

Divorce

*

There is a wide diversity of positions within the Christian church on how to read Jesus' teaching on this subject. They range from Roman Catholic/ extreme Protestant positions which see marriage as indissoluble, through to those that permit remarriage during the lifetime of the former spouse in exceptional circumstances (e.g. the Church of England). The spectrum also includes more liberal positions in other denominations which regard remarriage as a matter of individual conscience. In some cases, this is tantamount to the view that marriage is something that can be ended at will. The controversy surrounding this issue in recent decades (divorce only became legal in the Republic of Ireland in 1997) means that it provides a good illustration of the central issue in this book, namely, how do we understand and apply biblical law?

Certainly, the early church in the first five centuries was near unanimous in its view that remarriage following divorce for any reason is adulterous. Its view of the divorce and remarriage texts remained the standard position of the Western church until the sixteenth century when a more liberal view was put forward by the theologian Erasmus in 1519. This was subsequently adopted by Protestant theologians such as Jean Calvin, Martin Luther and William Tyndale. The Erasmian/Protestant view differs from the position of the early church by allowing divorce and remarriage for adultery and desertion, a position enshrined in the influential Westminster Confession of Faith (1648).

We will explore the question of how to understand divorce and remarriage by reference to the various *Gospel* accounts of Matthew, Mark and Luke, as well as Paul's *First Letter to the Corinthians*. This will show us how the biblical laws relating to divorce and remarriage were handled by Jesus and his followers and in a way that contrasts with the community at Qumran. Again, we will see that the way in which biblical law is interpreted depends on the wider story being told of what it means to 'be Israel', at this point in her history. For simplicity's sake we begin with the more straightforward accounts in the *Gospels* of Mark and Luke, before dealing with the more complicated case of Matthew.

In the *Gospel According to Mark* Jesus' teaching on the subject is prompted by a test question from the Pharisees: 'Is it lawful for a man to divorce his wife?' (Mark 10:2). This indicates, as the Dead Sea Scrolls attest, that divorce was heavily debated in Second Temple times. Jesus responds tactically with a counter-question ('What did Moses command you?'; Mark 10:3) which transforms the 'doorstep interview' into a dialogue. The resulting exchange illustrates the differences between Jesus and the Pharisees regarding the interpretation of *Torah*:

[The Pharisees] said, 'Moses allowed a man to write a certificate of divorce, and to put her away'. But Jesus said to them, 'For your hardness of heart he wrote you this commandment. But from the beginning of creation, 'God made them male and female'. '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 not man put asunder'. (Mark 10:4-9)

As far as Jesus is concerned, the Pharisees' emphasis upon the permissory nature of Deuteronomy 24:1 exposes 'hardness of heart' both on the part of the Pharisees and the original recipients of this law from Moses. The term 'hardness of heart' (*sklerokardia*) is also used in Mark 16:14 to describe the disciples' initial refusal to believe in the evidence of Jesus' resurrection. Its use in Mark 10:5 implies 'lack of faith, ignorance [and] blindness' on the part of Jesus' questioners and the original recipients of the law. It implies that those who do not know that 'one must not put away one's wife are somehow lacking in insight into the fundamental message, are failing in the faith itself'. This is not the first time that a link has been made between character and the ability to discern the correct interpretation of biblical law (cf. Deuteronomy 15:9; see Chapter Seven). 'The tactics of Jesus' argument have the effect of achieving a striking identification between his questioners and the law of Deuteronomy 24:1: 'What did Moses command *you*?...With a view to *your* hardness of heart Moses wrote this commandment *for you*'. They are firmly associated with that commandment which Jesus abrogates...'

My argument is that, implicit in Jesus' teaching at this point is a distinction between legality and morality, that is, between what is halakhically permissible in Jewish law and what is morally right. This distinction is implicit in Jesus' words themselves. It is the difference between Jesus saying '[Moses] wrote you this commandment' (verse 5) and 'Let not man put asunder' (verse 9). In my view, Jesus makes the radical claim that *it is halakhically permissible to divorce in circumstances when it is not morally right to do so*.

Jesus' approach to the question of divorce and remarriage contrasts with that of the Pharisees because the starting point for Jesus' understanding is not *Deuteronomy* but *Genesis*. The quotation from Genesis 1:27, which emphasises the separateness and the 'two-ness' of the man and the woman, is a foil for the quotation from Genesis 2:24, which expresses the fusion and 'one-ness' of marriage. But although Jesus starts with *Genesis* he goes beyond *Genesis*. He makes 'a man's and a woman's becoming one flesh *the reason* why the man should not divorce the woman'.

Jesus combines Genesis 1:27 with Genesis 2:24. He then produces from these texts something new. 'Jesus does not limit himself... to the way in which the quoted statements were intended to be taken'. There is a freedom and a creativity in Jesus' approach to the law that is different to Qumran. This gives us an important insight into Jesus' handling of *Torah*. 'The exposure of the will of God by Jesus came not by way of straight deduction from the law of Moses, but either totally independently of that law or by means of a dialectic within, and between, different parts of it'. In fact what is remarkable about Jesus' exegetical technique is this: Jesus combines two distinct and unrelated texts that have nothing to do with divorce and this leads to something new that *does* address the issue. This method actually mirrors the *content* of the texts themselves ('two-ness' leading to 'one-ness' and a new entity).

The theological argument which Jesus presents from these materials is thus that the marriage relationship is permanent and indissoluble. Jesus' account of marriage sees God not just as a witness (*per* Malachi 2:14 and Proverbs 2:16-17) but the One who joins the couple together. Divorce is wrong because it undoes God's work. The use of the word 'let...' in the phrase 'let not man put asunder' (10:9) implies that the divine

fusion *can* be reversed, although it should not be. Divorce is an act of ‘anti-creation’. It thus stands in opposition to Jesus’ kingdom work which seeks the restoration of God’s creative intent.

This means that Jesus’ teaching on marriage and divorce – like that at Qumran – has an eschatological dimension. ‘In the antithesis between Deuteronomy 24:1 and Mark 10:9 there is expressed an underlying antithesis between the old age and the new’. There is a presupposition that the ‘new age’ represented by Jesus and his kingdom is already breaking in and that this will see the renewal of creation. ‘Where there is hardness of heart, divorce is inevitable and lawful. But where the kingdom has been preached... it is now possible to attain to the purposes of the Creator. In the kingdom divorce is not so much forbidden as it is unnecessary. There is now another way of dealing with it’. Jesus’ teaching concerns more than simply ‘divorce laws’: it ‘belongs inside the central concerns of the mission of Jesus and the proclamation of the present impact of that kingdom’.

Jesus’ division between law and ethics – between that which is legally permissible and that which is morally right – is one expression of the coming kingdom. As applied to divorce and remarriage, the distinction raises the possibility that *legal divorce can lead to moral adultery*. This is exactly the issue that Jesus goes on to address with his disciples, in private:

And he [Jesus] said to them [the disciples], ‘Whoever divorces his wife and marries another, commits adultery against her [that is, the divorced wife because she is still his spouse]; and if she divorces her husband and marries another, she commits adultery’. (Mark 10:11-12).

As far as Jesus is concerned, the kingdom of God is associated with clear standards on the absolute commitment of marriage. The private setting gives Jesus’ teaching ‘special emphasis’. It signifies that obedience on this issue is a crucial part of the disciples’ identity. As at Qumran (despite the difference in substantive content) Jesus’ teaching on divorce and remarriage is presented as being a core part of the disciples’ identity. The same is true of Paul’s teaching on divorce (see below). We will see that Paul distinguishes between Christian spouses, for whom divorce is not presented as being an option, and mixed marriages (Christian and not-Christian) for whom, in his view, divorce is an option, although even here it is a last resort (1 Corinthians 7:15).

Jesus’ teaching to his disciples in Mark 10:11-12 re-appears in the *Gospel According to Luke*. Here, once again, it is given special emphasis as private instruction:

Every one who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery. (Luke 16:18; Jesus speaking)

This teaching is also repeated by the apostle Paul in the *First Letter to the Corinthians*:

To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband) - and that the husband should not divorce his wife. (1 Corinthians 7:10-11)

This is one of very few places where Jesus' words are quoted in the New Testament outside the *Gospels*. (The variation in terminology here simply reflects the difference in perspective).

Jesus' private instruction spells out the implications of his theological argument. *If marriage is an indissoluble, two-in-one-flesh communion then the remarriage of a legally divorced partner must constitute moral adultery*. Again, we need to recognise that Jesus is making a distinction between what is legal and what is ethical, in line with Mark 10:5-9.

Jesus' citation of *Genesis* is, at one level, deeply traditional. But it is also extremely radical. Jesus' teaching on marriage and divorce is thus an example of what we might call 'traditional radicalism'. Mark 10:1-12 is revolutionary for four reasons.

First, Jesus distinguishes between legal and moral divorce. The person who legally divorces thinks s/he has a legal and a moral right to remarry. But Jesus states that the person who legally divorces and remarries is committing moral adultery. Such a person thinks they are morally free to remarry but in fact they are not because the divorce is morally ineffective. In this sense the divorce has been legally operative but not morally effective. The person who divorces and remarries still ends up committing adultery because the marriage bond is not broken. Jesus' teaching thus radically cuts down the operation of divorce because it denies its effectiveness. At the same time, Jesus' teaching expands the use of adultery to cover cases of legal divorce. Jesus is saying that it is possible for someone to legally divorce and to legally remarry but that this constitutes moral adultery.

Second, by labelling remarriage after a divorce 'adultery' Jesus increases the scope of the offence of adultery.

Finally, Mark 10 is revolutionary because, at a stroke, Jesus abolishes polygamy. Jesus' reasoning – that marrying another after divorce constitutes adultery – presupposes monogamy because if polygamy was legitimate there would no problem with remarriage to another woman.

So far, Jesus' teaching on marriage and divorce is consistent with the kind of thing that Jesus *would* say: it is clear, radical and revolutionary. We have seen elsewhere how Jesus intensifies the jubilee in the form of 'releasing debts' and forgiveness; see Chapter Seven). It also fits the way that Jesus' teaching conflicts with first-century Jewish practice (e.g. Mark 7:9-13, 14-15). Likewise, it coheres with Jesus' use of *Torah* generally inasmuch as Jesus' direct quotation of biblical law in his ethical teaching is 'minimal' and prefers instead 'the authority of an early ideal' .

Does Jesus' handling of *Torah* in Mark 10:1-12 abolish Moses? Jesus' treatment of Deuteronomy 24:1-4 reflects a complex attitude. He makes a 'careful distinction between what God had said (in *Genesis*) and what Moses had said (in *Deuteronomy*)'. He also allows God's creative intention to question 'the tacit approval of divorce within the Mosaic tradition'. For some commentators, this constitutes an abolition of the law. As Catchpole avers: 'What Moses commanded, the historical Jesus rejects'. After all, it

is Jesus himself who calls Deuteronomy 24:1 a ‘command’ (10:3) and not merely a concession, *per* the Pharisees (10:4).

In the light of this, it is very striking that Jesus’ teaching in Luke’s *Gospel* follows directly on from the claim that:

... it is easier for heaven and earth to pass away, than for one dot of the law to become void. (Luke 16:17; Jesus speaking).

Why did Luke include Jesus’ divorce teaching at this point? This may have been because the liberal attitudes of Jesus’ contemporaries towards marriage and divorce were seen as a prime example of the way in which ‘the law’ *was* being ignored and set aside. From that perspective, Jesus’ strict teaching on marriage and divorce is not best seen as an example of ‘annulling’ the law but of upholding it. In this sense, then, Jesus’ teaching is not new.

Jesus’ handling of Deuteronomy 24:1-4 emphasises the importance of creation in thinking about biblical law. As Hurst writes: ‘There is a law of God built into creation – lifelong fidelity – to which *Deuteronomy* is but an afterthought. If Jesus goes on to say that remarriage after divorce is adultery, it would not represent for him new legislation’.

If we put all this together we find that there is a tension at the heart of Jesus’ approach to the biblical material on marriage and divorce. It is both new and not new. It is radical and traditional. This may be part of the reason why we find Jesus’ teaching on this subject difficult. It is hard to see exactly what Jesus is doing. Is he setting the law to one side or is he upholding it? Jesus’ strange division between law and ethics in Mark 10:5-9 exposes the tension. On the one hand, Jesus ethicises the law by showing us the point of the rule. But on the other hand Jesus relativises the law by downplaying its significance in the light of *Genesis*.

Jesus’ distinction in the *Gospels* of Mark and Luke between what is legally permissible and what is morally right inevitably raises the following questions. Can there ever be a moral divorce? That is, can a person be free to divorce in a way that is morally right? This is exactly the question addressed in the *Gospel According to Matthew*.

The *Gospel According to Matthew* is widely recognised as being the most Jewish of the four Gospels and the one most sensitive to Jewish concerns. We might therefore expect some variation in expression, particularly if there was any anxiety that Jesus’ teaching on marriage and divorce ‘outlawed Moses’. It is therefore not surprising to find a different formulation of Jesus’ teaching to that found in Mark and Luke.

Jesus’ teaching is discussed in two places in Matthew’s *Gospel* (Matthew 5:31-32 and 19:1-12). The first discussion occurs in the context of a discussion about adultery in the Sermon on the Mount. The Sermon is not ‘new law’, as is sometimes thought, but a description of life in the kingdom of God. For Jesus, ethics is primarily descriptive: it illustrates how men and women will behave in the kingdom. This lifestyle involves ‘a higher standard of ethical observance than can ever be enforced by law’, no doubt because it is a question of vocation. We shall return to this question of calling in relation to marriage below.

The teaching on divorce in the Sermon on the Mount is sandwiched between a prohibition of adultery and an exhortation to truth-telling. Both point to a way of living that in practice makes divorce less likely to occur. In regard to adultery, Jesus gives two examples of violations of the seventh commandment ‘which his audience would never contemplate as adulterous’, namely, looking at another for the purpose of lust (verse 27-30) and divorce (verses 31-32). This context confirms that, as in Mark and Luke’s *Gospel*, Jesus’ teaching on divorce radically extends the scope of adultery:

It was also said, ‘Whoever divorces (*apolyse*) his wife, let him give her a certificate of divorce’. But I say to you that every one who divorces (*apolyon*) his wife, except on the ground of unchastity (*porneia*), makes her an adulteress; and whoever marries a divorced woman commits adultery (*moichatai*). (Matthew 5:31-32; Jesus speaking)

However, the reference to *porneia* in Matthew’s *Gospel* appears to qualify the absolute prohibitions of Mark and Luke. Although some have argued that *porneia* here has a broad meaning (including ‘anything that causes the breakdown of a marriage’) its use in conjunction with *moicheia*, which means adultery, indicates that its use in verse 32 refers to adultery. Wenham and Heth note that *porneia* is used in the Septuagint and the New Testament as an umbrella term that covers any and all types of unlawful sexual activity, including those found in Leviticus 18 and 20. Attempts to limit *porneia* to specific kinds of offence, such as incest are unconvincing because it is not clear that the word is being used with such precision.

Jesus’ qualification in Matthew’s *Gospel* means that there are some circumstances in which it is possible to speak of a moral divorce. It is possible for a disciple of Jesus to divorce in a way that is morally right, namely, when the other party has committed *porneia*. In fact, there is an argument for saying that Jewish law did not simply permit the husband of an adulterous wife to divorce her but actually *required* him to do so. But whether or not the divorce is mandatory or permissive, Jesus’ exception (on the grounds of *porneia*) seems to mean that the spouse who is *not* responsible for the break-up can remarry whereas the spouse who is responsible for breaking up the marriage is forbidden to remarry.

Some scholars go further to argue that it is *never* possible for either spouse to remarry. They argue that Jesus’ exception clause in Matthew *only* qualifies the phrase ‘every one who divorces his wife’. This means that whilst the innocent spouse who has not committed *porneia* may obtain a divorce she can never remarry because ‘whoever marries a divorced woman commits adultery’ (Matthew 5:32). They argue that the verb ‘divorces’ in verse 5:32a does not include the right to remarry. This leads them to construct the exception clause in the following terms:

- ‘(1) A man may not put away his wife unless she is guilty of adultery;
- (2) Whoever marries another after putting away his wife commits adultery’

Their position can be summarised thus: ‘putting away for reasons other than unchastity is forbidden; and remarriage after every divorce is adulterous’. On this reading, there is no tension between what Jesus says in Mark and Luke and what Jesus says in Matthew. In all three *Gospels* Jesus represents God’s intention that there should be no exceptions

to the ban on remarriage. The church is God's new creation and so it should be living according to the 'one flesh' ideal set out in Genesis 1 and 2.

There are several difficulties with the view that Jesus' words constitute a ban on remarriage, *even* in the case of adultery. First, it assumes that Jesus gives the verb 'divorces' in verse 32a a highly restrictive meaning. Wenham and Heth argue that Jesus limits the meaning of divorce to 'separation from bed and board'. Indeed, their construction of Matthew's exception clause only makes sense on this supposition. However, this would have been contrary to Jewish assumptions at the time. Of course, we have seen that Jesus does challenge contemporary Jewish ideas about divorce but this is not in itself sufficient grounds for thinking that Jesus redefines the meaning of divorce in the way that Wenham and Heth imply. Their argument requires that they attach two different meanings to the verb 'divorces' in verses 31 and 32. Thus verse 31, which draws on Deuteronomy 24:1-4, uses the verb 'to divorce' in the sense of 'divorce with the right to remarry' ('Whoever divorces (*apolyse*) his wife, let him give her a certificate of divorce'). However, on their view, verse 32 uses the verb in the sense of 'separation and no right of remarriage' ('But I say to you that every one who divorces (*apolyon*) his wife, except on the ground of unchastity, makes her an adulteress; and whoever marries a divorced woman commits adultery'). Wenham and Heth argue that since the word *apolyein* has a general meaning that does not convey the specifics of whether one could or could not remarry, the word can mean two different things, according to context. However, given the sharpness of the distinction that is being made, one would expect this to be flagged somewhere in the text itself.

Second, if, as Wenham and Heth argue, the verb 'divorces' in verse 32a refers only to 'separation from bed and board', how can divorce alone make the woman 'an adulteress'? They explain Jesus' saying by claiming that 'divorce, except for unchastity, is tantamount to committing adultery'. But Jesus says that she is an adulteress, not that she is nearly an adulteress. The reference to 'an adulteress' surely implies that she has contracted a second marriage. Again, the view that 'divorce' in verse 32 refers to separation with no right of remarriage seems implausible.

My argument is that the exception clause reminds us, once again, of the importance of the distinction Jesus makes between that which is legally permissible and that which is morally right. In Matthew's *Gospel*, Jesus seems to be saying that whilst it is possible to legally divorce in circumstances when it is not morally right to do so; it is sometimes possible to legally divorce in a way that is morally right, that is, when one party commits *porneia*. However, the person who wrongfully divorces – that is, for reasons other than *porneia* – and who legally remarries, commits moral adultery.

Matthew returns to the subject of marriage and divorce later in his *Gospel* (Matthew 19:1-12). It is characteristic of Matthew to mention topics or to quote sayings twice (e.g. 3:2=4:17; 3:10=7:19; 3:12=25:9). Wenham and Heth helpfully note that in such cases Matthew 'tends to abridge so that some of his remarks can only be understood in the light of the fuller text'. This creates the sensible presumption that the exception clause 'except for *porneia*' should be understood in the same way in both passages.

Nevertheless, there are important differences between the contexts of the two sayings. Matthew 5:31-32 does not record any interaction with Jesus' listeners whereas Matthew

19:1-12 begins with a debate with the Pharisees (cf. Mark 10). Matthew opens his second pericope on divorce by tracking Jesus' movement into:

... the region of Judea beyond the Jordan and large crowds followed him [Jesus], and he healed them there. And Pharisees came up to him and tested him by asking, 'Is it lawful to divorce one's wife for any cause?' (Matthew 19:2-3; italics added)

It is striking that Jesus' teaching on divorce occurs in the context of physical healings. The restoration of persons to God's original creative intent is consistent with the teaching that follows, which is a call to return to the ideals of *Genesis*. There is an implied contrast between 'healing', which implies wholeness, and 'putting asunder' which implies woundedness. The context further underlines Jesus' tension with the Pharisees whose preoccupation with grounds for divorce – and hence 'uncreation' – is opposed to Jesus' concern for wholeness and 'recreation'.

There is also a contrast between the setting of Jesus' teaching in Matthew's *Gospel* and that of Mark. In Matthew the implications of Jesus' teaching are made public, whereas in Mark they are private. We also find that the Pharisees' opening question is different. Instead of the general 'Is it lawful for a man to divorce his wife?' (Mark 10:2) we have the more pointed: 'Is it lawful to divorce one's wife for any cause?' (Matthew 19:3; italics added). This phrase alludes to sharp rabbinic debates in Jesus' day regarding the meaning of Deuteronomy 24:1-4; a record of which survives in postbiblical rabbinic accounts:

The School of Shammai say: A man should not divorce his wife unless he found in her a matter of indecency, as it is said: 'For he finds in her an indecent matter'. And the School of Hillel say, Even if she spoiled his dish, since it says 'For he finds in her an indecent matter'. (Mishnah Gittin 9:10)

To judge from surviving writings, the liberal Hillelite position appears to have been dominant in the first century (e.g. Josephus *Antiquities* 4:253) and it seems that the Pharisees in Matthew 19:3 assume this majority position.

Jesus rejects the Pharisees' basic assumption that Deuteronomy 24:1-4 should be the starting point of the debate and takes them back, as we have seen, to *Genesis*. We have already considered how this tactic could be seen as rejecting the authority of Moses. This is why the Pharisees respond by asking why Moses had authority to permit divorce in the first place ('Why then did Moses command one...?'; 9:7). Jesus responds by identifying their interpretation as a symptom of hard-heartedness. It is in this context that we find the repetition of the so-called 'Matthean exception':

And I say to you: whoever divorces his wife, except for unchastity, and marries another, commits adultery. (Matthew 19:9)

As in Matthew 5:31-32, Jesus is saying that whilst it is possible to legally divorce in circumstances when it is not morally right to do so; it is sometimes possible to legally divorce in way that is morally right. Once again, the person who wrongfully divorces – that is, for reasons other than *porneia* – and who legally remarries commits moral adultery.

Why does Matthew include Jesus' exception when Mark and Luke do not? The answer seems to lie in Matthew's general sensitivity towards Jewish concerns. Insofar as the word *porneia* covers adultery there is enough evidence to indicate the possibility that the *porneia* exception reflects a Jewish movement towards a mandatory divorce of the adulterer's wife. If so, it is only to be expected that Matthew would include information that was relevant to his primarily Jewish audience.

We have seen that Jesus' teaching in Mark and Luke appears to absolutely prohibit divorce and remarriage, whilst Jesus' teaching in Matthew appears to grant an exception on the grounds of *porneia*. How do we make sense of this apparent discrepancy? Understanding the New Testament's handling of biblical law is not too far removed from the general problem we have been considering throughout this book, namely, how do we do biblical law? Once again, we find that we have a choice between adopting a rule-based, literal approach or a narrative, paradigmatic one. Can the texts be resolved by either, or both, of these approaches?

First, if we approach Jesus' teaching as a set of rules and in a legalistic fashion then we will encounter problems because Jesus' teaching in Mark and Luke does not refer to any exceptions, whereas Matthew does. This implies that the absolutist position in Mark and Luke's *Gospels* is not the whole story, an impression that is confirmed by Paul's additional exception in First Corinthians. Even the prohibitive language of Mark 10:5-9 is undercut by the phraseology of Mark 10:9 – 'let not man put asunder' – which implies that human beings have the power to end a marriage.

However, even on a rule-based approach there is a possible way of harmonising the texts. Matthew 5 states that if the husband legally divorces his wife for a reason other than *porneia*, it is a wrongful divorce and hence ineffective. The result is that when the woman legally remarries, she commits moral adultery. On the other hand, if the husband divorces the woman for *porneia* he is not guilty of causing her to be an adulteress, either: (a) because she is an adulteress already (since *porneia* is the reason why he is divorcing her) or (b) because she committed the *porneia* and so she is responsible for his ending the relationship. Either way, she is not free to remarry because the marriage has come to an end through her own fault.

In my view, it follows that what Matthew's *Gospel* adds to Mark and Luke is the possibility that one spouse can divorce the other, if the other spouse is at fault in ending the marriage. The spouse who has committed *porneia* is responsible for it and cannot remarry whereas the party who has not committed *porneia* is free to remarry. It is a true divorce – legally and morally – but only for the party who is not at fault.

This fits with Mark and Luke's *Gospels* where Jesus says that neither spouse, as one party to the marriage, has power to bring it to an end. This is because if you do something to end it, you can never remarry. What Matthew adds is that if the marriage is formally dissolved because of what the other person has done, then the innocent party is not prevented from remarrying.

This is also compatible with Paul who identifies at least one other circumstance other than *porneia*, that is, desertion.

To the rest I say, not the Lord, that if any brother has a wife who is an unbeliever, and she consents to live with him, he should not divorce her. If any woman has a husband who is an unbeliever, and he consents to live with her, she should not divorce him... But if the unbelieving partner desires to separate, let it be so; in such a case the brother or sister is not bound. For God has called us to peace. (1 Corinthians 7:12-13, 15; Paul speaking)

To put it another way, whilst there are justifiable grounds for divorce, it is not possible for you to rely upon them if you are responsible for bringing about the end of the marriage. This means that, in effect, the commission of *porneia* or the act of desertion are informal modes of divorce. Adultery and desertion are equivalent to ending a marriage. There is a power to divorce – but it should never be used (‘let not man put asunder...’). Adultery and desertion are the ‘nuclear option’; however, it is best not to have your finger on the button.

Jesus’ teaching in Matthew’s *Gospel* envisages the moral – but not the legal – possibility that one party is ‘as if they are married’ and the other party is not. What this means is that the person who is not responsible for breaking up the marriage is allowed to enter another one. However, the person who is responsible for the divorce is not free to remarry because this person is regarded as morally married, even though there has been a legal divorce. There is an element of poetic justice here. The party who takes marriage seriously and is not responsible for the divorce can have another marriage; but the party who despises the marriage and precipitates a divorce is not allowed to enter into another one.

The irony is that the person who breaks up the marriage cannot benefit from their wrong. The divorce is morally ineffective – for them. They are still regarded as married and so cannot remarry. Some might argue that this reading suffers from the same objection as that levied against Wenham and Heth, above, inasmuch as this too involves a ‘double sense’. It means that ‘divorce’ for the innocent party means ‘divorce with the right of remarriage’ whereas ‘divorce’ for the guilty party means ‘separation with no right of divorce’. However, my argument is that this difference in meaning reflects a distinction that is present in Matthew 5:31-32, where Jesus distinguishes between that which is legally valid and that which is morally effective. As I have argued above, Jesus’ response to the Pharisees assumes that divorce can be legally permissible but morally ineffective. This is why a legally permissible divorce can result in moral adultery.

If we put together Jesus’ teaching in Matthew, Mark and Luke, we can, in my view, reach the following conclusions. Jesus is saying that the legal act of divorce can be a wrongful repudiation of marriage. But there are some circumstances in which the legal act of divorce is not a wrongful repudiation of marriage if the other party is at fault. In these circumstances, divorce gives legal effect to the fact that the marriage has been repudiated.

Of course, we can think of different ways in which marriage can be repudiated. The question is: when is it ethically appropriate to make use of that legal power to divorce? This is the question Jesus addresses in Matthew’s *Gospel*. Jesus proclaims that if you make use of it in certain circumstances then it is not wrongful; but if you do it in other

circumstances then it is wrongful. The bottom line is that you cannot benefit from your wrongdoing.

This approach ties in with rabbinic practice which did not, on the face of it, allow marriage between the guilty party and the suspected paramour (*Sotah* 5:1; and even if marriage was possible, the husband could not have sexual relations with her. In a polygamous context, this would not have been such a problem, for the husband). This is broadly consistent with Jesus' teaching, namely, that adulterers cannot benefit from their wrong.

It might be objected that this approach is unfair since no party is ever wholly responsible for breaking up a marriage. But this merely recognises that there are ups and downs in any marriage and, since this is the case, it is all the more important not to add to it through *porneia* or desertion. Jesus' teaching thus provides protection for both parties in the marriage because there is never any incentive to end it by *porneia*. Instead there is every incentive to stay in the marriage precisely because it is 'the only one you've got'. This means that Jesus' exception in Matthew's *Gospel* does not encourage *porneia* as a way of getting out of a failed marriage. Nor does Luke punish the wife who has been wrongfully divorced by her husband.

Although Jesus' teaching makes sense in terms of rules, a strictly casuistic approach leaves too many questions unanswered. Jesus identifies *porneia* as providing a moral ground for divorce and Paul – dealing with a situation that Jesus never had to deal with – identifies a further ground of desertion. This raises the question of whether there are any additional grounds for divorce, such as emotional and material neglect (cf. Exodus 21:10-11). Another question is the status of the second marriage. What about the man who wrongfully divorces and legally remarries? Jesus claims that this is adultery. But what is the true status of the 'morally adulterous marriage'? Is the fact that the parties are married sufficient to distinguish it from a 'straightforward' adulterous relationship? If so, is it a full marriage? Or is it a defective marriage? Or is it really a form of serial polygamy?

The danger of a legalistic approach to Jesus' teaching is that it takes us back to the very debate that the Pharisees wanted to have with Jesus – and which Jesus sets to one side. The problem with a casuistic approach is that we end up adding exception after exception and one clarification clause after another. Ironically, we end up reading Jesus like Moses at the very point where Jesus separates himself from Moses.

To conclude, Jesus' teaching sets out a very clear rule – but that does not necessarily mean that all of its ramifications are worked out. This is indicated by the way in which Paul identifies desertion as an additional ground. It raises the possibility that Jesus is not advocating a casuistic approach and might instead be envisioning a calling. If so, the rule and its implications are to be understood and applied in the light of the calling.

So, another way of resolving the different accounts might simply be to reject a casuistic approach. It may simply be a misreading of the material to think about reconciling the texts in terms of their exceptions. Instead we could try to resolve Jesus' teaching by taking a narrative, paradigmatic approach.

It is sometimes said that the problem we have with Jesus' teaching in the Gospels of Mark and Luke is that it appears to be 'an overstatement in which universal language [regarding divorce] is used to teach a non-universal truth'. However, we have already had reason to question whether the Bible does in fact reflect any straightforward commitment to universalism (see Chapter Three). What we found instead was evidence of norms known to everyone to whom they apply and that this was not inconsistent with some form of moral pluralism. We also saw that the expression of moral virtues consistent with a particular call and commitment could vary from one person to the next. In that regard, it is notable that Jesus' teaching on marriage and divorce does appear to be presented in terms of a response to a calling.

This is explicit in Jesus' debate with his disciples in Matthew 19:10-12, which immediately follows Jesus' debate with the Pharisees in Matthew 19:3-9. The disciples protest at Jesus' teaching (19:10) by saying: 'it is not expedient to marry' (verse 10). This triggers a peroration from Jesus on the subject of eunuchs (19:12) which is prefaced by Jesus' remark: 'Not all men can receive this saying (*ton logon touton*), but only those to whom it is given' (19:11; italics added). This clearly introduces the idea of a calling. But to what does the calling refer?

It seems clear the 'saying' in verse 11, and hence the calling, refers to Jesus' teaching on marriage and divorce in verses 4-9. The ones who 'can accept' Jesus' teaching because it has been 'given' to them are those who obey Jesus' teaching in relation to marriage and divorce. Those who can respond to the call of marriage should do so. This is consistent with Jesus' use of *Genesis*, which implies a 'universal' calling to marriage. Matthew 19:4-6 confirms that the 'default' position is marriage and Jesus sets out three reasons why people might not marry and might discern that they have a calling not to marry (verse 12).

This reading contrasts with those who argue that the 'saying' refers to the disciples' outburst in verse 10: 'it is not expedient to marry'. If this is correct, and the referent of Jesus' saying is to the disciples' reaction, then it follows that the calling of which Jesus speaks is celibacy. This is how verse 12 has traditionally been understood. However, the problem with this reading is that it does not square with Jesus' teaching regarding *Genesis*. In the light of this, it is bizarre to interpret Jesus as saying that singleness is the 'default' position. This interpretation is also inconsistent with a subsequent conversation Jesus has with the disciples later in chapter 19. Here, the disciples are witness to another radical exchange between Jesus and a third party (verses 16-22) where the disciples once again express astonishment at his teaching (verse 25). On this occasion it is clear that Jesus' response in verse 26 ('With men this is impossible...') does not refer back to the disciples' shocked reaction in verse 25 ('Who then can be saved?') but rather continues his teaching in verses 23-24 on the subject of wealth. It is almost certain, then, that the same is true earlier in chapter 19 as well. This means that Jesus' 'saying' in verse 11 refers not to the disciples' outburst in verse 10 but rather continues Jesus' teaching in verses 4-9 on the subject of marriage.

Consequently, we can see that Jesus' teaching on marriage and divorce in Matthew 19:3-9 is anchored in the belief that marriage is a calling (19:11-12).

Indeed, Jesus' use of the Eden narrative in Matthew 19:4-6 and Mark 10:5-9 indicates that marriage is understood in terms of a calling. The picture emphasises three things:

(1) God, (2) the couple and (3) work in the forest of Eden (Genesis 2:15-25). ‘Marriage is instituted by the Creator in the context of meaningful work... the purpose of sex is not in principle the promotion of interpersonal relationship’. The Eden story presents a very positive image of marriage: it is a picture of mutual dependency in the service of something greater than the couple themselves. Another striking feature of Eden is the lack of any alternative marital relationship for Adam and Eve. As presented, there are no other human beings around. There is no alternative marriage for them to jump into or reason for them to abandon the marriage they have got. This is important from the point of view of calling. The call of marriage is such that one cannot consider any alternative. The ‘question of intent’ – asked at wedding ceremonies in the Church of England – captures this well. It asks whether the parties are willing to ‘forsake all others’ ‘as long as you both shall live?’ The marriage should be as if there were no others, as was the case in Eden. This ties the question of calling (‘am I called to that sort of exclusive relationship?’) to the narrative image.

‘Let every one lead the life which the Lord has assigned to him...’

The same belief – that marriage is a vocation – is also explicit in Paul’s teaching. Paul starts by repeating Jesus’ ‘command’ that ‘a wife must not separate from her husband... And a husband must not divorce his wife’ (1 Corinthians 7:10-11). He then delivers – on his own authority – an additional exception which is not mentioned by Jesus in Matthew’s *Gospel*, namely, that the believer in a mixed marriage may consent to divorce by an unbeliever (1 Corinthians 7:12-15). Paul is able to insist both on a prohibition upon divorce and on an exception. This is similar to the combined view of the *Gospels*. Again, Paul locates this teaching in the context of a calling:

Only, let every one lead the life which the Lord has assigned to him, and in which God has called him. This is my rule in all the churches. (1 Corinthians 7:17; Paul speaking).

Putting Jesus and Paul together, it seems as though one way of making sense of the apparent dissonance regarding marriage and divorce is to recognise that the New Testament situates its regulations in the context of a calling. Even in Mark and Luke’s *Gospels*, Jesus’ teaching on marriage and divorce occurs in the broader context of what it means for Israel to fulfil her vocation as the people of God. Likewise Jesus’ teaching in Matthew 5 occurs in the context of describing those who are members of the kingdom of God. This is not too far removed from the character of *Torah* itself. We saw in Chapter Two that the ‘priestly’ covenant of Exodus 19 is understood primarily in terms of a vocation (‘you shall be to me a kingdom of priests and a holy nation’; 19:6). In particular, it is clear that obedience to Jesus on the subject of divorce and remarriage was one of the key ways in which the new Israel, which was being formed around Jesus, would fulfil its vocation. The ‘kingdom of God’ would be a work of new creation (cf. the parallels between the creation of the world and the creation of Israel at Mount Sinai, noted in Chapter Two). The coming of the kingdom of God in the *eschaton* (that is, the ‘end times’ or the ‘end of the present age’) is bound up with the fulfilment of God’s purposes for creation. Jesus’ reference to *Genesis* in, for example, Mark 10:6-8 understands marriage in the light of creation. This means that Jesus’ teaching on divorce and remarriage is not some kind of ethical ‘optional extra’ but is central to Jesus’ eschatological thinking. As Catchpole writes: ‘Jesus presupposes... that the End time,

which will see a renewal of the Beginning time, has already dawned'. To this extent, it is fair to say that the debate between Jesus and the Pharisees reflects 'a more basic ideological debate on the status of marriage itself in the imminent eschatological age'. Eschatology also helps us to make sense of Paul's allowance for divorce in the case of the non-Christian who deserts a Christian spouse. Divorce is here allowable precisely because the initiative is taken by someone who is *not* identified as a follower of Jesus. Paul's teaching is eschatological in its outlook because it presumes and implements 'a distinction between those who are in Christ and those who are not. For Christian couples divorce is excluded, but for 'mixed couples' it is a reluctantly allowed possibility'.

The idea that Jesus' disciples were defined by their behaviour in relation to divorce and remarriage and that this was a way of fulfilling their vocation as the people of God during the 'last days' has parallels with the Qumran sectarians. Of course, there are major substantive differences in the content of Dead Sea Scrolls and the New Testament in relation to divorce and remarriage. Nevertheless, it is true that the members of the Qumran community saw themselves as fulfilling Israel's vocation in the 'end times', even to the extent of 'camping out' in the desert in a manner that evoked Sinai, and that their high standards in relation to divorce and remarriage anticipated the coming Messianic age. Jackson understands the differences between the Dead Sea Scrolls and the New Testament on divorce and remarriage in the light of sectarian rivalry which expressed itself in "holier than thou" claims regarding permissible sexual relationships'. Jackson's approach is not too far removed from my argument that divorce and remarriage in the New Testament is understood in terms of a vocation. Some groups, like the Qumran community and the followers of Jesus, see themselves as distinct from others and as endorsing higher standards and this can be identified with having a sense of calling.

Within the overall context of a calling, it is self-evident that the 'call' to faithful marriage precludes the option of divorce. No-one who is concerned with responding to the call to marriage could possibly be interested in whether there is an exception on the grounds of *porneia*, or of having an unbelieving spouse, or indeed a range of other grounds that may be permissible but are not articulated. Inherent in the concept of a marriage is the belief that one cannot ditch it. It is simply not possible to speak of marriage in a provisional way. The idea that marriage is a calling also helps to explain why the person who wrongfully divorces is not given a second chance. The person who is to blame for the marriage failing and who has successfully destroyed 'what God has joined together' has, by definition, demonstrated a lack of calling to marriage.

Even so, as far as the New Testament is concerned, the outworking of this calling means taking account of problems raised in two particular cases. These are; (1) the social pressure to divorce in cases of *porneia* (which seems to be an issue for Jewish believers) and (2) desertion by the unbeliever (which is a problem for believers in a mixed marriage). Or to put it in different language, even in the run-up to the *eschaton* concessions sometimes have to be made. As noted, above, in relation to the Dead Sea Scrolls, certain exceptions were made for the king, even though these did not apply to ordinary members of the community. Even in eschatological teaching there is an element of eschatological pragmatism. This is true, albeit in different ways, both for the Dead Sea Scrolls and the New Testament.

To conclude, there are various ways in which we can make sense of Jesus' teaching. They include a rule-based literal approach and a totally different, narrative, paradigmatic approach. From one perspective, Jesus can be read as giving very limited conditions under which couples can divorce (in which case it can all become very legalistic). From another, Jesus sets out an image of what marriage is about which emphasises that it is a vocation and a calling. My argument is that there are possibilities for reconciling the different accounts in Mark, Luke and Matthew under either approach.

What implications does this have for our understanding of the nature of biblical law? I have argued that Jesus' approach in the *Gospels* of Matthew and Mark ties the rule about marriage and divorce to a central, narrative image which is rooted in the idea of a calling. Further support for this approach is found in Paul's teaching. Indeed Paul *explicitly* juxtaposes the idea of a calling ('...let every one lead the life ... which God has called him') with that of a rule, or a command, ('This is my *rule* in all the churches'; italics added).

Understanding divorce and remarriage means holding onto both the sense of vocation and the rules. There are dangers with an exclusively legalistic approach because we end up being prescriptive about things that Jesus was not prescriptive about. Rules are not enough. They need to be understood in the light of God's calling; otherwise we will end up having debates around the Pharisees' agenda. But at the same time, rules are needed to give form and shape to the calling. Without them, the calling risks becoming overly subjective. It is a mistake to become fixated on either rules or calling. Rules are one mode of expressing reality and calling is another. Both are needed to express the reality of marital commitment.