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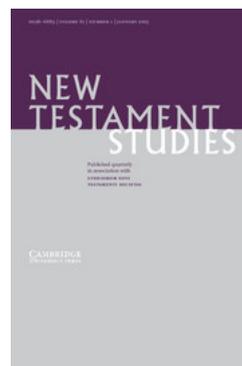
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New Testament Studies / Volume 61 / Issue 01 / January 2015, pp 67 - 78

DOI: 10.1017/S0028688514000241, Published online: 03 December 2014

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### How to cite this article:

William R. G. Loader (2015). Did Adultery Mandate Divorce? A Reassessment of Jesus' Divorce Logia. *New Testament Studies*, 61, pp 67-78 doi:10.1017/S0028688514000241

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## Did Adultery Mandate Divorce? A Reassessment of Jesus' Divorce Logia

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**This paper argues that Matthew's so-called exception clauses to the prohibition of divorce (5.32; 19.9) make explicit what was already implicit in versions without them: that adultery required divorce. While biblical law required death for adulterers or expected it as a result of the ordeal of the suspected wife, the issue of divorce arose where communities no longer had capital rights and where guilt was not in question. Matthew's nativity story, the norms of Greek and Roman culture, notions of the defiled wife (Deut 24.1-4) and the use of Gen 2.24 to indicate permanent joining give plausibility to the thesis.**

**Keywords:** divorce, adultery, marriage, sexual intercourse

The following article pursues an issue which arose in the course of my research into attitudes towards sexuality in early Jewish and Christian literature, made possible by an Australian Research Council Professorial Fellowship, 2005–10. It addresses one of the many issues associated with discussion of divorce, most of which I can touch on only briefly and then only inasmuch as they are pertinent to the question, and some of which do not come into view at all. For a number of the complex issues which have only secondary relevance to the theme of this paper I refer the reader to my detailed discussions elsewhere.<sup>1</sup>

<sup>1</sup> In W. Loader, *Making Sense of Sex: Attitudes towards Sexuality in Early Jewish and Christian Literature* (Grand Rapids: Eerdmans, 2013), I provide a summary of the findings published in the five volumes of my research together with a subject index with an entry for 'divorce' to all five volumes: *Enoch, Levi, and Jubilees on Sexuality: Attitudes towards Sexuality in the Early Enoch Literature, the Aramaic Levi Document, and the Book of Jubilees* (Grand Rapids: Eerdmans, 2007); *The Dead Sea Scrolls on Sexuality: Attitudes towards Sexuality in Sectarian and Related Literature at Qumran* (Grand Rapids: Eerdmans, 2009); *The Pseudepigrapha on Sexuality: Attitudes towards Sexuality in Apocalypses, Testaments, Legends, Wisdom, and Related Literature* (Grand Rapids: Eerdmans, 2011); *Philo, Josephus, and the Testaments on Sexuality: Attitudes towards Sexuality in the Writings of Philo, Josephus, and the Testaments* 67

The focus of this paper is very specific: whether the widespread assumption that adultery mandated divorce should also be assumed in the Jesus tradition, where, as many, including myself, have assumed, Jesus appears, on the contrary, to forbid divorce under all circumstances and Matthew to have softened the absolute by introducing an exception clause related to adultery.

### 1. Divorce as Mandatory after Adultery

The question in the title of this paper, ‘Did adultery mandate divorce?’, makes little sense if we ask it in the historical context of biblical law as set out in the Pentateuch. If anything, the answer would have to be: no. It mandated death (Lev 20.10; Deut 22.22). This sentence is widely assumed (Prov 2.16–19; 7.25–27; Eccles 9.9; Sus 22; Philo, *Spec.* 3.11; *Hypoth.* 7.1; Josephus *Ant.* 3.274–5; 7.130–1; *Ap.* 2.215).<sup>2</sup> By at least the first century CE Jews no longer had the right to execute offenders, so that the sentence had to take an alternative form.<sup>3</sup> According to Talmudic tradition preserved in *b. Sanh.* 15a, *b. Sanh.* 41ab and *b. Abod. Zar.* 8a the death penalty ceased soon after 30 CE,<sup>4</sup> though it may well have been set aside much earlier if Ben Sira envisages the sentence as public scourging (23.21, 24),<sup>5</sup> and if Prov 6.33–5 envisages payment of compensation instead (cf. also Hos 2.5, 12; Jer 13.22–6; Ezek 16.37, 39; 23.26, 29).<sup>6</sup> Where the death penalty was not necessarily enacted and especially when effecting the death penalty was forbidden, divorce was the obvious alternative and it was mandatory.

The assumption that adultery mandates divorce is clearly apparent in the Matthean birth narrative, where Joseph, assuming the equivalence of adultery, namely engaging in intercourse with someone other than her betrothed

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*of the Twelve Patriarchs* (Grand Rapids: Eerdmans, 2011); and *The New Testament on Sexuality* (Grand Rapids: Eerdmans, 2012).

- 2 On the death penalty for adultery, see D. Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002) 9–10; G. C. Streete, *The Strange Woman: Power and Sex in the Bible* (Louisville: Westminster John Knox, 1999) 20–42; E. A. Goodfriend, ‘Adultery’, *ABD*, vol. 1 (New York: Doubleday, 1992) 82–6.
- 3 The execution of Salome’s first husband (*J. W.* 1.486) and Joseph and Mariamme for adultery by Herod (*J. W.* 1.443) reflects royal prerogative rather than exercise of biblical law. On this see Loader, *New Testament on Sexuality*, 4–9; Loader, *Philo, Josephus, and the Testaments on Sexuality*, 310–15, 350–2.
- 4 So Instone-Brewer, *Divorce and Remarriage*, 126 n. 156.
- 5 So P. W. Skehan and A. A. Di Lella, *The Wisdom of Ben Sira* (AB 38; New York: Doubleday, 1987) 325. On this, see I. Balla, *Ben Sira on Family, Gender, and Sexuality* (Deuterocanonical and Cognate Literature Studies 8; Berlin: de Gruyter, 2011) 122, 135–6.
- 6 On this, see H. B. Lipka, *Sexual Transgression in the Hebrew Bible* (HBM 7; Sheffield: Phoenix, 2006) 162–3.

(cf. Deut 22.23-4), prepares to divorce Mary<sup>7</sup> and is depicted as 'righteous' for choosing the more compassionate option of doing it privately rather than through the courts (Matt 1.18-19). The same assumption plays out in the less well known miraculous conception of Melchizedek by Sopianim in *2 Enoch*, which Nir, her husband, reads as the fruit of adultery and so similarly prepares to divorce her (*2 Enoch* 71.6 J; similarly A).<sup>8</sup>

In both Greek and Roman law adultery mandated divorce.<sup>9</sup> In Athens a husband could be disenfranchised for continuing to live with an adulterous wife. The adulterer was to be executed.<sup>10</sup> In Rome adultery mandated divorce and the husband could retain some money from the dowry.<sup>11</sup> In the *Lex Iulia de adulteriis coercendis* Augustus reinforced the requirement with sanctions should the husband not do so.<sup>12</sup> The shift to mandating divorce after adultery provided the basis for reading Deut 24.1 in a new way. The ground for divorce ערוֹת דבר ('shame of a matter')/ἄσχημον πρῶγμα ('a shameful matter') would now include adultery, whereas it had not before, leading indeed to the possibility that some would see adultery as its primary reference. Thus Philo clearly reads Deut 24.1-4 as in this way providing its own rationale: the woman is divorced for the adultery which initiated the new marriage. Philo also reflects Roman law in depicting a husband's taking back his wife after such adultery as pandering (*Spec.* 3.31).<sup>13</sup> The view that adultery mandated divorce is reflected also in the Mishnah (*m. Sot.* 5.1; 3.6; 4.2)<sup>14</sup> and the Shepherd of Hermas (*Mand.* 4.1, 5).

7 Loader, *New Testament on Sexuality*, 139, 251-2; J. Nolland, *The Gospel of Matthew: A Commentary on the Greek Text* (NIGTC; Grand Rapids: Eerdmans; Bletchey: Paternoster, 2005) 246. See also D. C. Allison, 'Divorce, Celibacy, and Joseph (Matt. 1:18-25)', in D. C. Allison, *Studies in Matthew: Interpretation Past and Present* (Grand Rapids: Baker, 2005) 163-72, 166.

8 See Loader, *Pseudepigrapha on Sexuality*, 49-51.

9 On adultery mandating divorce in surrounding cultures, see R. F. Collins, *Sexual Ethics and the New Testament: Behavior and Belief* (New York: Crossroad 2000) 2-4; and the discussion in Loader, *New Testament on Sexuality*, 75-82.

10 On this, see S. M. Baugh, 'Marriage and Family in Ancient Greek Society', *Marriage and Family in the Biblical World* (ed. K. M. Campbell; Downers Grove: IVP, 2003) 103-31, who cites Demosthenes, *Against Neaira* 87 (116).

11 See S. Treggiari, 'Marriage and Family in Roman Society', *Marriage and Family in the Biblical World* (ed. K. M. Campbell; Downers Grove: IVP, 2003) 132-82, 165; *eadem*, *Roman Marriage: Iusti Coniuges from the Time of Cicero to the Time of Ulpian* (Oxford: Clarendon, 1991) 264.

12 Treggiari, 'Marriage and Family', 167-8; M. B. Skinner, *Sexuality in Greek and Roman Culture* (Oxford: Blackwell, 2005) 207.

13 In *Ios.* 44 Philo reflects knowledge of the provision in Roman law which allowed the offended husband to kill the adulterer.

14 M. Bockmuehl, *Jewish Law in Gentile Churches: Halakhah and the Beginning of Christian Public Ethics* (Grand Rapids: Baker, 2000), who cites *t. Sot.* 5.9, but also already *Prov* 18.22a LXX; *Jer* 3.1 and *Ezek* 16.38, 40, as evidence for what he argues became 'an established exegetical tradition which extended the prohibition of Deut 24.1-4 by *gezerah shawa* to the cases

The transition to demanding divorce after adultery made sense because it cohered with the notion that once a woman had slept with another man, she became unclean for her husband. We see this assumption at work in the report in *Jubilees* and the *Testament of Reuben* that after Reuben forced intercourse on Bilhah (Gen 35.22), Jacob never slept with her again (*Jub.* 33.9; similarly *T. Reub.* 3.15),<sup>15</sup> the reference to David's no longer sleeping with his concubines once they had been defiled by his son, Absalom (2 Sam 20.3), and not least in the efforts undertaken by those who retold the story of Sarai's abduction by Pharaoh (Gen 12.10–20), to avert the implication that she might have thereby been defiled by him and so rendered unclean for Abraham. Thus *Jubilees* omits mention of Pharaoh bestowing favours on Abraham (Gen 12.16), which could be seen as reward, as does Josephus (*Ant.* 1.161–5), who in addition has God intervene just in time when Pharaoh was about to engage in sexual intercourse with Sarah, and in *J. W.* 5.380–1 shortens her stay to a single night and has her 'sent back immaculate (ἀχράντος) to her lord [lit. husband] (ἄνδρα)'. *Genesis Apocryphon* has Pharaoh declare that he had not known (אֵי ידעתי), and so defiled (טמאתה), her (20.30), fulfilling Abraham's prayer (20.15). The accounts in *Pseudo-Eupolemus* 6–7 and Philo reflect the same concerns (*Abr.* 98; *QG* 4.63, 66–7).<sup>16</sup>

There is some evidence of exceptions. Two early second-century marriage contracts found in the Judean desert specify that the husband is to redeem his wife if taken captive, even though in many instances such women may have been raped (*P. Mur.* 20 and *P. Yadin* 10).<sup>17</sup> Josephus reports the capture of David's two wives and their subsequent return to him, again where intercourse may have taken place (*Ant.* 6.357, 364–5). He also mentions two instances where a divorced woman returned to her husband: Michal to David, whom Saul had given to Palti (*Ant.* 6.309; 7.25–6) and apparently Doris to Herod (*Ant.* 16.85; cf. *J. W.* 1.432). These are, however, exceptions and in all but the case of Doris reflect duress.<sup>18</sup>

Until the full publication of the Dead Sea Scrolls many saw the stricture in the *Damascus Document* that a man should not take two wives during his lifetime (4.20–21) as an absolute prohibition of remarriage and, by implication, divorce, and thus as a precedent to the usual interpretation of Jesus' absolute prohibition

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of impurity incurred by adultery' (19). J. Nolland, 'The Gospel Prohibition of Divorce: Tradition History and Meaning', *JSNT* 58 (1995) 19–35, notes a possible exception in *m. Sot.* 2.6, which seems to allow a wife back (21). See also Instone-Brewer, *Divorce and Remarriage*, 153, 159.

15 See Loader, *Enoch, Levi, and Jubilees on Sexuality*, 198.

16 See Loader, *New Testament on Sexuality*, 7–8.

17 Z. Safrai, 'Halakhic Observance in the Judaean Desert Documents', *Law in the Documents of the Judaean Desert* (ed. R. Katzoff and D. Schaps; JSJSup 96; Leiden: Brill, 2005) 205–36, at 217.

18 See Loader, *Philo, Josephus*, 350–2.

of divorce. As more material came to light, including further fragments of the *Damascus Document*, it became evident that divorce was an accepted practice in the movement, whose members included divorcees and people who remarried (4QD<sup>a</sup>/4Q266 9 iii.5; CD 13.16–17), and that the cited prohibition is best taken as referring not to divorce and remarriage but to polygyny. I have provided a full discussion of the relevant material in my treatment of sexuality in the Dead Sea Scrolls.<sup>19</sup>

## 2. The Impact of Adultery

It is not difficult to identify at a sociological level why people saw adultery as mandating divorce, especially in an age of ineffective contraception. Adulterous behaviour had the potential to disrupt households through unwanted or ambiguously connected offspring, a fear well articulated in *Pss. Sol.* 4 and in Wisdom 3.16–4.6.<sup>20</sup> The stability of inheritance and households, the main basis for security and survival, was at stake. Sleeping with unmarried women was another issue. The prohibition of adultery made very good sense as did making divorce its necessary consequence.

In disputed cases there was the provision in the Law for the drinking of Bitter Waters after which a guilty woman was expected to die (Num 5.11–31),<sup>21</sup> but otherwise, where the case was clear, divorce was mandated. While both Philo and Josephus hail the death penalty for adultery as an indication of the strictness and superiority of Jewish Law (Philo, *Spec.* 3.11; similarly *Hypoth.* 7.1; Josephus, *Ant.* 3.274–5; *Ap.* 2.215), both would have known – and Philo allows us to see this explicitly (*Spec.* 3.30–1) – that in their day the required response to adultery was divorce. The floating anecdote in which Jesus' opponents seek to trap him by confronting him with a woman caught in adultery (John 7.53–8.11) depends for its impact on the fact that it would be illegal for Jesus to advocate strict biblical law.<sup>22</sup>

## 3. Matthew on Adultery and Divorce

The answer to the question 'Did adultery mandate divorce?' with regard to the common practice of Jewish law in the first century CE seems then clearly

<sup>19</sup> Loader, *Dead Sea Scrolls on Sexuality*, 107–19.

<sup>20</sup> See Loader, *Pseudepigrapha on Sexuality*, 352–7, 408–9.

<sup>21</sup> On this, see Instone-Brewer, *Divorce and Remarriage*, who, on the basis of rabbinic tradition reporting Yohannan ben Zakkai's decision to abandon the rite of Bitter Waters after 70 CE, concludes that divorce for adultery would come into effect only thereafter (pp. 94–7), but that confuses doubtful cases with certain ones.

<sup>22</sup> See Loader, *New Testament on Sexuality*, 135–8.

to be: yes.<sup>23</sup> When we turn to Matthew's version of the sayings of Jesus which prohibit divorce in 5.32 and 19.9, the answer is similarly: yes. Both contain exception clauses: in 5.32 'except regarding a matter of πορνεία' (παρεκτὸς λόγου πορνείας) and in 19.9 'not for' or 'except for/apart from πορνεία' (μὴ ἐπὶ πορνείᾳ), and in these πορνεία is best taken as referring primarily to adultery. This is not the place to review alternatives, which I have discussed in detail elsewhere.<sup>24</sup> They are, in summary: incest? But then not divorce but dissolution of an invalid marriage is required. Premarital unchastity? That is too narrow for the context. Something other than adultery, because a separate noun existed for adultery? Almost certainly not, for πορνεία could also be used at the time to mean adultery. Similarly we can make only brief mention of the rabbinic traditions which refer to debates between the schools of Hillel and Shammai about the meaning of ערוה דבר in Deut 24.1, both with regard to what was meant, from anything displeasing at all to sexual wrongdoing, probably including adultery, and with regard to its historical value.<sup>25</sup> The alternatives were a very liberal approach associated with Hillel and Aqiba and reflected also, for instance, in Josephus (*Ant.* 4.253; *Vit.* 426–7), and a narrower interpretation associated with Shammai which focused on sexual misdemeanours (but not necessarily adultery) (*m. Git.* 9.10; *b. Git.* 90a; *Sifre* Deut 269).<sup>26</sup> We briefly note here also that older translations, rendering the words 'not even in the event of πορνεία', do not do justice to the Greek.<sup>27</sup>

In both instances of Jesus' prohibition of divorce, Matt 5.32 and 19.9, πορνεία in the exception clauses is best taken as referring to adultery, and in both the prohibitions are set in the context of Deut 24.1. This is done in such a way that Jesus' prohibition is set in contrast with the alleged use of Deut 24.1 in Matthew's time (and possibly with the meaning he assumes that it had): ἐγὼ δὲ λέγω ὑμῖν ('but I say to you', 5.32) and λέγω δὲ ὑμῖν ('but I say to you', 19.9); cf. also ὅπ' ἀρχῆς δὲ οὐ γέγονεν οὕτως ('but from the beginning it was not so', 19.8b).<sup>28</sup> That element

23 On the divorce anecdotes and sayings, see Loader, *New Testament on Sexuality*, 240–92.

24 Loader, *New Testament on Sexuality*, 244–50.

25 See the discussion in B. S. Jackson, "Holier than Thou"? Marriage and Divorce in the Scrolls, the New Testament and Early Rabbinic Sources', *Essays on Halakhah in the New Testament* (Jewish and Christian Perspectives Series 16; Leiden: Brill, 2008) 167–225, esp. 194, 205–7). Similarly J. P. Meier, *A Marginal Jew: Rethinking the Historical Jesus* (4 vols.; New York: Doubleday, 1991, 1994, 2001; New Haven: Yale University Press, 2009) IV.94, 121, 126.

26 See P. Sigal, *The Halakhah of Jesus of Nazareth according to the Gospel of Matthew* (SBL SBL 18; Atlanta: SBL, 2007) 111–12. See also the discussion in Loader, *New Testament on Sexuality*, 60–2 on the resistance evident in Mal 2.16 but also Philo (*Spec.* 3.80) and others against lax divorce practices.

27 On this, see U. Luz, *Das Evangelium nach Matthäus (Mt 1–7)* (EKK 1/1; Zurich: Benziger; Neukirchen-Vluyn: Neukirchener, 2002<sup>2</sup>) 362; W. D. Davies and D. C. Allison, *A Critical and Exegetical Commentary on the Gospel according to Saint Matthew* (3 vols.; ICC; Edinburgh: T&T Clark, 1988, 1991, 1997) 1.531.

28 See the discussion in Loader, *New Testament on Sexuality*, 245, 284.

of contrast, including the retention of Mark's tradition about Deut 24.1 being a response to people's hardness of heart, counts against the view that Matthew is conforming Jesus' saying to the way Deut 24.1 was allegedly understood in his Jewish context, namely to a Shammaite reading, as sometimes proposed.<sup>29</sup>

Nevertheless one might still argue that Matthew's so-called exception clauses represented a modification of what was Jesus' absolute prohibition and that Matthew (or his tradition), in reframing Jesus' teaching as halakhic instruction, had made such modification in the interests of at least bringing the saying into closer conformity with what was the all but universally assumed view and practice in the cultures of his setting, as we have seen, namely that adultery mandated divorce, as his account of Joseph's intent to divorce Mary illustrates.<sup>30</sup> Accordingly, many have argued that Matthew has softened the original absolute prohibition of Jesus, while still maintaining a position which was stricter than not only Hillel but also Shammai.<sup>31</sup>

There are however grounds for questioning the view that Matthew's version of the saying (or that of his tradition) represents a revising downwards of Jesus' high demand. The notion that Matthew might have softened or in that direction judaised<sup>32</sup> a demand of Jesus as some claim does not cohere well with what we know of Matthew's attitude towards the Law and the authority of Jesus. Matthew's tendency, on the contrary, was to enhance the Law's strictness and to uphold the way Jesus interpreted it, both the greatest and the least of its commands (5.18–19). To have weakened an original absolute prohibition would be atypical.

There are grounds for reconsidering the assumption that Matthew softened the absolute prohibition and, more significantly, for urging a reconsideration of

29 So P. Fiedler, *Das Matthäusevangelium* (TKNT 1; Stuttgart: Kohlhammer, 2006) 140, 310–1; A. J. Saldarini, *Matthew's Christian-Jewish Community* (Chicago: University of Chicago Press, 1994) 147–51; F. Vouga, *Jésus et la Loi selon la tradition synoptique* (Le Monde de la Bible; Genève: Labor et Fides, 1988) 106; Davies and Allison, *Matthew*, 1.530–2.

30 R. T. France, *The Gospel of Matthew* (NICNT; Grand Rapids: Eerdmans, 2007) 209, 721; Sigal, *Halakhah of Jesus*, 111–12. As Nolland, *Matthew*, points out, while the contrast with Deut 24.1 is apparent, especially in 19.9, 'the very idea of an exception is still a trace of that link' with Deut 24.1 (p. 775).

31 So Instone-Brewer, *Divorce and Remarriage*, 152–9, 182; W. Loader, *Jesus' Attitude towards the Law: A Study of the Gospels* (WUNT 2.97; Tübingen: Mohr Siebeck, 1997) 225; J. Gnllka, *Das Matthäusevangelium* (2 vols.; HTKNT 1.1; Freiburg: Herder, 1983, 1986) 1.169; H. Hübner, *Das Gesetz in der synoptischen Tradition* (Göttingen: Vandenhoeck & Ruprecht, 1986<sup>2</sup>) 52–3; cf. Luz, *Matthäus*, 364–5. Some might want to resist this conclusion on the basis of their hermeneutical stance which in the interests of biblical authority will engage in harmonisation at all costs; others, perhaps, pained by their own personal plights or those of persons they know, will want to rescue at least the modified Matthean revision. Neither approach has a place in the task of historical reconstruction.

32 Hübner, *Gesetz*, 196.

whether that demand ever intended to exclude adultery as a ground for divorce, as most assume. The following discussion makes the case that the original prohibition was probably never meant to exclude the common assumption of the time in both law and culture that, of course, adultery mandated divorce. At one level this is an argument from silence, for it suggests that the exception now found in Matt 5.32 and 19.9 was already presupposed in Mark 10.11–12, Luke 16.18 and 1 Cor 7.10–11. Matthew, rather than uncharacteristically softening Jesus' demand, simply spelled out what had always been assumed. The assumption that adultery mandated divorce was, as we have seen, so widely held, and made such good sense in a pre-contraceptive society, that to reject it would have been highly controversial. The absence of any hint that Jesus' demand was regarded as controversial in that sense is another argument from silence, which would cohere with the view that he never was heard as excluding the requirement of divorce after adultery. But that remains yet another argument from silence. The possibility should then be considered on those grounds alone that Matthew is simply spelling out what all would have assumed, namely that adultery mandated divorce.<sup>33</sup>

Arguments from silence are insufficient. Instone-Brewer mounts additional such arguments in his claim about what he argues must have been further unspoken exceptions, suggesting that surely what applied to slaves in Exod 21.10 should apply also to wives, so that its requirements must also be taken as read in silent parenthesis beside the prohibition.<sup>34</sup> They include physical abuse, but also deprivation in relation to other needs: physical, emotional, the need for food and clothing. In other words, any form of abuse might be seen as a ground for divorce, so that Jesus' prohibition should be seen as directed only at flippant and so unwarranted divorce because it was just another form of abuse. Leaving aside what *we* might see as sufficient grounds – and surely at least physical abuse counts – we should be very cautious about such arguments from silence, especially where, unlike with adultery, nothing in the tradition suggests this was so. They deserve, however, at least to be left on the table, even though I do not see a fit for them in the puzzle.

The argument from silence in relation to the exception for adultery has greater cogency because Matthew's version of the prohibition provides evidence for how that author deemed the prohibitions should be understood. Together with the fact that his view matched the common assumption in law and actual practice, the argument that Matthew accurately represents the original sense of the prohibition must carry some weight. There are some other factors, however, which add greater credibility to the claim. They relate in particular to the way Gen 2.24 functions in Paul and in the Markan and Matthean anecdotes.

33 In this I agree with Instone-Brewer, *Divorce and Remarriage*, 153, but he goes much further.

34 Instone-Brewer, *Divorce and Remarriage*, 184.

#### 4. Paul on Gen 2.24 and the Impact of Sexual Intercourse: Permanence and Severance

Paul clearly assumes that sexual intercourse joins a person to become one flesh with another, as does Jesus, according to the anecdote. Paul also assumes that such a new joining severs the previous union with another. We see this in his metaphorical application of Gen 2.24 to a believer having intercourse with a prostitute (or woman of similar status) in 1 Cor 6.12–20:<sup>35</sup> οὐκ οἶδατε ὅτι ὁ κολλώμενος τῇ πόρνη ἓν σῶμά ἐστιν; Ἔσονται γάρ, φησίν, οἱ δύο εἰς σάρκα μίαν. ὁ δὲ κολλώμενος τῷ κυρίῳ ἓν πνεῦμά ἐστιν (‘Do you not know that whoever is united to a prostitute becomes one body with her? For it is said, “The two shall be one flesh.” But anyone united to the Lord becomes one spirit with him’, 6.16–17).

That joining transfers the believer into the power sphere of the prostitute and out of the power sphere of Christ (6.12, 15). The options are exclusive: the body is for the Lord not for πορνεία (6.13). According to Paul, sexual intercourse with a prostitute brings the believer into a relationship with a prostitute in which the believer’s body becomes a member of hers and hers a member of the believer’s.<sup>36</sup> As May observes, ‘Sex with a πόρνη is not deemed to be simply detrimental to Christian identity, but destructive of it.’<sup>37</sup> This reflects the widespread assumption that adultery necessarily terminated a marriage and so mandated divorce.<sup>38</sup> The use of σῶμα ‘body’ here rather than σὰρξ ‘flesh’ in describing the effect of sexual intercourse in creating ἓν σῶμα (‘one body’) reflects Paul’s emphasis on the power relation created, which is something more than flesh and blood, and is matched by reference to becoming ἓν πνεῦμα (‘one spirit’, 6.17). Sexual wrongdoing is a sin against one’s own body (εἰς τὸ ἴδιον σῶμα, 6.18) because sexual intercourse actually changes people by creating a new reality: oneness with

35 Paul omits πρὸς τὴν γυναῖκα αὐτοῦ (‘to his wife’) as inappropriate to the context. The focus is sexual intercourse and its effect in creating ἓν σῶμα (‘one body’). On this see W. Loader, *The Septuagint, Sexuality, and the New Testament: Case Studies on the Impact of the LXX on Philo and the New Testament* (Grand Rapids: Eerdmans, 2004) 39–42. See also R. Kirchhoff, *Die Sünde gegen den eigenen Leib: Studien zu πόρνη und πορνεία in 1 Kor 6,12–20 und dem sozio-kulturellen Kontext der paulinischen Adressaten* (SUNT 18; Göttingen: Vandenhoeck & Ruprecht, 1994) 160–4.

36 As A. S. May, *The Body for the Lord: Sex and Identity in 1 Corinthians 5–7* (JSNTS 278; London: T&T Clark, 2004) 113, notes, the use of ἄραξ (‘take’) in 6.15 may carry the meaning ‘take away’, so already refer to our removing ourselves from our relation to Christ. Cf. P. Arzt-Grabner, R. E. Kritzer, A. Papatomas, Franz Winter, *1 Korinther* (Papyrologische Kommentare zum Neuen Testament 2; Göttingen: Vandenhoeck & Ruprecht, 2006) 236, who on the basis of papyri evidence argue for a neutral meaning.

37 May, *Body for the Lord*, 113.

38 So H. Külling, *Ehe und Ehelosigkeit bei Paulus: Eine Auslegung zu 1. Korinther 6,12–7,40* (Zürich: Theologischer Verlag, 2008) 107.

another person.<sup>39</sup> According to Paul this is what Gen 2.24 means. While Paul applies the literal engagement with a prostitute on the basis of Gen 2.24 to becoming one with her (6.16–17), he employs it metaphorically in relation to the believer's previous relationship, that is, not with his wife but with Christ.<sup>40</sup> In addressing the issue of sexual intercourse with the immoral woman he also employs the metaphor of defilement; such action defiles one's body like defiling a temple (6.19–20). This is another way of expressing severance from Christ, for the Spirit can no longer dwell there. The underlying assumption is clear: sexual intercourse joins one to another and severs one from the previous relationship.

The case is not so clear in 5.1–12, where in a similar way Paul deems the believer who has committed incest as no longer belonging in the community and so to be banned. The man's action has placed him outside the community of faith and that is where he should be – expelled and delivered to God's judgement through Satan – because through this act he has severed himself from Christ and so the body of Christ (5.3–5). It is not so clear that Paul is identifying the sexual wrongdoing alone as what pollutes like leaven and warrants such exclusion (cf. 5.11).<sup>41</sup>

### 5. The Import of Gen 2.24 in the Divorce Anecdotes: Permanence and Severance

Turning to the anecdotes in Mark and Matthew (Mark 10.2–12; Matt 19.3–9),<sup>42</sup> while it is possible that Paul operates with a unique understanding of Gen 2.24, so that one should not bring his understanding to bear on the use of Gen 2.24 in Mark and Matthew, with a high degree of probability this is not so. For Paul's understanding reflects the widespread assumption about the effects of sexual intercourse, often in Jewish literature connected to Gen 2.24, which played a major role in popular understanding of both marriage and the effects of adultery.<sup>43</sup> The juxtaposition of Gen 1.27 and Gen 2.24, especially as we have

39 May, *Body for the Lord*, 130; M. D. Goulder, 'Libertines? (1 Cor. 5–6)', *NovT* 41 (1999) 334–48, at 347; B. N. Fisk, 'TIOPNEY'EIN as Body Violation: The Unique Nature of Sexual Sin in 1 Corinthians 6.18', *NTS* 42 (1996) 540–58, at 556; cf. D. B. Martin, *The Corinthian Body* (New Haven: Yale University Press, 1995) 175–8, who takes 'body' as referring to the body of Christ.

40 Loader, *New Testament on Sexuality*, 167–87.

41 See the discussion in Loader, *New Testament on Sexuality*, 161–6.

42 See my extended discussion of both anecdotes in Loader, *New Testament on Sexuality*, 270–85.

43 On this, see, for instance, Kirchhoff, *Sünde gegen den eigenen Leib*, who points to the use of Gen 2.24 in this way in *Jub.* 3.7; *Asen.* 20.4; 1 Esdr 4.17b–22; Philo, *Q.G.* 1.29 and *Gen. Rab.* 18 (160–4). To these one can add *Tob* 6.18; 4QMMT B 39–49, 4Q265 ii.12; CD 4.21–5.6; *Sib. Or.* 1.28–30, 33–4; Philo, *Opif.* 151–2; *Cher.* 59–62; *T. Reub.* 2.9; *T. Iss.* 6.1; and the extensive discourse on marriage in 4QInstruction based on Genesis 2–3. On this, see Loader, *Dead Sea Scrolls on Sexuality*, 300–12.

them in the LXX translation,<sup>44</sup> places emphasis in the gospel anecdote on the two becoming one, which is stated explicitly in the added comment, ὥστε οὐκετι εἶσιν δύο ἀλλὰ μία σάρξ ('so they are no longer two but one flesh', Mark 10.8). That coming together includes sexual union. Sexual intercourse joins and, in relation to such approved joining, can be declared an act of God: ὁ οὖν ὁ θεὸς συνέζευξεν ἄνθρωπος μὴ χωριζέτω ('What God has joined, let no human being separate', 10.9). Thus the Jesus tradition, like Paul, employs Gen 2.24 to argue permanence.

Though not said directly, it also carries the implication, as in Paul, that any new sexual relationship also severs the original one. For the same argument cuts both ways: because it is permanently joining it is also permanently severing. It has ontological effect.<sup>45</sup> Matthew sees that clearly and spells it out, but we should recognise it as already implied in the understanding and use of Gen 2.24 in the Markan anecdote, as it is in Paul's use of the text.

#### 6. Reading 1 Cor 7.10–11 in the light of Paul's use of Gen 2.24

Returning to Paul's use of the text, we find further confirmation that the prohibition of divorce would have assumed such values. For within a very short space after citing Gen 2.24 in 1 Cor 6.12–20 Paul refers specifically to Jesus' prohibition of divorce in 1 Cor 7.10–11.<sup>46</sup> It is not impossible that Paul embraces and uses the notion of adultery severing relationships and forming new ones in 1 Corinthians 6, only to abandon those presuppositions when he comes to cite the prohibition of divorce in 7.10–11. This is less likely than that Paul continues to assume them and that accordingly he would have understood the divorce prohibition in the light of them, namely that there would always be an exception to the prohibition of divorce, for, as everyone assumed and did not need to have spelled out, adultery mandated divorce, as his exposition in 1 Corinthians 6 had just illustrated.

#### 7. Conclusion

Given the likelihood that Paul would have shared Matthew's reading of the prohibition of divorce and given the legal and social assumptions in Jewish,

44 On this, see Loader, *Septuagint*, 79–82.

45 J. Marcus, *Mark* (2 vols.; AYB 27, 27A; New Haven: Yale University Press, 2000, 2009) 712, observes that 'indissoluble marriage was linked with a "realistic" and almost magical view of the permanent fusion of persons created by sexual congress'. That same view of the permanence created by sexual intercourse grounds the rationale for the understanding that any new liaison severs any previous one and makes divorce mandatory.

46 See my detailed discussion of 1 Cor 7.10–11 in Loader, *New Testament on Sexuality*, 264–9.

Roman and Greek culture, that adultery mandated divorce, it should be considered a serious possibility that both on the lips of the historical Jesus and in Mark and Luke the same assumption was present, even though unexpressed. Indeed the very rationale in the Markan anecdote for the permanence of marriage is simultaneously the rationale for its converse. That is: adultery is not just a sufficient basis for divorce; rather it creates a reality, one flesh, which brings the original union to an end and so mandates divorce. Precisely this is the logic we see played out in the Matthean birth narrative, but, I have argued, is to be assumed in the prohibition from the beginning. If we pose the question in relation to the historical Jesus, to the Jesus tradition in the synoptic gospels and to Paul, 'Did adultery mandate divorce?', the answer is with a high degree of probability: yes.