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Divorce and Remarriage¹

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William A. Heth and Gordon J. Wenham² reach a firm conclusion from their study of the New Testament and the Early Church that Jesus made an absolute prohibition of divorce *and* remarriage. 'It is clear that Jesus said that a man may have one wife or no wife, and if someone puts away their partners for whatever reason, they must remain single' (p 199).

Heth and Wenham recognize that they must argue against a fairly solid evangelical consensus which, since the Reformation, has allowed the innocent party to divorce an adulterous spouse and marry again. There is a lengthy discussion of what they call this Erasmian position in Chapter VI of their book. It is not my purpose in this article to examine their critique of the exegesis of John Murray and other Reformed commentators. But it does come as some surprise to hear Reformed theologians described as 'exegetical gymnastics' who finally 'meet their Waterloo in the teaching of the early Church Fathers which cannot be re-interpreted to permit remarriage after divorce' (p 151). This last comment plainly shows that for Heth and Wenham the decisive factor in the interpretation of the texts lies in the viewpoint of the Early Church Fathers. Following Père Henri Crouzel,³ they find that of the Fathers, 25 individual writers and two early Councils forbid remarriage after divorce (p 38). The only exception that they and Crouzel find to this general picture is Ambrosiaster who wrote commentaries on the Pauline epistles between 366 and 383. In his commentary on I Corinthians 7 he argued that divorce was legitimate in cases of fornication and that an innocent husband could remarry in such circumstances, but not an innocent wife. Ambrosiaster also allowed a husband or wife deserted by a pagan spouse to remarry (the so-called Pauline privilege). Apart from Ambrosiaster, was there unanimity in the Early Church's interpretation of Jesus' teaching on marriage and divorce? A careful reading of the texts suggests a much more varied and ambiguous picture than Heth and Wenham would admit.

It should be noted that in both the Jewish and Gentile world it was the practice (i) to divorce an adulterous wife and (ii) to allow remarriage after divorce. The texts need to be interpreted against the customary background.

1 The writer is most grateful to Mr. Philip Rowe of Trinity College, Bristol, Dr. David Atkinson of Corpus Christi College, Oxford and Mr. David Wright of New College, Edinburgh for reading this paper and for their most helpful comments.

2 *Jesus and Divorce*, H & S, London, 1984.

3 *L'église primitive face au Divorce du Première au Cinquième Siècle* 'Beauchesne', Paris 1971.

Hermas The Shepherd of Hermas is variously dated between the turn of the first century and 150 AD. In Commandment 4 Hermas teaches that a husband should put away a wife whom he knows to be adulterous lest he share in her sin. If a husband fails to send away an impenitent adulterous wife, he shares in her adultery. He is guilty by association. But if a husband sends his adulterous wife away and marries another he commits adultery. If the wife repents, the husband should take her back. 'But not frequently. For there is but one repentance for the servants of God. In case therefore, that the divorced wife may repent, the husband ought not to marry another, when his wife has been put away. In this matter man and woman are to be treated exactly in the same way. Moreover adultery is committed not only by those who pollute their flesh, but by those who imitate the heathen in their actions . . .'. 'Therefore has the injunction been laid on you that you should remain by yourself, both man and woman, for in such persons repentance can take place?'¹

This, perhaps the earliest of the extra-biblical texts, is of interest for a number of reasons. It suggests

- (a) That *porneia* was construed as having a wider meaning than simply adultery.
- (b) That the reason for the husband not remarrying after divorce was to allow the possibility of repentance by an unfaithful wife.
- (c) That a non-biblical legalism was already intruding. Repentance and its corollary forgiveness is allowed only once.
- (d) That the possibility of remarriage, after the exhaustion of the opportunity for repentance, remains an open question. We cannot be sure. But Hermas does allow re-marriage for the widowed, without regarding it as the ideal.

Justin Martyr in Chapter 15 of his First Apology (c.150) gives examples of Christian teaching on matters of sexual morality. He then adds, 'those who, according to human law, contract double marriages, are sinners against our Master'. Justin has just quoted Matthew 5:32f or Luke 16:18f, and it seems reasonable to suppose that his remark is not addressed to the problems of bigamy or polygamy, but possibly to remarriage after divorce or after the death of a partner. Since his comment is so brief, we cannot accurately deduce Justin's attitude to remarriage after divorce for *porneia*.

In his Second Apology (2:1-7) Justin writes approvingly of a converted woman who divorced her pagan husband for his immorality, by giving him a civil bill of divorce. He does not say whether she remarried.

Theophilus was the sixth bishop of Antioch according to Eusebius. In his defence of the Christian faith to his friend Autolyclus he wrote:

The gospel voice provides a stricter teaching about purity when it says, 'Everyone who looks upon another person's wife to desire her

1 A. Roberts and J. Donaldson, eds., *Ante-Nicene Christian Library*, T. & T. Clark, Edinburgh 1867, vol. I, pp 352-3.

has already committed adultery with her in his heart' (Matt. 5:28) 'And he who marries' it says, 'a woman divorced by her husband commits adultery, and whoever divorces his wife except for fornication makes her a partner in adultery' (Matt. 5:32)¹.

Theophilus has inverted the two clauses in Matthew 5:32. It is not clear how Theophilus' prohibition of remarriage should be interpreted, ie does he have in mind 'an adulterous divorcee', an 'innocent divorcee' or any divorcee? It is going too far for Heth and Wenham to assume: 'If remarriage to anyone divorced for whatever reason amounts to adultery then marriage is truly indissoluble'.²

Clement of Alexandria (c150-215). The most explicit statement in support of Heth and Wenham's thesis comes from the Alexandrian theologian, Clement. He states:

'Now that Scripture counsels marriage, and allows no release from the union, is expressly contained in the law, "You shall not put away your wife, except for the cause of fornication" and it regards as fornication the marriage of those separated while the other is alive'.³

This statement, on its face value, does appear to exclude any possibility of remarriage. But even so it has to be said that it does not deal specifically with remarriage of an innocent party after divorce for adultery by the other spouse. This illustrates the Fathers' habit of quoting the exceptive clause without exegeting its force and effect.

Clement goes on to relate Matthew 19:11-12 to Jesus' earlier teaching on divorce. In response to Gnostics who argued that marriage itself was fornication and that Jesus advocated celibacy in Matthew 19:12, Clement replies that the heretics

. . . do not realize the context. After his word about divorce some asked him whether, if that is the position in relation to woman, it is better not to marry; and it was then that the Lord said: 'Not all can receive this saying but those to whom it is granted'. What the questioners wanted to know was whether, when a man's wife has been condemned for fornication, it is allowable for him to marry another.⁴

It is a curious interpretation to regard divorced persons 'as those who have made themselves eunuchs for the sake of the kingdom of heaven'. In the light of the disciples' comment about the expedience of celibacy, Jesus remarks are more naturally regarded as applying to voluntary celibacy in general. The Gnostics rather than Clement come out somewhat better from the argument.

1 *Ad Autolyicum* 3:13. Oxford Early Christian Texts, Clarendon, Oxford 1970, p 119.

2 *Ibid.* p 31.

3 *The Miscellanies or the Stromata II, XXIII: Ante-Nicene Christian Library*, T. & T. Clarke, Edinburgh 1869 vol. XII, Clement of Alexandria vol. II, p 82.

4 *Ibid.* p 107.

Athenagoras (fl. c.177), the elegant apologist of the Christian faith, may be described as an absolute monogamist. He regarded a second marriage as a 'fair-seeming adultery'. He told the Emperor Marcus Aurelius,

We hold that a man should either remain as he is born or else marry once. The Scripture says, 'Whoever puts away his wife and marries another commits adultery.' Thus a man is forbidden both to put away her whose virginity he has ended and to marry again. He who severs himself from his first wife, even if she is dead, is an adulterer in disguise.¹

Athenagoras does not, significantly, quote the Matthean exception clauses. But it must be conceded that he is so strongly against second marriage of any kind that it is doubtful if it would have affected his interpretation of the verses. He also goes beyond Scripture in forbidding the remarriage of widows and widowers, as well as divorcees. In so doing he ignores Paul's teaching (1 Cor. 7:9; 39; 1 Tim. 5:14 and Rom. 7:3).

Tertullian (c.160-220), in his treatise *Against Marcion*, took issue with the heretic for forbidding both marriage and divorce, contrary to Christ's teaching. Tertullian criticized Marcion for suggesting that Christ had abolished Moses' regulation permitting divorce, and concluded 'it appears then that divorce, when justified, has Christ's authority'. 'You find Christ by himself treading at every step in the Creator's footsteps whether in permitting divorce or in forbidding it . . . While he will not have it dissolved, he forbids separation: and while he will not have it continue under strain he permits divorce'.²

How then did Tertullian regard remarriage after a lawful divorce? In *De Patientia* he extols the virtue of patience to promote the possibility of repentance leading to a mending of the marriage. For this reason he says that it is lawful for a husband and wife, who are divorced, to remain in 'the perpetual observance of the widowhood'. 'How great a blessing patience confers on each. The one she prevents from becoming an adulterer, the other she amends.'³

Heth and Wenham comment that 'the innocent party is prevented from committing adultery by abstaining from remarriage, and the guilty party is brought to repentance'. (p 36).

Tertullian's *Ad Uxorem* is in two books. The first counselled his wife, if he pre-deceased her, not to marry again. The second, written later, urged her, if she must marry again when widowed, to make sure she married a Christian. He speaks of certain women 'who when an opportunity for the practice of continence has been offered them, by divorce, or by the decease of the husband, have not only thrown away the opportunity of attaining so

1 C. C. Richardson, ed., *Early Church Fathers, Library of Christian Classics*, SCM, London 1954, Pleas 239.

2 Ernest Evans ed., *Adversus Marcionem, Oxford Early Christian Texts*, books 4 and 5, Clarendon, Oxford 1972, pp 451, 453.

3 *Ante-Nicene Christian Library*, T. & T. Clark, Edinburgh, 1869, vol XI, p 224.

great a good, but not even in their remarriage have chosen to be mindful of the rule that "above all they marry in the Lord".¹

This passage supports the view that while Tertullian would prefer widows and divorcees to remain celibate, he does not rule out the possibility of a second marriage provided it be a Christian one and that they 'marry in the Lord'. Later it seems in his Montanist stage, Tertullian ruled out marriage not only for divorcees but also for widowed persons as well.²

Origen (c.185-c.254). There is a lengthy discussion in Origen's commentary on Matthew on the question posed by the Pharisees and scribes as to whether it is lawful for a man to put away his wife for any cause (Matt. 19:3).³ Origen sees the Pharisees trying to trick Jesus into adopting an extreme position.

I think that the Pharisees put forward this word for this reason that they might attack Him for whatever he might say; as for example, if he said, 'It is lawful', they would have accused Him of dissolving marriages for trifles; but if he had said, 'It is not lawful', they would have accused him of permitting a man to dwell with a woman, even with sins.

Origen is insistent that the law of Moses regulating divorce in Deuteronomy 24:1-4 is a spiritual law, given as Jesus described it, for the hardness of men's hearts (cf. Matt. 19:8).

Origen goes on allegorically to see Christ as deserted by his 'former wife', or 'the former synagogue', or Judaism, who had acted as an adulteress and murderer. Christ was now joined to a new wife, the Church. The use of this bold analogy suggests that Origen saw nothing wholly incongruous in remarriage.

He then states that Israel is in a state of divorce.

We will say that the mother of the people separated herself from Christ, her husband, having received the bill of divorcement, but afterwards when there was found in her an unseemly thing, and she did not find favour in his sight, the bill of divorcement was written out for her, for when the new covenant called those of the Gentiles to the house of him who had cast away his former wife, it virtually gave the bill of divorcement to her who had formerly separated from her husband - the law, and the Word. Therefore he, also, having separated from her, married, so to speak, another, having given into the hands of the former the bill of divorcement.

This allegorical interpretation, strange as it may appear to modern minds, runs directly counter to those who argue that Origen would not countenance second marriage in any circumstances. Origen also draws attention to the Apostle Paul's requirement that bishops, presbyters and

1 Ibid. p 291.

2 Crouzel, op. cit., pp 103-8.

3 *The Ante-Nicene Fathers*, Allan Menzies ed., Wm. B. Eerdmans, Grand Rapids, vol. X, nd, pp 505ff.

deacons should only have been once married (1 Tim. 3:1, 2, 12; 5:9; Titus 1:5, 6). He points out that 'those who have been married twice may be much better than those who have married once'. But he sees this ecclesiastical rule as a kind of visual aid and warning against spiritual apostasy. In this context it is noteworthy that whatever Paul's meaning, he laid no such obligation against second marriages on ordinary Christians.

Origen regards the Mosaic divorce provision 'as an accommodation to the weakness of those for whom the law was given'. He regarded the freedom of remarriage allowed to widows in Romans 7:1-3, as a similar concession. But he is distressed that 'some even of the rulers of the church have permitted a woman to marry, even when her husband was living', contrary to this same passage of Scripture in Romans 7. He sees pastoral justification however. 'Probably this condescension has been permitted out of comparison with greater evils'. It must be presumed that he is speaking of the remarriage of divorced women during the lifetime of their former spouses. This suggests that Church practice was not invariable on this matter in the Early Church, and that there was no clear consensus. The difficulty with Origen's argument, however, is that it is inconsistent with his earlier allegorical treatment of the Lord's divorce of Israel and his marriage to the church. It also takes Paul out of context since the Apostle is not addressing himself to the question of remarriage after divorce.

Origen will not accept the Jewish argument that Jesus was merely reinforcing the Mosaic law on divorce. He insists that Jesus was legislating to limit divorce to fornication or adultery. As adultery was a capital offence under the Mosaic law, an 'unseemly thing' in Deuteronomy 24:1 must be given a much wider interpretation. But Origen is puzzled why Jesus limited divorce to adultery and did not include heinous offences, such as poisoning, or child destruction, or despoiling or pillaging a husband's house. And what about the denial of conjugal rights? 'And perhaps this man is more culpable who, so far as it rests with him, makes her an adulteress when he does not satisfy her desires than he who for other reason than fornication, has sent her away – for poisoning or murder or any of the most grievous sins'.

Origen's treatment of the divorce issue remains unsatisfactory because he does not specifically address himself to the issue which is the bone of contention today. That issue is whether the innocent party in a divorce for adultery was or was not free to remarry. Like most of the Early Fathers Origen's interpretation of the relevant passages was strongly influenced by an ascetic preference for celibacy. He concludes his discussion of the subject by saying that the Saviour taught that absolute chastity was a gift of God given in response to prayer. 'God therefore will give the good gift, perfect purity in celibacy and chastity, to those who ask him with the whole soul, and with faith, and in prayers without ceasing'.

Basil the Great (330-379) after noting that a man could divorce his wife for marital infidelity, observed that the converse did not apply. 'Custom ordains that men who commit adultery and are in fornication be

retained by their wives. Consequently I do not know if the woman who lives with the man who has been dismissed can properly be called an adulteress'. Here he seems to suggest that men divorced by their wives might not enter into an adulterous union when they re-marry, because of the customary indulgence afforded to married males. But he is in no doubt that a husband may remarry when deserted by an unfaithful wife. 'The man who has been abandoned is pardonable, and the woman who lives with such a man is not condemned'.¹

Lactantius (c.240-320) was an elegant rhetorician appointed by the Emperor Diocletian to be teacher of Latin oratory at Nicomedia. When he became a Christian he was forced to give up his post and he experienced real poverty. In his 'Divine Institutes' he sought to commend the gospel to educated pagans. There are several passages where Lactantius touches on the issue of divorce.

As a woman is bound by the bonds of chastity, and may desire nothing else, so let the man be holden by the same laws; for God united together (solidavit) the wife out of the husband in the framework of a single body. For this reason it was enjoined that a wife should not be put away, save when convicted on a charge of adultery, and never let the bond of the marriage covenant be dissolved, unless infidelity has broken it.²

In another passage Lactantius allows remarriage for the innocent party; 'He is an adulterer who has married one that is put away by her husband; so also is he who, except for the crime of adultery, has put away his wife to marry another'³.

Luckock in his *History of Marriage* is dismissive of Lactantius' viewpoint on the ground that he was a rhetorician and not a theologian. Luckock also accuses Lactantius of toadying to an imperial master, because Constantine appointed him tutor to his son and heir, Crispus. Neither objection is decisive if Lactantius as a new convert was faithfully retailing the teaching and practice of the Church as he had received it. Furthermore it appears that Lactantius wrote his 'Divine Institutes' well before his appointment as Crispus' tutor. As Luckock himself concedes, Lactantius is what he calls 'the first undoubted witness to the introduction of the laxer view of permitting remarriage to the innocent party'⁴.

The Council of Elvira, AD 306, excommunicated for life women who left their husbands without cause (Canon 8). Those who remarried because of their husband's adultery were banned from communion until their first husband's death. Heth and Wenham suggest that this was a reaction to the law passed by Diocletian in 293 which permitted women to dissolve their

1 *Letters of Basil. The Nicene and Post-Nicene Fathers*, 2nd Series, eds. P. Schaff and H. Wace, Wm. B. Eerdmans, Grand Rapids 1955, vol VIII, p 227.

2 Cited H. M. Luckock, *The History of Marriage*, Longmans, London 1896, p 110.

3 *Ibid.* p 111.

4 *Ibid.* p 109.

marriages unilaterally by simply writing a bill of divorce. The bill need not even be given to the husband nor need he be told of it.

Although the Emperor Constantine embraced Christianity in 312 AD, no Christian Emperor forbade divorce until Justinian in 542 declared causeless divorces to be void. This law was repealed on Justinian's death in 565.¹

Canon 10 of the Council of Arles shows a more tolerant attitude to innocent husbands.

As regards those who find their wives to be guilty of adultery and who being Christian are, though young men, forbidden to marry, we decree that so far as may be, counsel may be given them not to take other wives, while their own, though guilty of divorce are yet living.²

This suggests that there was no absolute prohibition of remarriage, and that pastoral consideration might permit it in the case of younger men.

Strong evidence that there was no unanimity in the Early Church on the remarriage after divorce issue is demonstrated by divergences of practice from the sixth Century. The Western Church prohibited divorce and developed the concept of nullity as an alternative. Remarriage after divorce did not therefore arise, but remarriage after the death of a spouse was allowed. Conversely, the Eastern Church permitted both divorce and remarriage after divorce. But it forbade remarriage after the death of a partner.³

How then are we to interpret these varied views? It must be readily admitted that any interpretation of the evidence must to a greater or lesser extent be influenced in some degree by one's own interpretation of Jesus' teaching on marriage and divorce. But a number of positive things do emerge from the evidence.

(1) The majority opinion among the Fathers recognizes (a) divorce⁴ and hence (b) the dissolubility of marriage, ie Hermas, Justin Martyr, Theophilus, Clement of Alexandria, Origen, Tertullian, Basil the Great.

(2) The majority opinion among the Fathers is opposed to 'second marriages' ie Hermas, Justin, Theophilus, Clement of Alexandria, Tertullian (in his Montanist stage). The reasons given vary:

- (a) To allow opportunity for repentance (Hermas, Tertullian).
- (b) To avoid fornication or adultery by entering into a second union while the divorced spouse is alive (Clement, Theophilus).
- (c) To practise the virtues of continence (Tertullian).

1 R. W. Lee, *Elements of Roman Law*, Sweet & Maxwell, London 1956, pp 66-68.

2 Quoted in C. H. Joyce, *Christian Marriage*, 2nd ed., Sheed and Ward, London 1948, p 310.

3 Ibid. p 310, cited Heth and Wenham, op. cit., p 30.

4 David Wright argues that everything hinges on the meaning of 'divorce' and that it is possible that some of the Fathers envisaged some kind of separation with a continuing marriage bond. But against this it has to be said that neither Roman nor Jewish laws appear to recognize judicial separation as opposed to dissolution of the marriage.

(3) A minority opinion allows the possibility of remarriage (Tertullian in his pre-Montanist stage, Origen?, Basil the Great, Ambrosiaster, Lactantius).

Few Fathers actually tell us how they understand the force of the Matthean exceptive clause. Further it must be said that even the sternest views expressed by the Fathers do not specifically address themselves to the question of whether the innocent party in an adultery divorce was free to remarry. Nor can it be said that the Fathers have addressed themselves to how their prohibition of remarriage can be reconciled with Paul's teaching in his Epistles. It is not unreasonable to conclude that the Fathers' interpretation of the dominical texts was certainly influenced by an ascetic tendency to elevate the virtues of celibacy and continence over the pastoral concerns shown by Paul in his Epistles.

In correspondence with Dr. Gordon Wenham, David Wright has made the point that the Fathers do not so much interpret the exceptive clauses in Matthew as apply an ecclesiastical tradition.

Underlying much patristic discussion of marriage is the presumption of the superiority of celibacy, virginity and widowhood to marriage, and continence within marriage to sexual relations within marriage . . . If you appeal to the Fathers, to the Fathers you must go. The prospect is appalling.¹

Whatever the views of the Early Fathers, the Reformers were in no doubt how the exception clauses should be interpreted. Luther quotes Matthew 5:32 and comments:

Hence Christ permitted divorce but only in case of fornication. It follows that the Pope is in error where he grants divorce for other causes . . . But I marvel even the more that the Romanists do not allow the remarriage of a man separated from his wife by divorce, but compel him to remain single. Christ permitted divorce in case of fornication, and compelled no one to remain single; and Paul preferred us to marry rather than to burn, and seemed quite prepared to grant that a man may marry another in place of the one he has repudiated (1 Cor. 7:9).

Luther also seems willing to allow divorce in cases of desertion.²

Calvin, as usual, is splendidly lucid in his commentary on Matthew 19:3-9. He notes the reason why the exception clause is added, 'For the woman by fornication, cuts herself off, as a rotten member from her husband, and sets him at liberty.' He observes:

(The) clause has been very ill explained by many commentators; for they have thought that generally and without exception celibacy is enjoined in all cases when a divorce has taken place; and therefore if a husband should put away an adulteress, both would be laid under

1 *Third Way* 1, No. 24, 1977.

2 *The Pagan Servitude of the Church. Martin Luther, Selections from His Writings*, John Dillenberger, ed., Anchor Books, New York 1961, p 339.

the necessity of remaining unmarried . . . It was therefore a gross error for though Christ condemns as an adulterer the man that shall marry a wife that has been divorced, this is undoubtedly restricted to unlawful and frivolous divorce . . . For the sake of avoiding fornication, let every man marry a wife (1 Cor. 7:9).

The Westminster Confession of Faith (1643-47) succinctly states the Reformed position. 'In the case of adultery after marriage, it is lawful for the innocent party to sue out a divorce; and after divorce, to marry another, as if the offending party were dead.' The Confession allows wilful desertion as a proper cause for divorce (Ch. XXIV, V and VI). Among modern evangelicals who expound the texts in a similar fashion mention may be made of Martyn Lloyd-Jones, John Murray and John Stott.

As to the meaning of *porneia* in the exception clauses, John Stott quotes R. V. G. Tasker with approval. *Porneia* 'is a comprehensive word, including adultery, fornication and unnatural vice'.¹ It includes every kind of 'unlawful sexual intercourse'.²

In conclusion I hope to have demonstrated that absolute indissolubility cannot be supported either from the Scriptures, the Early Fathers, or the Reformers. Similarly the Early Church Fathers are by no means united in absolutely prohibiting remarriage after divorce. This is not to advocate easy divorce. Our Lord's ideal of a lifelong and permanent marriage union must not be compromised. Every effort must be made to repair and reconcile marriage wherever possible. But there is no merit either in Scripture or in practice in adopting an absolutist position.

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1 *Christian Counter Culture*, IVP, London 1978, p 97.

2 William F. Arndt & F. Wilbur Gingrich, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, University of Chicago Press & CUP, Cambridge 1957.