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Jesus on Divorce

(Mat 19:3-9) *Some* Pharisees came to Jesus, testing Him and asking, "Is it lawful *for a man* to divorce his wife **for any reason at all**?" And He answered and said, "Have you not read that He who created *them* from the beginning made them male and female, and said, 'for this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh'? "So they are no longer two, but one flesh. What therefore God has joined together, let no man separate." They *said to Him, "Why then did Moses command to give her a certificate of divorce and send *her* away?" He *said to them, "Because of your hardness of heart Moses permitted you to divorce your wives; but from the beginning it has not been this way. "And I say to you, whoever divorces his wife, **except for immorality**, and marries another woman commits adultery."

(Parallel accounts: Mark 10:2-12; Luke 16:18; Mt 5:31)

Traditional Church Interpretation of Divorce/Remarriage Texts

The church, and especially conservative denominations and sects have interpreted the above passages to conclude that Jesus forbade all divorce with the one exception of "immorality," which has generally been taken to mean adultery. Further, that if an "illegitimate" divorce does take place, neither spouse is free to remarry as long as the other spouse is alive. Although there are many divergent views throughout Christendom, this is the prevailing view among conservative Evangelicals.

Divorce in 1st Century Palestine

Taking a look at the text in the context of the 1st century, though, a different picture emerges. In the above passage, the two bold phrases indicate phrases that only occur in Matthew's account. The parallel passages in Mark and Luke and the reduced saying in the Sermon on the Mount give the same apparent teaching, but without the qualifiers. Much has been made of whether Matthew added or Mark and Luke omitted these phrases, but that is less important than the fact that these phrases are critical clues to the nature of the debate between Jesus and the Pharisees.

There was a debate centering on the proper interpretation of the Law concerning divorce that had been raging for two generations by the time of Jesus between two schools of thought begun by two 1st century BCE rabbis: Hillel and Shammai. The adherents of these Hillelite and Shammaite schools had continued their leaders' teachings, and would continue until the destruction of the Temple in 70 CE when the Shammaite school would be dissolved. In the early 1st century CE, the Hillelite school reinterpreted Deut. 24:1 (see below) to mean that a man could divorce his wife for both indecency and for "any matter." The Shammaite school responded that Moses meant not two reasons, but one: a "matter of indecency."

The Hillelites were in practice instituting a new, "no fault" divorce and advocated that if a wife merely "spoiled his dish" (meal), a man could divorce her. "Any matter" meant any ground whatsoever. This practice became quite popular in the early first century, though since the debate was raging, people wanting divorces had to make sure they went to a judge who was a Hillelite and not a Shammaite in order to get the ruling they desired. This debate was as well known among Jews as the debate about evolution vs. creationism that has been raging in the U.S. for almost a hundred years is to us.

OT Grounds for Divorce

In actuality, divorce was granted for 5 grounds from the time of Moses. As below, a divorce was recognized for infertility, unfaithfulness, neglect of food, clothing, and/or love (conjugal). Based on the verses below, scribes and teachers saw divorce as legitimate for any of these reasons, and since adultery

was punishable by death (though that was rarely carried out), divorce was actually compulsory under Jewish law after unfaithfulness, though that, too, was virtually unenforceable.

Infertility

(Gen 1:22) God blessed them, saying, "Be fruitful and multiply, and fill the waters in the seas, and let birds multiply on the earth."

(Gen 1:28) God blessed them; and God said to them, "Be fruitful and multiply, and fill the earth, and subdue it; and rule over the fish of the sea and over the birds of the sky and over every living thing that moves on the earth."

Unfaithfulness

(Deu 24:1-4) "When a man takes a wife and marries her, and it happens that she finds no favor in his eyes because he has found some indecency in her, and he writes her a certificate of divorce and puts *it* in her hand and sends her out from his house, and she leaves his house and goes and becomes another man's *wife*, and if the latter husband turns against her and writes her a certificate 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, *then* her former husband who sent her away is not allowed to take her again to be his wife, since she has been defiled; for that is an abomination before the LORD, and you shall not bring sin on the land which the LORD your God gives you as an inheritance.

Neglect of food, clothing, or love

(Exo 21:10-11) "If he takes to himself another woman, he may not reduce her food, her clothing, or her conjugal rights. "If he will not do these three *things* for her, then she shall go out for nothing, without *payment* of money.

The Terms of the 1st Century Debate

Returning to the bold phrases in Matthew above, if the phrases are rendered literally from the Greek they would read, "Is it lawful for a person to divorce his wife for "Any Matter?" And, "Whoever divorces his wife except for "indecency" (porneia), and marries another, commits adultery.

The phrases "any matter" and "indecency" are the legal terms used by the two schools of Hillel and Shammai respectively, to delineate their positions. In essence, the Pharisees are asking Jesus which school of thought is right about the practice of no fault divorce, which had become rampant in their culture. Then why don't Mark and Luke include these phrases? Because any Jewish hearer in the first century would have known what was being asked. It would be like asking if it is legal in California for a minor to drink. Of course it's legal to drink, but any one of us would supply the understood "alcoholic beverages" to the question, which otherwise is nonsensical.

In the same way, it would be nonsensical to ask Jesus if divorce is lawful, because it was not only lawful for 5 grounds, it was actually considered compulsory for adultery. The Pharisees wanted to know if the Hillelite brand of divorce for "any matter" was lawful. And after a fairly long discourse, Jesus answers with the exact formula of the Shammaites, indicating that he sided with their interpretation.

Only One Ground for Divorce?

But did Jesus mean there was only one ground for divorce? Remember the Shammaites and Hillelites both, as well as all of Judaism, recognized 5 grounds for divorce—the Hillelites had just upped the ante by including their notion of "any matter." By defending the Shammaite school, Jesus is not necessarily abrogating the other grounds observed by all Jews. His silence on the other grounds could easily be understood to be included in the Shammaite interpretation that he was accepting. The Gospels regularly record where Jesus differs from the mainstream authorities, not where he agrees. The agreements are simply understood unless an exception is made. We can't be sure, of course, but because of the narrow scope of the debate and question put to Jesus, it is logical to assume that Jesus was not changing the Law

that had stood since Moses' time. If he was, that would have been news and most likely would have been recorded in the Gospels.

Jesus on Marriage

Before being forced to rule on the Hillel/Shammai controversy, Jesus takes time to expound on his ideas about marriage, and he makes several points:

1. Marriage should be monogamous as opposed to polygamy that was still allowed in the 1st cen.
2. Marriage should be lifelong, and divorce avoided if at all possible.
3. Marriage should only be ended because of "hard-heartedness." God is symbolically seen as reluctant divorcee in Hos 2:2ff; Jer 3:1-5; Is 50:1; Ezek 16:16-19; Mal 2:11-16. Only after repeated offenses, does God "put her (Israel) away." And then is always willing to take her back, if she is willing. Mal 2:16 concludes that God hates divorce. Jesus is saying that every step should be taken to keep a marriage intact, but if a spouse just won't cooperate, divorce may ensue.
4. Marriage should even survive adultery, when possible. Against the prevailing interpretation that divorce was compulsory in the case of adultery, Jesus said it was merely "allowed."
5. Marriage itself is not compulsory. The prevailing interpretation of Gen 1:22, 28 was that people were commanded to marry in order to procreate. Jesus said that a man may choose to live as a eunuch, a celibate. And if so, most likely denied the ground of infertility for divorce as well, since it relied on the same interpretation of Genesis passages.

The picture that Jesus is painting, once again, is of a higher level of relationship within marriage, as he did for all relationships. In Mt 5:20, he says that people's righteousness must exceed that of the Pharisees and scribes in order to enter the Kingdom. Although he's been asked a narrow and technical legal question, he first speaks at length on what marriage should be under the spirit of the Law and not just its letter. He first tells everyone how a marital relationship can flourish, rather than just how it can end—legally. This is so typically Jesus—his constant struggle to get all of us to raise our sights above mere compliance and into true relationship.

Luke 16:18—Another Perspective

"Everyone who divorces his wife and marries another commits adultery, and he who marries one who is divorced from a husband commits adultery.

The parallel passage in Luke is a shorthand version of the expanded passage above in Matthew, and like the shorthand version in Matthew 5:31, only contains the "punchline" or proverb-like kernel of the expanded teaching in Matthew 19 and Mark 10:2-12. Though none of the parallel passages outside of Mt 19 contain the legal phrases "any matter" and "except for indecency," as above, the question would have been nonsense to a 1st century Jewish audience without them, since divorce and remarriage were expressly allowed under the law. But the passage in Luke brings up another matter, in that Jesus seems to be saying that remarriage after divorce is tantamount to adultery. Is he really saying the two are the same? The quick answer is no—and the language both in the Hebrew/Aramaic and the Greek gives us another look into Jesus' reasoning and redefinition of the meaning of the Law.

First of all, Jesus is not abolishing the OT laws on divorce. The immediately preceding verse (17) and Mt 5:17 state that the law remains in full force. Here, Jesus is actually trying to protect marriage from the letter of the law, as the law at that time was being used to abuse the meaning of marriage and the rights of unfortunate spouses. Because the Hillelite interpretation of divorce had made divorce so easy, men were quickly able to divorce the wives of their youth in order to marry younger, more attractive women. The two halves of Lk 16:18 contain present tense verbs: "divorce" and "marry." In Mk, the two verbs are in subjunctive mood in the Greek. If the verse in Luke is translated back into Hebrew, the force of the expression links the two actions together in one continuous motion. Likewise, the subjunctive mood in Greek of Mark often carries the connotation of purpose, so in either language the best translation that would carry the force of the meaning would be:

"Everyone who divorces his wife (in order to) marry another commits adultery, and he who marries one who divorced from a husband (in order to marry), commits adultery.

In other words, if divorce is only being used as a legal shell or shield in order to have the next lover, then that is the same as adultery—there is no difference—because that is the intent and intention of the divorce in the first place. The Hillelite interpretation had created a loophole in the law that was being exploited as legally-sanctioned adultery, and Jesus was calling the bluff. Divorce is the same as adultery in this case because it was subverting the purpose of the law which was to make divorce as rare as possible and to preserve relationships, not aid the dissolution of them. Again, though, what Jesus is *not* saying is that divorce for traditionally legal reasons and remarriage thereafter is the same as adultery. He again, is not saying that there are no legitimate grounds for divorce, and he is not saying that one cannot remarry after divorce.

Conclusion

In short, Jesus is saying that no fault divorce for “any matter” is not valid. If a person leaves a marriage for a frivolous reason (not one of the recognized legal grounds), then it’s as if the marriage is still intact, and so remarriage at that point is tantamount to adultery. However, since Jesus is essentially in agreement with the Shammaite position, he is acknowledging that divorce is permissible, though not desirable.

Whether all of the details and interpretations above can be agreed upon or not, I would hope that some grace can begin to be extended to those in the church who may be divorced. The burden that the traditional church interpretation has put on them is unbearable and unreasonable. I believe that Jesus’ teaching on divorce and remarriage has been taken out of context by history, as the details of the Hillel/Shammai debate were lost to the Church after the fall of Jerusalem in 70 CE, though they were preserved in Rabbinical texts that have been studied more recently again. The church, not having any access to the original context, merely interpreted the “plain meaning,” which seems quite clear at first glance.

But as clear as it seems to be, it also stands starkly out of character for Jesus, who was always advocating forgiveness (70 times 7 times), and yet under the traditional interpretation, divorce becomes an unforgivable sin, that forever tars a person, even forbidding remarriage and the start of a new life afterward. Though this is an admittedly subjective argument, it underscores the need for careful consideration of the context of the legal debate, and reinterpretation in light of it.

Marriage, to Jesus, should never be taken lightly or cavalierly. Spouses should be committed to the preservation of their vows and relationship, and not looking for legal loopholes. However, where hardhearted, persistent neglect, abuse, or unfaithfulness have occurred, Jesus admits the necessity of divorce, though along with his Father, he hates it.

Sources:

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Divorce and Remarriage in the 1st and 21st Centuries, David Instone-Brewer