: only if a person divorces his partner on the ground of unchastity is he not committing adultery. Only if the unbeliever insists on departing is the believer 'not bound'.

6. *Pastoral Application*

(a) Ministers must give positive instruction on both marriage and reconciliation. We must hold before the congregation we serve, and especially before couples we prepare for marriage, the divine intention and ideal. And we ought to give better instruction on the duty and the way of forgiveness, for reconciliation is central to Christianity. Whenever anybody asks me about divorce, I refuse to discuss it until I have first talked about two other subjects, marriage and reconciliation. This is what Jesus did when the Pharisees asked him their question. To be preoccupied with divorce and its grounds, rather than with marriage and its institution, is to lapse into Pharisaism. For God's purpose is marriage, not divorce, and his gospel is good news of reconciliation. We must see and teach Scripture as a whole, and never isolate the subject of divorce.

(b) If we are satisfied that one of the two grounds exists, on which divorce is biblically permissible, and that every possible attempt at reconciliation has conscientiously been made and has failed, then we are at liberty to quieten a person's conscience if he/she believes that divorce is the right course to follow. Moreover, the church should make provision for such people to be remarried in church. Nevertheless, some expression of penitence should be included (in the public service itself, I believe, and not the private preliminary only. See Report paras. 143-147), simply because every divorce, even when biblically permissible, is a declension from the divine ideal. This is

not, however, to stand in judgment on the people concerned in any proud or paternalistic way; it is rather to acknowledge the universal taint of sin, as a result of which both we and they stand under the judgment of God.

(c) We should have the courage to resist the prevailing tide of permissiveness and to set ourselves against divorce and remarriage on any other ground than the two mentioned. The State will frame its own divorce laws, and the Church may well have been right to encourage it to adopt the 'irretrievable breakdown' concept as the best and fairest basis for legislation in a secular society. But the Church has its own witness to bear to the teaching of its divine Lord, and must exercise its own discipline. We shall certainly seek to share with deep compassion in the suffering of those whose marriage has failed and whom we cannot conscientiously advise to seek an escape by divorce. We may on occasions feel at liberty to advise the legitimacy of a separation without a divorce, and even a divorce without a remarriage, taking 1 Cor. 7: 11 as our justification. But we have no liberty to go beyond the permissions of our Lord.