

What Jesus Really Said About Divorce—a Reply to Dan Knight

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Dan Knight has written an interesting and well-argued paper published on Academia that has received more than 10,000 views:

What Jesus Really Said: Putting Away the Mistranslations About Divorce

I hope here to briefly critique the position Dan suggests in this paper, dated 24 May 2010, a position which Robert Waters also articulates:

<http://www.totalhealth.bz/divorce-and-remarriage-truth-1.htm>

My PhD on the Bible's teaching on marriage and divorce was awarded by Chester University (UK) in 2015 and is available as a free download at:

<https://chesterrep.openrepository.com/handle/10034/607240>

I will keep the number of academic references footnoted to a minimum and instead reference the section numbers of my PhD dissertation where the subject is explored, and the supporting academic material is referenced. The published PhD (to which William A. Heth wrote the Foreword) carries the same section numbers.¹ I have various other papers on Academia that also address marriage, divorce, and remarriage in the Bible.

Dan Knight's Thesis

Dan's contention is that in the Gospels when Jesus spoke of divorce, he was only addressing the subject of a husband putting his wife away without a certificate of divorce. Dan argues that for a divorce there had to be a written certificate—without that certificate he believes that the previous marriage would still be in existence and if either partner remarried, they would be committing adultery. Thus, Jesus was not addressing on what grounds a divorce was permissible—for New Testament teaching about this Dan says we need to go to Paul's teaching in 1 Corinthians 7.

Dan cites the ASV of Matthew 19 where he believes *apoluo* is accurately translated as to “put away” (as in bold underlined below) rather than as “divorce” as in most Bible

¹ Colin Hamer, *Marital Imagery in the Bible: An Exploration of Genesis 2:24 and its Significance for the Understanding of New Testament Divorce and Remarriage Teaching* (London: Apostolos, 2015)

translations—and that the passage is referring to ‘putting away’ without a written divorce certificate—and that Jesus is teaching that without such there is no divorce. It is certainly true that while in English “divorce” means the termination of a marriage, in biblical Hebrew or Greek there is no such specific word and so various words are ‘borrowed’ from other contexts, like “to send away” or “to put away”;² this leaves the translators to decide whether to translate literally or go with “divorce.” ASV have gone with the former:

3 And there came unto him Pharisees, trying him, and saying, Is it lawful for a man to **put away** his wife for every cause? 4 And he answered and said, Have you not read, that he who made them from the beginning made them male and female, 5 and said, For this cause shall a man leave his father and mother, and shall cleave to his wife; and the two shall become one flesh? 6 So that they are no more two, but one flesh. What therefore God has joined together, let not man put asunder. 7 They say unto him, Why then did Moses command to give a bill of divorcement, and to **put her away**? 8 He said unto them, Moses for your hardness of heart suffered you to **put away** your wives: but from the beginning it has not been so. 9 And I say unto you, Whosoever shall **put away** his wife, except for fornication, and shall marry another, commits adultery: and he that marries her when she is **put away** commits adultery. (ASV, Matthew 19:3–9)

An analysis

Firstly, it must be said that any challenge to the views of marriage, divorce, and remarriage traditionally held in the church and academy is a welcome thing. It seems clear to me that the Church of Rome’s sacramental view of marriage survived the Reformation and has done immense harm in the world-wide church since (see my paper on Academia “How the Church Re-defined Marriage”). And there is a logic in Dan’s argument: no certificate equals no divorce, so any subsequent remarriage would be adultery. However, I suggest that there are several reasons why the understanding articulated in his paper is open to doubt, and I will argue that to ‘send away’ or ‘put away’ a wife was in effect a divorce with or without a certificate.

² For the Hebrew see: Hamer, *Marital Imagery in the Bible*, §5.10; Instone-Brewer comments: “There were more than fifty words used for ‘divorce’ in contemporary Greek marriage and divorce contracts, and it was common to use several in a single document.” He has a detailed consideration of this point and provides a list of Greek terms for divorce: auid Instone-Brewer, “1 Corinthians 7 in the Light of the Graeco-Roman Marriage and Divorce Papyri,” *TynBul* 52.1 (2001): 105–108, 117

1 Does a marriage need a certificate?

Was a written record required for a marriage in ancient Israel to be a marriage? The evidence suggests not. In the West we have conflated the concept of marriage with the registration of a marriage with the state—but such is a recent phenomenon—in the UK state registration of marriages only began in the 19th century. Elsewhere in the world (for example Madagascar, and elsewhere in Africa) many (probably most) marriages are contracted between families without written contracts.

Michael Satlow, when referring to extant written marriage contracts from antiquity, including the Jewish Judaeen Desert Documents dating from New Testament times, states: “These contracts were almost certainly not constitutive of marriage: the marriage existed with or without the document.”³ Marriage appears to have been an oral agreement between the two families, which would often be celebrated by some sort of feast (as we see in the wedding at Cana in John 2).

Many today when addressing the subject of marriage and divorce in the Bible have imported concepts of a Western legally registered marriage into an exegesis of the text. But even here in the West there is a distinction between the reality and the paperwork. A state marriage today in the UK is made when a couple exchange their vows before a state-approved witness—the certificate drawn up afterward *evidences* they are married, it does not itself create the marriage. It is the same with a passport—such evidences citizenship, it does not create citizenship.

For most in the ancient world an orally contracted marriage was the only form of marriage known.⁴ Such was the case in ancient Israel where it seems marriage was considered to be a social contract that did not form part of the nation’s religious life. There is no evidence of any involvement of the priesthood, the elders, or the Temple—there is not even any record of a *verba solemnia*—a set form of words that the couple said that made them ‘married.’⁵

³ Michael L. Satlow, *Jewish Marriage in Antiquity* (Princeton, N.J.: Princeton University Press, 2001), 84; Hamer, *Marital Imagery in the Bible*, §8.3

⁴ Hamer, *Marital Imagery in the Bible*, §4, §5

⁵ Hamer, *Marital Imagery in the Bible*, §5.2

2 Does a divorce need a certificate?

So, if a marriage did not need a certificate—did a divorce need one? The answer seems to be no.⁶ As David Instone-Brewer points out: “In the ancient world there was often no formal registration of a marriage—if a marriage partner simply left the marital home it would be deemed a divorce.”⁷ Neither Moses nor Jesus is recorded as saying one was necessary—the Pharisees in their question in Matthew 19:7: “Why then did Moses command one to give a certificate of divorce and to send her away?” misquote Deuteronomy 24:1 which records a hypothetical event, not an instruction: “When a man ... writes her a certificate of divorce.”

So, if a certificate is not mandatory—when is a ‘putting away’ a divorce? The answer is it is the context that determines whether any verb in Hebrew or Greek that describes a ‘putting/sending away’ is referencing a divorce. All the evidence is that any such ‘putting away’ of a wife by the husband from the marital home was considered in the culture of ancient Israel to be a termination of the marriage—a divorce. Thus, in Matthew 1:19 when we are told that Joseph, on learning of Mary’s pregnancy, decided to “divorce” her (*apolyo*) this, as Dan suggests, is a mistranslation—Joseph and Mary were betrothed, but they had not yet it seems consummated their marriage or set up their marital home.

The advantage of a written certificate of divorce is that a divorced woman would usually want to remarry (especially in the ancient Near East where economic survival for a divorced woman could be precarious) —and the certificate would evidence her divorce and enable her to remarry. Without it a potential new suitor would be rightly concerned about a charge of adultery, a capital offence in ancient Israel.⁸

But such a certificate was not mandatory. And in any case, just as in marriage, a divorce certificate *evidences* a divorce—it does not create the divorce. This, it seems clear, was the understanding of *any* documents relating to betrothal, marriage, or divorce in ancient Israel right through to New Testament times—and even today, as witnessed by the *agunah* problem in Judaism in modern times (see below).

⁶ Hamer, *Marital Imagery in the Bible*, \$4.3.3; \$5.14; \$8.3.3

⁷ See: David Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002), 198-99

⁸ Thus, Léonie Archer, on the basis of the written bill of divorce in Deuteronomy 24, speculates that written instruments in connection with marriage while not mandatory were not unusual: Léonie J. Archer, *Her Price is Beyond Rubies: The Jewish Woman in Graeco-Roman Palestine* (Sheffield, England: Journal for the Study of the Old Testament Supplement 60. Sheffield Academic, 1990), 171

3 Grounds—not certificates?

What is more, it seems to me, and this is the academic consensus (although great caution is required in putting too much weight on such) that in Matthew 19 the Pharisees are asking Jesus about the passage in Deuteronomy 24:1–4. And specifically their question related to the reason for the divorce mentioned there—the ambiguous *'erwat dabar* (ESV: “some indecency”).⁹ The Deuteronomy teaching that once a certificate is given the wife can never go back to her first husband is a separate issue and incidental to the argument.¹⁰ If this analysis correct, it follows that Deuteronomy 24 and Matthew 19 are primarily referencing *grounds* for divorce, not *certificates*.¹¹

And when referring to Moses’s teaching, found in Deuteronomy 24, which suggests that a divorce was permissible for “some indecency,” Jesus (or Matthew if Jesus spoke in Aramaic) employs the equally ambiguous *porneia* (from which we get “pornography”) as the grounds for divorce. In this, I believe, we can see the wisdom of God—he did not want to give a specific list of immoral sexual acts that fallen humankind might indulge in before the eschaton. Both *'erwat dabar* and its New Testament equivalent *porneia* have a certain discreet ambiguity about them.

4 Adultery

Dan’s argument is that Matthew 19:9 is saying: “And I say to you whoever puts away his wife [without a certificate of divorce], except for sexual immorality, and marries another, commits adultery.” But without further clarification it is difficult to see how the Pharisees would understand that this is what Jesus was saying. Dan seems to miss the fact that “adultery” in the Bible carries a very specific definition—and it is not the one held in the 21st century West.¹² The Bible’s definition carried the same understanding as

⁹ Hamer, *Marital Imagery in the Bible*, §5.11.1.3

¹⁰ There is no academic consensus why the wife could not go back after the certificate is given. I suggest in my study the answer can be found in the Bible’s marital imagery. Dan argues that because in Isaiah 50 God tells Judah she had merely been sent away without a certificate—she is not divorced. Isaiah is certainly referencing the Deut 24 marriage law which says once a certificate is given the wife can never come back to the first husband. But I would suggest that Isaiah is saying because there was no certificate Judah can come back to him—not that there was no divorce. It is not that the certificate created the divorce, it prevented any return to the first husband—the certificate might be compared to a decree absolute in UK legal system.

¹¹ Hamer, *Marital Imagery in the Bible*, §10.3.2

¹² On page 25 Dan says: “When I have explained to people that Jesus is saying, ‘To live with a woman who is not your wife is adultery,’ I have never had anyone fail to understand that logic, be they Christian or not.” The biblical understanding is that if both partners were single this is sexual immorality.

that of Islam today: “adultery” is when a married woman has sexual intercourse with a man not her husband. So, a man could marry a second wife without divorcing his first wife (as many Old Testament saints did). With or without a divorce certificate—a second marriage for the husband would not be adultery (see comments on *agunah* below).

5 The Sermon on the Mount

It was also said, “Whoever divorces [puts away] his wife, let him give her a certificate of divorce.” But I say to you that everyone who divorces [puts away] his wife, except on the ground of sexual immorality, makes her commit adultery. And whoever marries a divorced woman commits adultery. (ESV, Matthew 5:31–32)

The position Dan takes on Matthew 19 is that Jesus emphasises the requirement for a certificate—and although Dan only mentions these two verses briefly, it seems clear he believes Jesus teaches the same here as in Matthew 19. But to my mind his hypothesis works even less successfully in Matthew 5. The teaching of the Sermon is in the form of an antithesis: ‘You have heard that it was said ... but I say to you.’ In the Sermon the first part of the antithesis is the self-righteous keeping of the letter of the law typified by the scribes and Pharisees.

In vv. 31–32, in the first half of the antithesis, the view held by the Pharisees seems to be that as long as a husband ‘puts away’ his wife with a certificate of divorce he would fulfil the law. In contrast, in the second half—the true meaning and heart righteousness of the spirit of the law—Jesus appears to refute that understanding, and instead teaches that it is the *grounds* (sexual immorality) for putting away a wife that make any such action legitimate. If Dan is correct, the antithesis is lost—Jesus is on the side of the Pharisees.

6 *Agunah*

In Israel today, and in Jewish law where applicable in the Diaspora, if a couple decide to divorce and the husband refuses to release his wife by issuing a divorce certificate she is

If the man were already married and was having sexual intercourse with a woman to whom he was not also married that would also be sexual immorality. If the woman were married to someone else both the man and the woman would be committing adultery against the woman’s husband. See note on polygyny when discussing *agunah* below.

agunah.¹³ This means although separated and to all intents and purposes divorced, she is still ‘bound’ (‘chained’) to her husband, “unable to remarry as long as the death of her husband has not been proven”—or until she receives her certificate.¹⁴

However, this does not apply to the husband—although divorced he has no need for the certificate. He is free to remarry with or without it. This is a clear reflection of both the understanding that the certificate does not create the divorce, and that a man could have more than one wife (polygyny) and so did not need the certificate—even though polygyny was abandoned within Judaism from about 1000 CE.¹⁵

Of course, once the canon of the NT was complete it came to be accepted that polygyny was not appropriate for the Christian era. But that perspective cannot be read back into the teaching about divorce found in Matthew 19. I suggest that if Jesus were changing the definition of adultery, and thus the understanding of marriage that had pertained in Israel and across the ancient Near East for millennia, he would need to say that. He could not have relied on his audience being able to deduce that—and then further deduce that the absence of the divorce certificate would make any subsequent remarriage adultery.

7 1 Corinthians 7:15 and “not bound”

What is more, Paul seems to teach that there is no need for the divorce certificate in the church age. We have seen that *agunah* means “chained” or “bound” —a wife without a divorce certificate, although divorced in reality, could not remarry if her new husband-to-be is not able to see a certificate to evidence her divorce. And in modern Judaism she would certainly need the certificate to have a marriage conducted in the synagogue, and have any subsequent children acknowledged as ‘Jewish.’ In effect, without the certificate

¹³ Aviad Hacoen and Menachem Elon, *The Tears of the Oppressed: An Examination of the Agunah Problem: Background and Halakhic Sources* (ed. Blu Greenberg; Jersey City, N.J.: KTAV, 2004), vii-viii; in August 2013 the FBI investigated a New Jersey rabbi believed to be using torture to compel husbands to issue the certificate of divorce for their estranged wives and a court case followed in February 2015: Will Pavia, “Rabbi Accused of Torturing Husbands to Grant Divorce,” *The Times, London* (19 February 2015): 33

¹⁴ Hacoen, *The Tears of the Oppressed*, viii; see discussion of this in relation to the teaching found in 1 Corinthians 7 in: Hamer, *Marital Imagery in the Bible*, §10.4.3

¹⁵ Some suggest polygyny was unknown in Judaism in New Testament times, but the Judaeen Desert Documents suggest otherwise: Satlow, *Jewish Marriage*, 97–99

she is bound in her single state. In an article published in 1989 it was estimated that in New York alone 15,000 Jewish women were *agunah*.¹⁶

In 1 Corinthians 7:15 Paul gives a qualification to his principle of ‘no separation’ that he had outlined in vv. 10–14.

But if the unbeliever leaves, let it be so. The brother or the sister is not bound in such circumstances; God has called us to live in peace.¹⁷ (1 Corinthians 7:15, NIV)

Some have argued that with his “not bound” in v. 15 Paul does not necessarily mean that a divorce is possible. But the contemporary divorce documents that have survived show that this very same terminology is used to declare that the marital obligations are terminated—in other words they are, in effect, the certificates as required in Deuteronomy 24 to show that the divorced wife is free to remarry.¹⁸ Paul would have to have *avoided* using the terminology ‘not bound’ if he were not talking about a divorce.

In effect, Paul is cancelling the requirement for a wife to have a divorce certificate from her husband. In the Jewish community in New Testament times the failure of the husband to provide such could bind a divorced woman—and does so in Judaism today. Paul thereby acknowledges that the gospel is not confined to national Israel, and that other nation states might legitimately introduce different procedures (not grounds) for handling divorce and remarriage—or indeed, have none at all.

If this analysis is correct, Paul is saying the Deuteronomy 24 certificate from the husband is no longer needed by a Christian woman—and the church has, to my knowledge, never suggested that she does need such a certificate. This seems to militate against Dan’s suggestion that the need for a divorce certificate is the key point of Jesus’s teaching in the Gospels.

¹⁶ Leo Pfeffer and Alan Pfeffer, “The Agunah in American Secular Law,” *JCS* Vol. 31, No. 3 (Autumn 1989): 487–525

¹⁷ It is beyond the scope of this paper to present the case for seeing that Paul here was not confining his argument to mixed marriage, it was simply that that is what he was addressing in this section of his letter. For a more detailed analysis of this: Colin Hamer, *God's Divorce: Understanding New Testament Divorce and Remarriage Teaching* (London: Faithbuilders, 2017; repr., Eugene, Oreg.: Wipf and Stock, 2019), \$8; also: Hamer, *Marital Imagery in the Bible*, \$10.4

¹⁸ For example, the divorce document Mur 19 dating from 72 CE has: “You are free on your part to go and become the wife of any Jewish man that you wish”: Hamer, *Marital Imagery*, Appendix C

8 “Except for fornication”

Dan sees that Matthew 19:9 is teaching that without a divorce certificate any subsequent remarriage is adulterous (for either partner)—except where there has been “fornication” (ASV) —which he takes to be premarital sex as outlined in Deuteronomy 22.

There is a logic to Dan’s argument here, because Deuteronomy 22 explains that if a marriage had been contracted on the basis that the bride was a virgin, and this proved not to be the case, the wife could be stoned to death and thus the marriage was terminated—or perhaps we would say “annulled” because, as Dan suggests, the marriage contract was, in effect, not valid.

But the word translated as “fornication” in ASV (or “sexual immorality” in many Bible versions) is *porneia* —and the extensive academic work on the understanding of this seems to clearly demonstrate that it is difficult to restrict its definition to pre-marital sexual intercourse—and therefore it is not safe to assume that the Deuteronomy 22 provision was in view in the Matthew 19 teaching.¹⁹ What is more, Dan does not point out that the Deuteronomy 22 law would not apply to any subsequent marriages where virginity of the wife would not be assumed—the documentary evidence suggests such marriages were common.

A conclusion

In addition to these exegetical problems for Dan’s hypothesis, we have the situation that, if Dan is correct, the Gospels do not address grounds for divorce, only the matter of divorce certificates for the termination of marriages. Thus, we are left with the teaching of 1 Corinthians 7. In that passage, although Paul addresses the mutual expectations of marriage (as does Ephesians 5), he does not clearly outline which of those expectations, if not met, provide grounds for divorce.

¹⁹ See: Hamer, *Marital Imagery in the Bible* §10.3.7. Dan relies mainly on Abel Isaksson to support his understanding of *porneia*. While Isaksson does offer that definition for Matt 19:9, he sees that in Deut 24:1 ‘*erwat dabar*’ (translated as “indecent exposure” in ESV) refers specifically to indecent exposure by the woman: Abel Isaksson, *Marriage and Ministry in the New Temple* (Gleerup: Lund, 1965), 26–27. But both R. T. France and Douglas Moo (and others) see that Jesus in Matt 19:9 is reinforcing the teaching of Deut 24:1-4 —in that case why would the definition change? D. J. Moo, “Jesus and the Authority of the Mosaic Law,” *JSNT* 6, 20 (January 1984): 20; R. T. France, *The Gospel of Matthew* (NICNT; Grand Rapids, Mich.: Eerdmans, 2007), 720–21

I argue in my PhD study that both Jesus’s and Paul’s teaching on marriage and divorce is framed by Hebrew Bible teaching—Paul declaring himself to be a student of Gamaliel (Acts 22:3) and a Hebrew of the Hebrews (Philippians 3:5). And Peter Williams (a leading New Testament scholar) comments on the Gospels:

Christianity arose in the cradle of Judaism, and the further back we go in time, the more Jewish all our records of Christianity are.... Scholars disagree on many matters concerning the Gospels, but on one thing they seem almost universally agreed—the Gospels are Jewish.²⁰

I suggest that Jesus in the Gospels clarified a critical issue of the day about the Hebrew Bible’s teaching on the grounds for divorce, and that Paul clarified certain aspects of that teaching about marriage and divorce for the church age—including that a divorced wife would not be ‘bound’ (*agunah*) by any absence of a divorce certificate from her husband.

Dan is certainly correct to suggest that the church and academy have gone wrong—but I believe that their error has been to not pay sufficient attention to the context of New Testament teaching and the contemporary understanding of marriage in first century Palestine—which is that of a social contract with asymmetrical obligations and divorce based on a failure of those obligations. Such is unequivocally clear in the Hebrew Bible teaching (Exodus 21:10–11; Deuteronomy 24:1–4) and in the documentary evidence contemporary to New Testament times.²¹ The attempt to read a post-apostolic neoplatonic sacramental view of marriage back into the New Testament has resulted in the various contradictory views that Dan points to in his paper.

Once such an attempt is abandoned and the text read in context, I believe the New Testament teaching on divorce is clear. It is the same as the Old Testament. A husband can only divorce his wife for any sexual immorality on her part (which includes, but is not confined to, adultery). A divorce initiated by the husband for any reason other than sexual immorality is not valid. This Deuteronomy 24:1–4 teaching was clarified by Jesus in Matthew 5:31–32 and Matthew 19:3–12.

In Matthew 19:9 we have: “And I say to you: whoever divorces his wife, except for sexual immorality, and marries another, commits adultery.” In the Bible’s extensive marital

²⁰ Peter J. Williams, *Can We Trust the Gospels* (Wheaton, Ill.: Crossway, 2018), 22, 78

²¹ See: Hamer, *Marital Imagery in the Bible*, §8.3

imagery Israel constantly breached the marital covenant they had with God and such was described as adultery (see for example, Jeremiah 3:1–10; 31:31–32). In fact *adultery* is employed nearly 50% of the time in Scripture in this metaphoric way—in other words, to describe a breach in the marital contract, and not a reference to literal adultery—we see an example of Jesus using it in this way in Matthew 16:4.

Thus, I suggest In Matthew 19:9 Jesus is saying that for a husband to divorce his wife for any reason other than sexual immorality is (metaphoric) adultery—a breach of his commitment to the marriage. In other words, the adultery is in the divorce, not any remarriage, a position Craig Blomberg endorses.²²

In contrast, a wife can divorce her husband if he has not provided for her (Exodus 21:10–11)—a position Paul expands on in 1 Corinthians 7.²³ Whether or not this biblical teaching, clearly designed to protect women, applies in our modern world is a separate discussion.²⁴

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²² Craig A. Blomberg, “Marriage, Divorce, Remarriage, and Celibacy: An Exegesis of Matthew 19:3-12,” *TJ* 11NS (1990):175

²³ “An ancient law in Exodus [21:10] provides that ... a man ... may not ‘diminish’ ... [a first wife’s] due. Paul no doubt uses the verb in the same sense when he admonishes married couples to fulfil their mutual obligations and not to ‘defraud’ one another”: David Daube, *The New Testament and Rabbinic Judaism* (Peabody, Mass.: Hendrickson, 1956), 365; similarly: Instone-Brewer, *Divorce and Remarriage*, 193; elsewhere Instone-Brewer comments: “This reference to Ex.21:10-11 in 1 Cor. 7:3-5 has not been widely recognised” but cites other publications that have: Instone-Brewer, “1 Corinthians 7 in the Light of the Jewish Papyri,” 233 n 29

²⁴ See: Hamer, *God’s Divorce*, §9