

## 2. THE OLD TESTAMENT EVIDENCE

### 2.1 Marriage is a great gift of God

#### 2.1.1 It is not to be broken

Marriage is a great gift of God which is not to be broken. This is clear from the institution of marriage at creation. Marriage is not man's but God's idea. He himself created and brought together the first husband and wife and he called his work very good (Gen 1:27-31; 2:18-24). In marriage, man and wife become one flesh (Gen 2:22-24). God never planned for divorce. The marriage institution was not designed to be broken but to be enjoyed (cf. Deut 20:7). Also in a fallen world of sin we must never forget these aspects and we must constantly strive for the ideal Scripture presents.

According to the Marriage Form a Christian marriage may be experienced under God's favour so that

1. Husband and wife shall live together in sincere love and holiness, helping each other faithfully in all things that belong to this life and to the life to come; and
2. that by marriage the human race be continued and increased under the blessing of God.<sup>1</sup>

So precious and unbreakable in God's eyes was marriage that the LORD used the very image of marriage to describe his own relationship

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<sup>1</sup> Marriage Form, *Book of Praise: Anglo-Genevan Psalter* (rev. ed.; Winnipeg: Premier 1984) 636-637.

with Israel, his chosen people. For example, we read in Ezekiel 16 how God sought out Israel, helpless and naked as she was, and when she was of marriageable age, God said, “I pledged my troth to you and entered into a covenant with you ... and you became mine” (v. 8). A similar image is found in Hosea 1-3. How God grieved when Israel broke this bound of love and marriage with God! The marriage bond was not designed to be broken. And yet it was. To help us appreciate our subject of marriage and divorce as clearly as possible let us now consider marriage as a covenant relationship and draw some implications from that.

### 2.1.2 The covenant of marriage

God speaks of marriage as a covenant (Prov 2:17; Ezek 16:8; Mal 2:14). In this covenant of the marriage partners, God is also involved.<sup>2</sup> This means that adultery is clearly a sin, not only against the marriage partner, but also against God.<sup>3</sup> The fact that marriage is described as a covenant also implies that it is an agreement that needs to be maintained by both partners. Such is also the case in God’s marriage relation with Israel.

When God’s people did not maintain the covenant of marriage with God, they *broke* their commitment to God as the beloved of the

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<sup>2</sup> Prov 2:17 speaks of the loose woman “who forsakes the companion of her youth and forgets the covenant of her God”. This reference of marriage as including a covenant with God seems to indicate that entering into a marriage involved a ceremony. So W. H. Gispen, *De Spreuken van Salomo* (KV; 2 vols; Kampen: Kok 1952, 1954) I, 49. Cf. D. Kidner, *Proverbs* (TOTC; Downers Grove, Illinois: InterVarsity Press 1964) 62 who does not think that this refers to the marriage covenant, but to God’s covenant with Israel. Kidner’s position seems to be a minority one.

<sup>3</sup> Gispen, *Spreuken*, I, 50. For adultery as sin against God see also Gen 39:9; Ps 51.

LORD. This unfaithfulness had consequences. Of his faithless bride or wife, the northern ten tribes, God says “I had sent her away with a decree of divorce” (Jer 3:8). So God referred to the fall of the northern tribes in 721 BC. God made use of divorce with respect to his chosen bride! The covenant of marriage can be broken and even God can be fully involved in that with the giving of a certificate of divorce.

However, unlike humans are likely or even able to do God did not leave it at the severance of the relationship that his people caused by spiritual fornication. But the LORD remained faithful in seeking his estranged people. The book of Hosea (especially Hos 1-3) is a powerful testimony to that. God sought his people in spite of the breach that they had made. For example, in Hosea 2 we read that the Lord went after his wayward bride and spoke tenderly to her. He promised his estranged and sinful one

I will betroth you to me for ever; I will betroth you to me in righteousness and in justice, in steadfast love, and in mercy. I will betroth you to me in faithfulness; and you shall know the LORD.  
(Hos 2:19-20)

Similarly God did not forget the southern kingdom in their breaking the marriage bond with their adultery (cf., e.g. Jer. 3). Indeed, when Judah turned their back to God and separated themselves from their God, the Lord asked Judah through Isaiah “where is your mother’s bill of divorce with which I have put her away?” (Isa 50:1). Israel may have separated herself and act as if she is divorced from God, but he would not have it! The Lord was active to maintain his covenant with his people. Indeed, he worked for the coming of the Messiah and today he works towards the great wedding feast of the lamb (Rev. 21).

The image of marriage as a covenant thus shows that the marriage relationship demands commitment from both partners. It is a covenant, a going together of two parties. This is also true of human marriages and when there is no more commitment and marital faithfulness, marriages fall apart and divorce results. Even God himself issued a certificate of divorce when his bride, Israel, was unwilling and unfaithful.

On the other hand, God's Word shows to what length God will go to bring his marriage covenant partners back together again. But, is what is possible for God also possible for sinful human beings?

This brings us to what the Old Testament says about marriage breakup. Let us briefly go through some key passages and deduce the relevant principles and consequences. After that we will go to the New Testament teaching on our topic.

## **2.2 Legislation pertaining to marriage breakup in the Old Testament**

### **2.2.1. Adultery**

From as early a time as we are informed, adultery normally ended a marriage relationship in the Old Testament. This is not in the first place because of the nature of adultery as destroying the bond between husband and wife who are to be one. One could conceive of forgiveness and reconciliation even in such a situation. But the main reason why adultery normally ended a marriage was because adultery was to be punished by death. Thus the guilty partner was removed from the marriage and the surviving partner was free to remarry.

Already before the Mosaic law, we read of such a penalty. When Judah is informed that Tamar, his daughter-in-law, was expecting a child through prostitution, then his response was "Bring her out and let her be burned" (Gen 38:24; cf. for burning also Lev 20:14; 21:9).

In the law of Moses we read in Deuteronomy 22:22-24

22. "If a man is found lying with the wife of another man, both of them shall die, the man who lay with the woman, and the woman; so you shall purge the evil from Israel."<sup>4</sup>

23. "If there is a betrothed virgin, and a man meets her in the city

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<sup>4</sup> Similarly Lev 20:10.

and lies with her,

24. then you shall bring them both out to the gate of that city, and you shall stone them to death with stones, the young woman because she did not cry for help though she was in the city, and the man because he violated his neighbor's wife; so you shall purge the evil from the midst of you.

This chapter also mentions related situations. If a newly wed man discovers that his wife is not a virgin, then she shall be stoned to death (Deut 22:21).<sup>5</sup> If a young man rapes a betrothed young woman in the country, he shall die, but the woman shall live for no one would have heard her cry for help (Deut 22:25-27).

### **2.2.2 Other cases of marriage ended by death**

Not only unchastity, but persistent sin against all of the first nine commandments and related transgressions meant the death penalty for the transgressor. This is important to realize, for this means that husbands or wives so inclined to persistent sin were removed from the marriage in question.

Thus, to stay for a moment with the seventh commandment, one who was engaged in homosexual acts was to be executed (Lev 20:13; cf. 18:22) and those involved with incestuous or unnatural relations were likewise to be punished (Exod 22:19; Lev 18:29). One who married both a woman and her mother was to be burnt in the fire (Lev 20:14, cf. vv. 17, 20, 21). To move to other commandments, one who became an unbeliever and started to propagate false teachings as a false prophet (Deut 13:1-5; 18:20) was likewise to be punished with death; similarly those who worshipped other gods (Deut 17:2-5). Other examples include the death penalty for desecrating the Sabbath (cf. Num 15:32-36), non-observance of the Passover (Num 9:13), refusing to obey the priest

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<sup>5</sup> For related passages with stoning as means of execution, cf. Ezek 16:40; John 8:5.

or judge (Deut 17:12), murder (Lev 24:17, 21), kidnapping (Exod 21:16) and bearing false witness (Deut 19:16, 19).

It needs to be realized that the death penalty may have been the maximum penalty for sins other than murder, incest and adultery.<sup>6</sup> It was in essence the Old Testament form of excommunication. Generally sins deserving the maximum penalty of death were sins done persistently and with “raised hand” with no evidence of repentance (Num 15:30-31). Such persistent sin constituted rejection of God’s covenant and therefore resulted by that fact in being placed outside the covenant community. Physical death thus removed such a person from the holy nation. If man did not do so, the LORD himself would cut off the one involved (cf. Prov 15:3; Lev 20:4-5).

From the above, it is clear that many potential divorce cases in the Old Testament would have been non-issues if the church took care that they maintained the discipline in the congregation as the Lord God expected from them. If one ceased to be a believer, there was excommunication by death and the marriage was by that fact over as well.

### **2.2.3 Deuteronomy 24:1-4**

#### **2.2.3.1 The main points**

The only place where a bill of divorce is mentioned in the Five Books of Moses is in Deuteronomy 24:1-4. Let us read the passage in question.

1. When a man takes a wife and marries her, if then she finds no favour in his eyes because he has found some indecency in her, and

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<sup>6</sup> It could be argued that apart from the crime of murder (cf. Num 35:31) and adultery the death penalty was only applied if there was a hardening in sin. Cf. Num 15:27-31. There is also the principle in the law that if there was sorrow there was lighter restitution. Cf. G. J. Wenham, *The Book of Leviticus* (NICOT; Grand Rapids: Eerdmans 1979) 286.

he writes her a bill of divorce and puts it in her hand and sends her out of his house, and she departs out of his house,  
2. and if she goes and becomes another man's wife,  
3. and the latter husband dislikes her and writes her a bill of divorce and puts it in her hand and sends her out of his house, or if the latter husband dies, who took her to be his wife,  
4. then her former husband, who sent her away, may not take her again to be his wife, after she has been defiled; for that is an abomination before the LORD, and you shall not bring guilt upon the land which the LORD your God gives you for an inheritance.

There are several things that should be carefully noted here.

1. The key thing, the main concern of this passage, is that “when a man has divorced his wife, it is not lawful for him to marry her again if she has married another”.<sup>7</sup> This passage does not teach that divorce is mandatory in certain circumstances (as the King James Version has it).<sup>8</sup> In other words, this passage does not establish divorce as a right. This is not to say that divorce was unknown. It was known as this passage also assumes and indicates.<sup>9</sup> Indeed, although it is not the

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<sup>7</sup> J. Calvin, *Commentaries on the Four Last Books of Moses* (Grand Rapids: Baker, 1981) III, 94. Also see J. Murray who notes that the King James Version has it wrong here. J. Murray, *Divorce* (Philadelphia: Presbyterian and Reformed 1961) 5-7.

<sup>8</sup> The King James Version reads: “1. When a man hath taken a wife, and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. 2. And when she is departed out of his house, she may go and be another man's wife. 3. And if the latter husband hate her, and write her a bill of divorcement, and giveth it in her hand, and sendeth her out of his house; or if the latter husband die, which took her to be his wife; 4. Her former husband, which sent her away, may not take her again to be his wife, after that she is defiled; for that is abomination before the LORD: and thou shalt not cause the land to sin, which the LORD thy God giveth thee for an inheritance.”

<sup>9</sup> Other passages mentioning divorce include Lev 21:7, 14; 22:13; Num 30:9; Deut 22:19, 29; cf. Isa 50:1; Jer 3:1; Ezek 44:22.

primary concern of this passage, these verses do in effect give divorce legislation. This is how it was treated by both the Pharisees and the Lord Jesus (Matt 19:7-8).

2. A clear intent of Deuteronomy 24:1-4 was to prevent rash and arbitrary divorces by insisting on the following.<sup>10</sup>

i. a definite and substantial ground must be alleged. This would discourage rash action. (We shall come back to this).

ii. A proper legal instrument must be prepared. Whether this involved an outside legal functionary which would further slow the process down is disputed.<sup>11</sup> The text in any case says nothing about it. This document must be put in her hand and she must be sent out of the house. The fact that such an action could not be done by an agent (as the Talmud allows)<sup>12</sup> could serve to prevent impulsive action. It would also protect the woman. It would be a testimonial of her freedom from marital obligations to the husband who sent her away and it would protect her reputation from unfounded accusations (e.g. of adultery).<sup>13</sup>

iii. the divorced woman who had married a second time could not return to her former husband. This too could act as a deterrent from a hasty divorce, or if the divorce had already taken place, it could make the husband consider taking her back while she was still unmarried and he was still able to get her back. This provision would also check any woman desirous of returning to her former home to intrigue against her second husband.<sup>14</sup>

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<sup>10</sup> The subsequent points are based on S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* (ICC; 3rd ed.; Edinburgh: T. & T. Clark 1986) 272-273.

<sup>11</sup> E. g., Driver (*Deuteronomy*, 272) assumes it, but E. Neufeld (*Ancient Hebrew Marriage Laws* [Toronto: Longmans, Green and Co. 1944] 179) denies it.

<sup>12</sup> Gittin 62b as cited by Neufeld, *Ancient Hebrew Marriage Laws*, 180 n. 1.

<sup>13</sup> Murray, *Divorce*, 9.

<sup>14</sup> Cf. W. Kaiser, *Toward Old Testament Ethics* (Grand Rapids: Zondervan



3. Not every husband had the possibility of a divorce. One who had slandered his newly-married wife as unchaste in an apparent attempt to get rid of her (Deut 22:13-19) was not allowed to divorce. Also one who had seduced his wife before marriage and for that reason had to marry her (Deut 22:28-29) was not allowed to divorce his wife. In both cases one could say that the husband had misused his position as dominant partner and so lost the possibility of divorce. In this way the wife was protected, but it also meant that a home filled with less than ideal marital love may have had to be endured.<sup>15</sup> On the other hand it is noteworthy that a father could refuse to give permission for his seduced daughter to be married to the one who had violated her and that the money normally paid as the marriage present for virgins had to be paid (presumably to the father) (Exod 22:17). In that case much unhappiness may have been prevented.

4. We only read of the husband's divorcing his wife, not the wife's divorcing her husband. This does not necessarily mean that divorce initiated by the wife never happened. Think of the concubine who left the Levite and came back willingly to him (Judges 19:2; cf. Jer 3:20). This incident suggests that a wife may have had a similar possibility.

### 2.2.3.2 "some indecency"

What is the meaning of "if then she find no favour in his eyes because he has found some indecency in her". The Lord tolerated divorce for this reason. What was this "indecency"?

There is a long history of interpretation behind this phrase "some

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1983) 202. Others disagree that making a divorce more difficult was in view in Deut 24:1-3. See for an overview J. C. Laney, "Deuteronomy 24:1-4 and the Issue of Divorce" in *Bibliotheca Sacra*, 149 (1992) 9-13.

<sup>15</sup> See B. Maarsingh, *Onderzoek naar de ethiek van de wetten in Deuteronomium* (Winterswijk: Van Amstel 1961) 77 and Neufeld, *Ancient Hebrew Marriage Laws*, 181.

indecentry". One thing however is reasonably certain about the meaning of the terms in question. They do not include adultery.<sup>16</sup> After all the death penalty is prescribed for adultery (Lev 20:10; Deut 22:22). Furthermore, it also does not apply to suspected adultery. God had other provisions for such a situation as detailed in Numbers 5:11-31. The ritual of the water of bitterness described there leaves no room for divorce.

What then does "some indecentry" refer to? Literally rendered it means "nakedness of a thing". The two famous schools of Jewish interpretation of the first century BC, that of Shammai and Hillel had differing views. Shammai stressed the word "naked" and understood it as something negative sexually and Hillel stressed the word "thing" and had the indecentry cover just about anything so that a divorce could be obtained for the most trivial reason.<sup>17</sup> What is the right meaning? The only other time the phrase is used is in Deuteronomy 23:14 where it refers to human excrement. It has been widely suggested that the phrase here refers to some improper, immodest, or indecent behaviour short of adultery but probably related to sex life. It was "some gross indecentry, some singular impropriety, which aroused the revulsion of the husband and made his life with her henceforth an impossibility".<sup>18</sup> That may very well be and it seems the most likely. The difficulty is that this interpretation cannot be proven. It is also possible that it refers to some hidden fault that was unknown to the husband prior to marriage, but is found out later. For example, a large unknown indebtedness of his wife

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<sup>16</sup> A notable historical exception to this consensus is John Lightfoot who argued that God foresaw that the penalty of death for adultery would not be carried out and thus gave divorce as a way out. Referred to in Murray, *Divorce*, 10 note 11. More recently G. Bahnsen (*Theonomy in Christian Ethics* [Nutley, N.J.: The Craig Press 1977] 105) has argued that the phrase does include adultery. His arguments appear to be special pleading and somewhat forced considering the nature of the term "some indecentry".

<sup>17</sup> Driver, *Deuteronomy*, 270.

<sup>18</sup> Neufeld, *Ancient Hebrew Marriage Laws*, 179.

that could ruin the husband, or the inability to bear children.<sup>19</sup>

In any case, the “indecenty” is not something that calls into question the wife’s marital faithfulness. As such a bill of divorce making this faithfulness clear will be of advantage to the wife and afford her protection of her reputation against calumny and open the door to a possible remarriage.<sup>20</sup> It is also clear that divorce could take place for almost any reason, namely, “some indecenty”.<sup>21</sup>

### **2.2.3.3 “after she has been defiled”**

It is significant that a divorced wife’s first husband may not take his original wife in marriage again (should she become without a husband once more) for “she has become defiled” or “polluted”. The context seems to indicate that this defilement is especially with respect to her first husband. By her remarriage the original marriage was definitely broken. No reconciliation is possible anymore now. For that reason, she is now defiled. The term used for defiled is used of adultery elsewhere (Lev 18:20; Num 5:13, 14, 20). Although the text does not say the remarriage is adulterous, the effect of using a term such as “defile” in effect places her remarriage into the category of adultery with respect to her first husband and marriage.<sup>22</sup> This shows how strong the marriage bond is and that a divorce on flimsy grounds may be legally possible (as in Deut 24:1-4) but is sinful nonetheless.<sup>23</sup> Therefore, as

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<sup>19</sup> So respectively H. de Jong, *Deuteronomium* (2 vols.; Kampen: Kok 1987) II, 63-64 and P. Craigie, *The Book of Deuteronomy* (NICOT; Grand Rapids: Eerdmans 1976) 305.

<sup>20</sup> Murray, *Divorce*, 9.

<sup>21</sup> See also J. Adams, *Marriage, Divorce, and Remarriage in the Bible* (Grand Rapids: Zondervan 1980) 64.

<sup>22</sup> Driver, *Deuteronomy*, 272.

<sup>23</sup> See Adams, *Marriage, Divorce, and Remarriage in the Bible*, 65, 67. Also see H. N. Ridderbos, *Matthew* (The Bible Students’s Commentary; trans. of *Matteüs*, KV; Grand Rapids: Zondervan 1987) 349.

long as there is no remarriage, there is the possibility and hope of reconciliation and an undoing of an unnecessary breaking of marriage due to the hardness of heart. But, once there is a remarriage, such an action effectively finishes the marriage and is thus described with a term also used to describe adultery.

Now we should be clear about the fact that her second marriage was not adultery. Such a divorced woman who remarried acted within the perimeters of the law. Nowhere will one find such a second marriage called adultery in the Old Testament and neither partner in such a marriage was to be put to death for adultery. But her remarriage has defiled the woman with respect to her first husband.<sup>24</sup> All this underlines the abnormality of a divorce which breaks apart what belongs together for life. It also underlines the fact that a marriage is meant to last and should not hastily be abandoned for good, certainly not after a poorly founded divorce. After a subsequent remarriage, such a divorce cannot be undone anymore.

All this helps us to appreciate why her remarriage (after a subsequent marriage) to the original husband would be such an abomination to the LORD so that even the land is affected by the people's guilt and becomes cursed (cf. Lev 18:24-25!).<sup>25</sup> Such a remarriage to the original husband cheapens marriage even more. As Keil put it "marriage is degraded to the mere satisfaction of sexual passion".<sup>26</sup>

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<sup>24</sup> Murray, *Divorce*, 14-15, 41-42. Also see J. Douma, *Echtscheiding* (Ethisch Commentaar 8; Amsterdam: Ton Bolland 1982) 17.

<sup>25</sup> Lev 18:24-25 reads "Do not defile yourselves by any of these things, for by all these the nations I am casting out before you defiled themselves; and the land became defiled, so that I punished its iniquity, and the land vomited out its inhabitants."

<sup>26</sup> C. F. Keil, *Manual of Biblical Archaeology* (trans. and ed. A. Cusin; Edinburgh: T. & T. Clark 1888) II, 173.

#### **2.2.3.4 God's use of Deuteronomy 24:1-4**

In Jeremiah 3:1 the Lord speaks to his wayward people using the language of Deuteronomy 24:1-4. We read in Jeremiah 3:1

If a man divorces his wife and she goes from him and becomes another man's wife, will he return to her? Would not that land be greatly polluted?

You have played the harlot with many lovers; and would you return to me? says the LORD.

The obvious answer to the LORD's rhetorical question is a resounding NO, a return is not possible and YES, the land would be greatly polluted! It goes against everything Israel has been taught by God, specifically in Deuteronomy 24:1-4. A divorced wife who marries another cannot eventually go back to her own husband. That is a vile thing, an abomination in God's eyes.

Now it should be realized that God himself had sent Israel away with a bill of divorce (Jer 3:8). The ten northern tribes were a hopeless case of adultery and waywardness and husband Yahweh, the LORD, had no choice but to send his adulterous wife away. God used divorce to deal with sin! Indeed, Jeremiah 2 speaks of God entering into a court controversy with his people (Jer 2:9). He calls Israel to account<sup>27</sup> as he remembers the devotion of her youth and her love as a bride who followed the LORD (Jer 2:2).

Now according to the law as applied to humans, once a divorce has taken place and the wayward wife marries another (and Israel has gone deep into spiritual prostitution and adultery, Jer 3:2-10), once all that has happened, then the original husband and wife cannot get back together again. The marriage is finished. As God (alluding to Deut 24) asked in Jeremiah 3:1

If a man divorces his wife and she goes from him and becomes another man's wife, will he return to her?

The answer is no, but God's answer is YES! What is impossible with men is not impossible with God. The Holy One of Israel will take back

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<sup>27</sup> See also Isa 3:13; 34:8; Hos 4:1; 12:2; Micah 6:2.

his defiled bride! Therefore the LORD sent out his appeal as recorded in Jeremiah 3:12-14.

12. Go, and proclaim these words toward the north, and say, 'Return, faithless Israel, says the LORD. I will not look on you in anger, for I am merciful, says the LORD; I will not be angry for ever.

13. Only acknowledge your guilt, that you rebelled against the LORD your God and scattered your favours among strangers under every green tree, and that you have not obeyed my voice, says the LORD.

14. Return, O faithless children, says the LORD; for I am your master; I will take you, one from a city and two from a family, and I will bring you to Zion.

A covenant can be broken, but a covenant can also be renewed! God the LORD can overcome all the limitations also of the law of divorce because he establishes a new covenant with his people which deals juridically with the root issue, the issue of sin (Jer 31:33-34). As God promised in that context, "I will forgive their iniquity, and I will remember their sin no more" (Jer 31:34). In this way God's redemption will be accomplished. Because of that new covenant in Christ and in anticipation of his coming, the LORD can beg his wayward bride Israel to return. He will have her! It is possible in Christ.

This light of the gospel raises the matter of our present responsibility. If God can so deal with Israel in anticipation of the Christ, how much more should Christians today not be able to deal with all manner of marriage problems in the redeeming power of Christ who has come and who has poured out his Spirit on his people.<sup>28</sup>

Let us look at one more Old Testament passage dealing with divorce.

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<sup>28</sup> Thus the legislation of Deut 24:14 is no longer binding on the church today. Also, divorce for such reasons as noted in Deut 24 are no longer acceptable. See Murray, *Divorce*, 113; Douma, *Echtscheiding*, 121. Cf. also H. de Jong, *Deuteronomium*, II, 64-67. But, cf. Adams, *Marriage, Divorce and Remarriage*, 42.

## 2.2.4 Marriage and divorce in post-exilic Israel

### 2.2.4.1 Ezra and divorce of mixed marriages

Intermarriage with the original pagan inhabitants of Canaan in whose midst Israel lived was strictly forbidden because of the danger of Israel adopting false religions and being unholy to God (Exod 34:16; Deut 7:1-3; cf. also Lev 20:26).<sup>29</sup> It is, however, noteworthy that no legal sanction was given against such marriages so that enforcement of the ban could only consist of public condemnation of the practice. The time after the exile was especially trying for Israel. In Ezra 10 we read of a communal confession of sin, especially that of intermarriage, and the communal decision to divorce the foreign women (Ezra 10:3-4, 11-12). This was to be done in front of local officials (Ezra 10:14).

The following points need to be noted.

i. This divorce action was to be done “according to the law” (Ezra 10:3). But there is no law specifying divorce as a remedy for mixed marriages. A divorce could be derived only by inference from the fact that mixed marriages were strictly forbidden. Thus the divorce, the sending away of the wives and their children,<sup>30</sup> while not according to the letter of the law was considered to be in accordance with the spirit of the law. The ground for this divorce was that a heathen marriage partner was incompatible with Israel’s calling to be holy to God alone. It was a critical time in which the small remnant was engaged in a life and death struggle against syncretism for their very identity. Decisive action was necessary if God’s people were to remain holy and survive as separate to the Lord. It is clear that God did not hate this type of divorce. It was in line with the law (Ezra 10:3).

ii. This divorce action underlined the relatively simple manner of acquiring divorce. There was nothing in the law specifically

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<sup>29</sup> See H. H. Grosheide, *Ezra-Nehemia* (COT; Kampen: Kok 1963), I, 248.

<sup>30</sup> That the children were sent away too is clear from Ezra 10:3 and does not depend on how one translates Ezra 10:44 (cf. NIV and text note).

forbidding it (with the exception of certain cases as noted in Deut 22:13-19, 28-29).<sup>31</sup> It was up to the husband and if the divorce was done according to the steps mentioned in Deuteronomy 24:1-4, it was binding. At the same time, it was clearly an official act in which the community as a whole was involved.<sup>32</sup>

iii. If we place Malachi in the time of Nehemiah, as is generally done, then it is clear that this divorce action did not bear lasting fruit. In Nehemiah's time Israel still appeared to struggle against syncretism (Neh 10:30; 13:23-27) and Malachi mentions the twin ills of mixed marriages and divorce (Mal 2:10-16).<sup>33</sup> It is remarkable that there was no repeat of a mass divorce in Nehemiah's day, although Nehemiah did call curses upon those who had married foreign women for being unfaithful to God and he made them swear an oath not to give their children to a non-Israelite partner in marriage (Neh 13:23-27). The result was that he "cleansed them from everything foreign" (Neh 13:30).

Let us now take a closer look at Malachi 2:14-16 and note two relevant elements.

#### **2.2.4.2 Malachi: covenant unfaithfulness**

In Malachi 2:10-12 the Lord chastised Judah because of the marriage of God's people with idol worshippers, calling it, "profaning the covenant of our fathers". Thus marriage with unbelievers violated God's covenant with his people. If God is Father, how can Judah marry daughters of a foreign god, rather than daughters of the true God and fellow covenant members? Malachi prays that God cut them off from

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<sup>31</sup> See § 2.2.3.1.

<sup>32</sup> A. Noordtzi, *Ezra-Nehemia* (KV; Kampen: Kok 1951) 145; Grosheide, *Ezra-Nehemia*, 269.

<sup>33</sup> Grosheide, *Ezra-Nehemia*, 294. See on chronological issues D. Kidner, *Ezra & Nehemiah* (TOTC; Downers Grove, Illinois: InterVarsity Press 1979) 146-158, esp. 152-153 and P. A. Verhoef, *The Books of Haggai and Malachi* (NICOT; Grand Rapids: Eerdmans 1987) 156-162.



God's people (Mal 2:12).

There is another element for which God reprimanded his people. God no longer accepted Judah's sacrifices because

the LORD was witness to the covenant between you and wife of your youth, to whom you have been faithless, though she is your companion and your wife by covenant. (Mal 2:14)

God was witness at the marriage. Now he testified against the men of Judah for they were abandoning their legal wives, who were apparently of the household of faith and whom they had married in their youth (Mal 2:15). Why were they abandoning their wives? It appears from the context that they did so to marry gentile women.<sup>34</sup>

Malachi 2:15 is very difficult to translate,<sup>35</sup> but this much is clear. God wants godly offspring. The marriage covenant must serve the covenant God has with his people. For that reason mixed marriage is such an abomination.<sup>36</sup> And now God's people in the days of Malachi were breaking up marriages with fellow believers in order to marry unbelievers! How God hated such divorce! It is important to see this

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<sup>34</sup> See Verhoef, *The Books of Haggai and Malachi*, 275.

<sup>35</sup> Cf. the different renderings of Mal 2:15.

RSV Has not the one God made and sustained for us the spirit of life? And what does he desire? Godly offspring. So take heed to yourselves, and let none be faithless to the wife of his youth.

NIV Has not the LORD made them one? In flesh and spirit they are his. And why one? Because he was seeking godly offspring. So guard yourself in your spirit, and do not break faith with the wife of your youth.

Lettinga (in Douma, *Echtscheiding*, 18)

One and the same God has made her. Flesh and spirit belong to Him. And what does the one seek but children of God? etc.

J. Ridderbos (in his *De kleine Profeten* [KV; Kampen: Kok 1952] III, 208)

Has no One made us the flesh and the spirit? And what does the One seek? Godly seed.

<sup>36</sup> See the wedding sermon by B. Holwerda in his *Tot de dag aanlicht* (Goes: Oosterbaan & Le Cointre 1950) 208-223 and E. T. van den Born, *Gedenkt en gelooft* (Groningen: De Vuurbaak n.d.) 8 Oktober.

context of God's hating divorce in Malachi 2:16. A violation of a covenant with the lawful wife of one's youth who was a fellow believer was taking place and as such a violation of God's covenant with his people occurred (cf. Prov 2:17).<sup>37</sup> As we saw earlier, Scripture gives no indication that God had objection to the divorces of mixed marriages in the days of Ezra. Thus, each passage on divorce must be seen in its context and Malachi 2:16 cannot be used as God's response to each and every divorce.

### 2.3 Priest, marriage, and divorce

An ordinary priest, a descendant of Aaron, could marry any Israelite woman, with one exception, she was not to be "a prostitute, or one defiled" (meaning one who lost her virginity) or "one divorced from their husband, for priests are holy to the LORD" (Lev 21:7).<sup>38</sup> The fact that a priest was not to marry a divorced woman suggests that some sort of moral or social stigma was attached to a divorcée<sup>39</sup> which was incompatible with the priest's being set aside for special service to God. Marrying a widow was not forbidden.<sup>40</sup>

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<sup>37</sup> Also cf. Douma, *Echtscheiding*, 19-20.

<sup>38</sup> "Defiled" in Lev 21:7 can also mean someone born of a priest's illegal marriage, i.e. a marriage with a woman who was forbidden to him. Neufeld, *Ancient Hebrew Marriage Laws*, 213 note 2; W. H. Gispen, *Leviticus* (COT; Kampen: Kok 1950) 303. Ezek 44:22 specifically mentions that the bride of a priest must be a virgin.

<sup>39</sup> Laney in *Bibliotheca Sacra*, 149 (1992) 14. A news report in *Nederlands Dagblad* (20 Dec 1994) related how a 12 year old marriage of a man of priestly stock (his last name was Cohen) was declared null and void because of a sin committed 2500 years ago by a direct ancestor of his wife. This ancestor was a priest and had illegally married a divorced woman.

<sup>40</sup> See also Ezek 44:22 which specifically mentions that the widow must be of a priest.

The requirements for the marriage of a high priest were more stringent. He was not allowed to marry a widow and it was stressed that his wife must be a virgin and an Israelite. Failing that his offspring could not be holy to the LORD (Lev 21:15). In these requirements something of the holiness of his office as an Old Testament mediator between God and Israel was indicated.

These regulations concerning the priests and high priest must be seen in the context of the rest of Leviticus 21, namely, that the holiness of the priestly office was to be reflected in their maintaining wholeness and normality in life in the midst of a world broken by sin.<sup>41</sup> Thus other impediments to the priestly office, lumped together with the prohibition to marry a divorced woman, include the prohibition for a priest to trim the beard or shave the head (v. 5) or the prohibition to be a priest if one had a physical defect like being blind, or lame, or having a split nose or a limb that was too long, or a broken foot or hand, defective eyesight, scabs, or sores. Any physical defect barred one from being priest and approaching God (vv. 18-21). A priest approached God on behalf of the people and therefore had to be without any blemish.<sup>42</sup>

Because eating from the table of a priest was not drawing near to God in priestly service, a priest's daughter who was widowed or divorced, had no child and returned to her father's house, as in her youth, was allowed to eat of her father's food, but no outsider could do so (Lev 22:13). In other words, such a divorced daughter lost none of the privileges also accorded to a widow because here the specific task of a priest was not in view.

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<sup>41</sup> Wenham, *Leviticus*, 292.

<sup>42</sup> Cf. Kidner, *Ezra & Nehemiah*, 132 (on Neh 13:28-29).

## 2.4 Divorce and remarriage in the Old Testament

There are relatively two new ways of thinking afoot. The one view states that divorce (and thus also remarriage) is never possible. The other view says that divorce is possible, but the marriage bond is such that no remarriage is ever possible, unless one of the two dies. Even divorce cannot undo the marriage bond.<sup>43</sup> Is all this so? Already in view of what we have seen, the answer to both of these two different views must be no. Since much of the reasoning comes from the Old Testament, I want to use the opportunity to review some things said earlier, and to give some additional information as well.

With respect to the first question, whether divorce is possible, the Old Testament scriptures certainly indicate it is. The law of Deuteronomy 24:1-4 presupposes it and the example of the divorce of mixed marriages in the days of Nehemiah confirms it. Furthermore, even the Lord himself divorced his people by issuing a certificate of divorce (Jer 3:1). Clearly divorce is not desirable, but it is possible.

With respect to the second question, we need a little more time. Is remarriage after divorce possible? In other words, can a marriage be dissolved so that a new marriage is possible? The answer of the Old Testament is yes in both cases for the following reasons or considerations.

1. Although there is little in specific legislation on remarriage, the Old Testament presupposes that remarriage is possible. For example, the law that a priest or high priest was not allowed to marry a divorced woman (Lev 21:7, 13; cf. Ezek 44:22) indicates that divorcées remarried. Only, they were not allowed to marry a priest. Another area

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<sup>43</sup> For convenient overviews see J. C. Laney, "No Divorce & No Remarriage", and W. A. Heth. "Divorce, but no Remarriage", in H. W. House, ed., *Divorce and Remarriage: Four Christian Views* (Downers Grove, Ill.: InterVarsity 1990) 15-60 and 73-129 respectively.

where remarriage seems to be a foregone conclusion is in the days of Nehemiah. It seems quite difficult to accept that those who sent their heathen wives and children away would not eventually remarry within Israel and produce godly seed. Was this not a primary concern at the time?<sup>44</sup>

2. There was a law in Israel that forbade a man who had sent his wife away to go back to his first wife and remarry her if she in the meantime had had a second marriage (Deut 24:1-4).<sup>45</sup> Note how this law also presupposed remarriage, but here remarriage with one's former wife was forbidden. God, however, did nevertheless go back to his adulterous wife Israel even though she had yoked herself to another husband. God wanted her back and in great love sought her (Jer 3:1; cf. Isa 54:5-7).<sup>46</sup> The Lord "remarried" in clear violation of the law of Deuteronomy 24. This going back in clear violation of Old Testament law was only possible in the coming Christ and his work of redemption. There is a message of hope here for us living in the fulness of time and equipped with the Spirit of Christ. Hopelessly broken marriages can be restored in the power of Jesus Christ when there is complete submission to his redeeming Word.

3. The view has recently been vigorously argued that remarriage is not possible because the Old Testament teaches that the "one flesh" relationship of marriage is a permanent relationship, a kinship relationship that cannot be undone. This is so because the phrase "one flesh" is an abbreviated version of "bone of my bones and flesh of my flesh". "Something unique and 'creational' takes place when husband and

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<sup>44</sup> See H. W. Hoehner in his response to W. A. Heth, "Divorce and Remarriage" in K. S. Kantzer, ed., *Applying the Scriptures* (Grand Rapids: Zondervan 1987) 244.

<sup>45</sup> David's taking Michal back as his wife (2 Sam 3:14) was not in violation of Deut 24:1-4 because David had not sent her away, but she was taken away from him. See C. J. Goslinga, *II Samuël* (COT; Kampen: Kok 1962) 64.

<sup>46</sup> One must keep in mind that this is an image, but the image is telling. In Hosea the divorce is not as clear.

wife consummate their marriage, they become closely related ('one flesh'), close relatives. Such a relationship cannot be undone by divorce. Support for this view is sought in the laws of Leviticus 18 where an operative principle is said to be that man and wife are blood relatives (one flesh). The prohibition of Deuteronomy 24:1-4 for a man to go back to the wife that he sent away is to be understood in the sense that she is now his relative and it would be incest to be married to her. It would be like marrying your sister.<sup>47</sup>

There are major problems with this view. Let me briefly mention some.<sup>48</sup>

i. The one flesh relationship (in Gen 2:24) does not correspond to Adam's declaration, "bone of my bone, flesh of my flesh" (Gen 2:23). With these words Adam rejoices at the gift of woman from the hand of God. She is completely different from the animals whom Adam had been naming but among which he could not find a help meet. She is of his flesh and blood. We could say they are of one blood (similarly Acts 17:26). In that sense a blood relationship is in view here. Overagainst the animal world, here is another human being. Or as it is put in Genesis 1:27, "God created man ... male and female He created them".

On the other hand, the context of the words "one flesh" (in Gen 2:24) is rather different. It refers to the unity that is to be experienced between man and wife in marriage in view of her being a helper fit for man and completing him. This refers to much more than sexual union although it is included. "One flesh" is descriptive of the bond between husband and wife, a bond that is seen in sexual union, but includes much more than that. It refers also specifically to the fact that whereas they are individually incomplete and lonely and unable to function according to God's design for them, together they can function as one unit. She is a

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<sup>47</sup> See for the above view, Heth in Kantzer, ed., *Applying the Scriptures*, 225-228.

<sup>48</sup> For more detail on this issue see Appendix A: One Flesh.

helper fit for him (and we may assume he is to be a helper to her).

ii. Heth's discussion of Leviticus 18 and related passages does not prove that husband and wife have become brother and sister. The Old Testament never speaks of them as such. Indeed, one gets the idea that being related by marriage is never precisely the same as being related by blood. Leviticus 21:1-3 speaks of various relationships for which the priest is allowed to defile himself when a death has occurred. He can defile himself for his parents, his son, his daughter, his brother or his virgin sister. In this list, his wife is not mentioned. She may be assumed to be covered by the exceptions due to the special relationship she has with her husband,<sup>49</sup> but the fact that she is not specifically mentioned shows that her relationship does not belong to the list and is different from the blood relationship of those mentioned.<sup>50</sup>

iii. This point is also evident from the levirate marriage which forms an exception to Leviticus 18:16. Heth suggests that because of the kinship relationship due to marriage one cannot marry relatives of the spouse for it would be counted as incest. And indeed, God consistently, *without exception*, forbids the marriages of brothers and sisters. But, what about the Levirate marriage? If a married man died without a son, his brother was to marry the widow to raise up seed for him (Deut 25:5-10; cf. Gen 38:8-10). According to Heth this would be an incestuous relationship. If, as Heth suggests, this brother is a blood relative, how can he marry his sister after his brother who was married to her has died? Since God would not command an incestuous

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<sup>49</sup> Gispén, *Leviticus*, 300-301; C. F. Keil and F. Delitzsch, *Pentateuch* (Peabody, MA: Hendrickson 1989) II, 429-430. The idea that the wife should be excluded from the exceptions has been defended (see the above references) and the RSV of Lev 21:4 seems to imply it. Also cf. B. Maarsingh, *Leviticus* (POT; Nijkerk: Callenbach 1974), 185. It is remarkable that Ezek 44:25 lists the same exceptions and also does not include the wife of the priest.

<sup>50</sup> S. H. Kellogg, *The Book of Leviticus* (The Expositor's Bible; London: Hodder and Stoughton 1891) 384.

relationship, the blood relationship theory cannot be valid.<sup>51</sup>

Heth has overstated the case of the one-flesh relationship being irrevocably permanent.<sup>52</sup> Remarriage after divorce is possible according to Scripture.

## 2.5 Conclusions from the Old Testament

i. Marriage is a great gift of God which is not designed to be broken (Gen 2:18-24). God never planned for divorce when he instituted marriage.

ii. Marriage is a covenant between two parties in which God should also be involved (Prov 2:17; Ezek 16:18; Mal 2:14). It was not meant to be broken, but God did recognize situations in which it could be broken.

iii. Sins such as adultery, homosexual behaviour, and murder were punished by death in the Old Testament (respectively Lev 20:10; Deut 22:22-27; Lev 20:13; 24:17-21) and consequently any marriages involved would be automatically broken by this application of church discipline and the surviving partner would be free to remarry. If the church was faithful in the Old Testament, many potential divorce cases would be “solved” this way.

iv. Sexual intercourse between unmarried people did not mean that a marriage was thereby established. A father could refuse to give permission for his seduced daughter to be married to the one who had violated her and the money normally paid as the marriage present for virgins had to be paid, presumably to the father (Exod 22:17).

v. Divorce was known and practiced in Old Testament times as the reference to it in various places indicates (Lev 21:7, 14; 22:13; Num

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<sup>51</sup> See also Kellogg, *Leviticus*, 384.

<sup>52</sup> See on this issue also Appendix 1.



30:9; Deut 22:19, 29; 24:1-4).

vi. In his law God never forbade divorce outright but regulated it by discouraging rash and arbitrary divorces (Deut 24:1-4) and by forbidding husbands under certain conditions to have a divorce (Deut 22:13-19, 28-29). According to the law, divorces that were allowed must of necessity have been for reasons other than adultery since that sin was to be punished by death.

vii. If a divorced wife remarried, it became impossible for her to go back to her first husband ever. She was then a defiled woman with respect to her first husband. This Old Testament provision of the law underlined that a marriage was meant to last. Even after a divorce there was a possibility of reconciliation as long as the divorced wife did not remarry.

viii. God sent his own people away with a decree of divorce (Jer 3:8). Even though his people “married” the gods of the nations, God overcame the problem of the finality of his divorcing his people who had since “remarried” another with the gospel of forgiveness and the new covenant of grace in the coming Christ (Jer 33:31-34). Thus God showed by his own action that the provisions of Deuteronomy 24 could be superseded.

ix. The many divorces that took place in the time of Ezra were according to the law (Ezra 10:3) and we may thus assume that these divorces were pleasing to God. The basic ground for these divorces was that a heathen marriage partner was incompatible for Israel’s calling to be holy to God alone.

x. In spite of the many divorces, the danger of mixed marriages did not subside, but there was no repeat of the many divorces in the days of Nehemiah and Malachi.

xi. The marriage covenant must serve the covenant which God has with his people and produce godly offspring (Mal 2:14-15). God hated divorces which broke a marriage of fellow believers so that the husband could marry an unbeliever (Mal 2:16).

xii. A priest was not allowed to marry a divorced woman

because a priest was holy to the LORD (Lev 21:7). This suggests that a moral or social stigma was attached to a divorcée which was incompatible with the priest's office.

xiii. It cannot be maintained that the Old Testament denies the possibility of a marriage bond being dissolved and remarriage taking place. Think only of the provisions of Deuteronomy 24:1-4 and the legislation governing marriage which presupposed that those divorced remarried (e.g. Lev 21:7).