

A LOOK AT THE BACKGROUND OF THE EXCEPTIVE CLAUSE IN DIVORCE AND REMARRIAGE SAYING (MATT 19:9)

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The meaning of the divorce and remarriage sayings of Jesus continues to be an issue in the Christian world today. In this paper, I propose that knowing the background of the so-called “exceptive clause” may substantially bring light and solve the problem. But our first task is to find the meaning of the word *porneia* in the clause, and with that meaning, we may proceed to the background of the exceptive clause.

The Meaning of *Porneia* in Matt 19:9¹

The meaning of *porneia* in Matt 19:9 is an ongoing debate among Bible interpreters. Moulton and Milligan note that *porneia* is rare in classical Greek, but it came to be applied to unlawful sexual intercourse generally.² It includes prostitution and homosexuality.³ In the LXX, except in Gen 38:21,22 and Deut 23:17 where it translated *qdsh*, *porn-* is the translation of the Hebrew root form *znh*.⁴ *Porneia* is used 36 times, *porneuō* 16 times, and *pornē* 29 times. The stronger *ekporneuō* is used 36 times, only for *znh*. Hauch and Schultz note that in content, *porneuō* for the married woman is equivalent to *moicheuō*.⁵ *Porneia* refers to prostitution (so the case of Dina in Gen 34:31 and Tamar in Gen 38:24), even to spiritual prostitution (Isa 23:17; Ez 16:16, 29). It is also important to mention that the LXX associates the unfaithfulness of the woman or her putting away with her being profaned/defiled, as it is clearly seen in the case of the marriage of the priests, “they [priests] shall not take a woman who is a harlot (*gunaika pornēn*) or a defiled woman (*bebēlōmenēn*) or a woman put away (*ebebēlōmenēn*) from her husband” (Lev 21:7; also 21:14).

The apocryphal books of the Old Testament use *pornē* for harlot (Sir 9:6; Ep Jer 11). *Pornos* ([male] fornicator) is found in Siracide 23:16,17). The meaning of *porneia* gradually broadened. It came to be used for illicit sexual relationship of a married woman with another man, i.e. adultery (Sir 23:23). It means “lust” in Tobit 8:7.⁶ In Tobit 4:12, it is inter-marriage. It is “[spiritual] prostitution” in Wisdom of Solomon 14:12. In Pseudepigrapha, *porneia* is probably used for the incest of Reuben, translated “fornication,” in Testament of Reuben 1:6. It may be at least alluded to in Sibylline Oracles 3.764 (see also 4.33-36) for homosexuality (“confused

¹ The version used in this paper is the NKJV, unless otherwise stated.

² James Hope Moulton and Gerooge Milligan, *The Vocabulary of the Greek New Testament Illustrated from the Papyri and Other Non-Literary Sources* (Grand Rapids: Eerdmans, 1980), s.v. “*porneia*.”

³ Demosthenes, *De Falsa Legatione*, 200.

⁴ See E. Hatch and H. A. Redpath, *A Concordance to the Septuagint*, 2nd ed (Grand Rapids: Baker, 1998), s.v. “*porneia*; *porneuein*; *pornē*).

⁵ Hauck, Friedrich and Siegfried Schultz, “*pornē ktl.*” *Theological Dictionary of the New Testament*, ed. Gerhard Kittel (Grand Rapids: Eerdmans, 1964-1976), 6:579-595.

⁶ See Joseph Jensen, “Does *porneia* Mean Fornication? A Critique of Bruce Malina,” *Novum Testamentum* 20 (1978): 172.

intercourse with males”), or more precisely “sodomy” (Test Benj 9:1).⁷ Philo of Alexandria uses both *pornos* (“fornicator”) and *pornē* (“harlot”).⁸ He knows of *pornotrophos* (“pimps”),⁹ which may imply that for him, *porneia* means prostitution.

The New Testament uses *porneia* 25 times, *pornē* 12 times, *pornos* 9 times, *porneuō* 5 times, and *ekporneuō* once. It is used literally (such as Matt 5:32; 19:9; 1 Cor 5:1) as well as figuratively (Rev 14:8; 17:2; 18:3; 19:2). There were harlots in Palestine in the time of Jesus (Matt 21:31; Luke 15:31). *Porneia* in John 8:41 probably refers to pre-marital sex or prostitution, and incest in 1 Cor 5:1. It means sexual intercourse with a prostitute, cultic or commercial, in 1 Cor 6:16, 18. Thus, it generally points to illicit sexual intercourse and its meaning should be determined according to the context.

With this foregoing study in mind, we now look specifically to the meaning of *porneia* in Matthew 19:9. Since it is used without qualifiers, it has been variously interpreted. The following main propositions have been advanced for its meaning: (1) incest,¹⁰ (2) fornication/prostitution,¹¹ (3) unfaithfulness during betrothal or adultery,¹² (4) a combination of these and more, such as bestiality and homosexuality.¹³ The fourth proposition gives comprehensive meaning. Another proposed interpretation which has not received wide consideration is the inclusive meaning, thus rendering it into “not even adultery.” We will evaluate each of these propositions, starting with the inclusive meaning “not even adultery,” incestuous marriage, and fornication/prostitution. Propositions (3) and (4) will be dealt with together.

“Not Even Adultery”

This interpretation is very appealing but has not received a wide support. The meaning of the exceptive clause would be “not even adultery.” The saying in Matt 19:9 would run, “whoever divorces his wife, even if she has committed adultery, and marries another, commits adultery.” In other words, even adultery does not constitute a valid ground for divorce, much less remarriage. *Parektos* of Matt 5:32 is brought forth in favor of such interpretation with a forceful inclusive usage into “even including.”

The strength of this interpretation is that whatever it has to say about divorce, it clearly indicates an absolute prohibition of remarriage. However, it does not harmonize with the overall

⁷ H. Reisser, “*Porneuō*,” *The New International Dictionary of the New Testament Theology*, ed. Colin Brown (Grand Rapids: Zondervan, 1975), 1:499.

⁸ Philo *Legum Allegoria* 3.8; *De Specialibus Legibus* 1.102; 3.51.

⁹ *De Fuga Et Inventione* 138.

¹⁰ B. Witherington, “Matt 5:32 and 19:9 – Exception or Exceptional Situation?” *New Testament Studies* 31 (1985): 571-576.

¹¹ Bruce Malina, “Does *porneia* Mean Fornication?” *Novum Testamentum* 14 (1972): 17.

¹² P. Sigal, *The Halakah of Jesus of Nazareth According to the Gospel of Matthew* (Lanham, MD: University Press of America, 1986); D. A. Carson, “Matthew,” in *The Expositor’s Bible Commentary*, vol. 8, ed. Franck E. Gaebelein (Grand Rapids: Zondervan, 1984), 414.

¹³ Davidson, 7-8.

Old Testament regulation on adultery and divorce. What is reported in the writings of the prophets is particularly informative. The prophets painfully witnessed the idolatrous practices of God's people and often used marriage metaphor to rebuke their unfaithfulness and call them back to God. Hosea is probably the foremost among the prophets who portray Israel an unfaithful wife to God because of her idolatry (2:2-4; 9:1). God has legally divorced Israel (2:2). But there is hope for reconciliation that God himself sees as eventually taking place (2:7). The fact is that God also wants to be reconciled with Israel as much as Israel needed to be reconciled to Him. God took the initiative for reconciliation: "I will betroth you to me forever" (2:19). The possibility of this reconciliation is the reason why God resends Hosea to take Gomer back (3:1-4).

Isaiah 50:1 portrays Judah as a faithless wife that God divorced. "This is what the Lord says: 'Where is your mother's certificate of divorce with which I sent her away?'" But in Isaiah 54:1-9, God is still said to be her husband, and He promises to recall her (54:5-8). In Isaiah 60:2, Zion is said to have been "forsaken." "To forsake" is the same word used in 54:6 and Genesis 2:24 ("to leave"). Thus Zion is perceived as an abandoned (divorced) woman. But God did not completely give up on her. He took her back (Isa 62:40). In Jeremiah 3:8, Jeremiah reports God as having said, "I gave faithless Israel her certificate of divorce and sent her away because of her adulteries." In Jeremiah, divorce between God and Israel had taken place, as in Hosea.

As a way of summary, the message of the prophets is clear: divorce is possible because of the wife's unfaithfulness. This being taken into consideration rules out the possibility of understanding the exceptive clause as "not even adultery,"

Incestuous Marriage

The view that it is an incestuous marriage is commendable in that it may resolve the tension between the prohibition of divorce and the exception. The basis of the view is in Leviticus 18:6-18. The view has a special appeal to the Gentile Christian churches where there were cases of incestuous marriages (1 Cor 5:1). The apostolic council had to deal with that issue and decreed in Acts 15:20,29, that such marriages should be avoided. The problem with this interpretation is that it limits the apostolic decree to the fellowship between Jews and Gentiles only. This implies that the apostolic decree was not meant to be universal. In other words, once there is not more Jews around, *porneia*-incestuous marriage for Gentile Christians are permitted. But the apostolic decree was meant to be applied to all churches in all times. And there are hints that the laws in Leviticus 18 are meant to be universal. These abominable practices, including incestuous marriages, were the reasons why God destroyed the heathens.

Another weakness of this view may be pointed out. Considering the fact that Matthew's community is a Jewish community, the view of incestuous marriage has a problem inherent in itself. If incestuous marriage were entered into, the "marriage would be retroactively null and void and would not require a *get* [certificate of divorce]. Where there is no marriage there is not

need for a divorce.”¹⁴ It is inconceivable that Jesus would regard a marriage that violated Leviticus 18 as valid.¹⁵ In Matthew, the tone of the passage implies that the wife is guilty of *porneia*, no blame is charged on the divorcing husband. Yet, in an incestuous marriage, both are guilty (Lev 18). Jewish motivation on not having incestuous marriage should also be seriously considered.¹⁶ Around the New Testament time, punishment to the children of such illicit marriages ranged from exclusion from the temple to eradication (4QMMT 39-49; Jubilees 16:8,9). It is logical that Jews would avoid such illicit marriages. Therefore, Jesus could hardly have been understood if he meant incestuous marriage for *porneia*.

Fornication/Prostitution

Fornication/prostitution is a form of *porneia* in the Bible (Jos 6:16; 1 Cor 7:2). But the case of prostitution of a non-married woman is decided with a severe punishment upon her entrance into marriage, not during its course (Deut 22:13-21). Yet the way Jesus states it in Matthew implies that some time has elapsed since marriage has been contracted.

Unfaithfulness or Adultery

If we take into consideration the Pharisees’ question which falls within their current debate, and Jesus’ reply using Gen 2:24 and Deut 24:1-4, we are drawn to see that the discussion was not on betrothal, but within marriage. However, the view of betrothal unfaithfulness also needs careful consideration because of the Jewish tone of the Gospel. Jews were familiar with the laws on marriage and divorce. It fits well in Joseph’s prospective divorce with Mary (Matt 1:18-20), an episode no other evangelist except Matthew reports. Two observations may be made: (1) though *porneia* itself is not found in Matt 1:18, there is no doubt that Mary’s behavior was considered as such. That having occurred during betrothal period (in this she is guilty of adultery),¹⁷ her behavior call for severe punishment; (2) Matthew, following Jewish custom, consistently uses *apoluō* to describe the divorce both in betrothal and marital periods (Matt 1:18; 5:32; 19:9). However, Matthew adds that Joseph “resolved to divorce her quietly” (1:19), that is, by merely declaring she did not please him without mentioning the reason for doing so. Public trial for betrothal unfaithfulness excludes any further step for marriage.

Homosexuality and bestiality are unlawful sexual relations with a sexual partner other than the husband and can clearly fall under unfaithfulness and adultery. But this kind of sexual perversion is more serious in that it involves non-heterosexual or non-human relations, both of

¹⁴ Sigal, 101. Sigal further ascertains, “there was a consensus that no person could legally betroth any of the women listed at Lev 18:6-18 (M. Kid. 3.12)”

¹⁵ Note that the LXX does not use *porneia* for incest. This use is attested only in the pseudepigraphical writings and in the New Testament.

¹⁶ For this perspective, see enlightening study of Yonder M. Milligan, “Jewish Laws on Illicit Marriage, the Defilement of Offspring, and the Holiness of the Temple: A New Halakhik Interpretation of 1 Cor 7:14,” *Journal of Biblical Literature* (2002): 711-714.

¹⁷ Keith Burton, “A Christian theology of Divorce and Remarriage,” *Ministry* (April 2001): 21.

which is a deviation from divine instruction and is severely condemned by the Bible. In other words, homosexuality and bestiality of a married woman is a more perverted form of adultery.

With the other propositions ruled out as we have seen, it is left to us the view of *porneia* as marital unfaithfulness or adultery. Matthew 19:9 may be translated, “And I say to you: whoever divorces his wife, except for adultery, and marries another, commits adultery.”

Adultery in the OT

The “one flesh” terminology of Gen 2:24 is echoed in the biblical legislation on forbidden or illicit unions in Leviticus 18-20. These chapters contain the divine formula “I am the Lord” (18:1; 19:1; 20:7) which associates the marital relationship with the holiness of God: “You shall be holy, for I the Lord your God am holy.” (19:1; 20:7, 26). These forbidden unions are tied up with the notion of defilement, of the individual committing it (18:20, 23, 24, the sanctuary (20:3), and the land (18: 25, 27). Such cases call for the death penalty (18:29). Particularly pertaining to adultery, Anthony Philips states,

The law concerning adultery in Israel was unique in the Ancient Near East, adultery being treated as a crime and not as a civil offense. Consequently, it demanded community – not private – action leading to the execution of the adulterer, and . . . the adulteress. The husband could neither pardon the criminal(s), take any private act of revenge, nor settle for damages, since adultery was a crime and not a civil offense for which damages would be properly be paid. The only thing which concerned him, as it did the community at large, was that the criminal(s) should be publicly tried, convicted and executed.¹⁸

A further exposition of the laws regarding marriage violations are found in Deuteronomy 22:13-30; 27:20, 22, 23. A man who accused his wife falsely of having lost her virginity before the consummation of marriage, is fined and obliged to not divorce the woman as long as she lives. However, if the accusation is well-founded, the wife is put to death. A man who raped a non-pledged virgin in the fields is obligated to marry her and he will never be able to divorce her (Deut 22:13-31).

Deuteronomy 24:1-4 instructs what to do if divorce has taken place. This passage contains one of the casuistic laws of Moses, with a protasis (“if” clause) and an apodosis (“then” clause). Such an understanding makes it clear that the main thrust of the passage (i.e. the legislation),¹⁹ is “the first husband is not allowed to remarry her after she has been defiled by another man,”²⁰ in verse 4, and not the writing of a bill of divorcement and the sending away (v. 1) as it is in the KJV. In other words, the law prohibits the remarriage of a divorced woman who

¹⁸ Anthony Philips, “Another Look at Adultery,” *Journal for the Study of the Old Testament* 20 (1981): 19.

¹⁹ Richard Davidson, “Divorce and Remarriage in the Old Testament: A Fresh Look at Deuteronomy 24:1-4,” *Journal of the Adventist Theological Society* 10/1-2 (1999), 4.

²⁰ F. C. Keil and F. Delitzsch, *The Pentateuch* (Grand Rapids: Eerdmans, 1978), 417.

later was remarried, to her former husband.²¹ Richard Davidson goes on to argue that the reason why the divorced woman could not return to the first husband was that the sexual activity of the divorced woman with the second husband is tantamount to adultery, or an adultery itself, even though she does not incur the death penalty as Leviticus 18 prescribes.²² And why she was not put to death? The blame of her defilement is put on the man who causes her (by divorce) to defile herself with another man.²³

We have attempted to establish the meaning of *porneia* in Matt 19:9. It is defined within marriage, and is committed by a married woman. Thus, *porneia*, according to our study, means “adultery.” With this in mind, we may now proceed with the background that propelled divorce (and ultimately remarriage) in the time of Jesus.

The Background of the Exceptive Clause in the Divorce and Remarriage Saying

As in the Old Testament, adultery by the woman continued to be treated severely in the New Testament time, even in the absence of the death penalty for adultery. Such a defiled woman was forbidden to her former husband and was to be divorced. Jewish law “required a husband who had learned of his wife’s affair to divorce her immediately.”²⁴ A husband was compelled to divorce his woman just for bathing together with men.²⁵

Ultimately the issue is the defilement of the woman, whether intentional or not, thus requiring her divorcement. The following lists Jewish writings which echo this ruling:

- (1) The Aramaic paraphrase of Deut 22:26 adds in italics, “And the girl [who was raped] you shall do nothing evil; the girl shall not have the death sentence *but the man (her fiancé) shall send her away with a bill of divorce.*” (Targum Pseudo-Jonathan on Deut 22:26).
- (2) The book of Jubilees 33:7-9, though presenting a case of incest, deals at the same time with the defilement of the woman that was incurred by her sexual intercourse with another man. The case is that of Jacob with Bilah. It reads, “And when Jacob returned and

²¹ The NIV correctly translates Deuteronomy 24:1-4 (italic supplied): “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.”

²² Davidson, 12.

²³ Ibid. Davidson (12, 13) relies on the unusual use of the verb in hothpael (*tm*) which means to be caused to defile oneself, which apparently does not refer to the one she has had sexual intercourse with (i.e., her second husband) as the cause of defilement. For this, he finds supports with various commentators (i.e. Keil and Delitzsch, S. R. Driver, P.C. Craige, and Earl Kalland).

²⁴ C. S. Keener, “Adultery, Divorce,” in *Dictionary of the New Testament Background*, ed. Craig E. Evans and Stanley E. Porter (Leicester, England: InterVarsity Press, 2000), 6).

²⁵ S. Safrai, “Home and Family,” in *Jewish People in the First Century*, ed. S. Safrai and M. Stern (Philadelphia: Fortress, 1974), 728-792.

sought her [Bilah], she said unto him, ‘I am not clean for thee, for I have been defiled as regards thee; for Reuben has defiled me, and has lain with me. . . *And Jacob did not approach her again because Reuben had defiled her.*’²⁶ (Emphasis supplied).

- (3) 1QapGen 20:15 comments on Abraham whose wife Sarah has been taken by Pharaoh. Knowing that she would be forbidden to him if Pharaoh defiled her,²⁷ Abraham prays, “during this night, may he [Pharaoh] not be able to sully my wife, separated from me.”²⁸
- (4) Rabbinic law has much to say about a suspected adulteress. In case she admits, she is put away. “If she said, ‘I am unclean,’ she takes payment of her *Ketubah* as it put away.” (M. *Sotah* 1.5). In case she does not admit it, she was to drink the water of bitterness as prescribed by the law of Moses (Num 5:23; M. *Sotah* 1.5; 3.3). If guilty, “hardly has she finished drinking before her face turns yellow and her eyes bulge and her veins swell, and they say, ‘Take her away! Take her away! That the Temple Court be not made unclean!’” (M. *Sotah* 3.4). It may appear as if she is going to die, as David I. Brewer further argues, “guilty women would die, and so there was no need to divorce her. . . [guilty] woman would suffer those curses [Num 5:23], which the rabbis regarded as equivalent to a death penalty.”²⁹ This assumption is questionable because a few lines later, the Mishnah states,

As the water put her to the proof so does it put the paramour to the proof, . . . As she is forbidden to the husband so is she forbidden to the paramour, for it is written, *And she is become unclean*, and again, *And she is become unclean*. So r. Akiba. R. Joshua: so used Zechariah b. ha-Kazzab to expound. Rabbi says: Twice in the section of Scripture is it written, *and she is become unclean*: once for the husband and once for the paramour (*Sotah* 5.1).

A little further, it is stated that she is “forbidden for all time [to husband and paramour]” (*Sotah* 6.3). This seems to prescribe that, whatever the result of the drinking of water of bitterness, the husband had to divorce his wife. The ethical code to divorce her persists even if the husband wants to retain her.³⁰

Another Mishnaic passage supports this observation: “If a man suspected of intercourse with a married woman and [the court] *dissolved her marriage* with her husband, even though he married her, *they must bake her from him.*” (*Nedarim* 2.8). Matthew is the only evangelist who provides an implicit biblical confirmation that public trial imposes the termination of marriage (Mat 1:19). Matthew describes Joseph as a “just” man, which in Jewish thinking means a man who follows the commandments. Joseph had the choice between denouncing Mary publicly, thus, calling the death sentence upon her, and sending her away secretly. Joseph decided to

²⁶ The book of Jubilees is believed to have been written by a Pharisee between 135-105 BC (see R. H. Charles, *The Apocrypha and Pseudepigrapha of the Old Testament in English*, vol. 2, *Pseudepigrapha* [Oxford: Clarendon, 1978], 1).

²⁷ M. Bockmuehl states that this is even pre-rabbinic evidence of a case of impurity (defilement) incurred by adultery (“Matthew 5:32; 19:9 in the Light of Pre-Rabbinic Halakhah,” *New Testament Studies* 35 (1989): 293).

²⁸ The translated text is from Florentino Garcia Martinez, *The Dead Sea Scrolls Translated* (Leiden: Brill, 1994), 233.

²⁹ *Divorce and Remarriage in the Bible: The Social and Literary Context*. (Grand Rapids: Eerdmans, 2002), 96.

³⁰ See BT *Sotah* 25a.

divorce her most probably by declaring she did not please him according to Deut 24:1-4, without mention precise reason for doing so. But the angel told Joseph to marry her.³¹

Conclusion

This study provides the meaning of *porneia* in Matthew 19:9 which when taken as a background for divorce may shed light on the proper understanding of Jesus' saying on divorce and remarriage. Jewish ruling imposes the divorcement of the wife, based on her *porneia*, which is interpreted as adultery. Bockmuehl summarizes, "any sexual interference with an existing marriage bond produces a state of impurity which precludes a resumption of that marriage."³²

If the knowledge of the background is the key for the understanding and the interpretation of exceptive clause in Matthew 19:9, then Jesus statement may be stated in another way, "anyone who divorces his wife except for adultery in which case he is required to divorce her, and marries another, commits adultery." Jesus takes the required divorce as a fact. The Old Testament prophets' writings about God's divorce with Israel because of the latter unfaithfulness may have not been altogether ignored. But Jesus is not defining under which circumstances a divorce may or may not take place.³³ The blame of divorce is not on the husband but on the unfaithful wife. Just as Hauck and Schulz notes, the "drift of the clauses, then, is not that the Christian husband, should his wife be unfaithful, is permitted to divorce her but that if he is legally forced to do this he should not be open to criticism if by her conduct his wife has made the continuation of the marriage quite impossible."³⁴

³¹ For a longer treatment on this Joseph/Mary marital issue, see D. C. Allison, "Divorce, Celibacy and Joseph (Matthew 1:18-25 and 19:1-12)," *Journal for the Study of the New Testament* 49 (1993): 3-10.

³² Bockmuehl, 294. Bockmuehl provides more evidences (such as Philo [*Abraham* 98] and the *Testament of Reuben* [3:10-15]), aside from what we have enumerated above.

³³ Leon Morris, *The Gospel According to Matthew*. Grand Rapids: Eerdmans, 92.

³⁴ Hauck and Schulz, 6:592.

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