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Kevin Condon: Apropos of the Divorce Sayings.

As every student of form criticism is aware, the analysis and sifting of the variations that occur in the parallel transmissions of traditional material can come up with striking results. Perhaps too striking. It may be that the pressures put on tenuous variations of form and expression are excessive. Nonetheless, the exercise is worthwhile, if only for the new vistas that it opens up. One particularly fruitful field for the application of the exercise is the divorce question. For the absoluteness of Christ's position on divorce was bound to lead to questionings in concrete situations. That it did so already in the primitive church is evident from the variations that occur in the New Testament texts, and also in the course of the later textual transmission. /1

The passages on divorce fall into two categories: firstly, the debate or conflict story of Mt 19.1-8 and Mk 10.1-9; and secondly, the logion now attached to it (which Mk, however, clearly separates from it): Mt 19.10 and Mk 10.10-12. That this was originally an isolated saying is confirmed by its occurrence also in the Q tradition: Mt 5.32 and Lk 16.18.

Finally, there is the instruction on marriage, virginity, and divorce, in 1 Cor 7.1-16. And we shall give some consideration to the injunction on marriage 'to one wife (or husband)' in the Pastoral Epistles.

Mk's introduction to the debate, 'And setting out from there he came to the territory of Judsea (and) /2 beyond the Jordan,' is one of Mk's favourite transition techniques (cf. 6.1; 7.24; 9.3) and says little or nothing about the real situation. Suffice it to say that it comes after a period of instruction of the disciples and that now begins the journey to Jerusalem. 'Pharisees came up /3 and to test him they asked, Is it lawful for a man to divorce his wife?' But the question makes for an unreal situation. For it is scarcely conceivable that Jews would ask about the liceity of

divorce itself, since it was presupposed in the Torah (Dt 24.1) and universally recognized. There was a saying of the Rabbis that 'God gave divorce to Israel; he did not give it to the Gentiles.' /4 The question at issue in Judaism was not the liceity of divorce but the grounds for divorce. And so Mt makes at this point the first of his 'corrections' to Mk. His question runs: 'Is it lawful to divorce one's wife for any and every cause (kata pasan aitian)?' For this goes some way towards creating a situation, since it confronts Jesus with the known controversy between Hillel and Shammai regarding the grounds for divorce. One has to conclude therefore that Mark (or the community from which the tradition came) changed the original debate and brought it into line with the saying in v.10, in which Jesus rejects divorce altogether, thus giving it a much more radical ring than is to be found in Mt's.

The omission of reference to the grounds for divorce in vv.2 and 4 is not the only feature that leads us to question the originality of Mk's version. There is also the awkward structure of the debate. Normally a debate develops through a counter question put by our Lord to the interrogators, which leads to a counter argument. But here the counter question, 'What did Moses command you?' is one that gives the advantage to the opponents, so that there is no counter argument. /5 A comparison with Mt makes this obvious. For Mt puts the Genesis text first, and this leads to a counter question on the lips of the opponents (where it obviously belongs) regarding the 'permission' of Dt 24.1: 'Why then did Moses command...?' So brilliant is Mt's re-structuring of Mk that in the opinion of Bultmann he must have had a 'rabbinic formation'. /6 For Mt not only re-orders the debate, not only gives it its true motif, but also hints at the grounds for the dispute in the porneia of v.9. /7 Indeed, his re-structuring is so brilliant that one wonders if he was merely improving on Mk (as we now have it) and not using another source.

In both Mt and Mk the direction of the debate is dictated by the logion with which it now concludes. If, as Mt has it, Jesus was originally challenged to decide between the schools of Hillel and Shammai, then his

appeal to the Genesis text and his curt 'What God has joined, let not man separate,' would have been the decisive answer which takes the ground away from both Shammai and Hillel. The saying on divorce - Mt omits Mk's observation that it was given later to the disciples in the house - would then confirm that Jesus forbade divorce, while the added mē epi porneia shows that the controversy over the meaning of Dt 24.1 is still shimmering through. At all these stages therefore - the initial question, the ordering of the debate, and the final logion, Mt reflects a Jewish situation.

This is not so in the case of Mk. For by omitting the reference to the grounds for divorce Mk turns the debate into a radical repudiation of divorce altogether, and takes it out of a Jewish situation. Moreover, by adding to the logion of Jesus, 'and if a wife divorces her husband and marries another, she commits adultery,' he puts the whole passage into a Gentile situation. For it was only in Rome that a wife had the right in certain circumstances to divorce her husband.

The Saying on Divorce

(1)

Mt 5:32 - ἐγὼ δὲ λέγω ὑμῖν ὅτι πᾶς ὁ ἀπολύων τὴν γυναῖκα αὐτοῦ παρεκτὸς λόγου πορνείας ποιεῖ αὐτὴν μοιχευθῆναι, καὶ ὃς ἐὰν ἀπολελυμένην γαμήσῃ, μοιχᾶται.

(2)

Lk 16:18 - Πᾶς ὁ ἀπολύων τὴν γυναῖκα αὐτοῦ καὶ γαμῶν ἑτέραν μοιχεύει, καὶ ὁ ἀπολελυμένην ἀπὸ ἀνδρὸς γαμῶν μοιχεύει

(3)

Mk 10:11 - καὶ λέγει αὐτοῖς· ὃς ἂν ἀπολύσῃ τὴν γυναῖκα αὐτοῦ καὶ γαμήσῃ ἄλλην, μοιχᾶται ἐπ' αὐτήν· (12) καὶ ἐὰν αὐτὴ ἀπολύσασα τὸν ἄνδρα αὐτῆς γαμήσῃ ἄλλον, μοιχᾶται.

(4)

Mt 19:9 - λέγω δὲ ὑμῖν ὅτι ὃς ἂν ἀπολύσῃ τὴν γυναῖκα αὐτοῦ μὴ ἐπὶ πορνείᾳ καὶ γαμήσῃ ἄλλην, μοιχᾶται.

From all the texts, including Mt's, as will be seen, and St Paul's instruction in 1 Cor 7, it follows that Christ regarded marriage as indissoluble, and that to marry again while one's spouse was living was to commit adultery. But the variations are surprising and interesting, and possibly reflect some questioning regarding the possibility of divorce in the early church. In view of what has been said, Mk's de-Judaized version of the saying and its accommodation to a different milieu must be regarded as secondary. /8 But it still remains difficult to determine which of the other three is the most original.

Mt's parallel to Mk (text 4) omits the ep autēn, omits also the second part of Mk's text (on the wife divorcing her husband) and adds a qualification to the 'whoever divorces his wife' - viz., 'except for porneia' (see below). In all of these Mt shows himself to be closer to the Jewish situation. For in Judaism a wife did not have a right to divorce her husband; and this being so, a husband who divorces his wife and re-marries could scarcely be said to commit adultery 'against her'. And by adding 'except for porneia' Mt seems to be making some concession to Dt 24.1. It may well have been that in early Jewish-Christian circles a husband was obliged to divorce - or better, 'send away' - /9 a wife who was guilty of porneia. A careful reading of Mt, however, shows that neither husband nor wife is permitted to re-marry, for the previous bond still remains. Indeed, Mt seems rather to be emphasizing the indissolubility of marriage.

The Jewishness of Mt's standpoint is shown up even more strongly by a comparison of his Q text (no.1) with that of Lk (no.2). Bultmann regards the Lucan version (that a man who sends away his wife and marries another is guilty of adultery) as the more original. /10 Mt's version, on the other hand (that he who divorces his wife makes her an adulteress - i.e. forces her into an adulterous union) is 'kunstlich' and therefore must have arisen later. But it might well be argued /11 that in Mt's version a situation is reflected in which the right to divorce rests with the male, and in which adultery is

committed only when another man's wife is involved. A husband who sends his wife away forces her into another marriage and makes her commit adultery against a bond which Mt considers to be still existent, notwithstanding the fact that he has sent her away. So too in the second part of the saying: 'he who marries a divorced woman commits adultery,' because he breaks a bond which already exists. On the other hand, Lk's 'Everyone who dismisses his wife and marries another (woman?) commits adultery' is a departure from this more original Jewish situation. For in view of the second part, 'and he who marries a divorced woman commits adultery,' the 'other woman' presumably does not have to be married. /12
 'Both Matthew and Luke presuppose the indissolubility of marriage. Only Matthew looks at it entirely from the male standpoint, and by this token it may be assumed that Matthew is closer to what a Palestinian Jesus or his spokesman may have said.' /13

Matthew's Exeptive Clauses

In his parallels to both Mk and Q Mt inserts an exception clause: in the former case, 'not for' or 'except for'; and in the latter case, 'apart from a case of porneia,' or 'except by reason of porneia'. /14
 The exceptions have always been problematic, firstly, in that it is not clear whether or to what extent he really makes an exception; and secondly, in that the meaning of porneia in Mt is no less obscure than is the cerwath dabar of Dt 24.1.

Various interpretations have been given to explain the clauses. a) The view most commonly held by Protestant commentators is that in the community to which Mt belongs the severity of Jesus's saying was modified and that an exception was made in cases of porneia to allow for divorce and re-marriage. /15 It is allowed, however, that this concession must have been a later provision - for the authenticity of Mt's text is not in question - and that the other sources express the genuine will of Jesus. In the context, however, of the Sermon on the Mount, it is difficult to allow this view. For if in 5.32 Mt is allowing a full exception in the case of porneia, which would permit of re-marriage, he is demolishing the antithesis between Moses and Christ

which he has set out to establish. The position of Christ would not surpass that of Shammai; and instead of being superseded, the Law would simply be given an interpretation. /16 b) Some have held that the exceptive particles (parektos, mē epi) are susceptible of an inclusive sense: 'even in cases of porneia'. But such an interpretation puts an excessive strain on the Greek, and would also be superfluous and misleading. /17 c) Another view is that porneia refers to illegitimate or incestuous unions, as is probable in Acts 15.20,29. /18 But in a Jewish context such an exception would be taken for granted and would therefore sound banal. Apart from that, the immediate allusion seems rather to be to the Cerwath dabar of Dt 24.1. d) Finally, there is the possibility that Mt envisages the dismissal of a wife in cases of porneia, but not divorce and re-marriage. The logion on divorce, which in Mk is addressed later to the disciples in the house, is addressed in Mt directly to the interrogators. It seems therefore that in this Jewish context, and in reference to a dispute among the Rabbis, Mt is safeguarding Dt 24.1 /19 - perhaps even making a concession to Shammai - not in the sense that divorce is permitted but that a wife guilty of porneia should and must be sent away. On the other hand, a husband who dismisses an innocent wife forces her into adultery against a bond which is already there, and is indissoluble (5.32a). A man therefore who marries a dismissed wife commits adultery (5.32b).

Juridical separation in the canonical sense certainly did not exist in the ancient world. But that a woman could leave her husband is clear from 1 Cor 7.11. According to St Paul, she must either remain single, or be reconciled to her husband. Now it may be that a woman could more easily remain single in the hellenistic world. But in the Jewish world a woman did not have independent rights. She could 'be married' but she could not 'marry'. While married, she was under the potestas of her husband; after her husband's death, or if he divorced her, she was answerable to her nearest male relative. /20 According to the mores of Jewish society, therefore, it is conceivable that a wife guilty of porneia had to be sent away; on the other hand, if an innocent wife was sent away, she was being forced into an adulterous union (Mt 5.32).

The difficulty remains of the word porneia. Why does Mt use this vague, generic term instead of the specific moicheia, if this is what he means? There is no more tantalizing problem connected with this question. Porneia (Hebr., z'enuth) normally meant prostitution, or a condition analogous to it (e.g. living in concubinage.) /21 That it can also mean adultery is inferred by many scholars from Sir 23.23 (en porneia emoicheuthē), but this is by no means a certain conclusion. The most probable explanation is that Mt is holding to the terminology of Dt 24.1. But what else he could mean except adultery is difficult to see. /22

Paul

Paul's instruction to the married, which comes 'not from himself but the Lord,' /23 confirms the datum elsewhere, that Jesus did not countenance divorce: 'a wife must not separate from her husband; if she has separated, /24 let her remain single, or else be reconciled to her husband; and a husband must not divorce his wife' (1 Cor 7.10). What is strange is that this clear-cut statement is in the middle of an instruction which, from start to finish, gives a preference to virginity over married life. 'It is good (= better) /25 for a man not to have relations with a woman. But in view of the dangers /26 of fornication, let each man have his own wife, and each wife her own husband' (1-2) Paul would prefer to see all men (and women) like himself, i.e. unmarried (6,8,40).

Modern criticism is perplexed by this apparently negative attitude of Paul to marriage. He gives a theological answer, says Conzelmann, /27 which allows freedom to the Christian. But his answer is stamped by an ascetical motivation. Virginity, or enkrsteia, is the better. It is a gift, a charisma. /28 For those who do not possess it, marriage is the best safeguard.

One wonders, however, if this assessment does not miss the point, namely, that there is a religious dialectic running through the whole chapter: where does the holy lie, and where not. There was doubtless a similar pre-occupation among the Corinthians, /29 and Paul may well be correcting it. At any rate the religious dimension

prescribes for Paul that celibacy or virginity is a more holy state than marriage (1,7); that 'the unmarried woman or girl is anxious about the affairs of the Lord, how to be holy in body and spirit' (34); that in a mixed marriage 'the unbelieving wife is consecrated (viz., made holy) through her husband' (14); that 'otherwise your children would be unclean, whereas now they are holy.' /30 This religious pre-occupation with the holy carries with it a strong sense of sin. For sin in this conception is not merely a breach of faith, or an act of disobedience to a divine norm; it is an alienation from the holy /31 - an alienation that persists until the situation is in some way put right. Undoubtedly Paul is speaking from the standpoint of his own renunciation of marriage. But one can be quite sure that the same dialectic, the same quest of the holy is also pursued by the married. The awareness of the holy and the sense of sin made divorce a far more heinous thing than it can possibly be in a secular world.

A similar understanding of the sacredness of marriage is to be found in the Pastoral Epistles: the ruling that a minister of the gospel should be the husband (or wife) of (not more than) one spouse - the episkopos in 1 Tim 3,2; presbyteroi in Tit 1.6; deacons in 1 Tim 3.12; 'widows' in 1 Tim 5.9. It would seem that marriage, once entered upon, is a lasting bond which, ideally, should survive even the death of one of the partners.

In sum, marriage is viewed throughout the New Testament as an indissoluble bond which, according to the debate of Mt-Mk, owes its character to the unity willed by God in the creation of male and female. To remarry while one's partner is alive is to violate an existing bond, and therefore to commit adultery.

At the same time marriages do break down, creating two problems: a pastoral one, so far as the individual is concerned, and a social one, so far as society is concerned. The first has been there from the beginning. Paul is aware of it and makes a concession in the case of mixed marriages (1 Cor 7.12ff). Matthew is undoubtedly aware of it, and makes a concession to the extent that a husband may (or must) send a wife away in a case of unchastity. The church has always been aware of it, to

the extent that the only form of marriage which it has not dissolved is one that is ratum et consummatum (fully sacramental and blessed with children.) But in view of the social problems created within society through the increasing breakdown of marriages, and of the sense of the 'holy', it may have to yield on this frontier too.

Notes

1. Particularly Mark 10.10 (see note 8). Also Mt 19.9, but here more by way of harmonizations.
2. The 'and' is omitted by Mt and bracketed as doubtful in The Greek New Testament.
3. Proselthontes Phariseioi is omitted by the Western text and bracketed as doubtful in The Greek New Testament.
4. Jerus.Talmud, Qiddushin, 1.58c, 16ff.
5. Cf. Bultmann, Die Geschichte der Synoptischen Tradition, p.25.
6. Bultmann, op.cit., 25.
7. The allusion is more obvious in the parallel of 5.32: logos porneias. In spite of the inversion of cerwath dabar - it also occurs in Shammai (cf. Billerbeck, I, 313) - and even though the LXX rendering is aschemon pragma, it is widely accepted that Mt's porneia is an allusion to the cerwah of Dt 24.1. The controversy arose in that Rabbi Shammai put the emphasis on the cerwah and therefore restricted the grounds for divorce to a shameful impropriety on the part of the wife; whereas Hillel put the emphasis on the dabar and would therefore extend the grounds even to the burning of the dinner.
8. In the course of the later transmission exception was taken to the wife's 'divorcing' her husband in v.12. D reads, 'if she leaves her husband and marries another.' Instead of 'marries another' AC²N¹⁷ read 'and becomes married to another'.
9. Both translations are of course valid. Some would

argue that apoluein is almost a technical term for 'divorce'. In fact there is a surprisingly wide selection of words used for 'divorce': in Paul, aphiēmi; in the gospels, apoluo; in the Lxx, exapostellō; in Aquila, Symmachus, and Theodotion, spotemnein. For an excellent summary of the usage cf. Bruce Vawter, Catholic Biblical Quarterly, Vol.39, p.536, n.16.

10. Bultmann, *op.cit.*, p.25.

11. Cf. Vawter, *op.cit.*, p.530.

12. 'The "and marries another woman" of Luke, therefore, has changed the focus of the logion far more fundamentally than has the "exceptive" clause introduced by Matthew.' Vawter, p.530f.

13. See also Hauck-Schulz (TWNT, VI, p.591f): 'The meaning then of the clauses (in Mt) is not to give the Christian husband a permission to divorce where the wife has been guilty of marital infidelity; rather, by reason of a juridically unavoidable separation the husband shall be rendered free of any reproach if the wife by her conduct has made the continuation of the marriage impossible.'

14. Cf. Bauer (Arndt-Gingrich), s.v. logos.

15. J.C.Fenton refers to the power of binding and loosing mentioned in Mt 16.19; 18.18. 'The permission to allow divorce in certain circumstances seems to be one example of the use of this authority by the early Church; cf. 1 Cor 7.12ff, 23ff. where Paul gives his opinions on marriage problems; but notice that he distinguishes clearly and explicitly between his opinion and the Lord's command; in these verses in Matthew (5.32; 19.9) the distinction between the original command of the Lord and the Church's legislation has been obscured. (Penguin Commentary, St Matthew, p.90.)

16. Admittedly, the exception clause weakens the anti-thesis; but it does not take it away. The fact that Mt allows it to appear even in the antithesis is seen by Hauck-Schulz as an indication that Mt's form of the logion might possibly be original. (TWNT, VI, p.590f.)

17. Cf. A.Ott, Die Auslegung der nt.lichen Texte über die Ehescheidung, 1911, p.292: parektos, 'he who even in a case of porneia divorces his wife; mē epi, (a parenthesis), 'not even for p. is it allowed.'

A 'praeteritive' interpretation was formerly defended by Bruce Vawter (C.B.Q., vol.16, 1954, p.164): 5.32, 'setting aside the matter of p.'; 19,9, 'p. is not involved.' He no longer holds it. (cf.C.B.Q., vol.39, 1977, p.535.)

Here, perhaps, belongs the enigmatic remark of Conzelmann, Der Erste Brief an die Korinther, Göttingen, 1969, p.145, n.16: '(In the Gospel texts) Mt alone introduces an exception case, 5.32 and 19.9. But in his mind the force of the prohibition is in no way diminished; rather it is made concrete, since the porneia is "impossible". (?)

18. Cf. (especially), J.Bonsirven, Le Divorce dans le Nouveau Testament, Desclée, 1948.

19. 'By the toning down of mē epi porneia...the Mosaic law about the bill of divorcement is saved from completely losing validity.' (Günther Bornkamm in Tradition and Interpretation in Matthew, SCM, 1963, p.158, n.2.)

20. Cf.Ernst Lohmeyer, Das Evangelium des Markus, Göttingen, 1963, p.202.

21. In the rabbinic texts Ḥerwah is often used in the same sense. Cf.Marcus Jastrow, Dictionary of the Targumim, etc., s.v.

22. Hauck-Schulz, 'praktisch Ehebruch' (TWNT, VI, 590). Bauer (Arndt-Gingrich), 'Marital infidelity', s.v.porneia.

23. One of the very few allusions of Paul to a saying of Jesus. But is it a recorded saying, or one that gets its force from the here-and-now preaching of the gospel? The latter seems more probable, both here and in 1Thess 4.15 (cf. Rom 10.17 - dia rhematos Christou.)

24. Aor.Subj. referring to the past. So Conzelmann, p.144.

25. The kalon esti has a certain absolute value. Paul is not here thinking of the imminence of the parousia.

26. Plural, porneiai, 'pointing out the various factors that may bring about sexual immorality.' (Bauer, s.v.)

27. Conzelmann, op.cit., passim.

28. Enkrateia, a 'charisma', as opposed to the normal Greek understanding of it as a virtue (p.144). But Conzelmann does not point up Paul's motivation (v.35): pros to euschēmon kai euparedron tō kuriō aperispastōs.

29. We can only guess at the question asked by the Corinthians (v.1). Conzelmann suggests, 'Is sex allowed at all?' (p.139). Lietzmann - nearer to the mark - 'What are your views about marriage?' (An die Korinther, I/II, Tübingen, 1969, p.28.) In fact he could have been asked for prescriptions on the holy.

30. Conzelmann speaks of the 'massiv dingliche Charakter' of Paul's conception of the holy, betraying a lack of understanding of the religious dialectic. On the latter, see Louis Dupré, The Other Dimension, Doubleday, 1972, passim.

31. Cf. the non peccat in vv.28 and 36.