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Marriage, Divorce and Remarriage an Interpretation of Matthew 19:3-12 in the Context of Old & New Testament and Judaica

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MARRIAGE, DIVORCE AND REMARRIAGE
AN INTERPRETATION OF MATTHEW 19:3-12
IN THE CONTEXT OF OLD & NEW TESTAMENT
AND JUDAICA

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TABLE OF CONTENTS

INTRODUCTION ............................................. 1

Chapter  I.  I HATE DIVORCE .................................. 3
Genesis 24:1-4 ........................................... 8
Related Old Testament Passages on Divorce .... 12
Marriage Relationships at the time of
  Jesus: Monogamy ........................................ 20
Betrothal .................................................. 24
Marriage .................................................... 26
Isogogical Presuppositions ............................ 28

II.  JUDAICA .................................................. 33
Use of Deuteronomy 24:1-4 ............................ 40
Other Ground for Divorce .............................. 46
Divorce in the Qumran Community .................. 53

III.  MATTHEW 19:3-12 ...................................... 58
The Exceptive Clause .................................... 63
Porneia .................................................... 75
Acts 15 ..................................................... 86
Proposed Solution ....................................... 88
Matthew 1:19 .............................................. 93
Other New Testament Divorce Passages .......... 94
Conclusions .............................................. 97

BIBLIOGRAPHY .............................................. 100
INTRODUCTION

How does a pastor counsel a couple who want to be married in the church and yet one or both of the couple are divorced? Often a decision is based on Matthew 19:9 (and parallels), with occasional reference to Matthew 5:32. Very seldom do busy pastors have the time or the resources to investigate the context and the historical background of these passages.

The purpose of this study is to examine the principal text (Matthew 19:3-12) in its historical context and in light of the rest of Scripture and draw conclusions appropriate to a Lutheran pastoral setting.¹

In this study we will operate with a view of Scripture that it is the Word of God, without error and inspired by the Holy Spirit verbally. What, then, does God, who reveals His Word to us, say about divorce? Perhaps we might begin with Malachi 2:16a: "I hate divorce . . .", God tells us. That, however, is only the beginning.

¹In passing, we will also refer to the question of the "Pauline privilege" in 1 Corinthians 7 and the issue of clergy divorce and remarriage in 1 Timothy 3 and Titus 1. Any interpretation of Matthew 19:3-12 must be consistent with an understanding of these relevant passages.
In chapter one we will explore the background to the central text of our study. This will include an examination of the Old Testament passages relevant to marriage and divorce (particularly those quoted in Matthew 19:3-12), a brief review of the marriage relationship at the time of Jesus and a short statement of our isagogical presuppositions. In chapter two we will offer the relevant passages of Judaica on the subject. In the third chapter we will turn to the passage itself to consider a translation and interpretation of Matthew 19:3-12. We intend to make this consistent with the contexta of the passage described in chapters one and two as well as the literary context and the discussion of divorce and remarriage in the rest of the New Testament.

2 We will cite extensively from the Talmud (Soncino edition). We should note that the decisions and discussions in the Talmud may not always reflect a pre-AD 70 date. Further, some of the sections may have been rewritten by later generations. Nevertheless, it is the best source available on the historical and theological context of Jesus in the Gospels. It is believed that most of the material in the Talmud does, in fact, reflect back to this period.
CHAPTER I

I HATE DIVORCE

In this chapter we propose to study the Old Testament texts which serve as the basis for both sides of the discussion between Jesus and the Pharisees in Matthew 19:3-12. Other Old Testament texts which relate to divorce will also be considered. As part of the background to the teaching of Jesus on this subject, we will then examine the marriage relationship current in His day. We intend then to state our isagogical presuppositions.

Jesus responded to the Pharisees’ question about divorce by quoting from Genesis 1:27 and 2:24. Matthew records Jesus’ question: "Haven’t you read," he replied, "That at the beginning the Creator ‘made them male and female,’ and said, ‘For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh’?" (Matthew 19:4-5).

His quote (as it is recorded by Matthew) agrees with that of the Septuagint (hereafter LXX). The only variant of quotes are from the New International Version unless otherwise indicated.

1Mal. 2:16 (New International Version). All Scripture
note between the Masoretic Text (hereafter MT) and the LXX is the deletion of "in His image" (betsalmo). The critical editions of the Masoretic Text refer to this in a footnote where they suggest the word should "perhaps" (fortasse) be deleted. Yet the omission of "in His image" is much more understandable as a later alteration of the text in light of the Alexandrian origins of the LXX. Those responsible for its production may have had a sensitivity to the Greek "Ideal Man".

The full text of Genesis 1:27 reads: "And God created man in His image, in the image of God He created him, male (zkr) and female (ngbh) He created them." Jesus uses the last third of this verse to establish part of the basis for the teaching that the union between husband and wife is permanent. That God had actually intended this may be seen from Jesus' introductory phrase hoti ho ktisas ap' archea ("that the One who created from the beginning . . .").

The second text Jesus uses for the basis of His teaching is Genesis 2:24. This seems to be a parenthetical comment by Moses to explain the deep attachment involved in marriage. The el-ken (perhaps best translated "that is why") is rendered as eneken in the LXX. This form increasingly replaced the Attic form eneka from the third century B.C. onwards. We note that Matthew uses the older form in

2Moses offers other parenthetical observations in Genesis 10:9; 26:33; 32:32.
19:5, the only time that he does so (although Luke uses it several times). Perhaps Matthew wishes to convey an impression of antiquity when quoting Jesus on a subject that goes back to the beginning, but we cannot be sure.

When we compare the MT with the LXX we may note the latter alters the text slightly, changing "they shall be" (wehayu) to "the two shall be" (esontai hoi duo). This seems to reflect the strong tendency in Judaism towards monogamy and is the form of the passage quoted by Jesus in Matthew 19:5.

The only other notable variant revolves around the preposition pros. Pros stands as a prefix to kolliethese-tai and immediately follows it as a preposition to ten gunaike autou, "his wife." A number of manuscripts add pro- as a prefix to the verb in Matthew 19:5 (for example, Sinaiticus, C, K, L, Z). However, since this is virtually the same group of manuscripts that altered ktisa to poi- esae in verse 4 to harmonize with the LXX, we can see the same tendency in verse 5 and opt for the shorter form of the verb. The meaning is not materially affected in either case.

The text of Genesis 2:24 reads: "This is why a man leaves (Qal imperfect) his father and his mother and cleaves (Qal perfect but with the waw-consecutive may be understood as an imperfect) to his wife and they become (Qal perfect with waw-consecutive) one flesh". Aside from the two
changes noted above, this is the text Jesus quotes in Matthew.

Moses establishes two things in this passage: first, he explains why a man customarily leaves his parents to make a new home with his bride; second, he shows the reader something of the mystery of marriage in that husband and wife become "one flesh" (lbshr 'ehd). This phrase occurs only once in the Old Testament but is used six times in the New Testament (Matthew 19:5-6; twice in Mark 10:8; 1 Corinthians 6:16; Ephesians 5:31). In all but one of these passages marriage is the subject; in all of them Genesis 2:24 is either quoted or the subject of a comment. The one passage which has as its subject something besides marriage is 1 Corinthians 6:16. Here Paul says: "Do you not know that he who unites himself with a prostitute is one with her in body (hen soma eatin)? For it is said, 'The two will become one flesh (sarka mian)'. As Leon Morris points out, this "one flesh" refers to sexual union.

The basis for the idea is in Gn. ii. 24. Paul understands the words "for two ... shall be one flesh" (used there of man and wife) to signify the sexual act. This


4The fact that "one flesh" can refer to the sexual union outside of marriage means that sexual union is precisely what "one flesh" means: not "companionship" or "spiritual union" or "emotional unity" or any other dilution of what is a direct reference to physical coupling.
being so, any man who unites with a prostitute by that act becomes one with her. The Corinthians had not realized the implications of their view of sexual laxity. Paul drives home his point with this combination of an appeal to Scripture and to well-known fact.5

N. P. Bratsiotis, writing for the Theological Dictionary of the Old Testament, finds in "one flesh" special use of basar:

... Gen. 2:24 is a special case. One can find here a reference to monogamy (cf. Mal. 2:14ff.; Prov. 2:17), but also an allusion to the consummation of marriage: that which was basar 'echadh before the creation of the 'ishshah, "woman" (Gen. 2:21f.), is again united into basar 'echadh through the consummation of marriage (2:24), and the basar 'echadh attested thereby bears undeniable witness to its complete unity.6

The word "flesh" (basar) can mean a variety of things in the Old Testament but when coupled with "one" ('echadh) refers to the physical union of man and wife (See Sanhedrin 58a).

The implication of this passage is that the sexual union is given to man within the context of marriage. Adam and Eve may not have had what many cultures would consider a proper wedding ceremony but the bringing of Eve to Adam by God constitutes the beginning of their marriage relationship (Genesis 2:22). "When God brings her unto man, this act of his is the institution of marriage and stamps marriage


as a divinely willed and approved state," notes H. C. Leupold.

Jesus draws from it and 1:27 the conclusion: "So they are no longer two, but one. Therefore what God has joined together, let man not separate (chorizetao, a third person imperative)" (Matthew 19:6).

**Genesis 24:1-4**

No provision was made for divorce in Genesis 1:27 and 2:24, yet the opponents of Jesus find in the Old Testament permission from God to divorce a wife. They do so on the basis of Deuteronomy 24:1-4.

If a man marries a woman who becomes displeasing to him because he finds something indecent about her, and he writes her a certificate of divorce, gives it to her and sends her from his house, and if after she leaves his house she becomes the wife of another man, and her second husband dislikes her and writes her a certificate of divorce, gives it to her and sends her from his house, or if he dies, then her first husband, who divorced her, is not allowed to marry her again after she has been defiled. That would be detestable in the eyes of the LORD. Do not bring sin upon the land the LORD your God is giving you as an inheritance (Deuteronomy 24:1-4).

Although we will later see various interpretations of "something indecent" ('erwat dabar), we should note an oft-overlooked fact of this passage: there is only one piece of legislation involved. That legislation regulates certain cases of remarriage (where a different husband occurs between two unions to the same man). This is offensive to God.

7H. C. Leupold, p. 135.
because it is "legalized" adultery,\textsuperscript{8} authorizing sexual union with a third party after marriage to the original spouse and before resuming that relationship. God, through Moses, closes this legal loophole. Moses does not here legislate divorce nor does God here institute it.

Divorce is treated "as a practice already known, which may be either a matter of custom or of other legislation no longer known."\textsuperscript{9} In effect, Jesus does not place Genesis 1:27 and 2:24 against Deuteronomy 24:1-4; He places God's will in Genesis against a practice already in effect at the time of Deuteronomy. God regulates this practice to some extent (forbids marriage to the first husband after having had a second) and Moses here identifies in very succinct instructions the procedure for divorce (presumable to safeguard the divorced wife), but God does not institute or even condone it.

The legislation thus restricts what may have been a loophole in the older custom. The purpose of the restriction is to keep free from sin the land which God would soon be giving to his people as an inheritance.\textsuperscript{10}

\begin{flushright}
8Not that it was legalized by Moses, but rather that the custom was apparently accepted and thus "legalized" de facto. Had not this been the case, the legislation in Deut. 24:1-4 would have been superfluous, unnecessary.


10Ibid., p. 306.
\end{flushright}
8b) that husband and wife should live together until death separates them. However, since divorce was practiced, there existed the danger that a woman may have a legal husband in between two marriages to the same man. As a result of her relationship with her second husband she is defiled in respect to her first husband. The idea seems to be that the wife owes exclusive loyalty to her husband. She is able to give this to a new husband after he has divorced her, but it would be impossible in the case envisioned by Deuteronomy 24:1-4 because someone else (even though it had been a legal marriage) had intervened. The prohibition may also have had the effect of reducing rash divorces by husbands for he could not have her back if she remarried in the time it took to change his mind.

The text itself is relatively free of problems. Differences between the LXX and the MT are minimal. The Samaritan Penteteuch adds "and come to her" (an euphemism for sexual intercourse) in verse 1 after "If/when a man takes a wife." In effect, this seems to restrict the "something indecent" to sexual irregularity (presumably before marriage). It may also reflect the general concern for the virginity of the bride which Scripture also reflects.

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11Twice the phrase "into her hand" occurs in the Hebrew; there the LXX reads "hands" (cheiras) while the Syriac and Vulgate read "to her". The remaining variations are of a similarly minor nature.

12The procedure for establishing the virginity or
The basic concern in Deuteronomy 24:1-4 is that Israel avoid "defilement." The verb "defiled" in verse 4 translates a hophal perfect form of the verb *tm'e* (3fs) which means "become unclean", both ceremonially and ethically. It is used, for example, of the man who has sexual relations with his neighbor's wife and so "defiles" himself (Leviticus 18:20), carrying the same connotation as Deuteronomy 24:4.

It cannot be emphasized too strongly, though, what God is not saying in this passage. He does not here give the grounds for divorce so many interpreters, including the Pharisees, try to read into it. He simply identifies one loophole in an existing statute or practice and closes it, identifying it as an abomination (LXX *bdelugma*) because it is adultery, plain and simple, regardless of its "legality" by custom.

We would propose, then, that the "something indecent" ('*erwat dabar*) about which so much has been written is unimportant. It is part of the protasis and may be paraphrased: "For whatever reason (be it good or bad) a man has found to divorce his wife . . ." without prejudice or judgment of that reason. Jesus does not, therefore, set Genesis 1:27 and 2:24 against Deuteronomy 24:1-4 in Matthew 19:3-12 but prior sexual activity of a bride is outlined in Deuteronomy 22:13-21. The proof of her virginity would be the blood-stained cloth upon which the marriage was consummated. Without that, she was stoned.
correctly identifies and consistently applies God's will for married people.

**Related Old Testament Passages on Divorce**

The three passages above (Genesis 1:27; 2:24; Deuteronomy 24:1-4) are explicitly mentioned in Matthew 19:3-12. There are, however, other passages in the Old Testament which form the background for Jesus' teaching on marriage, divorce and remarriage. We intend simply to catalogue them with a few comments and then draw our conclusions.

Priests may marry only virgins, thus assuring the purity of their descendants and their cultic purity. In Leviticus 21:14 a priest is forbidden to marry a widow (‘almanah) or a divorcée (garash, "cast out") or a former prostitute (the root verb is chalal, "defile, pollute, profane" with zonah, "prostitute" in the secular sense). The overriding theme throughout the chapter concerns the holiness of God as reflected in His priesthood. The word chil occurs several times in Leviticus 21 (verses 4, 9, 15) and perhaps is best defined as the opposite of "holy" (qodh) with all that that implies. Chil frequently occurs when the subject of profaning God's Name, the Sanctuary, the Sabbath and the offerings of the people are discussed. Thus, marriage is holy and especially the institution of the priesthood must reflect that holiness.13

13That the priests of God had to reflect a higher
The divorcee (garashah) is mentioned again in Leviticus 22:13 when the subject of a priest's daughter who returns home after being married is discussed. There she assumes former position whether she be a widow or a divorcee, providing that she has not had children.

Under the general subject of vows, Numbers 30:9 mentions that a vow is binding even if the woman is widowed or divorced. Again, we note the status is the same for divorcees as it is for widows. In fact, there doesn't seem to be much distinction made anywhere in the Old Testament between the two. Remarriage is always permitted both the widow and the divorced woman. Never is remarriage of either one called "adultery" or "fornication" or "harlotry." It is possible that we don't have as wide a spectrum of divorced women in the Old Testament as there was in Jesus' day because any mistakes involving sexual intercourse were punished with death, not divorce. Nevertheless, the point should be made that in the Old Testament neither divorce nor widowhood acted as a bar to remarriage.

Jeremiah 3:1 not only mentions "divorce," but refers to Deuteronomy 24:1-4. Here Jeremiah speaks as the LORD'S

degree of holiness in their lives than did the majority of Israel may well have some bearing on the issue of clergy divorce and remarriage, particularly in view of the word anepilemption in 1 Timothy 3:1. We will discuss this further in chapter three.

14 The Hebrew verb behind "divorce" is shlich, usually translated (as in Deuteronomy 24:1) as "send (away)." It is
spokesman of His people's unfaithfulness and God's response in giving her a "certificate of divorce." 15

If a man divorces his wife and she leaves him and marries another man, should he return to her again? Would not the land be completely defiled? But you have lived as a prostitute with many lovers--would you now return to me? declares the LORD (Jeremiah 3:1).

God is concerned that His people avoid defiling (t'm'e) the land which He gives them. Therefore He regulates those degrees of relationship within which people may marry. Incest within the near family is prohibited in Leviticus 18 as well as sexual relations with certain in-laws, during a woman's menstrual cycle, with a neighbor's wife. 16 Child sacrifice, homosexuality and bestiality are all forbidden. Similar laws occur in Leviticus 20:17:21 where God specifies (in verse 24): "I am the LORD your God who has set you apart from the nations." 17

By entering into Covenant with God the people committed themselves to a life-style which reflected His

used for "divorce" in Deuteronomy 22:19, 29 under circumstances where divorce is prohibited.

15 The same phrase occurs in Isaiah, 50:1 where God asks His people for their mother's "certificate of divorce."

16 Some of these laws seem to be inconsistent with earlier history (e.g., Abraham married his half-sister, Sarah, on his father's side, Genesis 20:12) or intrinsically inconsistent (marriage of a nephew to his aunt is forbidden in Leviticus 18:12 but a niece's marriage to her uncle is permitted).

17 The same kind of prohibitions occur in the curses of Deut. 27:20-23.
holiness. Divorce was not legislated as part of that lifestyle, but limits were put on it as well as on marriage. Nevertheless there were circumstances under which divorce was forbidden and others under which it was commanded.

We find one such case in Ezra 9-10 where God commands divorce apparently in order to insure the continued existence of the Jews as a distinct race. The Exiles have begun to intermarry, mixing "holy seed" (zerah hakodesh in 9:2) with the people who had remained behind. By such actions the Exiles have been charged with "unfaithfulness" (m'el).18 Since the context involves Covenant faithfulness and its breach by the people, we see here a case where divorce is required to preserve the holiness or separateness of the people of God. In the past this holiness was evidenced by their marital faithfulness, but circumstances had changed. Now only divorce would enable them to remain faithful to the Covenant which they had endangered by intermarriage (which the LXX labelled "breach of covenant," esunthesia). Only divorce (literally, "ejection," lehota'ah, 10:3) as part of a covenant with God can rectify this breach of Covenant.19 Although there are some grammatical problems in 10:44,

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18This verb may also be translated "treachery"; it is used of marital unfaithfulness in Numbers 5:12, 17.

19Ezra enforced his reforms by threatening exile from the community and loss of property for those who refused to send their foreign wives away (Ezra 10:7-8; 44).
Nehemiah 9 indicates that Ezra's reforms were successful.20

The same general theme recurs in Nehemiah 13:23-27
under roughly the same circumstances. There Nehemiah com-
pares the situation current at the time (mid-fifth century
B.C.) to the times in which Solomon fell from faith and lost
the Covenant promises (fulfilled when the Northern Kingdom
seceded).21

Although similar in historical setting, Malachi 2:10-
16 differs in subject matter when the prophet discusses di-
vorce. Here the prophet focuses on those who have divorced
their first wives (Jewish) to marry their second wives
(pagan). Malachi roundly condemns this and in the process
presents the reader with what appears to be a contradiction.

20First Esdras 8, 9 contain parallels to this section
and Josephus comments on the program's successfulness in
Antiquities XI 5.4:
"Accordingly, this was resolved on by them; and they
began the inquiry after those that had married strange
wives on the first day of the tenth month, and continued
the inquiry to the first day of the next month, and
found a great many of the posterity of Jeshua the high-
priest, and of the priests and Levites, and Israelites,
who had a greater regard to the observation of the law
than to their natural affection, and immediately cast
out their wives, and the children which were born of
them; and in order to appease God, they offered sacri-
fices. . . . So when Esdras had reformed this sin about
the marriages of the forementioned persons, he reduced
that practice to purity, so that it continued in that
state for the time to come."
William Whiston (Grand Rapids: Baker Book House, 1974), 3:
118-19.

21Nehemiah uses the very strong phrase "all this great
evil" (kal har'ah hagedolah hazo'eth) in v. 27 when describ-
ing intermarriage.
If God hates divorce as He says (verse 16) why does He command it?

In verse 12 the prophet plays with a word used for divorce in Deuteronomy 24:1, 3 and Isaiah 50:1 to describe what He will do to His people for their unfaithfulness if they do not correct it (yakrath, "cut off," in the jussive). Yet the concern is the same as we see elsewhere in Scripture. Will the activities of His people profane (Hebrew root chll) God’s Name?

Malachi refers to the first wife as the "wife of your covenant" (verse 14). This probably refers to the marriage covenant but would have had overtones of the Covenant with God which they were breaking. How did they justify the divorce of their first wives? Perhaps verse 15 alludes to their reasoning, presuming to use Abraham as a model. The patriarch, they reasoned, seeking the offspring God had promised, used what life (ruach) he had remaining (in the sense of sexual vitality) to father a child by Hagar. At the age of eighty-six Abraham married a foreigner; why not follow his example? Luther sums up the arguments of the case:

They say: "That holy man, our father, did this. His spirit has not died. We who are his seed have the same spirit." The prophet answers: "There is no good reason for you to raise this objection against me. Investigate the history, and you will see that it is not what you think. For Abraham did not follow the lust of the flesh and riches, as you want to do, but he was forced to act to look for the seed that God had promised him. After all, he saw that Sarah was barren. At Sarah’s bidding he took another, not a wealthy woman, not a foreigner but a servant from his household. He
thought that perhaps through her would come to pass what God had promised. This was before God expressed Himself about Sarah as the future mother. He did not do, then, what had been forbidden, as you do, but he carried out a command under the authority of God.22

The continued existence of God's people was at stake with the issue of intermarriage, never more true than when the Jewish man divorced his Jewish wife in order to marry a pagan woman for whatever reason. Thus, even though God hates divorce (verse 16) He commands it in this case. It may be worthy of note that God does not command these Jews to remarry their first wives. Perhaps they are to seek a new wife among their own people (we think this more likely) or remain unmarried. The text simply does not say.

Throughout the books of Ezra, Nehemiah and Malachi the question of divorce is related to the purity of the seed of the covenant people. This had perhaps less to do with racial considerations than it did with covenant faithfulness. This can be seen in Deuteronomy 17:17a. There Moses predicts the people will want a king and sets down various commands, among which is "He must not take many wives, or his heart will be lead astray." Since racial purity is not at all an issue for New Testament people and since Paul addresses the issue of mixed marriages in 1 Corinthians 7, we need say no more about these issues at this point. What we

will want to note is that there are (in Scripture) circumstances in which divorce was required.

Yet there are also circumstances in which divorce is absolutely forbidden. The first two passages where divorce is forbidden seem designed to protect the woman involved as well as any children that might be conceived during the course of events. Deuteronomy 22:13-19 establishes procedures in cases where the husband accuses the wife of pre-marital intercourse, presumably immediately or soon after the wedding ceremony. If the accusation is false (and the burden of proof is on the parents of the bride to produce "tokens of virginity", betulim) the husband is prohibited from divorcing his wife.

In Deuteronomy 22:28-29 the circumstances involve rape in an isolated locale. The man is required to marry the maiden and forbidden to divorce her. Exodus 22:16-18 (Hebrew 15-16) contains another (although similar) category where divorce is prohibited. If a man seduces a virgin he must marry her, or if her father absolutely forbids to give her to him, pay the price of a virgin’s dowry to him.

In these three cases the principle is not the purity of God’s Name (as it has been in some passages) nor the racial or religious purity of Israel (as it was in Ezra,

23 A similar concern is expressed in Deuteronomy 21:15-17 where the rights of the "hated" wife in a polygamous relationship as well as the inheritance rights of her first-born son are protected.
Neohemiah and Malachi) but the practical consideration for the wife's welfare. In the case of rape or seduction the maiden would carry a stigma which could prevent any future marriage. With social and economic conditions as bad as they were for the single woman in the Near East, even a poor marriage was better than none.

Old Testament texts have yielded a surprising number of reasons for regulating divorce: the holiness of God's Name, the racial and religious purity of His people, a concern to avoid the genetic defects inherent in extended in-breeding and finally, the "human face" of compassion shown in those regulations which protect the woman. We have seen that, as important as it is to avoid divorce, there are some things to which it is preferable (we hope to implement both this compassion and flexibility in our final conclusions).

Marriage Relationships at the time of Jesus:
Monogamy

Part of the historical background to Matthew 19:3-12 are the marriage customs at the time of Jesus among Palestinian Jews. Although polygamy is nowhere prohibited, either in Scripture or any other Jewish source, the ideal was monogamy. Rabbi Dr. I Epstein who edited the English translation of the Babylonian Talmud writes:

The Biblical ideal of human marriage is the monogamous one. The Creation story and all the ethical portions of Scripture speak of the union of a man with one wife. Whenever a Prophet alludes to marriage, he is thinking of such a union—lifelong, faithful, holy. Po-
lygamy seems to have well-nigh disappeared in Israel after the Babylonian Exile. Early Rabbinic literature presupposes a practically monogamic society; and out of 2800 teachers mentioned in the Talmudim, one only is stated to have had two wives. In the fourth century Aramaic paraphrase (Targum) of the Book of Ruth, the kinsman (IV, 6), refuses to 'redeem' Ruth, saying, 'I cannot marry her, because I am already married; I have no right to take an additional wife, lest it lead to strife in my home'. Such paraphrase would be meaningless, if it did not reflect the general feeling of the people on this question.24

We will examine Jewish divorce laws more thoroughly in the next chapter but it may be helpful at this point to note that a wife could force her husband to divorce her if he married a second wife. Louis Epstein makes these observations:

Where polygamy was more generally practiced, the wife could not offer the husband's polygamy as ground for divorce; where it was less usual, polygamy constituted a cause recognized by the courts. Raba of Babylonia, therefore, taught that a man can take as many wives as he wishes, despite his wife's objections, so long as he can support them. R. Ami of Palestine, where polygamy was less usual, ruled that if a wife objects to her husband's marrying another, she has valid grounds for divorce (Yebamoth 65a). 25

Polygamy was objectionable on several grounds. First, there was the negative experience of the Old Testament figures such as Abraham (who eventually expelled Hagar), Jacob (strife caused by jealously between Leah and Rachel), Solomon (who lost his faith because the foreign women he


married brought in idolatry), and so forth. The second reason is mentioned by Louis Epstein, above: a man had to support his wives. Since wives were (and are) not cheap, a man would have to have considerable resources to provide for several. Third, a woman was due fulfillment of the sexual needs which she had as well as a right to children. With several wives, a man may be unable to provide for either of these needs. Fourth, polygamy was objectionable on ethical grounds. The Midrash, for example, "finds in Lamech's polygamy an indication of the degeneracy of the antedeluvian age (Genesis Rabbah 23, 3)." In a similar vein, the Midrash justifies the polygamy of Elkanah with the childlessness of Hannah (Yalqut Shim'on, 1 Samuel 1:2). The ideal was cast in the fictional town of Qushta (which means "truth"): "the people never told a lie, and therefore did not die until advanced in years. Every man married one wife and begot two children. And this to the rabbis was the ideal life" (Sanhedrin 97a). The Talmud (Kethuboth 62b) records the story of a son of Rabbi Judah the Prince. After being away from home for twelve years found his wife without child and contemplated a second marriage. His father "said

26 The Talmud, says Louis Epstein, "actually formulated a rule to govern polygamy, a rule which somehow found its way into Mohammedanism:--a man shall not marry more than four wives, in order that he may distribute his weekly marital contacts equally among them and give each marital satisfaction once a month" (p. 19).

27 Ibid., p. 20.
this would outrage public opinion, for people would call one
his wife, the other his mistress. Apparently, despite the
law, people disliked polygamy and protested it when it
occurred."

Yet polygamy did occur. This was most common for one
of two reasons: either the husband could not afford to di-
vote his wife or she was childless after ten years of mar-
riage (on this latter reason compare Mishnah Yebamoth 6:6).
The expense of a divorce in the Near East involved the re-
turn of the dowry which the bride's father had given to the
couple when they were married. The groom had use of it
during their marriage but it was legally the bride's and had
to be returned in the case of divorce (unless some circum-
stances were present; the entire tractate Kethuboth29 deals
with questions like these). If the bride had come from a
rich family, the sum of the dowry may have been too great to
return. Joachim Jeremias notes:

Mostly we hear of a husband taking a second wife if
there was dissension with the first, but because of the
high price fixed in the marriage contract he could not
afford to divorce her (b. Yeb. 63b . . . ).30

28Ibid., p. 21.
29Hermann Strack, Introduction to the Talmud and
Midrash (Atheneum, NY: Murray Printing Co., 1931), p. 44,
defines the Kethubah as "both the document and the sum set-
tled therein by the husband upon his wife in case of divorce
or death."
30Joachim Jeremias, Jerusalem in the Time of Jesus
Betrothal

Normally, therefore, when we consider marriage in the time of Christ Jesus we observe a monogamous union. This union was initiated by the custom of betrothal. Betrothal (Hebrew root ‘ers) was a consecration (giddushin in the Talmud) between two people nearly as binding as marriage. The betrothed woman was even called "wife" and was subject to the same penalty for unfaithfulness as was a wife (Deut. 22:22-24).

A girl was considered eligible for betrothal when she reached the age of twelve and two days, although there are cases where girls younger than that were betrothed. Up to the age of twelve and a half she could not refuse a marriage her father had arranged even if it was to a deformed man.

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31Jeremias, Jerusalem in the Time of Jesus, p. 370 indicates the possible frequency of polygamy: "We have a numerical guide to the frequency of polygamy in the information given by H. Granqvist, that in 1927, in the village of Artas near Bethlehem, out of 112 married men twelve (that is, nearly one in ten) had more than one wife, eleven had two wives and one had three. However, we must treat these figures only as a rough guide, and not as portraying the exact picture of things in Jesus' time."

32Strack, Introduction to the Talmud and Midrash, indicates the Tractate qiddushin is devoted to this subject. "Kiddushin ‘Marrying’, the actions by which a man acquires a woman to be his spouse (‘erusin or likkuhin: distinct from nissu’in, the induction into the husband’s home which marks marriage proper and takes place, in the case of a virgin, ordinarily twelve months later, and in the case of a widow as a rule thirty days later)" (p. 47).

33For example, Mary is called Joseph’s wife (τὴν γυναῖκα αὐτοῦ) even though she is only engaged (μνηστευ-θείσα) to him; cf. Genesis 29:21.
(Kethuboth 40b). Yet other evidence indicates her consent was required, at least if she were a minor (under the age of twelve years, one day). The betrothal ceremony began the transfer of the girl from her father’s house and authority to that of her husband’s.

Betrothal involved both the choice of a spouse and an exchange of gifts. Parents usually chose the spouse; it was a rare thing for a man to marry a girl against the wishes of his parents (as did Esau in Genesis 26:34-35).

Betrothal was unique to marriage; it was not used in relation to any other roles women could play in a man’s life. It always involved a contract, whether oral (as in the Old Testament times when Jacob served Laban, Genesis 29:18) or written (as in Tobit 7:14). Joachim Jeremias notes the unique position of the wife by means of her right of possession and her contract.

Legally, the wife differed from the slave in the first place because she kept the right of possession (but not of disposition) of the goods she had brought.

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34 In regards to this selection process, President Edwards (at that time president of the India Evangelical Lutheran Church) related to this writer in 1978 that a similar procedure took place in the villages of his country. The parents would begin to consider several women known to them through their families. After a process of discreet information gathering the list of candidates would be winnowed down to a few. A more intense but indirect inquiry would then reduce the possibilities to one or two. The parents would then speak to the girl’s parents and negotiations would begin. At any stage of the process the slightest hint of impropriety would disqualify the girl from consideration. We see a parallel to the selection of Rebekah in Genesis 24.
with her as a marriage portion; in the second place by the assurance of the marriage contract (ketubbah) in fixing the sum to be paid to her in case of separation or the death of her husband. 'What is the difference between a wife and a concubine? R. Meir (c. AD 150) said: The wife has a marriage contract, the concubine has none' (J. Ket. v.2. 29d. 16, cf. b. Sanh. 21a).35

In the Babylonian Talmud this contract was called a shitre giddushin (Moed Katan 18b) or a shitre ‘erusin (Qiddushin 9a). Alfred Edersheim writes:

From the Mishnah (Bab. B. x. 4) we also learn that there were regular Shitre Eruvin, or writings of betrothal, drawn up by the authorities (the costs being paid by the bridegroom). These stipulated the mutual obligations, the dowry, and all other points on which the parties had agreed. The Shitre Eruvin were different from the regular Chthubah (literally, writing), or marriage contract, without which the Rabbis regarded a marriage as merely legalised concubinage (Cheth. v. 1).36

Once the details of the contract were settled, it appears (at least in Judea) the parties celebrated with a feast. Only by formal divorce proceedings or by a true breach of betrothal contract could this bond be broken.

Marriage

After a period of time (no shorter than nine months, except in the case of a widow, nor longer than one year) the marriage ceremony itself took place (See Kethuboth 70b). This time period assured the bridegroom that no illegitimate pregnancy had taken place and it assured the bride that

35Jeremias, p. 368.

undue procrastination would not take place. This wedding ceremony itself could involve a number of different elements, depending on local tradition and the wealth of the people involved.37

One of the consistent features of any marriage ceremony was the kethubah (or marriage contract). An account of a Kethubah is recorded in Tobit 7:14 where the father of the bride, Raguel, draws it up. The details of the kethubah could take some time to work out so that the return of the bridal party to the groom's house might occur at any hour (and hence the basis for the parable of the ten virgins in Matthew 25). This contract fixed the sum to be paid to the wife in case of separation or death and was at least as large as the dowry which she brought into the marriage. The groom assumed liability for this amount even if he had to mortgage all his goods (Kethuboth 82a; Moed Katan iv. 7; Yebamoth vii. 1).

We may observe that the basic feature to both

37Edersheim notes one of these differences based on locale. In the same work, pp. 152-53, he writes: "It deserves notice, that at the marriage in Cana there is no mention of 'friends of the bridegroom,' or, as we would call them, the groomsmen. This was in strict accordance with Jewish custom, for groomsmen were customary in Judaea, but not in Galilee (Cheth. 25a). This also casts light upon the locality where John iii.29 was spoken, in which 'the friend of the bridegroom' is mentioned. But this expression is quite different from that of 'children of the bridechamber,' which occurs in Matt. ix. 15, where the scene is once more laid in Galilee. The term 'children of the bridechamber' is simply a translation of the Rabbinical 'bene Chuppah,' and means the guests invited to the bridal."
betrothal and marriage is a legal document which binds both parties. We have seen already that this document was considered the dividing line which separated concubine from wife. However, like most contracts, there were circumstances in Jewish practice which would permit release from its obligations and privileges and circumstances which would require it. After reviewing our isagogical presuppositions we will turn to a study of these circumstances (in chapter two) and then relate the results to Matthew 19:9 (in chapter three).

Isagogical Presuppositions

Basic to our thesis is an understanding of the original intended audience of Matthew, Mark and Luke. We believe that Matthew was written primarily for the Jews while Mark and Luke were written for Gentiles. We will very briefly sketch the reasons for this position below.

Perhaps the most noticeable characteristic of Matthew is the number of time he quotes from the Old Testament. These fall into two categories:

The majority are cited from the LXX and are introduced by various formulae or else arise naturally out of the course of the narrative without special introduction. But Matthew also makes use of a group of citations from the Hebrew which are all introduced by variation of the formula—'that it might be fulfilled'. These sayings, which may have formed part of a previous collection . . . illustrate the deep conviction that there was an indisputable connection between Christianity and the Old Testament. They bear witness to a major part of the earliest creed of the Christian
Church, i.e. Jesus is Messiah.\textsuperscript{38}

Matthew quotes the Old Testament over four dozen times, including citations from the Torah to the Writings. Throughout his Gospel he demonstrates from the Old Testament that Jesus is the Messiah and that His life fulfills the patterns and promises. His Jewish orientation can even be seen in the circumlocutions he employs, such as "kingdom of heaven" (\textit{ouran\textecircumflex{}}ōn, the plural form probably reflecting the Hebrew dual, \textit{shamayim}). His genealogy uses a combination of three fourteens (the number seven is significant) to climax in Jesus, the "Son of David, the Son of Abraham" (1:1). Even his grammar demonstrates his Jewishness. For example, "the fact that the adverb of time \textit{tote} (then) occurs in Matthew about 90 times (contrast Mark 6 times; Luke 15 times; John 10 times) is another link with its Semitic equivalent."\textsuperscript{39}

Whether Matthew composed in Hebrew, Aramaic or Greek, the identity of "Matthew" and the date of writing, Matthew's relation to the other Gospels are all issues which do not bear materially on our thesis. The only isagogical matter we wish to establish (and few, if any, would disagree) may be summarized by R. C. H. Lenski:


Matthew writes from the Jewish standpoint for Jewish readers. Jewish terms and Jewish matters, therefore, receive little or no elucidation—his readers are expected to understand.40

We believe it is precisely this which will hold the key for unlocking Matthew 19:3-12, particularly verse 9 on the subject of porneia.

When we turn to Mark and Luke we see far less Jewish-ness. "There is an absence of those traces of Jewish-Christian colouring which have been noted in Matthew's Gospel."41 Also, Early Church testimony supports an original Gentile readership for both, specifying Rome as the destination for Mark (cf. the Anti-Marcionite Prologue to Mark and Luke; Irenaeus, Adv. Haer III.i.1; Clement of Alexandria, Hypotyposes apud Eusebius, Hist. Eccl. VI.xiv.6-7). "The clear tradition of the Church both in the west and the east toward the end of the second century and the beginning of the third is that Mark prepared his Gospel primarily for the Christians in Rome and Italy."42 Mark uses a number of latinisms43 and mentions four watches of the night (rather than the Jewish three). He takes the time to explain


41Guthrie, p. 54.


43For example, he uses Latin terms connected with the army (5:9; 6:27; 15:15), commerce (12:15, 42) and explains common Greek terms (12:42 and 15:16).
Palestinian customs and practices (7:3; 14:12; 15:42) and regularly translates Aramaic words and phrases (3:17; 5:41; 7:11; 34; 9:43; 10:46; 15:22, 35) including the simple Abba (which Paul uses without translation in Romans 8:15). William Lane remarks: "Finally, it is noteworthy that the Gospel of Mark reaches its climax in the confession of Jesus' deity by a Roman centurion (Ch. 15:39). Roman Christianity found in the Gospel an account peculiarly appropriate to its life and problems."

The Gospel of Luke also was written originally to a Gentile audience. He addresses both Luke and Acts to Theophilus, probably an historical individual with some catechetical instruction. Luke's Hebraisms are best understood as the result of careful preservation by the historian of his source material. Alfred Plummer writes:

In the Gospel itself it is simply a question of more or less Hebrew elements. They are strongest in the first two chapters, but they never entirely cease; and they are specially common at the beginning of narratives, e.g., v. 1, 12, 17, vi. 1, 6, 12, viii. 22, ix. 18, 51, etc. It will generally be found that the parallel passages are, in the opening words, less Hebraistic than Luke. In construction, even Matthew, a Jew writing for Jews, sometimes exhibits fewer Hebraisms than this versatile Gentile, who writes for Gentiles.45

Luke includes very few of Jesus' criticisms of the scribes and Pharisees, which would indicate an original audience not

44Ibid., p. 25.

acquainted with (and possibly not interested in) Judaism.

We believe it was for this reason that Luke records the teaching of Jesus on divorce and remarriage (in 16:18) without providing any of the context. He simply attaches a number of sayings to the parable of the Shrewd Manager without mentioning the question of the Pharisees. The Judaistic background necessary for properly understanding Jesus' response (including the "exceptional clause") would have been unfamiliar to Luke's readers.

It is to that Judaistic context that we now turn.
CHAPTER II

JUDAICA

In this chapter we intend to examine the understanding of Genesis 1:27; 2:24 and Deuteronomy 24:1-4 in Judaism, including their application in the Qumran Community.

Rabbi Eleazar (ca. AD 270), using Genesis 1:27, reflected the consensus that marriage is the norm for man and that man is not complete without a wife. The goal or purpose of marriage was twofold: children and companionship.

1We should recall that it is often difficult to establish that a discussion or decision in the Talmud was contemporary with Jesus. Much of the Talmud was offered after AD 70 and all of it was written much later. Yet it is a reliable guide to the Sitz im Leben of Jesus.

2"Judaism begins with the basic conviction that since man is the creation of God, no element of his nature can be inherently evil or sinful; accordingly, marriage is regarded not as a concession to the weaknesses of the human flesh, but as a sacred duty. When the great Sage, Ben Azzai, did not marry, he felt constrained to apologize: ‘I am in love with the Torah’. As a general rule, however, Judaism declares that marriage is a fundamental mitzvah not to be avoided." Robert Gordis, "The Jewish Concept of Marriage," Judaism 2 (July 1953):231.

3"R. Eleazar said: Any man who has no wife is no proper man; for it is said, Male and female created He them and called their name Adam" (Yebamoth 63a).
I. Epstein notes: "A childless marriage was deemed to have failed of its main purpose. . . ."\(^4\) On the subject of companionship, he writes:

Companionship is the other primary end of the marriage institution. Woman is to be the helpmate of man. . . . A wife is a man’s other self, all that man’s nature demands for its completion physically, socially, and spiritually. In marriage alone can man’s need for physical and social companionship be directed to holy ends. It is this idea which is expressed by the term kiddushin (hollowing) applied to Jewish marriage—the hallowing of two human beings to life’s holiest purposes. In married life, man finds his truest and most lasting happiness; and only through married life does human personality reach its highest fulfilment. . . . The celibate life is the unblest life: Judaism requires its saints to show their sanctity in the world, and amid the ties and obligations of family life. ‘He who has no wife abides without good, help, joy, blessing or atonement. He who has no wife cannot be considered a whole man’ (Talmud). \(^5\)

The obligation to follow God’s command to be fruitful and multiply was so strong among the rabbis that they suspended some of the rules to enable a childless man to marry as soon as possible.

Our Rabbis taught: For [the whole] thirty days [the mourner is debarred from] taking a wife. If his wife died, he is forbidden to take another until three Festivals have gone by. R. Judah says, [Until] the first Festival and the second he is forbidden [to marry]; before the third he is allowed. If he have no children he may take a wife forthwith, lest [otherwise] he may fail


\(^5\)Ibid., pp. xiv-xv.
This duty was as much incumbent on the woman as the man. "In reference to both of them [man and woman] the verse says, And God blessed them and God said unto them, Be fruitful and multiply etc." (Gittin 43b). Even the wedding blessings reflect this use of Genesis 1:27-28. In the first benediction God is praised for creating all that exists and in the second, for creating mankind. In the third God is praised for making man in the image and likeness of Himself and for making a perpetual building out of man. Since man and woman are the vessels by which God continues to create man in His image, the keynote of marriage is the joy Adam and Eve felt in their union (Kethuboth 8a).

Another subject which arose in the interpretation of Genesis 1:27 among the rabbis was the exact form of man when he was first created. Genesis 1:27 was compared with 5:2

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6This led to the "sacredness and centrality of the child in Judaism--something which even the enlightened nations of antiquity could not understand. Tacitus deemed it a contemptible prejudice of the Jews that 'it is a crime among them to kill any child.'" (I. Epstein, Yebamoth, ixv.)

7The rabbis used Genesis 2:18 ("I will make him an help meet for him") to explain why some married couples were happy together and some were not. "R. Eleazar further stated: What is the meaning of the Scriptural text, I will make him a help meet for him? If he was worthy she is a help to him; if he was not worthy she is against him" (Yebamoth 63a). The difference between "help" and "against" is the Hebrew kmgdo: if pointed with a segol under the n the meaning is "helper"; if pointed with a patach it means "to strike." "If he was worthy she is meet for him; if he was not worthy she chastises him: (Yebamoth 63a).
("He created them male and female, and He blessed them and named them Man in the day when they were created") and they concluded that God intended in Genesis 1 to fashion man and, in fact, fashions him male and female; in Genesis 5 God intended to make man male and female and, in fact, made him mankind (adam). How is this to be understood? "[In this way:] In the beginning it was the intention [of God] to create two [human beings], and in the end [only] one [human being] was created" (Kethuboth 8a). Some have suggested this creature was a Doppelmenschen, a being with two fully formed fronts united in the back, male on one side and female on the other. We will study this more fully in chapter three but we may note here that the reading above would leave room for this exotic teaching.

What strikes the modern reader is the absence of the use of Genesis 1:27 and 2:24 as a basis for marriage principles, particularly as Jesus used them in Matthew 19:3-12.

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8Two who propose this interpretation are David Daube, "Evangelisten und Rabbinen," Zeitschrift für Neuentestamentliche Wissenschaft 48 (1936):126 cited by Paul Winter, "Genesis 1:27 and Jesus' Saying on Divorce," Zeitschrift für Alttestamentliche Wissenschaft 70 (1985):260. Strack-Billerbeck discuss this theory under the location of Matt. 19:4. It is suggested under this verse that not only was there a tension felt between Genesis 1:27 and 5:2 but also possibly some question of the exact sequence of events when comparing Genesis 1:27 with the creation of man in chapter two: "Vielleicht wollte man die Schwierigkeit beaeitigen, dass nach Gn 1 von vornherein ein Menschenpaar geschaffen zu sein schien, während nach Gn 2 Gott zunächst den Mann u. erst später aus ihm das Weib bildete." Kommentar zum Neuen Testament (Munich: C. H. Beck'sche, 1926), p. 801.
Three examples will serve to illustrate the use some rabbis made of the Genesis passages. First, there was the question of why vows were legally binding for girls at an earlier age than for boys. The interpretation of Genesis 2:22 suggested that God had taken more care when "building" (wayiben) Eve than He had when He "formed" (wayitser) man (2:7) and therefore she had "more understanding" (Niddah 45b). Second, the interpretation of Adam's remark that Eve was "bone of my bones and flesh of my flesh" was interpreted to mean that Adam had intercourse with all the animals which God paraded past him and found none satisfying; therefore God made woman (Yebamoth 63a). Third, the rabbis concluded that God plaited Eve's hair before bringing her to Adam because the sea towns used the verb "build" (banah) to describe plaiting (Erubin 18a; Niddah 45b; Shabbath 95a).

We find only four places where the rabbis' use of Genesis 1:27 and 2:24 approaches Jesus' use. The first occurs when discussing the question of what constituted a

9Rabbi Chisda wrote: "And the Lord God built with the rib which teaches that the Holy One, blessed be He, endowed the woman with more understanding than the man.

10Rabbi Eleazar said: "This is now bone of my bones and flesh of my flesh. This teaches that Adam had intercourse with every beast and animal but found no satisfaction until he cohabited with Eve."

11Rabbi Simeon b. Menassia said: "'And the Lord God builded the side' teaches that the Holy One, blessed be He, plaited Eve's hair and then brought her to Adam, for in the sea-towns a plait is called a 'building.'"
valid betrothal proclamation.

The scholars propounded: [What if one declares,] 'Thou art singled out for me,' 'Thou art designated unto me,' 'Thou art my help,' 'Thou art meet for me,' 'Thou art gathered in to me,' 'Thou art my rib,' 'Thou art closed in to me,' 'Thou art my replacement,' . . . . One at least you may solve. For it was taught: If one declares, 'Thou art taken by me,' she is betrothed, for it is written, when a man taketh a wife (Kiddushin 6a).

Here the language of Genesis 2:24 is considered as possibly initiating the betrothal, reflecting the underlying assumption that 2:24 had something to do with marriage.

The second occurs in the discussion of proper mourning by a priest. Shall a priest mourn for his father-in-law or mother-in-law? Yes, for he and his wife were one flesh. However, he was not required to mourn for the father or mother of his betrothed since they were not yet "one flesh" (sexual union) (Bab Mezi'a 18a). This demonstrates that the understanding with which Jesus worked in Matthew 19:3-12 (that "one flesh" referred to the sexual union within marriage) was essentially that of his near contemporaries.

The third occurs in a discussion of consanguinity. What relationships are forbidden? Rabbi Eliezer (ca. AD 90), on the basis of Genesis 2:24a ("Therefore shall a man leave his mother") said: "His father means 'his father's sister'; his mother, 'his mother's sister.'" Rabbi Akiba (died AD 135) said: "His father means 'his father's wife'; his mother is literally meant. And he shall cleave, but not to a male; to his wife, but not to his neighbour's wife; and
they shall be as one flesh, applying to those that can become one flesh, thus excluding cattle and beasts, which cannot become one flesh with man." (Both of these are from Sanhedrin 58a.) This use of Genesis 2:24 will be especially helpful in interpreting porneia in Matthew 19:9 and the "exceptive clause" in which Jesus uses it.

The fourth place our Genesis texts are used in any way like we see Jesus use them occurs in the discussion of Gentile divorce. The question was not whether the Gentiles were permitted sexual license; on the basis of Genesis 2:24 they were forbidden adultery, perversity, homosexuality, beastiality and the like (Sanhedrin 57b; J. Kiddushin 1:1). Rather, were they permitted divorce? Manfred Lehmann summarizes:

R. Ḥinena, quoting R. Shemuel ben Naḥman ... I granted (the right to divorce) only to Israel; I did not grant divorce unto the nations of the world. R. Ḥananya,

12 The rabbis extended the prohibited degrees of Leviticus 18 to "secondary" degrees. Alfred Edersheim writes: "The bars to marriage mentioned in the Bible are sufficiently known. To these the Rabbis added others, which have been arranged under two heads--as farther extending the laws of kindred (to their secondary degrees), and as intended to guard morality. The former were extended over the whole line of forbidden kindred, where that line was direct, and to one link farther where the line became indirect--as, for example, to the wife of a maternal uncle, or to the stepmother of a wife. In the category of guards to morality we include such prohibitions as that a divorced woman might not marry her seducer, nor a man the woman to whom he had brought her letter of divorce, or in whose case he had borne testimony; or of marriage with those not in their right sense, or in a state of drunkenness; or of the marriage of minors, or under fraud, etc." Sketches of Jewish Social Life (Grand Rapids: Wm. B. Eerdmans, 1984), p. 156.
quoting R. Pineḥas: The whole chapter (in Malachi) refers to 'The Lord of Israel' is written; this teaches you that G-d only lent His name to divorce in Israel. The words of R. Hiyya the Great: There is no divorce for the Gentiles.

The general thought is that laws given to man prior to the Law on Mount Sinai apply to all people; legislation after that applies only to Israel. Genesis 2:24 binds husband and wife together (as Jesus argues in Matthew 19:3-12) but divorce was exclusively Israel's. The rabbis cited are somewhat later than the New Testament era but may well reflect opinions of much earlier times.

**Use of Deuteronomy 24:1-4**

But what were to be the grounds for divorce? The answer to that question turned upon the interpretation of Deuteronomy 24:1-4.

If a man marries a woman who becomes displeasing to him because he finds something indecent about her, and he writes her a certificate of divorce, gives it to her and sends her from his house, and if after she leaves his house she becomes the wife of another man, and her second husband dislikes her and writes her a certificate of divorce, gives it to her and sends her from his house, or if he dies, then her first husband, who divorced her, is not allowed to marry her again after she has been defiled. That would be detestable in the eyes of the LORD. Do not bring sin upon the land the LORD your God is giving you as an inheritance (Deuteronomy 24:1-4).

Divorce laws were very stringent in the Talmud. The

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14Approximate dates are: Ḥinena (ca. AD 300), Shemuel ben Naḥman (ca. AD 260), Ḥananya (ca. AD 370).
rabbis regulated every conceivable aspect from the requirement that it be in writing on lined material which could not come from a living creature to restricting its use to one and only one person per document. Both the form and the contents were regulated. If any

15"Scripture states, [then he shall write her] a writ of divorcement: Thus, a 'writ' may divorce her, but nothing else may divorce her." (Kiddushin 3b)

16"Rab Judah said in the name of Samuel, If one wrote it like a letter, it is invalid. Why?--Because of the inference that is made by the expression 'writing', which is used here [in connection with the mezuzah] and also there in connection with the scroll." (Menahoth 32b) Thus the lines on the parchment had to be ruled and special care had to be taken in regards to the spelling, unlike a common letter.

17"... why does Scripture state 'bill'? To teach you that just as a bill is a thing which has no breath of life and cannot eat, so is everything valid which has not the breath of life and does not eat." (Sukkah 24b) The same point about the material is made in Gittin 21b.

18"If a man wrote a Get to divorce his wife... and then he changed his mind: and a fellow townsman met him and [asked for the document] saying, 'Your name is the same as mine and your wife's name is the same as my wife's name', [the document] is invalid for the purpose of divorcing therewith [the other man's wife]?--What a comparison! Concerning that case it is written in Scripture, And he shall write for her, hence it is required that the writing shall be expressly for her sake... hence it is required that the execution shall be expressly for her sake, and the execution in her case is the blotting out." (Erubin 13a/b) The same point is made in Yebamoth 52a/b where the reasoning is based on the husband's (and only the husband's) power to divorce his wife. One man has no authority to divorce another man's wife.

19Engraving (so that letters were in relief) was deemed invalid, yet stamping (so that the letters were hollowed out) was permitted. Woven letters (as in a headband) and embroidering also failed to meet the criteria (Gittin 20a).

20"MISHNAH. If a man says, 'write a get' and give it
conditions were set by the husband (such as not entering a certain person's house or conversing with a particular individual) in the divorce document, these had to be for a limited period of time. As a rule, the kethubah (dowry given to the couple by the bride's father) had to be returned to the wife, unless certain circumstances were present.

This passage was used to determine a number of 

to my wife, 'divorce her,' 'write a letter and give her,' then those so instructed should write and give her. If he said, 'release her,' 'provide for her,' 'do the customary thing for her,' 'do the proper thing for her,' his words are no effect" (Gittin 65b). The rabbis reasoned that less specific formulations lent themselves to misunderstanding and, if the document were to meet the criteria of Deuteronomy 24, the woman as well as the witnesses must understand exactly what was being done.

21"The letter causes her divorcement but no other thing may cause it. And the Rabbis?--They require the expression of 'A letter of divorcement' to [indicate that the divorce must be] one that completely separates the man from the woman; as it was taught: [Should a husband say to his wife,] 'Here is your divorce on condition that you never drink any wine' or 'on condition that you never go to your father's house' [such a divorce] is no complete separation; [if he said] 'During thirty days' is it regarded as a complete separation" (Eurbin 15b). The divorce was regarded as complete from the moment the husband gave the document to the wife if the conditions are subsequently kept.

22"MISHNAH. These are to be divorced without receiving their kethubah: a wife who transgresses the law of Moses or [one who transgresses] Jewish practice. And what is [regarded as a wife's transgression against] the law of Moses? Feeding her husband with untithed food, having intercourse with him during the period of her menstruation, not setting apart her dough offering, or making vows and not fulfilling them. And what [is deemed to be a wife's transgression against] Jewish practice? Going out with uncovered head, spinning in the street or conversing with every man." These latter practices were extended in this section (Kethuboth 72
related issues as well. At times the rabbis reflect a concern for the woman's welfare in divorce and at times they show a certain disdain for women.

In several places the rabbis seem to interpret Deuteronomy 24:1-4 much as we have in chapter one: that it prohibits a man remarrying a divorced wife who has had an intervening husband.

What was meant by a 'lighter prohibition'? R. Hisda replied: Remarrying one's divorced wife after her marriage to another man. When that man cohabited with her, he caused her to be prohibited to the other, and when the other cohabited with her he caused her to be

(a/b) to include cursing the husband's parents in his presence and making too much noise during sexual intercourse (so that the neighbors hear her).

They used it to distinguish between refusal of a suitor and divorce (Yebamoth 108a), whether rumors of misconduct were sufficient cause for divorce (as a rule, no; Gittin 88b/89a), the number of witnesses to prove misconduct as grounds for divorce (one; Sotah 3b/4a) and to prove the opinion that divorce was retractable in some cases (recovery from what seemed to be a terminal illness, return from a long voyage; Gittin 66a).

Rabbi Joshua, using the common expression for "a scanty livelihood" (kab), says: "a woman prefers one kab and sexual indulgence to nine kab and continence" (Sotah 20a). In a similar vein, the connection between the Tractate Nazir (which deals with Nazarite vows) and Gittin (which deals with divorce documents) was established with reference to Deuteronomy 24:1-4. Here, Na'amim is the third of six orders in the Mishnah and pertains to women's laws. "Seeing that the Tanna is teaching the order Na'amim, why does he speak of the Nazarite?--The Tanna had in mind the scriptural verse, then it cometh to pass if she find no favour in his eyes, because he hath found some unseemly thing in her, and he reasons thus. What was the cause of the woman's infidelity? Wine. Further, he proceeds, whosoever sees an unfaithful wife in her degredation will take a nazirite's vow and abjure wine" (Nazir 1).
prohibited to the former. (But, it may be argued,) re-
marrying one's divorced wife after her marriage to an-
other man is different, since her body was defiled and
she is prohibited for all time!--Rather, said Resh

\[\text{Lakish, l't hamah a yebamah (Yebamoth 33a).}\]

another man is in the same category as a yebamah, or "sister-
in-law", who would be forbidden to him by Leviticus 18 but
not forbidden to others. The same line of interpretation
occurs in Yebamoth 78a, 85b and Gittin 80b.\textsuperscript{25}

Perhaps the most well known and certainly the most
relevant use of Deuteronomy 24:1-4 in Judaism was the inter-
pretation of 'erwat dabar as grounds for divorce. Two
schools of thought, both established by rabbis in the first
century B.C., are recorded in the Talmud and form the imme-
diate backdrop for Matthew 19:3-12. The school of Shammai
was more conservative; the school of Hillel, the more lib-
eral.\textsuperscript{26} Both approached the text with the principle
that every word had meaning and that nothing was superfluous.
The school of Shammai emphasized "unseemliness" (\'erwat)

\textsuperscript{25}A related matter is the legitimacy of the offspring
from such a proscribed union. Hillel and his followers
argued that the offspring were legitimate since they were
eligible for the office of high priest (Yebamoth 15b/16a).
The same ruling is made of a balaiah (one born of a priestly
disqualification) in Kiddushin 77a and Niddah 69b.

\textsuperscript{26}This orientation may be illustrated by their dif-
fering answer to the question: how long does a corpse con-
vey ritual uncleanness by carriage? The rule established in
the Mishnah stated that a menstruant conveyed uncleanness by
carriage until the flesh has decayed. But who qualified as
a menstruant? "Beth Shammai ruled: all women die as men-
struants; but Beth Hillel ruled: a woman cannot be regarded
as menstruant unless she died while she was in menstruation"
(Niddah 69b).
required divorce. We have already (in chapter one) dis-
cussed those conditions which prohibit divorce.27

Other Grounds for Divorce

When we examine the next category (those reasons for
which a person may divorce his spouse) we find a difference
of opinion. Since much of this difference is based on the
interpretation of 'erwat dabar (which we have cited above)
we need say no more that virtually any reason could serve
as grounds for divorce of the wife by the husband. However,
that was not the case for the wife who wanted a divorce.

Joachim Jeremias states: "The right to divorce was

27Besides the prohibitions mentioned in chapter one we
recall the prohibition of divorce to the Noahides and Gen-
tiles cited above. To this we wish to add only that the
rabbis forbade divorce of a wife who was incapable of taking
care of herself. Here we see the concern evident in many
rulings for the welfare of a woman.

"If, however, [she is one] who is unable to take care
of either her letter of divorce or of herself, [how could it
be said that] in accordance with the word of the Torah she
may be divorced? Surely, it was stated at the school of R.
Jannai, And giveth it in her hand [only to her] who is ca-
pable of accepting her divorce, but this one is excluded
since she is incapable of accepting her divorce; and fur-
thermore, it was taught at the school of R. Ishmael, And
sendeth her out of his house, only one who, when he sends
her out, does not return, but this one is excluded since she
returns even if he sends her out!—This was necessary in
respect of one who is capable of preserving her letter of
divorce but is unable to take proper care of herself.
Hence, in accordance with the word of the Torah, such an
imbecile may well be divorced for, surely, she is capable
of preserving her letter of divorce; the Rabbis, however,
rules that she shall not be dismissed in order that people
might not treat her as a piece of ownerless property
(Yebamoth 113b)."
exclusively the husbands."28 While this seems to have been consistently the law, woman did have some grounds on which she could force her husband to divorce her at the action of the court.29 She could divorce for injury received at his hands (Yebamoth vi. 6; Kethuboth 57b), if he tried to force her to take a vow unworthy of her (Bill. I, 318-19), if he was impotent or refused to have sexual intercourse with


29We have at least one example of a woman sending a divorce bill to her husband when Herod the Great’s sister Salome sent a bill of divorcement to her spouse Costobar in Josephus, Ant. 15. 259f. Although Roman law permitted this, Josephus is quick to note the practice was forbidden to the Jews. [He refers to his own divorce, giving as reason that he “was displeased at her behaviour” (Vita, 426).] For a fuller treatment of the woman’s right to divorce her husband, see Bernadette Brooter, "Konnten Frauen im alten Judentum die Scheidung betreiben?", Evangelische Theologie 42 (January-February 1982):65-80. She outlines the problem: "Praktisch alle Bibelwissenschaften glauben, dass judische Frauen zur Zeit Jesus sich nicht von ihren Männern scheiden lassen konnten. Diese Frage ist interessant, weil es Diskrepanzen in den fünf neutestamentarischen Texten gibt, in denen Jesus die Scheidung verbietet. An zwei Stellen, Mk 10, 11-12 und 1Kor 7, 10-11, wird das Recht der Frau, sich von ihren Mann zu trennen, vorausgesetzt, während es in den Berichten von Matthäus (5,32 un 19,3-12) und Lukas (16, 18) heiszt, nur der Mann habe dieses Recht." (pp. 65-66) In response to the Elephantine papyri, she answers: "Lassen Sie uns die Frage aus der Perspektive der Frauen stellen! Gibt es Anhaltspunkte dafür, dass Frauen im alten Judentum von sich aus die Scheidung betreiben konnten? Ja, die gibt es" (p. 67). However, two reasons argue against the relevancy of the Elephantine colony to our present problem. First, they were many centuries and many miles removed from first century Palestine. Second, the testimony of Josephus (a first century Palestinian Jew) is that such action by the wife was illegal and not a Jewish practice. As intriguing as Brooter’s suggestion is, the evidence is heavily against it.
her\textsuperscript{30} or if he was afflicted with leprosy or polypus\textsuperscript{31} (M. Ket. vii. 10; T. Ket. vii. 11, 270). She could also have herself divorced from her husband if he smelled bad (offensive smells were common with tanners, copper-smelters and dung-collectors). Even if he worked in this trade when they were married and she knew he could or would not quit the trade, she could later divorce him. "In this case, at least in the opinion of R. Meir (ca. AD 150), she could explain: 'I thought that I could endure it, but now I cannot endure it' (M. Ket. vii. 10)."\textsuperscript{32} She could also refuse levirite marriage to her late husband's near relative by saying she could stand the smell of her late husband but could not tolerate it any further (M. Kethuboth 77a).

We now turn to the third category, cases where divorce was actually required of the couple even if neither party wished it. The rabbis made a distinction between circumstances in which a woman is Biblically forbidden to her husband and others in which she is Rabbinically forbidden to

\textsuperscript{30}"If a man forbade his wife by vow to have intercourse, Beth Shammai ruled: [She must consent to the deprivation for] two weeks; Beth Hillel ruled: [Only for] one week'; and Rab stated, 'They differ only in the case of a man who specified [the period of abstinence] but where he did not specify the period he must divorce her forthwith and give her the kethubah'" (Kethuboth 71a).

\textsuperscript{31}"What [is meant by one] who has a polypus?--Rab Judah replied in the name of Samuel: [One who suffers from an offensive] nasal smell. In a Baraita it was taught: [One suffering from] offensive breath." (Kethuboth 77a)

\textsuperscript{32}Jeremias, p. 308.
An example of the former was infidelity,34 identified in Numbers 5:12-14 as a sotah. An example of the latter was a case where a woman may have married a second husband under the misconception that her missing first husband was dead (Yebamoth 11a).35

Even suspicion of adultery may be used as grounds for compulsory divorce, particularly if the husband has warned his wife not to be secluded with a man and she does so anyway.

**MISHNAH** . . . How does he warn her? If he says to her in the presence of two, do not converse with that man, and she conversed with him, she is still permitted

33Nembach (p. 165), states the ground for required divorce was the wife's behavior, not the man's. "Die Gründe für eine solche gebotene Ehescheidung liegen alle im Verhalten der Frau, das zu Kritik Anlass gibt. Sie lässt sich in allen Fällen ein nach damaliger Auffassung schwerwiegendes Vergehen zuschulden kommen." The Talmud, however does list other causes for compulsory divorce (such as ten years of barrenness in the opinion of some rabbis, unreasonable vows required by husband and those marriages which fell within the prohibited degrees).

34But what qualified as adultery or infidelity? Kissing was defined as only superficial or first stage contact and was not grounds for compulsory divorce; second stage contact ("insertion of the corona") was, however, grounds for it (Yebamoth 55b). Also, rape did not qualify as adultery. If a wife is forced into intercourse her husband is not required to divorce her (Sotah 2b). Ulrich Nembach also cites Rabbi Schela declared a woman to be forbidden by law to her husband in the case of infidelity: "R. Schela aus Kephar Temarta bemerkte in einer Diskussion, dass eine Frau--ea ist wohl aufgrund des Kontextes an eine Ehebrecherin zu denken--ihren Mann verboten ist." Ehescheidung nach alttestamentlichem und judischem Recht," *Theologische Zeitschrift* 26 (May-June 1970):165.

35Such circumstances would require divorce of the second husband.
to her husband, and permitted to partake of the heave offering (if her husband is a priest). Should she have entered a private place with him and stayed with him a time sufficient for misconduct to have occurred, she is forbidden to her husband and forbidden to partake of the heave offering (Sotah 1).

In effect, seclusion with another man is comparable to adultery because both defile the woman and prohibit her from remaining married to her husband: "... seclusion is the . . . beginning of 'defilement','" (Sotah 2b). Generally, civil law required two witnesses to convict a person of a crime. Yet often seclusion (and particularly adultery) had no witnesses. How, then, was the requirement of two witnesses met?

Our Rabbis have taught: Which is the 'first testimony'? Evidence of seclusion, and the 'final testimony' is evidence of 'defilement' [misconduct]. And how long is the duration in the matter of seclusion? Sufficient for a person to walk round a date-palm. Such is the view of R. Ishmael; R. Eliezer (ca. AD 90) says: Sufficient for preparing a cup of wine; R. Joshua says: Sufficient to drink it; Ben Azzai says: Sufficient to roast an egg. . . . (Sotah 3b/4a).

The rabbis differed on whether the wife (whom the husband was required to divorce) should receive the kethubah if the grounds were only suspected misconduct.37

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36Required divorce on the grounds of suspicion may not have predated the fall of Jerusalem in AD 70. The ritual for testing the sotah is prescribed in Numbers 5 and requires that the Temple be standing. The Talmud notes: "If she then secluded herself with the man, since we have not now the water for a suspected woman to test her, the husband forbids her to himself for all time" (Sotah 2b).

37Sotah 31a; the subscription refers also to Rashbam (V. Tosaf. Sense) and Maimonides (v. n. 1).
Unreasonable vows could also serve as grounds for compulsory divorce.

MISHNAH. If a man forbade his wife by vow that she shall not go to her father’s house, and he lives with her in the same town, he may keep her as his wife if the prohibition was for one month; but if for two months he must divorce her and give her also the kethuba. (Kethuboth 71b)

This section of the Talmud includes many other vows which would require divorce, including vows against eating certain kinds of fruits (70b), forbidding the use of certain adornments (70b), banning her from housing of feasting or mourning and other conditions (71b).

Divorce was required as well in cases where the marriage of the couple fell within the prohibited degrees. In the following passage, “tainted” refers to those who are disqualified to their husbands as priests or from marrying into the congregation of Israel.

Rab Judah stated in the name of R. Assi: We do not compel divorce except (in the case of) those who are tainted. When I mentioned this in the presence of Samuel he remarked, “As, for instance, a widow [who was married] to a High Priest, a divorced woman or a baluzah to a common priest, a bastard or a nethinah to an Israelite, or the daughter of an Israelite to a nathin or a bastard... (Kethuboth 77a).

Thus, even those who would compel divorce for no other reason (and this passage makes mention of the wife barren after ten years not being compelled to be divorced) would at least require divorce for violations of zenut, the prohibited degrees. The same requirement applies to Gentiles who convert to Judaism.
A proselyte, born, but not conceived in sanctity, possesses kin on his mother’s side but not on his father’s side. E.g., if he married his sister by his mother (born before his mother’s conversion, and who subsequently became converted too) he must divorce her; by his father, he may keep her; his father’s sister by his father’s mother, he must divorce her; by his father’s father, he may keep her; his mother’s sister by her mother, he must renounce her. . . for R. Meir (ca. AD 150) held that all forbidden degrees of consanguinity on the mother’s side must be divorced; on the father’s side may be kept (Sanhedrin 57b/58a).

Required divorce may also be found in Sotah 31b, Gittin 85a, 88b, and 89a. Our point is that required divorce was not an isolated opinion but something which occurs many times in the Talmud. A wife could be compelled to be divorced from her husband, not only for adultery but for other reasons as well, including zenut (prohibited degrees of marriage). Normally, divorced persons were permitted to remarry their former spouse but this was not true in the case of required divorce. In spite of all this,

38In the last of these references the Tannaim specified other ways for a wife to misconduct herself than adultery or seclusion with a man. "If she ate in the street, if she quaffed (walks with an outstretched neck) in the street, if she suckled in the street, in every case R. Meir (ca. AD 150) says that she must leave her husband." (Gittin 89a)

39"Sota, 5, 1: As she (the adulteress) is forbidden (’asurah) to her husband, she is also forbidden to the adulterer. Test. R. 3:15; Blau, I, 37f." Quoted from Friedrich Hauck & Siegfried Schulz, "porneia", Theological Dictionary of the New Testament, 10 vols., ed. G. Kittel (Grand Rapids: Wm. B. Eerdmans, 1977), 6:592, f. 73.

40"But this was not permitted if she had meanwhile remarried . . . or if the divorce had been on the grounds of her sterility (M. Gitt. iv. 8), or suspicion of her adultery, or because she had often made vows against her husband’s will (M. Gitt. vii. 7)." Quoted from Jeremias, p. 370, f. 58.
however, divorce itself was probably not very common.  

Such was Judaism's understanding of divorce, at least from the rabbinic point of view. We have briefly noted that Josephus wrote from the perspective of Hillel and acted on it in the case of his own marriage. Phil (De spec. leg. III, 30) apparently held a similar view. What, however, did the Qumran community think about divorce?

**Divorce in the Qumran Community**

Two citations from Qumran documents treat divorce. The first is from the Temple Scroll, discovered in cave 11 in 1956. Only recently have sections of it been made available for study. This text is a commentary on Deuteronomy 17:14-17, verses 16-17 of which read:

> The king, moreover, must not acquire great numbers of horses for himself or make the people return to Egypt to get more of them, for the LORD has told you, 'You are not to go back that way again.' He must not take many wives, or his heart will be led astray. He must not accumulate large amounts of silver and gold.

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41"H. Granqvist has established that, in the village of Artas near Bethlehem, out of 264 marriages ... only eleven, that is, four per cent were broken by divorce." Ibid., p. 371.

42Joseph Fitzmyer, "The Matthean Divorce Texts and some New Palestinian Evidence", Theological Studies 37 (June 1976):215 writes: "In some mysterious, as yet unrevealed, way the Temple Scroll came into the possession of the Department of Antiquities in Israel and was entrusted to Y. Yadin for publication. So far the full text of the scroll has not been published."
The text of the Temple Scroll which relates to verse 17a reads: "And he shall not take in addition to her another wife, for she alone shall be with him all the days of her life; and if she dies, he shall take for himself another" (11QTemple 57:17-19). Deuteronomy 17:17a prohibits polygamy but the Qumran document goes farther when it says: "she alone shall be with him all the days of her life" and prescribes divorce. Joseph Fitzmyer argues this would have been applicable not only to the king but also to the rest of the community.

It may well be objected that this is a regulation for the "king" (melek of Dt 17:14) and that it does not envisage the commoner. But the principle behind such legislation is—to paraphrase an ancient dictum—quod non licet Iovi, non licet bovi; and it has been invoked apropos of other texts by other writers... the regulations in it were undoubtedly to be normative for all for whom it was a virtual Torah.43

The value of this reference is that it presents evidence of a group of Palestinian Jews in the first century which, in opposition to the rabbis, clearly prohibited divorce.44

We have a second reference to this subject in the Damascus Document (CD 4:12b-5:14a).45 In this section the

43Ibid., p. 216.
44We do not mean to suggest that Jesus was influenced by the Quaran group. However, it demonstrates the fact that this position (divorce is altogether wrong) was certainly possible for a first century Palestinian Jew to take.

45"And in all those years Belial will be unleashed against Israel: ... (These are) the three nets of Belial about which Levi, son of Jacob, spoke, in which he (Belial) has ensnared Israel ... the first is unchastity (hazzenut);
author looks at mainstream Judaism and issues a strong indictment. This is part of the warning and promise to potential converts. It is evident that the passage condemns

the second, wealth; the third, defilement of the sanctuary (תַּמְמָה הַמִּמְיָדָה). Whoever rises out of one gets caught in another; whoever is delivered from one gets caught in another.

... (They) have been caught in unchastity in two ways: by taking two wives in their lifetime, whereas the principle of creation (is) 'Male and female he created them'; and those who entered (Noah's) ark, "two (by) two went into the ark". And concerning the prince (נַשִּׁי) (it is) written: "He shall not multiply wives for himself."

Moreover, they defile the sanctuary, since they do not keep separate according to the Law, but lie with her who sees the blood of her flux.

And they take (as wives), each one (of them), the daughter of his brother and the daughter of his sister, whereas Moses said, "You shall not approach (sexually) your mother’s sister; she is your mother’s kin." The regulation for incest is written for males, but it applies equally to women; so if a brother’s daughter uncovers the nakedness of her father’s brother, whereas she is his kin. ...

This is cited from Fitzmyer, p. 218. He notes that only two of the "nets" of Belial are described; wealth is bypassed (although it may be a reference to Deuteronomy 17:17b).

The net called "defilement of the sanctuary" is a reference to their (Mainstream Judaism) failure to avoid intercourse with a woman during and shortly after menstruation (Leviticus 15:19).

The net called "unchastity" extends the prohibition of the Old Testament against marrying one’s aunt to the marriage of uncle and niece, permitted by the Old Testament (Leviticus 18:15). Polygamy also stands condemned, the Qumran group uniquely (aside from Jesus) using Genesis 1:27 to forbid it. The major value of this passage for us, however, is the use of zenut (sexual misconduct, translated by the LXX as porneia) for transgressions of the degrees in which marriage is prohibited.

Fitzmyer, p. 217 writes: "This section seems to have existed independently at one time, before it became part of the conflated text that we know today. It is an admonition or exhortation addressed to Palestinian Jews who were not members of the Essene community."
divorce as well. Geza Vermes, for example, argues:

The problem of divorce is treated nowhere explicitly in the Scrolls. A number of scholars see in the prohibition on taking two wives 'in their lifetime' (CD 4: 20-5:2) an outlawing of both polygamy and divorce, but a careful analysis of this passage makes it plain that the author is arguing against polygamy alone, and was not concerned with the question of a divorce followed by remarriage.47

However, Geza Vermes nowhere offers that "careful analysis" which would prove his point. Joseph Fitzmyer, on the other hand, notes that the suffix on "lifetime" is masculine48 where the reader would expect it to be feminine if it referred to divorce (that is, "in their [feminine] lifetime"). However, if one were referring to both husband and wife with a Hebrew suffix, it would be with the masculine. Therefore both polygamy and divorce (which would be, in their view, successive polygamy) are proscribed. But the primary use we wish to make of this passage is the evidence that zenut, translated porneia by the LXX (for example, Jeremiah 3:2, 6), included marriage within forbidden degrees, both Biblically forbidden and forbidden by the interpreter (for example, by extending the prohibition against marriage with an aunt to a prohibition against marriage with an uncle; compare Leviticus 18:15), for Palestinian Jews in the first centuries B.C. and A.D.


48"Taking two wives in their lifetime" (lagabat sete nasim behayyehem).
It might seem strange that a community which reputedly practiced celibacy should show such concern for the sanctity of marriage. However, Geza Vermes notes:

The contradictions between celibacy and marriage . . . and between communism and private ownership, are to be seen in the context of the difference between the strict discipline imposed on the members of the Council at Qumran and the less demanding regulations followed by the other members of the Covenant.49

In summary we may note how different Judaism was from our own culture on the subject of divorce. Of particular note is the fact that a couple could be required to divorce if certain circumstances (usually involving some misconduct) were present. When we understand that these circumstances may also be defined as marrying within the prohibited degrees, and that (as we have seen in Qumran) this was included in the broadly defined porneia, we begin to understand the context in which Jesus responded to the question of the Pharisees in Matthew 19:3-12.

49Geza Vermes, p. 129.
Jesus had determined to leave Galilee and travel towards Jerusalem in time for His last Passover. He travelled south along the Jordan River on the east side (the normal course for Galilean pilgrims). While He was in Perea,¹ He was approached by Pharisees who had a purpose in mind.

And some Pharisees came to Him, testing Him and saying, "Is it lawful for a man to divorce his wife for any cause at all?" And He answered and said "Have you not read that He who created them from the beginning made them male and female, and said, 'for this cause a man shall leave his father and mother, and shall cleave to his wife; and the two shall become one flesh'? Consequently they are no more two, but one flesh. What therefore God has joined together, let not man separate."

They said to Him, "Why then did Moses command to give her a certificate and divorce her?"

He said to them, "Because of your hardness of heart, Moses permitted you to divorce your wives; but from the beginning it has not been this way. And I say to you, whoever divorces his wife, except for immorality, and marries another commits adultery."

The disciples said to Him, "If the relationship of the man with his wife is like this, it is better not to marry." But He said to them, "Not all men can accept this statement, but only those to whom it has been given. For there are eunuchs who were born that way

¹This forms Luke’s central section; his record of Jesus’ Perean ministry (9:51-18:14), however, includes only the briefest mention of our subject (16:18) and is disconnected from its historical context (as provided by Matthew and Mark). This accords with his tendency to avoid criticism of the Pharisees (as noted in chapter one).
from their mother’s womb; and there are eunuchs who made themselves eunuchs for the sake of the kingdom of heaven. He who is able to accept this let him accept it.\textsuperscript{2}

Since verse nine, the exceptive clause, forms the heart of this study, we will first address the text of the remainder of the passage.

Most of the textual variants fall into the category of minor or irrelevant.\textsuperscript{3} The remaining textual variants can be explained as an attempt to harmonize Old Testament quotations and references with the LXX. This may be a result of Jesus’ own use (for example, the addition of "the two," hoi duo, in His quotation of Genesis 2:24 in verse five) and is demonstrated by the change from κτίσας to ποιημα in His quotation of Genesis 1:27 in verse four.

A similar tendency to harmonize with parallels is particularly prominent in verse nine.\textsuperscript{4} It would explain

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\textsuperscript{2}Matthew 19:3-12, New American Standard Version.

\textsuperscript{3}For example, v. 3 includes the definite article with "Pharisees" in some manuscripts and omits it in others. It may be attributed to scribal addition (as in the Marcan parallel). Similarly "to him" is added in the middle of the same verse by a few Western texts. Ανθρωπό is also in v. 3, is deleted by some Alexandrian manuscripts, possibly for style considerations. The remaining variants are of the same nature.

\textsuperscript{4}"The ‘excepting clause’ in the Matthean account of Jesus’ teaching on divorce occurs in two forms: parektos logou porneias . . . and me epi porneia . . . It is probable that the witnesses (including B D f1 f13 33) which have the former reading have been assimilated to 5.32, where it is firm. The short reading of 1574, καὶ γαμεῖται ἀλλήν, has been conformed to the prevailing text of Mk 10.11." Quoted from Bruce M. Metzger, \textit{A Textual Commentary on the Greek New
why some manuscripts have, at the very end of verse nine, added, "and he who marries a divorced woman commits adultery." We conclude, therefore, that the text as we have it in the twenty-sixth edition of Nestle's Greek New Testament is the original reading. The intrinsic probability, difficulty of the reading and broad textual support confirm this.

Why did the Pharisees bring the question to Jesus? Jesus was in the territory ruled by Herod Antipas and it had been the question of divorce and remarriage which had led to John the Baptist's arrest and eventual execution. Perhaps the Pharisees sought the same fate for Jesus. Certainly they were there to test Him. Both Matthew and Mark note their motive (peirazontes), and Matthew includes the added


5Supported by K, W, Delta, Theta, Pi and \( \theta ^{13} \), this reading simply attaches part of 5:32 to 19:9.

6William Lane, in his commentary on Mark, notes: "The question was hostile in its intention, as Mark indicates by qualifying phrase 'tempting him,' and this larger context of temptation is very important to the passage as a whole. The question of the lawfulness of divorce and remarriage had been the immediate occasion for John the Baptist's denunciation of the conduct of Herod Antipas and Herodias (Ch. 6: 17f.) and had led to his violent death. In Perea Jesus was within the tetrarch's jurisdiction. The intention behind the question, apparently, was to compromise Jesus in Herod's eyes, perhaps in the expectation that the tetrarch would seize him even as he had John. The cooperation between the Herodians and the Pharisees, first mentioned in ominous terms in Ch. 3:6 and reiterated in Ch. 12:13, may be a part of the historical situation presupposed in the narrative." The Gospel of Mark (Grand Rapids: Wm. B. Eerdmans, 1974), pp. 353-54.
phrase "for any reason" (kata pasan aitian). Two interpretations of this phrase are possible. The first is "for any and every reason" (NIV). Behind this translation is the thought that the Pharisees have in mind Hillel’s ruling that divorce may be based on virtually any cause at all. The second is "any cause at all" (NAS). While this may mean the same thing to the English reader, it is possible that they believed Jesus absolutely prohibited divorce and sought to draw Him into a conflict with Deuteronomy 24:1-4 and report it to Herod Antipas. Arguing for this latter view, Mark Geldard writes:

The evidence that is clear and unambiguous in the synoptic Gospels all points towards Jesus teaching the absolute indissolubility of marriage, with no exceptions whatsoever. There are two important points to be considered here. First, the nature of the question which the Pharisees put to Jesus (Mark 10:2; Matt. 19:3)—it was to test him, to trip him up—seems to presuppose that they already knew that Jesus was forbidding divorce altogether, that he was teaching absolute indissolubility. This seems to be the case because the substance of their trick was to bring Jesus into conflict with the teaching, the concession of Moses—who allowed divorce... Secondly, this point is strengthened when we note that Jesus actually accepts and walks into the trap in the cause of a definite, unequivocal reaffirmation of absolute indissolubility (Mark 10:3-9; Matt. 19:4-8).7

Arguing for the former view (that kata pasan aitian means "any and every reason"), E. Schillebeeckx writes:

The Pharisees wanted to force Christ to choose between these two schools so that on the basis of His answer they could accuse Him either of laxity or of...
short-sighted and narrow rigorism, and thus inflame the people against Him, the leading question being: 'Is it lawful to divorce one’s wife for any cause?'

The difference in the two interpretations depends on the meaning of *paa* (*pasan*) is the accusative feminine singular) as it modifies *aitia* (*aitian* is the accusative singular). Arndt-Gringrich offer this definition as primary when *paa* is used with a noun in the singular without the definite article: "emphasizing the individual members of the class denoted by the none every, each, scarcely different in mg. fr. the pl. 'all.'" In translating this phrase for the listings under *aitia*, Arndt-Gingrich render: "for any and every cause." Linguistically, therefore, the correct interpretation is for any and every reason" and indicates the Shammai-Hillel debate lay behind the question of the Pharisees. Certainly they hoped Jesus would get Himself into trouble with His answer but it has not yet been firmly

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10Ibid., p. 25.
established that they knew Jesus taught the absolute indis-
solubility of divorce.  

The Exception Clause

As we turn to the "exception clause" of verse nine we
should note that a number of scholars consider it an inter-
polation. that is, an addition to the text by the Early
Church to bring Jesus' teaching into line with their needs.  

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11We should make a short, cautionary note when out-
lining the positions of the Pharisees in this confrontation. They were seriously trying to apply God's Word to concrete situations. As F. F. Bruce writes: "It should be empha-
sised that the rabbis who gave these 'liberal' interpreta-
tions were not moved by a desire to make divorce easy:
they were concerned to state what they believed to be the
meaning of a particular scripture. It was against this
background that Jesus was invited to say what he thought."
Quoted from The Hard Sayings of Jesus (Downer's Grove, IL:

12The interpolation would still have the authority of
Jesus if it is believed that the canonical text is the risen
Lord speaking to His Church. This is the position taken by
Richard N. Soulen, "Marriage and Divorce", Interpretation 23
(October 1969):439-50. He argues that the exceptive clauses
in Matt. 5:32 and 19:9 were added by the Church because "she
could not live with" Jesus' teaching (p. 442). Writing from
an existentialist viewpoint, he sees the Church "tradi-
tioning" Jesus' absolute statements, "to pass on (tradere)
the revelation which she had perceived in him" (pp. 440-1).
This leads him to interpret Matt. 5:27-8 as though Jesus
literally meant that mental adultery dissolved the union of
man and wife. "For a married man to lust after another
woman is to dissolve the relationship God intended for mar-
riage. God intends not just that the marriage be indis-
soluble, but that it be harmonious. (Matt. 5:27f.)" (p.445).
Rather, the passage indicates no one keeps the law well
enough to stand justified before God. Had Jesus meant this
section of the sermon on the Mount literally, or had
the Early Church understood it so, damnation (and excommuni-
cation) would have to follow for every case of harsh lan-
guage against one another or lusting in the mind. His posi-
tion credits neither Jesus nor the Early Church with much
The general idea is that the Early Church found Jesus' teaching too strict\(^{13}\) to form a workable basis for a "new law."\(^{14}\) Yet this position reflects the opinion that Scripture, like any other writing, is the product of purely human effort and should be interpreted as such. It assumes Marcan priority\(^{15}\) and presumes extensive molding of genuine logia by the Early Church to fit its needs. This position fails to seriously try to resolve the difficulties common sense. The passage, however, is much more understandable if Jesus uttered it in the time, place and circumstances described by Matthew.

\(^{13}\) L. Sabourin writes: "There are several instances in Mt. which show that this gospel reflects the desire of a church to use tradition in order to solve concrete problems . . . the divorce clauses . . . constitute no doubt the most obvious example. Matthew has introduced into the traditional formulation of Jesus' pronouncement an exception apparently meant to temper its intransigence." Quoted from "The Divorce Clauses (Mt. 5:32; 19:9)", Biblical Theology Bulletin 2 (February 1972):81.

\(^{14}\) Writing about the "exceptional" clause, Emil Brunner suggests " . . . it is an interpolation by the Early Church, which had already misunderstood the sayings of Jesus in a legalistic way, and therefore needed such a corrective." Quoted from The Divine Imperative (Philadelphia: Westminster Press, 1947), p. 651, in the article by H. G. Coiner, "Those 'Divorce and Remarriage Passages'", p. 372.

\(^{15}\) This is illustrated by Donald Shaner: "But Matthew apparently smooths the passages recorded in Mark by making certain major changes: (1) appending "for any cause" to the question of divorce; (2) making the discussion of the law of Moses follow Jesus' quotations from Genesis, with certain word changes in their conversation; (3) omitting the clause dealing with a woman divorcing her husband; and (4) adding an exceptive clause, similarly found in Mat. 5:32." Quoted from A Christian View of Divorce (Leiden: E. J. Brill, 1969), p. 46.
in the passage and it ignores evidence that the Early Church had a very strict view of divorce. It does have the apparent advantage of giving us the right to make our own rules as we go along, but this is hardly our task as interpreters.

Accepting the phrase as spoken by Jesus, some scholars have tried to categorize the passage as halakah or hag-gadah. If Jesus gave it as binding teaching (halakah, the ethical use of "walk" in Hebrew) then the Church has to obey it. If Jesus offered it only as an illustrative story (haggadah), then the Church is not bound to it. However we do not believe that categorizing in this fashion helps us understand the text (at least, in this case). Jesus does

16Sabourin, pp. 84-85, quotes the Shepherd of Hermes 29:5-6: "the husband must repudiate his adulterous wife and then remain single; if he marries another he himself commits adultery."

17Augustine Stock, O.S.B., suggests: "Therefore, let us proceed along the same trajectory and bring the teaching of the Bible on marriage and divorce into conformity with actual practice." Quoted from "Matthean Divorce Texts," Biblical Theology Bulletin 8 (February 1978):24.

18The Anglican Commission on the Christian Doctrine of Marriage reports: "The question at issue may be framed in a different way. In Jesus' day, Jewish rabbis taught in two ways: by halakah, that is, rules governing conduct, such as the sabbath laws or food laws, and by haggadah, that is, teaching by edification, often expressed in a vivid or exaggerated way, appealing to the heart by way of the imagination. It is clear from the Gospels that Jesus on occasion used both halakah and haggadah. Into which category does his teaching on the permanence of marriage fall? Or does it not fall neatly into either?" Quoted from Howard Root, chairman, Marriage Divorce and the Church (London: SPCK, 1972), p. 91.
not come out of the normal rabbinical framework nor is His teaching the customary rabbinical teaching. He was so different in His teaching the people were "amazed" (Mark 1:27). As P. Hoffman writes: "In his teaching on divorce Jesus does not lay down a law, but rather reveals the reality of marriage and does so precisely in opposition to any legal narrowing of the issues." 19

A third approach to the "exceptional" clause is to interpret "divorce" (ἀπολύω) to mean only "separation." Traditionally, this has been the Roman Catholic approach. 20

("from bed and board"). Against this translation of ἀπολύειν Joseph Fitzmyer cites the word was used unequivocally for "divorce" in early Palestine.


20 This is based on the understanding that nothing breaks the marriage bond of a legitimate, consummated union except death. Canon 118 states: Matrimonium validum ratum et consummatum nulla humana potestate nullaque causa, prae terquam morte, dissolvi potest. ("Valid marriage ratified and consummated can be dissolved by no human power and by no other cause than death.") Quoted from H. A. Ayrinhac, Marriage Legislation in the New Code of Canon Law (New York: Benziger Brothers, 1949), p. 304.

21 "However, if we can call traditional that interpretation which has been held, and which is probably still held, by the greater number of Catholics, it is the one which sees in Mt. simply a permission given for the separation from bed and board on the grounds of adultery." Quoted by Ayrinhac, p. 300.
... the word *apolyein* has now turned up in the clear sense of "divorce" in a Greek document of remarriage from Palestine. It occurs in a text from Murabba'at Cave II from the Bar Cocheba period and should put to rest any hesitation about whether the Greek verb *apolyein* could have meant "divorce" in the Greek of Palestine in the period in question.\(^{22}\)

Arndt-Gingrich list the primary meaning of *apoluō* as "set free, release, pardon" as one would a prisoner or a debtor.

In light of the contractual character of betrothal and marriage in Palestine at the time of Jesus, we can readily understand how this word came to be used for divorce: it is the breaking of a contract, the releasing of the parties from their mutual obligations. This, then, is the second meaning offered by Arndt-Gingrich.\(^ {23}\) Thus Jesus speaks of

\(^{22}\)Joseph Fitzmyer, "The Matthean Divorce Texts and Some New Palestinian Evidence", *Theological Studies* 37 (June 1976):212. He goes on to say: "The document attests the remarriage of the same two persons, who had been divorced, and it is dated to A.D. 124. The crucial lines read (Mur. 115:3-4): Επ<εἶ> ἃ πρὸ τοῦ συνέβη τὸ αὐτὸ Ελαία Σίμωνος ἀπαλαγήναι καὶ ἀπολῦειν Σαλώμην Ἰωάνου Γαλγουλα, 'since it happened earlier to the same Elainos (son) of Simon to become estranged and to divorce Salome (daughter) of John Galgoula. . . . .' The two verbs ἀπαλαγήναι καὶ ἀπολῦειν, are probably an attempt to render into Greek the two Aramaic verbs customarily used in Jewish writs of divorce; these are attested in another Murabba'at document (Mur 19:2-4, dated A.D. 111). . . . 'I, Joseph son of Naqaan, repudiate and divorce you, my wife, Miriam, daughter of Jonathan.' . . . Finally, it should be noted that whereas Mk 10:4, Mt 5:32 and Mt 19:7 quote Dt. 24:1, as if the Greek translation of the latter had the verb *apolyein*, it is not found in our present-day Greek texts of Deuteronomy, which rather have *exapostelei*, 'he shall send (her) away,' translating exactly the Hebrew *wesillebah*" (pp. 212-13).

\(^{23}\)Arndt-Gingrich, pp. 95-96.
divorce in Matthew 19:9, not just separation.24

A fourth approach to the "inclusive" clause has been called the "inclusive" interpretation. This understanding depends on taking epi as though it means "over and above" and me in the sense of "even not". Thus, me epi porneia would be translated "even inclusive of the case of porneia.25 A number of passages in the New Testament and one in the LXX have been used to support this interpretation.26 Bruce Vawter, however, comments: "in each instance

24We recognize the divorce procedures in the time of Jesus were different from modern divorce in some ways (legal process, filing of divorce papers with a government agency, etc.). However, divorce was the same as it is now in the essentials: the permanent, legal separation of man and wife which leaves both parties free to remarry and is usually attended by a property settlement of some kind (in first century Palestine, this was the kethubah). Simple separation, as we have it today, seems to have been unknown in Jesus' time in Palestine. Always, the person who is "sent away, ejected, cast out, divorced, loosed," etc. is free to remarry; it would be otherwise if it were simple separation.

25Bruce Vawter cites Brunec for this position. This position would have Jesus emphasizing that "not even in the case of uncleanness" may a man divorce his wife and, marrying another, avoid adultery. The full rebuttal to this position is found in Bruce Vawter, "The Divorce Clauses in Mt 5,32 and 19,9", Catholic Biblical Quarterly 16 (April 1954):160-62.

26These are Luke 3:20; 3 John 10 (perhaps); 2 Cor. 7:13; Eph. 6:16 (where the preferred reading is en); Col. 3:14; 1 Macc. 10:42. Brunec also cites Job 29:22 but there epi = "against." In Luke 3:20 epi occurs in the dative of place, figuratively used of power "over" John the Baptist when Herod charged John and added these charges to (epi, "upon") those already against him. Arndt-Gingrich translate: "He added this to everything else," p. 286. 3 John 10 (epi toutois) fails to support Brunec; here epi follows a verb which expresses a feeling ("not satisfied") and may be
the sense 'outside of' is derived from the logic of the relation of the terms and is not inherent in the word epi. There is nothing to show that epi used absolutely can mean 'praeter'\(^{27}\) (besides, in addition to). A similar problem occurs when trying to take me in the sense of "even not".\(^{28}\) Arndt-Gingrich does not list such a meaning in the lexicon and it is difficult to see why Matthew would use translated "with" (as Arndt-Gingrich suggests in similar cases, p. 287). Epi has the same meaning in 2 Cor. 7:13 as it has in Luke 3:20: epi de tē paraklēsei, "in addition to our comfort" (Arndt-Gingrich, p. 286). Col. 3:14 (epi pasin) is a figurative use of the dative of place, "over all" these things put on love, etc. 1 Macc. 10:42 (Kai eip toutoia) has the sense of "over all, above and beyond" the amounts already collected, etc. Vawter correctly points out that in all the instances where epi takes on the transferred sense of super ("over, above") or praeter ("besides, in addition to") it is because of a context in which a second term is expressed (p. 160). In short, it is used in comparison with a list of other things (as though they are stacked up in a pile and "on top" of it is something else).

\(^{27}\)Vawter, p. 160.

\(^{28}\)Vawter notes: "Brunec argues that in some elliptical negative propositions of the type 'non solum . . . sed etiam,' the 'etiam' is not verbally expressed. This is true, and where the context points to such an ellipsis, the reader is expected to supply mentally the unexpressed word. But it is simply begging the question to supply the word wherever we receive the negative particle which alone makes it possible." Vawter, p. 160. In other words, it is possible to leave part of the phrase "not only . . . but also" unwritten and still reasonably expect the reader to fill in the missing word(s). Vawter's point is that those missing words are not intended every single time the negative particle is used. He asks: "Is it conceivable that Mt could have chosen such an improbable locution to say what Brunec thinks he has said in 19,9?" Ibid., p. 161. We do not think so, based on the fact that the normal meaning of the phrase works very well and that Brunec's evidence fails to prove his point in this particular case.
such an awkward phrase to say what he meant when Greek pro-
vided him with much clearer alternatives.29

A fifth interpretation understands Jesus to side with Shammai in the debate with Hillel. This has been called the "interpretive" interpretation because proponents believe Jesus, "having stated the indissolubility of marriage from the divine law, proceeded to interpret the Mosaic commandment of Dt 24,1 in favor of the teaching of the school of Shammai."30 This has, at times, seemed to be the position of some Lutheran interpreters.31 Certainly many Protestant commentators have offered the suggestion that Jesus was a Shammaite in this matter.32 This is the

29Vawter, citing Hozmeister, believes this would have been possible by the addition of $\text{kai epi logos}$ (Ibid., f. 24).

30Vawter, p. 162.

31The 1943 Catechism explains what God forbids under the sixth commandment: "God forbids the breaking of the marriage vow by unfaithfulness or desertion. He permits the innocent party to procure a divorce when the other party is guilty of fornication." A Short Explanation of Dr. Martin Luther's Small Catechism (St. Louis: Concordia Publishing House, 1943), p. 70. Another example of a Lutheran approaching this interpretation is Walter A. Maier: "No argumentation, no juggling of the text, no recourse to the manuscripts, can obviate this plain and unmistakable statement of the Savior, according to which marital unfaithfulness breaks the marriage relation and may be employed by the innocent part as a reason for divorce which God and the Church recognize." For Better, Not For Worse (St. Louis: Concordia Publishing House, 1935), p. 378.

32Robert Campbell, a professor at California Baptist Theological Seminary, argues: "It is common knowledge that Jesus and Shammai, as opposed to Hillel, did not condone divorce for reasons less than infidelity. Although there
position taken by the committee appointed by the Archbishop of Canterbury in 1972. They reported:

If our suggestion can be accepted that porneia be understood as sexual immorality, the saying can then be understood as adapting Jesus' teaching to the rule of the Shammaites: no divorce, except for some sexual indecency or immorality (including of course adultery and pre-marital fornication). If this is Jesus' position than it is difficult to account for the omission of the exceptive clause in Mark and Luke. The interpretation of Matthew 19:9 which has Jesus agreeing with Shammai would also offer a strong argument that the Old Testament laws were not abrogated by Jesus but are similarities between his teaching and that of the school of Shammai, Jesus was unwilling to arrive at his conclusion through Shammaic exegesis. He refused to enter into casuistic discussions relative to rabbinic interpretation of Deut. 24:1. Rather, he recognizes the priority of Gen. 2:24 to the Deuteronomic regulation. Quoted from "Teachings of the Old Testament Concerning Divorce", Foundations 6 (April 1963):178. If we read Campbell correctly, the only difference between Jesus and Shammai is the text(s) used as the basis for their common teaching. It seems that matters of casuistry would still occur due to the wide variety of meanings for porneia.

Howard Root, chairman. Marriage Divorce and the Church, p. 87.

In comparing Matthew with Mark and Luke, Mark Geldard writes: "... we now find Jesus holding forth a teaching one hundred percent identical with that of the Shammaites. How can we accommodate this contradiction? How can we accept that Jesus used expressions clearly indicative of absolute indissolubility--a teaching revolutionary to Jewish ways of thought--and also taught (given that the excepting clause has the 'wider meaning') a view of dissolubility--a teaching, in fact, one hundred percent in alignment with certain Judaistic thinking?" (p. 37). We might note that the Quaran community also seems to have absolutely prohibited divorce.
only refined. Perhaps the most succinct argument against this approach is offered by Andre Bustanoby:

First, "adultery" would be the better word to describe the violation of the marriage vow; yet the word "fornication" is used. Second, Mark and Luke omit the exception clause; this suggests that Matthew, who wrote for Jewish readers, included something that was of particular interest to the Jewish reader. Third, the disciples' reaction to Jesus' words is one of amazement: "If the case of the man be so with his wife, it is not good to marry" (Matt. 19:10). Why this amazement? Divorce on the ground of infidelity was a view currently in vogue among even the Jews of the conservative school of Shammai. If Jesus were merely supporting the conservative view, the disciples' amazement is hard to understand.

A sixth interpretation of this passage is called the "Androgynous Man" theory. The idea behind this rather exotic approach is that man was originally male and female in one person. This would then constitute the esoteric

Bruce Vawter writes: "To what purpose would Christ have decided between the rival interpretations of a superseded legislation? The only colorable explanation would lie in the assumption that he intended to clarify a Law which was to remain operative for the chosen people until the definitive promulgation of the gospel. In such a hypothesis one could understand his reserving the question, but certainly not his declaring for one of the rabbinical schools. This interpretation would, in effect, find an interim legislation in Christ's teaching, a thing for which there is no other evidence. Such a ruling on his part would have afforded the strongest encouragement conceivable to Jews and to Judaizing Christians to remain under the Mosaic Law." (p. 162).


This idea surfaces in the Apocalypse of Adam (probably a first or second century A.D. work but with some material earlier than that). In 1:2-5 Adam is talking to Seth and says: "When God created me out of earth along with Eve your mother, I used to go about with her in a glory
teaching by Jesus to the disciples in the house (Mark 10:10-12) which He withheld from the crowds.38 The marriage union (sexual) would re-establish this original union; thus, no separation would be possible except when another, adulterous union was contracted. Two reasons militate against this approach: first, Genesis 1 and 2 do not teach it; second, there is no indication that this existed prior to the time of Jesus or that He was ever influenced by it if it did. It is much more likely that Jesus understood Genesis 1 and 2 to

which she had seen in the aeon from which we had come. . . .

Then God, the ruler of the aeons and the powers, separated

our hearts deserted us, me and your mother Eve, along with the first knowledge that used to breathe within us."


38David Daube suggests this is the basis for the prohibition of divorce except by adultery: "Der Grund kann nur sein, dass jene Antwort, 'Mann und Weib schuf er sie', eine esoterische, geheimnisvolle Lehre entheilt. Es war die rabbinische These vom ursprünglichen Adam zugleich Mann und Weib . . . ." Quoted from "Evangelisten und Rabbinen", Zeitschrift für Neuenteinntentliche Wissenschaft 48:126; cited by Paul Winter, "Genesis 1:27 and Jesus’ Saying on Divorce", Zeitschrift für Alttestamentliche Wissenschaft 70 (1958):260. Paul Winter finds further support for this position in Pseudo-Clement’s Homily, III 54:2 where Genesis 1:27 is quoted with the final pronoun in the singular (where the MT and LXX have it in the plural): ἄρα ἐπιστη τῆς ἐπιστῆς γυναικὸς ("male and female He made him"). Winter concludes: "This seems to provide conclusive proof that even before the time of rabbi Yirmeyah and rabbi Shemuel [the dates, according to Strack-Billerbeck, are ca. AD 270 and 260 respectively] the concept of Man’s originally bi-sexual character was fairly current among Jews and that the words of Genesis were used to sanction that view" (p. 260). Winter also notes that this teaching may be behind 2 Clement 12:2 which reads, in my translation: "when the two become one and the outside as the inside and the male with the female neither male nor female" (p. 261).
refer to two separate individuals, Adam and Eve, who had many things in common but were two distinct persons from the moment of their creation.

The seventh interpretation, and the one we suggest is correct, takes the "exceptional" clause to refer to the entire verse, not just the verb *apòlue*. The effect of this would be that Jesus sets aside the whole question of *porneia*

without commenting pro or con on it. We offer the following translation of verse nine: "But I say to you that everyone who divorces his wife—excepting (cases of) *porneia*—and marries another, commits adultery." The goal is to convey to the reader that Jesus is specifically not referring to circumstances in which *porneia* is involved; this is the reason for the punctuation. Jesus reveals God's will based

In taking the "exceptional" clause to refer to the whole verse we avoid the position that Jesus here authorizes divorce for *porneia* but forbids remarriage under any circumstances.

Vawter, pp. 163-5 calls this the "preterist" interpretation. However, he does not explain how a word that denotes past action has anything to do with understanding the "exceptional" clause to refer to the whole verse. He also refers to a work by Augustine (*De conjugiis adulterinis I*, 9-11) in which Augustine offers the same interpretation, "though in a different sense and for different reasons" (p. 163). He summarizes his own position: "We are thus prepared for his pronouncement in v. 9 to include some cognizance of Dt 24,1, though certainly not an interpretation of it, which he had refused to give, nor an acceptance of its provisions, which he had explicitly repudiated. It is only natural that the final elucidation of his teaching should conclude, in effect: 'I say to you, whoever dismisses his wife—Dt 24,1 notwithstanding—and marries another, commits adultery'" (p. 166).
on Genesis 1 and 2, that marriage remain unbroken until death, a permanent union of one man and one woman. The ques-

tion of **porneia**, however involved other factors which were clear to the Jews but unfamiliar to Gentiles; this explains the omission of the "exceptional" clause from the Mark and Luke parallels. This interpretation also has the advantage of explaining the shock of the disciples because Jesus disagrees with both Shammai and Hillel and reveals God's intention that the marital union not be broken. The task still remaining, however, is to define **porneia**.

**Porneia**

In his pocket lexicon, Alexander Souter defines **porneia** as "fornication, the practice of consorting with *pornai* or *pornoi*, habitual immorality." Arndt-Gingrich defines it as "prostitution, unchastity, fornication, of every kind of unlawful sexual intercourse." The secular Greek background usually involved prostitution in the common sense.

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41 Alexander Souter, *A Pocket Lexicon to the Greek New Testament* (Oxford: Clarendon Press, 1916), p. 211. Souter aimed for brevity (p. iv) and used as his basic resource the Concordance of Moulton and Geden (p. v). His definitions, therefore, while lacking depth in some places, generally give the most common use of the word under consideration.

42 Arndt-Gingrich, p. 699.

43 Friedrich Hauck & Siegried Schulz trace the origin of the word *porne* to *pernemi*, "to sell", (originally of slaves). They note Greek prostitutes were usually purchased slaves. The masculine *pornos* meant a "whoremonger," or one who patronized prostitutes and eventually took on the meaning of a male prostitute. For a complete treatment of the
of the word; 44 *porneia* in the LXX usually translates 
*zanah*, 45 "commit fornication", 46 and virtually always 

47


44 Although sacred prostitution was fairly common in Palestine, Syria and Egypt, "on Gk. soil sacral prostitution was generally rejected. It found an entry only in Corinth and Athens, probably through the trading connections of these cities with the Orient. In Corinth esp. the temple of Aphrodite with its 1000 hierodules was famous . . . ." Hauck and Schulz, TDNT 6:582.

45 Zanah occurs eighty-nine times in the OT in the Qal, once in the Pual and nine times in the Hiphil, usually meaning "to commit illicit intercourse" either literally or figuratively. We should note that the Greek work for "adultery", *moicheuō*, usually translates *na'aph* and is distinguished in passages like Hosea 4:13-14 where daughters are said to commit "fornication" (*zanah*) and spouses commit "adultery" (*na'aph*).


47 Harris mentions two places where he thinks *zanah* is used of males, Exodus 34:16 and Numbers 25:1. Exodus 34:16 is part of the Covenant warnings about intermingling with pagan neighbors. The NIV reads: "And when you choose some of their daughters as wives for your sons and those daughters prostitute themselves to their gods, they will lead your sons to do the same." What the NIV translates as the final clause reads more literally: ". . . and they cause to commit fornication (*zanah* in the Hiphil) thy sons after their gods." Moses uses the Qal when describing the activity of the daughters (NIV's "prostitute themselves," *zanah*) but the Hiphil when referring to the sons. This would seem to indicate that *zanah* refers to the woman even in this passage. The other passage, Numbers 25:1, has as the subject "the people" who "turned to fornicate (liznot) with the daughters of Moab." This seems to be a very general reference to the people as a whole and is connected with idolatry (v. 2). The use of *zanah* would thus be occasioned by the "sacred prostitution"
In later Judaism porneia meant a wide variety of sexual irregularities: adultery (Testament of Joseph 3:8), incest (Testament of Ruben 1:6), unnatural vice (Sibylline Oracles 3:764; 4:33-36), sodomy (Testament of Benjamin 9:1) and "unlawful" marriages which contradict rabbinic principles (as in the Qumran Community: Treasure Cave 37, 6).

involved. Na'ap (commit adultery), on the other hand, commonly refers to men and most often means sexual intercourse between a married person and someone other than the spouse (as in Lev. 20:10). Two points may be made here: "Adultery" and "fornication" are distinguished by definition (adultery being a subsection of the much broader fornication) and by the subject (woman commits fornication, man commits adultery). This may well assist us in determining porneia in Matthew 19:9.

48"For a time she (Potiphar’s wife) would embrace me as a son, but then I realized later that she was trying to lure me into a sexual relationship (eis porneian me ephelkusato)." Quoted from Charlesworth, p. 820.

49"See here, I call the God of heaven to bear witness to you this day, so that you will not behave yourselves in the ignorant ways of youth and sexual promiscuity in which I indulged myself and defiled the marriage bed of my father, Jacob." Ibid., p. 782.

50"Avoid adultery and indiscriminate intercourse with males" (3:764), ibid., p. 379. Of the righteous men, "Neither have they disgraceful desire for another’s spouse or for hateful and repulsive abuse of a male. Other men will never imitate their way or piety or customs, because they desire shamelessness." Ibid., pp. 384-85.

51"From the words of Enoch the Righteous I tell you that you will be sexually promiscuous like the promiscuity of the Sodomites and will perish, with few exceptions. You shall resume your actions with loose women, and the kingdom of the Lord will not be among you, for he will take it away forthwith." Ibid., p. 827.
Josephus does not use *porneia*\(^{52}\) but Philo does, using it in the Greek sense of "prostitution" and the later rabbinic sense of "homosexuality"\(^{53}\). Judaism regarded *porneia* even as including normal marital intercourse if some illegitimacy turned up.\(^{54}\)

*Porneia* occurs 24 times in the New Testament. Twice it occurs in the passages we are studying; occasionally, such as Revelation 14:8; 17:2, 4; 18:3 it is used metaphorically of apostasy (as is *zenut* in some Old Testament passages).\(^{55}\)

\(^{52}\) This is most probably because Josephus acted as an apologist for Judaism. Numerous changes which he makes when recounting events in the OT indicate he "cleaned up" the past of Israel to make Judaism more acceptable. For example, he altered some Bible stories to show the moral excellence of his people. The *pornē* Rahab become the owner of a *katagogion*, "inn" (Ant. 5, 7-9); Jephthah suddenly acquires legitimacy (Ant. 5, 257-9); the two *pornai* who appeal to Solomon in the famous case of the baby become simply two friends (Ant. 8, 27).

\(^{53}\) Hauck & Schulz, *"porneia*, TDNT 6:588 write: "Philo, too, rejects all *porneia*, which fills souls with *skolasis* and prefers physical to spiritual beauty, Spec. Leg., III, 51. For him the *pornē* is a disgrace, a scandal and a blot on all mankind. Whereas in other nations there is a freedom for intercourse with prostitutes, acc. to the special laws of Israel the *hetaira* ("friend", a euphemism for a prostitute) is subject to a capital penalty (Jos., 43), and there is a similar punishment for homosexuality (Spec. Leg., III, 37f.)."

\(^{54}\) "If the illegitimacy comes to light only in the course of the marriage relationship, all previous intercourse is regarded as *porneia*." Ibid., p. 589. (Cf. also Sanhedrin 7, 4; Yebamoth 61b; Testament of Levi 17:11.)

\(^{55}\) Harris, p. 246, notes: *"zana* also refers figuratively to Israel as committing national harlotry (Ezk 16:26-28). Tyre (Isa 23:17) and Nineveh (Nah 3:4) are also mentioned in this way. The thought seems to be of political and
Three times in Acts it is used in a restricted sense 56 but by far the most common meaning of *porneia* in the New Testament is broad sexual irregularity.57 Jesus uses *porneia* very sparingly. Besides the passages under study (Matthew 19:9; 5:32) He uses it only in Matthew 15:19 (and its parallel, Mark 7:21) when describing the evils that come out of a man's heart. The only other time it occurs in the Gospels is in John 8:41 where the Jews are defending themselves (and insulting Jesus by inferring that His birth was not legitimate) and claim they are not born from suspicious circumstances (*ek porneias*).58 Our point is that the use of monetary benefit, although in the case of Nineveh the added element of alluring, deceitful, tactics leading on to oppressive dominance is implied. Still a third figurative meaning is found in Isa 121 [sic], where the Israelites' departure from God's approved moral standards is called harlotry."

56*Acts 15:20, 29; 21:25.* We shall examine these in detail below.

57This is very broad in scope and often included in lists of vices the Christian is to avoid (e.g., Gal. 5:19 and Eph. 5:3). The verb is used seven times; the feminine form of "fornicator" eleven times; and the masculine form eight times.

58This could refer to alleged pre-marital sex with Joseph or non-marital sex with someone else. The brief reference is too vague to determine which is intended (if they did so themselves). The same slur is possibly behind the reference in Mark 6:3 to Jesus as "son of Mary," a designation contrary to the usual practice of referring to the father for identity. We may also see here a use of *porneia* similar to the situation in which Joseph found himself when he learned that Mary was pregnant and that, not by him (Matt 1:18-25). Here we have a usage of *porneia* in the general sense of "sexual intercourse not in accord with Jewish law" if the Pharisees intended to imply that Joseph was not the father.
porneia in the Gospels and Acts has to be determined in each case by the context. It is not unimportant to clearly define porneia and distinguish it from moicheia, "adultery," especially in Matthew 19:9.

We do not believe porneia can simply be equated with moicheia, either in our passage or in the rest of the New Testament. Although some have argued for this equation, we have demonstrated that the two Hebrew words behind porneia

59Hugh Montefiore, Remarriage and Mixed Marriage (London: SPCK, 1967), p.10, writes that the meaning of porneia doesn't matter: "The important point is not what precisely porneia means, because our circumstances today are different from those of Matthew's Church in his day. The important point is that Matthew, when he was legislating about divorce, permitted remarriage on certain conditions. In other words, turn Jesus' ethical demands into legislation, and there is a case for remarriage." Aside from the presupposition that the "exceptive" clause is an interpolation by Matthew (whoever that may have been in his understanding), we certainly agree some conditions in Matthew's Church were different from ours today. However, human nature seems to have remained about the same and divorce and remarriage are still "hot" topics. Besides, we do not think we can apply Jesus' teaching about marriage, divorce and remarriage until we understand what He said to the original audience.

60John Murray, Divorce (Philadelphia: Presbyterian Church Press, 1953), pp. 20-21, argues for the equation of porneia with moicheia: "Fornication is unequivocally stated to be the only legitimate ground for which a man may put away his wife. The word used here is the more generic term for sexual uncleanness, namely, fornication (porneia). This term may be used of all kinds of illicit sexual intercourse and may apply to such on the part of unmarried persons, in whose case the sin would not be in the specific sense adultery. . . . But though it is the generic word that is used here . . . it is not to be supposed that the sense if perplexed thereby. What Jesus sets in the forefront is the sin of illicit sexual intercourse. . . . And this is the only case in which, according to Christ's unambiguous assertion, a man may dismiss his wife without being involved in the sin which Jesus proceeds to characterise as making his
and *moicheia* in the LXX are distinguished from each other by definition (or content) and by the subject normally associated with them (women with *porneia*, men with *moicheia*). In light of the connection between the violation of prohibited degrees of marriage and *zenut/porneia* in the Qumran material, Jesus surely would have used *moicheia* (if that's what He had meant) instead of *porneia* to avoid the certain confusion in the listener's mind.

Another attempt to narrow *porneia* is the interpretation of it as pre-marital sex. In this view, Jesus authorizes divorce if the bride is discovered to have had sexual relations prior to her husband on their wedding night (as in Deuteronomy 22:13-21). We see three problems with this.

wife to be an adulteress." Murray here restricts *porneia* to illicit sexual intercourse which, if married, is precisely the definition of *moicheia*. Aside from listing several occurrences of *moicheia* in NT and LXX, Murray does not offer any lexicographical evidence to equate the two terms.

Mark Geldard, p. 140, argues for the equation *porneia* = pre-marital sex: "This translation of *porneia* represents Jesus as teaching the absolute permanence and indissolubility of marriage save for one specific ground only, and that is the discovery in marriage of pre-marital sexual unfaithfulness (Deut. 22:20-21 describes the situation envisaged). What we should note here, therefore, is that this translation preserves Jesus' teaching of complete indissolubility. Given this narrower meaning of *porneia*, the exception made by the excepting clause is, in a sense, only an apparent one. It allows not the dissolution of a 'proper' on-going marriage but the abrogation of what, by Jewish law, standards, and thought, was an improper and invalid marriage. Since the wedding contract (ideal) had not been honoured and fulfilled, no real marriage had taken place. It refers to what we would term an annulment rather
approach. First, *porneia* never carries only this meaning anywhere in the New Testament or in the lexicons. Second, *porneia* does not occur anywhere in the LXX of Deuteronomy 22: 13-21. Third, as we saw in chapter one, violation of betrothal by pre-marital sex was called *moicheia*, not *porneia*. If Jesus had meant pre-marital sex, therefore, He would have

A very serious problem with both "adultery" and "pre-marital" sex as definitions for *porneia* is the effect it has on Jesus' role. It would cast Him as a "New Lawgiver" who simply changes the penalty for a crime under Old Testament Law but nothing else. Some have actually suggested that Jesus' contribution here is just that: alter the

than a divorce; the annulment of what for the Jew was a deeply offensive marriage by deception—a marriage in which the one partner had no right to the marriage at all." First, Geldard has not demonstrated that the marriage envisaged was invalid by Jewish law, standards and thoughts. Second, the Jews have nothing about annulment; even the breaking of betrothal was divorce (as seen in chapter one). Third, on what basis does he define a 'proper' marriage? He nowhere says.

62Coiner, "Those 'Divorce and Remarriage' Passages", p. 376 asks: "But if Jesus was referring to either of these reasons (adultery or pre-marital sex), would He have been wiser than His contemporaries? Is the meaning of *porneia* that obvious or limited that specifically?" No, as we have seen, it is not. Further, it would be hard to explain the startled reaction of the disciples if Jesus were simply proposing divorce for adultery or pre-marital sex.
penalty for adultery from death to divorce. However, divorce, as G. H. Box writes, "for adultery, confessed or proved, was normal legal procedure in the time of Christ." This would have been due at least in part to the fact that the Jews, at the time of Christ, were not permitted to execute anybody. Thus it would seem that for Jewish

63 Murray, p. 27 argues for this position: "The law enunciated by our Lord, on the other hand, institutes divorce as the means of relief for the husband in the case of adultery on the part of his wife. Here then is something novel and it implies that the requirement of death for adultery is abrogated in the economy Jesus himself inaugurated. There are accordingly two provisions which our Lord instituted, one negative and the other positive. He abrogated the Mosaic penalty for adultery and he legitimated divorce for adultery." If I read Murray correctly, his use of the phrase "economy Jesus himself inaugurated" reflects a dispensation. The biggest problem with this, as I see it, is that it denies what Jesus said about Himself and His purpose. His self-proclaimed purpose was, after keeping the Law, to die on the cross for the sins of the world. Any interpretation of Matthew 19:9 should keep this in mind. Further, Jesus nowhere else seems to do what Murray suggests: retain an Old Testament law with a change of penalty.


65 There are at least three strong reasons for adopting this view:

1) The Jews who brought Jesus to Pilate and charge Him said: "but we have no right to execute anyone" (John 18:31b).
2) The Talmud supports it, both the Babylonian (Sanh. 41a) and the Jerusalem (Sanh. 18a, 24b): "... forty years before the destruction of the sanctuary the right of inflicting capital punishment was taken away." Quoted by Shaner, p. 19. It may be the "forty" is a symbolical figure and the actual number of years was greater than that.
3) A. N. Sherwin-White writes: "Did the Sanhedrin or did it not possess capital jurisdiction at this period? ... When we find that the capital power was the most jealously
society those sexual activities which called for death in the Old Testament were by necessity commuted to forced divorce.

We believe this (as well as the necessary communication of divorce in Judaica in chapter two) along with the next interpretation will provide the basis for a correct understanding of *porneia* in Matthew 19:9.

A third interpretation of *porneia* in Matthew 19:9 is based on the identification of *zenut* with the prohibited degrees of marriage, both Biblical and Rabbinical. Some have argued that it is this specific meaning which is intended in the "exception" clause. Since we have dealt with evidence

guarded of all the attributes of government, not even entrusted to the principal assistants of the governors, and specifically withdrawn, in the instance of Cyrene, from the competence of local courts, it becomes very questionable indeed for the Sanhedrin. . . . The only exceptions, in the Empire at large, to these limitations, were the highly privileged communities known as civitates liberae or 'free states', . . . Jerusalem was quite certainly not a 'free city', but very much the opposite." Quoted from *Roman Society and Roman Law in the New Testament* (Grand Rapids: Baker Book House, 1963), pp. 35-7.

66Augustine Stock. O.S.B., "Matthean Divorce Texts", p. 25, traces the origin of this interpretation: "Starting around 1948, J. Bonairven, S.J., took up and popularized the idea that *porneia* in Mt's exeption clause has the same specific meaning that it has in the decree of the 'Council of Jerusalem,' . . . That *porneia* in the decree does refer to illicit marital unions within the degrees of kinship proscribed by Lev 18:6-18 is an opinion that has even stronger supporting arguments now than it had in the past."

67This is Joseph Fitzmyer's point in treating 11QTemple 57:17-19 and CD 4:20-21. He states in summary that "in this text we have a clear instance of marriage within degrees of kinship proscribed by Lv 18:13 being labeled as *zenut*. . . . In the LXX it is translated by *porneia* (e.g., Jer 3:2, 9) . . . Thus, in CD 4:20 and 5:8-11 we have 'missing link'
connecting _zenut_ with these prohibited degrees in chapter two we would reiterate only two points: such a use of _porneia_ is solidly established in Palestine at the time of Jesus and such a use of _porneia_ was restricted to the Jewish context.68 There are, however, problems when we restrict _porneia_ to this meaning and this meaning only. The most prominent problem is that Jesus uses _porneia_ without qualification. It had many meanings (as its use in the New Testament has shown) and Jesus would have left considerable doubt in His listeners' minds about exactly what He meant. Had He intended this, it is reasonable to think He would have specified it. However, the context of Acts 15:20, 29, in circumstances different from Matthew 19:9, does in fact require this specific definition of marriage within prohibited degrees. In order to understand why it should be restricted in meaning in Acts and not in Matthew, we now turn to the Acts 15 passage.

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68 This would then explain the omission of the "exception" clause in Mark and Luke, written primarily for Gentile audiences. For them, the clause would only obscure the meaning of the passage because they lack the requisite background.
Acts 15

After listening to various speakers on the subject of Jewish-Gentile fellowship within the Christian Church, James (the brother of our Lord and leader of the Jerusalem Church) says:

It is my judgment, therefore, that we should not make it difficult for the Gentiles who are turning to God. Instead we should write to them, telling them to abstain from food polluted by idols, from sexual immorality (porneia), from the meat of strangled animals and from blood. For Moses has been preached in every city from the earliest times and is read in the synagogues on every Sabbath (Acts 15:12-21).

It seems at first reading that a moral injunction (against porneia) has been included in a list of things requested of Gentiles to smooth the way for table fellowship (and hence the Lord’s Supper) with Jewish Christians. Some of the manuscripts reflect an attempt to remove this apparent incongruity. The temporary nature of the three injunctions

69The same list is repeated in Acts 15:29 (with a slightly different order, porneia falling last in the series) and in 21:25 (the same order as 15:29).

70F. F. Bruce, Commentary on the Book of Acts (Grand Rapids: Wm. B. Eerdmans, 1977), p. 312 notes: "the Western text makes James suggest 'that they abstain from idolatry, from fornication and from bloodshed, and from doing to others what they would not like done to themselves.'" The alteration in the Western text brings the decree into line with the three sins which the rabbis thought applied to Gentiles as well as Jews: idolatry, fornication and murder. These three were also the only things a Jew might not do to save his life under persecution after the Bar Kochba rebellion in A.D. 135 (cf. Tobit 4:15; Didache 1:2; bT Shabbath 31a; Aboth de R. Nathan 2:26). The "Golden Rule" also appeared in Jewish writing (e.g., by Maimonides in Hilekhoth Abel 14:1). It is interesting to note that the solution of
(food polluted by idola, meat of strangled animals and blood) has usually been recognized, but what of porneia? The best solution (and only one which defines porneia in light of its context) takes it to mean "violations of Jewish marriage laws". This can be supported by two considerations: zenut/porneia is well established as a label for this meaning in the literature of the period (especially Qumran) and its presence among three kosher food laws required only because table fellowship was a problem. The first reason supports the connection between porneia and marriage law the Western text in resolving the apparent tension is to turn fellowship considerations into binding moral law even though three of the four things listed had to be altered (and we would argue the meaning of porneia was altered as well).

71F. F. Bruce, The Acts of the Apostles: the Greek Text with Introduction and Commentary (Grand Rapids: Wm. B. Eerdmans, 1951), p. 300 writes: "It seems strange to find an injunction against fornication coupled with food regulations. Illicit sexual relations were, however, regarded very lightly by the Greeks and porneia was closely associated with several of their religious festivals. Here the word should probably be taken in a special sense, of breaches of the Jewish marriage law (Lev. xviii.), which was taken over by the Church."

72The idea in Acts is that the Gentiles were to obey these four injunctions as long as Jewish-Gentile fellowship was a problem. Since the historical events of A.D. 70 and the Gentile expansion, this has ceased to be a problem and is no longer considered binding.

73Vawter, p. 163, supports this: "In Acts 15, 20,29 the prohibition of porneia and the observance of the kosher laws are imposed on the gentile converts by the Apostles as a compromise in the Judaizing controversy, to avoid forcing an issue by giving needless offense to Jewish sensibilities.
Proposed Solution

As we prepare to offer a solution to Matthew 19:9 and the exceptive clause, we need to keep in mind that the rulings of the rabbis were the basis for civil law. The Covenant ruled all parts of life without the distinction between Church and State to which we are accustomed. The Jewish legal system may not have had capital powers, but it regulated life up to that point. We would also like to summarize the relevant points in this study before we offer our

74 This is a good example of an earlier point: if we are to restrict the meaning of a broad word like porneia, it has to be on the basis of context. Since Matthew quotes Jesus using it without restrictions it would seem improbable that either of them intended to narrow its meaning.

75 Ideally, Israel was a theocracy. God ruled His people by the Covenant (hence the distinction between the Covenant King of 2 Sam. 7 and the Canaanite king of Deut. 17). At the time of Jesus the rulings of the rabbis were seen to be a part of the living Torah, a complement to the written Torah of Moses and virtually as authoritative (similar to the later Roman Catholic Church). The legal system which incorporated the rule of the Covenant as interpreted by the rabbis was represented on the local level by the elders of the village and lesser sanhedrins and on the national level by the elders, Chief priests and scribes: the Great Sanhedrin. Sherman Johnson, Jesus in His own times (London: Adam & Charles Black, 1957), p. 13, notes: "Since Judaism was a religious Law and presupposed a theocratic state, there was not a clear line drawn between religious and ordinary civil and criminal provisions of the Law. Just as in Old Testament times, all Jewish law was religious law. The Roman authorities did not interfere with local law except when they thought it necessary. If we would assess the contribution of the Pharisees fairly, we must remember that their scribes were not just canon lawyers but that they constituted the national bar and judiciary, and we must take into consideration the background of their rulings."
suggestion. They are:

1. The marital union of "one flesh" (Genesis 1:27; 2:24) is given to man by God and intended to last a lifetime.

2. Jesus establishes this as His position in Matthew 19:3-8 and concludes: "What therefore God has joined together, let no man separate (third person imperative)" in VERBO 6D (NAS).

3. Marriage and divorce are regulated in the Old Testament for the purposes of reflecting God's holiness, the welfare of the woman and the survival of the people.

4. Both betrothal and marriage are contractual at the time of Jesus. The contract may be broken by violation of its terms.

5. Matthew writes for a Jewish audience and presumes their familiarity with Jewish laws and customs; Mark and Luke do not.

6. God did not institute divorce but did regulate it to some extent; divorce is due to the effects of sin (Matt. 19:8). 76

7. The rabbis believed only Israel had the right to

76 For a fuller discussion of the "hardness of heart" as a legislative principle, see Robert Kehl, "Ehescheidung--ja oder nein?", Reformatio 14 (July 1965):384-7. He suggests Jesus offers the ideal in Matthew 19:3-12 but in practice we follow Acts 15-10 (the context is the Jerusalem Council): "Was versucht ihr denn nun Gott mit Auglegen des Jochs auf der Jünger Halses, welches weder unsere Väter noch wir haben trage können" (p. 386).
divorce; the Gentiles did not.77

8. Grounds for divorce hinged upon the rabbis' interpretation of levirat habir (Deut. 24:1). However, all agreed divorce was required for sexual misconduct (adultery, which would include pre-marital sex; suspicion of adultery, unseemly behavior such as suckling in the street and so forth.78

9. Evidence from the Qumran community demonstrates porneia (zenut) was also used to describe a violation of the prohibited degrees of relationship, both Biblical (for example, a nephew marrying his aunt) and extended (for example, a niece marrying her uncle).

10. The best understanding for the exceptive clause is that it refers to the whole verse, not just apoluō. Thus, "But I say to you that whoever divorces his wife—setting aside (cases of) porneia—and marries another commits adultery."

77We do not suggest that Jesus was influenced by this line of thinking. Our point is that the rabbis did recognize God's will for marriage had no provision for divorce, but that they considered themselves the sole exception to the expressed will of God.

78It may be objected that, in the OT, a husband could retain an adulterous wife (such as in Hosea 3:1-5). Hauck & Schulz, TDNT, 6:592, note: "Whereas in the days of the prophets a husband might pardon his wife in the case of infidelity . . . in the time of Jesus the Law was stricter and an adulterous wife was forbidden to have any further intercourse with her husband or the adulterer; her husband had to divorce her." They refer to Sotah 5:1 which reads: "As she (the adulteress) is forbidden ('asurah) to her husband, she is also forbidden to the adulterer."
11. Jesus' response in verse nine so shocked the disciples that they believed it would be better to remain single. In light of the Jewish attitude towards marriage as the norm, this was a very strong statement.

12. Any attempt to limit porneia to one variety of sexual misbehavior has to be based on context. In light of the broad meaning of porneia in most of the New Testament, and in view of the absence of any modifiers or restrictions in Matthew 19:9, we believe the best understanding of porneia is that it refers to all sexual misconduct, including adultery (which itself would include premarital sex if during the betrothal period), any kind of fornication and zenut in the sense of violation of the prohibited degrees of relationship.

What Jesus says in Matthew 19:9, therefore, is: God wills man and wife to remain together until death separates them. Without taking into consideration or commenting on porneia (all kinds of sexual misconduct which required divorce by Jewish law), a man who divorces his wife and marries another commits adultery. The will of God for the Gentiles was the same as for the Jews. The Jewish readers would understand this, as the disciples did, and be confronted (as

79We see the same use of epi in Mark 12:26 where Jesus, addressing the Sadducees, refers to the passage where Moses, "concerning" (epi) the bush, heard God say to him. . . . Here epi = refers or concerns (the subject at hand).
Jesus confronted the people of God so often) with the difference between God's will and their practice. Mark and Luke's Gentile audience would not have understood this at all, lacking the requisite background. They would think Jesus was giving them a new law that they couldn't get a divorce unless the wife committed adultery, in which case they would be free to remarry. That is not at all what Jesus intended and so Mark and Luke omitted the exceptive clause.

80 Jesus drives home His point that efforts of man to fulfill the law are not what will save him, but only faith in Jesus Himself. Matthew follows the section we are studying (19:3-12) with the story of how Jesus accepted little children and used their trust as a model for salvation (vv. 13-15). Matthew then relates the story of the rich young man who asks what good thing he must do to get eternal life (16-30). The disciples are also astonished at Jesus' conclusion (that it is easier for a camel to go through the eye of a needle than for a rich man to be saved). Mark follows the same sequence in his Gospel. In Matt. 5:32 there is the same kind of confrontation between the surface keeping of Law and the deeper failure to even approach it in the right way. Paul drives this home in Rom. 9:31-32 where he cites their failure to attain righteousness due to the way they went about pursuing it. It is part of the overall distinction between Law and Gospel; in Matt. 19:9 we have the Law in its opus alienum, semper accusat. Further, Jesus avoids the trap the Pharisees set: He neither falls into the camp of Hillel or Shammai nor does He give them something to report to Herod as a basis for charges, as with John the Baptist.

81 Ulrich Nembach makes this same point in "Ehescheidung nach alttestamentlichem und judaischem Recht", Theologische Zeitschrift 26 (June 1970):169. "Deshalb ist das ausnahmslose Ehescheidungsverbot, wie es in Mark 10,11 und Luk.16, 18 tradiert ist, nur an Heidenchristen und nicht ebenfalls an Judenchristen gerichtet denkbar. Das ist in der Tat der Fall. Das Markus- und Lukasevangelium wenden sich an Heidenchristen. Jesus, auf den ein Wort zur Ehescheidung ... wandte sich aber an Juden. Er wird darum das Verbot mit einer Ausnahme entsprechen Matth. 5,32 und 19,9 gegeben haben" (pp. 169-70).
Matthew 1:19

We think this approach also illuminates the intended divorce of Mary by Joseph (Matthew 1:19): "Because Joseph her husband was a righteous man (literally, "being righteous" with "righteous" in an emphatic position, dikaios on) and did not want to expose her to public disgrace, he had in mind to divorce her quietly." The reason he decided to divorce Mary is that he was dikaios. Now, the primary meaning of dikaios is: "of men 'upright, just, righteous,' like tsaddiq = conforming to the laws of God and man, and living in accordance w. them."82 Joseph, considered righteous in the normal sense of the word at that time, intended to divorce Mary because that was the law.83 His compassion was evident in that he wanted to do it quietly (lathra) to spare her public disgrace (deigmatisai).84

82Arndt-Gingrich, p. 194.

83Joseph knew he wasn't responsible for Mary's pregnancy and, he thought, there was only one way to get pregnant. Therefore he concluded she must be guilty of adultery (but, of course, she was not).

84Krister Stendahl makes the same connection: "Divorce was not 'allowed' but required by Jewish law in the case where the woman had committed adultery (cf. 1:19) and this fact may have been in the picture from the beginning, but not spelled out in other Gospels." Peake's Commentary on the Bible (London: Thomas Nelson & Sons, 1962), p. 777; quoted by Coiner, p. 370. The reason was not "spelled out in other Gospels" is: 1) they never mention it and 2) the Gentile audience wouldn't have understood it.
Other New Testament Divorce Passages

In a less direct way, our interpretation of Matthew 19:3-12 also has a bearing on other New Testament passages about divorce and remarriage. In Romans 7:1-6 Paul uses marriage to illustrate the principle that we must die to the Law in Jesus Christ if we are to be free from it. Only death breaks the marriage bond and only death breaks the hold that the Law has over us. By faith in Jesus Christ, His death is accredited to us and we are therefore free.

In 1 Corinthians 7:10-16 Paul deals with a case where a Gentile converts and the spouse, still a pagan deserts. In such a case the believer is not bound to remain in a state of marital "suspended animation." He or she is free to marry again. Although this has been called the "Pauline Privilege" as though Paul were legislating a binding legal code, it is more of a common sense application of the principle that marriage is made for man, not man for marriage. As Jesus points out in relation to the Sabbath,85 so Paul

85Mark 2:23-28; verse 27 reads: "Then he said to them, 'The Sabbath was made for man, not man for the Sabbath,'" The principle is that God designs institutions for the benefit of man, not vice versa. Although he does not endorse it (he calls it "Diesem . . . anmutenden Argument . . ."), Robert Kehl says: "'Der Mensch ist nicht um der Ehe willen da, sondern die Ehe um des Menschen willen' (vergleiche Ev. Markus 2,27)" (p. 385). He concludes that Jesus offers the Ideal, not a basis for legal action, in Matt. 19:9. "Sie lautet wie folgt: Es gibt Dinge, die an sich wohl als Ideale anzuerkennen sind, aber nicht einfach von den Rechtsgenossen absolut als Rechtspflicht gefordert werden können, da das schlieszliche Ergebnis das Gegenteil jenes Ideals ware. Es gibt Postulate, die sich nur verfechten und anpreisen, aber
points out in relation to marriage: this is an institution designed to be of benefit for man, not to add a burden to him or cause him grief. But since sin entered the world through Adam, much grief has been connected with it.86

**Under the circumstances described by Paul, it would be unwise to remain single if the spouse has deserted, unless one is specifically gifted for it.**87 Marriage provides the framework in which basic drives of man and woman may be met and it is dangerous to do without it if one does not have that gift of celibacy.

In 1 Timothy 3:1-7 and Titus 1:6-9 Paul lists the qualifications for an overseer (επισκόπος), which is understood to apply to the pastoral office. The phrase "husband of one wife" (μιας γυναίκας άνδρα) is often used to support the position that a divorced man is unqualified for the public ministry by virtue of his divorce (and in many instances, remarriage). All this phrase says, however, is that an

nicht erzwingen lassen" (p. 387).

86This is precisely the effect sin has on relationships. The "curse" on woman and man in Genesis 3:16-19 is particularly appropriate to recall at this point. Rather than laying an additional burden on man, it may be best to take the "curse" as part of the "death" sin effects.

87Paul identifies celibacy as one of his spiritual gifts in 1 Cor. 7:7-8. In v. 9 he writes: "But if they cannot control themselves, they should marry (γάμισατοσαν, 3 pl. aor. imperative), for it is better to marry than to burn with passion (Greek omits "with passion")."
If divorce and remarriage disqualify a man from the pastoral office, it is because of the requirement he be *aneplēmptos*, "beyond reproach." This means that his lifestyle and circumstances should not offer an easy handle by which non-believers might reject the Gospel or weak believers fall away.

88 We think this is correct for two reasons: 1) lists of virtues in Roman and Greek society urge or require marriage. William Barclay, for example, in The Letters to Timothy, Titus and Philemon (Philadelphia: Westminster Press, 1960), p. 86 writes: "Diogenes Laertius (7:116-126) hands down to us the Stoic description of the good man. He must be married; he must be without pride; he must be temperate; and he must combine prudence of mind with excellence of outward behavior." His treatment of the subject on pp. 86-91 is highly recommended. 2) Polygamy was illegal by Greek and Roman standards but legal by Jewish standards. Nevertheless, as Dr. I. Epstein pointed out in his introduction to the Tractate Yebamoth, only one of 2800 rabbis cited had two wives. Thus, both Jewish and Gentile society would urge or require marriage and Jewish sense of morality would eliminate possible polygamy, The Babylonian Talmud (London: Soncino Press, 1952).

89 In an unpublished paper issued by the Council of Presidents of the Lutheran Church-Missouri Synod (1982) entitled: "Guidelines for Dealing with Marital Crisis - separation, Divorce, Re-marriage of Lutheran Church-Missouri Synod Clergy," the Council leaves the decision of the Pastor's continued service up to the District President. The report states in III. B.: "Criteria to be Considered Include:

1. The long term causes of the breakdown of the marriage in so far as these may be determined.

2. The degree to which the pastor has acted and is acting responsibly toward spouse, family, congregation or calling group, and the district president. . . . The crucial issue is . . . his character. . . .

3. The question of whether the pastor has remained faithful to the marriage until it is legally dissolved.

4. The question of whether there is evidence of repentance, the acceptance of forgiveness, and personal growth and maturity. . . .

5. If possible, the views of a professional counselor whose counsel has been engaged by the pastor and/or spouse
Conclusions

We conclude, then, that Jesus said marriage is inviolable, that from the beginning God created man and woman to live together until death separates them and that man must not separate what God has yoked together. But this has to be understood in its context before application may be made in pastoral care and ecclesiastical decisions. When a couple come into the pastor's office to ask for a church wedding and one or both are divorced, what does the pastor tell them? We certainly do not agree with the practice of some who would take Matthew 19:9 as a "new law" and deny church weddings to those who fail to meet the supposed criteria of "innocent." Larry Richards writes:

Jesus' statements about murder and adultery then were never meant to be incorporated into the social and legal code of Israel. He never intended that a person who shouted out anger against his brother be brought to trial for murder. He never intended that a person who entertains lustful thoughts should be stoned to death for mental adultery.

When the true meaning of the Law, the fulfilled prior to dissolution.

6. The question of whether adequate emotional and economic support is being given to the former spouse and children of the marriage."

90Coiner, p. 383, writes: "It is very questionable whether a neatly devised program of church discipline which 'binds or looses' people in relation to a divorce and remarriage situation may or should be drawn from the passages studied. In no case should an elaborate casuistic system of marital ethics be derived from them to serve as a legal code whereby certain sins of the marriage partner become a justifiable and rightful basis for initiating a marriage release."
meaning, was grasped by Israel, they would see how futile it is to seek standing with God by their acts of right-
eousness. 91

We think Matthew 19:9-12, like several other passages in the
New Testament, 92 bluntly states God's will, convicting us in
our sin. 93 This "alien work" of the Law, then, drives us to
God's mercy in Jesus Christ for forgiveness, by the power of
Holy Spirit. Even divorce is forgivable. The pastor's task,

Then, it is to remember that real people are involved - and work

91Larry Richards, Remarriage: A Healing Gift from

92Jesus tells us not to call any man "father" since
our Father is in heaven (Matt. 23:9). We do not, on the
basis of the passage, excommunicate those who call their
male progenitor "father." Jesus tells us God's will is that
we not take oaths (Matt. 5:33-37). Yet we do not excommuni-
cate those who take marriage vows, confirmation vows, oaths
of allegiance, etc. In fact, we condemn the Jehovah's Wit-
nesses because they do turn it into legislation.

93Nembach calls this "radicalizing of the Law". In
discussing Matt. 5:32 (which meaning would be the same as 19:
9) he writes: "Das Gesetz wurde von Jesus nicht aufgelöst,
sondern seine Erfüllung in allen seine Teilen gefördert order
gar vorausgesetzt. Die Radikalisierung des Gesetzes in der
Bergpredigt mit ihren Antithesen folgt dem Wort, dass 'eure
Gerechtigkeit besser als die der Schriftgelehrten und
Pharisäer' sein soll. Aufhebung der gebotenen Ehescheidung
wäre aber keine Radikalisierung des Gesetzes, sonder dessen
Pervertierung" (p. 170).

94Richards, p. 36, notes: "The great tragedy of the
legal approach to divorce and remarriage is the tragedy of
all legalism. It tears our attention from the human issues
involved." Our point is not that legislation should be ig-
nored when it hurts to apply it. Rather, that legalism
turns Gospel into Law with the practical consequence of
human suffering.
through both Law and Gospel with such a couple. If there is no repentance of sin, no acknowledgement of personal responsibility in the previous divorce, then the pastor should apply the Law: \(\text{95} \) God did not will divorce but said "he that divorces his wife and marries another commits adultery." \(\text{96} \) If there is repentance, it is the pastor's duty and privilege to offer forgiveness and treat the couple as he would any other brother and sister in Christ. The point is to avoid using Matthew 19:9 in a casuistic manner, in view of the fact that we are no longer under Jewish laws that require divorce.

\(\text{95}\) My experience as a pastor for the last six years has been that divorced people already bear a burden of guilt and are ready to acknowledge their sinfulness in the previous divorce.

\(\text{96}\) Two things come to mind. First, that all of us are guilty of adultery (Matt 5:28) and there is no such thing as an "innocent party." Second, pre-marital sex is so common today that virtually every marriage would qualify for divorce on legalistic grounds. It would be well for us to recall what Jesus quoted when confronting the Pharisees on the question of the Sabbath (Matt. 12:7): "I desire mercy rather than sacrifice." Hosea's (6:6) point is not that God does not will sacrifice but that mercy and compassion are requisite in applying His will.


