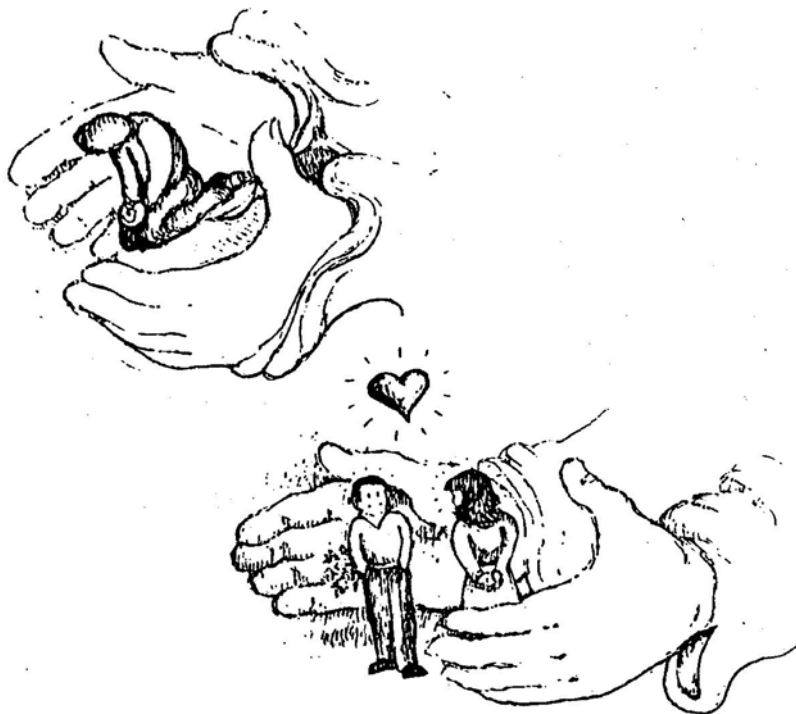


DIVORCE AND REMARRIAGE

Is it a Sin?



A Study

By

Robert (Bob) Hallstrom

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*Whosoever shall marry her
that is divorced
"committeth adultery."*

Matt 5:32

A

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DIVORCE AND REMARRIAGE

FORWARD

Many years ago when conducting Bible study classes to a group of people who were predominantly divorced women, I discovered that many divorcees are ostracized by their churches and are told by some pastors that because they are divorced, they are living in sin. In addition they are led to believe that if they marry again it must be to their first husband. This paper was researched and written to relieve the unnecessary frustration and guilt of men and women in like circumstances and to remove a man-made bondage from divorced people that our merciful God never intended.

This paper was not written with the intent of encouraging divorce on the part of either spouse as divorce should be the court of last resort after all else has failed. It should also be stressed that remarriage, like marriage, must take place only in God's will, not at the desires of our own flesh.

INTRODUCTION

Divorce and remarriage is a highly controversial issue. Many persons believe they are living in sin because they have been divorced and remarried. People should not be so burdened, because divorce and remarriage is not adultery.

Church opinion has long favored the teaching that remarriage after divorce is adultery, based upon a single mistranslated word in Matthew 5:32.

The result? A great many people today who are divorced and remarried are being expelled from their churches and/or are being plied with a load of guilt for "living in adultery."

To gain a better understanding of divorce and remarriage, we must go back to the days before God gave His Law to Israel. We shall look first at the Babylonian Law Code and then compare it with God's Law on marriage and divorce, from which we shall learn that early English law basically followed scriptural law.

THE LAW OF HAMMURABI

The oldest known law code comes from Mesopotamia, and is called the Code of Hammurabi. According to Hammurabi's Code, a marriage was a simple contract, valid only if it was written, sealed (signed), and witnessed (Par. 128). Divorce was allowed, but treated in various ways, depending on which party broke the contract. If the wife were guilty, the husband could divorce her with the words, "*I put her away*," and he could send her away empty-handed (Par. 141).

The wife also had the right to divorce her husband, if her husband had violated the marriage contract. However, this was a risky thing to attempt, because if the court should determine her to be the guilty party, she was executed (Pars. 142, 143).

When the husband was at fault, the code was quite generous with the wife, and took pains to provide for her support. If she had no children, her husband was to give her dowry and the equivalent of her bride-price (Par. 138). It was usually one mina of silver (60 shekels, or the equivalent of 120 days' work at common labor).

The dowry and the bride-price was the wife's means of support after her divorce. If her husband had given her father no bride-price when he married her, he still had to give her one mina if he were rich and $1/3$ mina if he were poor (Pars. 139, 140).

On the other hand if the wife had children, and if the husband were the guilty party, she received her dowry, of course, but in place of the bride-price, she was to have use of his property and food from his field or garden. This provision served as alimony and child support. Further, if he should decide to give any inheritance to the children, she was to receive a share equal to one son (Par. 137).

If a man should be captured and deported, his wife could only remarry if she lost her means of support. However, if he returned from captivity, she had to return to him, leaving any children of her second marriage with their father (Pars. 133, 135).

If a man simply deserted his wife, she had the right to remarry, and if her former husband returned, he had no claim on her (Par. 136).

The only prohibition on divorce, other than when no one had violated the marriage contract, was when the wife was incurably sick and in need of care. In such a case, the husband could not divorce her, although he could take a second wife (Par 148).

GOD CORRECTS THE LAW OF HAMMURABI

God's law has been in existence since the beginning of creation and thus is much older than the Code of Hammurabi.

Hammurabi altered God's law to suit his understanding of right and wrong, and both laws existed side by side during the days of Abraham, Isaac, and Jacob. However, Hammurabi's Code was the law most common to the world, including Canaan.

During Israel's stay in Egypt, God's law was largely forgotten. Thus, after they left Egypt, it became necessary for God to reteach the people His law. If God had given lawful judgments on every different situation that was to arise in the course of history, the law books could not have been borne by the entire nation of Israel. So we must realize that to some extent, rather than being an exhaustive law code, God's law gives the basic moral principles in the Ten Commandments, and then continues with only a few hundred specific statutes (approximately 759 in number) to further define those principles. Often, God merely corrected the errors of the Hammurabi Code, and where there was already nothing to correct, God may not have seen the necessity to elaborate, since custom already dictated that which was right.

GOD'S LAW ON DIVORCE AND REMARRIAGE

A conditional contract (covenant) is one that specifies conditions which both parties must fulfill; and if one party breaks the contract, the wronged party may sue at law for damages or annulment of the contract. By definition marriage contracts are conditional contracts. It was always so in ancient times, and in this respect the Code of Hammurabi is in total agreement with the Law of God.

Divorce, a complete break in the marriage contract, while not the most desirable state of affairs, is lawful. Virtually all marriages involve vows made between two parties and the breaking of those vows is a breach of contract. For example, in God's marriage to Israel at Mt. Sinai, Israel (the bride) agreed to submit to His authority and obey His laws (Ex. 19:3-8). For their obedience, God agreed to give them the kingdom and the blessings of the birthright. These included honor, protection, sustenance, and children (Gen. 12:1-3).

Israel, being incapable of full obedience, violated this contract and refused to repent; and thus her husband (God) divorced her (Israel) and sent her out of His house (Jer. 3:8; Hosea 2:2).

Because God himself is a divorcee, we can safely say that divorce, in itself, is not a transgression of the law. Otherwise we would have to conclude that God is a sinner. Divorce may be either the result of transgression of the law or simply a violation of the contract.

God's law on divorce and remarriage is given in Deut. 24:1-4:

"When a man hath taken a wife, and married her, and it come to pass that she find no favour in his eyes, because he had found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house.

"And when she is departed out of his house, she may go and be another man's wife.

"And if the latter husband hate her, and write her a bill of divorcement, and giveth it in her hand, and sendeth her out

of his house; or if the latter husband die, which took her to be his wife;

"Her former husband, which sent her away, may not take her again to be his wife, after that she is defiled; for that is abomination before God; and thou shall not cause the land to sin, which the Lord thy God giveth thee for an inheritance."

From verse 1 we see that God recognizes there must be a cause of divorcement. However, the cause is not specified in any detail, other than finding something unclean in her. Some insist that means divorce is only lawful in case of adultery. But the penalty for adultery is death -- NOT DIVORCE! (Deut 22:13-30).

Others say it means divorce is only lawful if the husband discovers that his wife had illicit sexual relations with someone else before they were married. However, such a situation also calls for the death penalty (Deut. 22:13-21).

Therefore, the grounds for divorce in the 24th chapter must be something else. Since the grounds are not plainly stated, it would appear that contemporary law needed no modifying. Thus, it is helpful to look at the Code of Hammurabi for a list of the grounds for divorce.

The Code specifies cruelty, slander, waste of family assets, and running up needless debts as being grounds for a man to divorce his wife. This is in addition to any other violation of terms which may have been written into the contract.

The wife could also divorce her husband for those same offenses, but in addition to them, she could divorce him for lack of support (Exodus 21:10-11). However, it should be noted that a woman does not have the right to initiate a divorce except in the case of inadequate food, clothing, or conjugal relations (Ex 21:10-11); the departure of a nonbelieving spouse (1 Cor 7:15); or a capital offense committed by her husband (in which case he would be legally dead in the eyes of God, whether he were put to death or not). For a wife to divorce her husband on other grounds is not lawful and would be analogous to Israel divorcing God instead of the reverse. 1 Cor 7:13 tells us that a wife is not to leave her husband, even an unbeliever, if he is pleased to dwell with her.

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We will assume that the grounds for divorce were probably the same in both law codes, as God's law passes over the question with little modification.

However, the divorce procedures differ in one very important area. Where the Code of Hammurabi allowed either the man or the woman to divorce the spouse with a verbal statement, God's law demanded a written document, the "*bill of divorcement*." Hammurabi was careful to mandate that the marriage contract be written (Par. 128), but divorces were purely verbal, bearing inherent difficulties, so God solved the problem by documenting divorces by a written "*bill of divorcement*."

One could easily imagine a situation where a man divorces his wife verbally, whereupon she remarries -- only to have her former spouse fly into a jealous rage. The first husband could deny his verbal divorce and accuse her and her new husband of adultery. Since adultery called for the death penalty, a person with only an oral divorce could be putting themselves in jeopardy of death by remarrying.

Under God's law, justice is safeguarded by the written bill of divorcement, which a divorced wife may produce to prove that her former husband no longer had any claim upon her. The written bill of divorcement was her security and authority to remarry. For this reason, Deut. 24:2 follows by stating that once she had the bill of divorcement, she is free to remarry. Conversely, if she were to remarry without the bill, she would be committing adultery.

The system of welfare built into the laws of God provided for the support of a wife whose husband was captured, so she was not to remarry while her husband was still alive. Then his possible homecoming would be a joyous affair rather than a cause for further grief.

Since the Code did not allow remarriage to a former husband in this case, God's law pursues the subject a bit further. In Deut. 24:3-4, God forbade marriage to a former wife, at least after she had remarried. This law also shows that God recog-

nizes the validity of the second marriage, as well as the binding nature of the bill of divorcement.

"PUT AWAY " DOES NOT MEAN "DIVORCE"

Hebrew - Put Away

The term "*put away*" generally comes from many Hebrew words such as *shalach* (to send away) or *garash* (to drive away). These words differ only in intensity. In reference to a husband and wife, it refers to the act of separation, where a man sends his wife out of the house. Many words have been translated as put away but only those considered relevant to this study will be examined.

The Hebrew word "*suwr*" (*soor*) at Strong's (5493) is a prime root meaning to turn off; pluck away; put (away,down); remove; turn aside, etc.

Another Hebrew word "*yatsa*" (*yits-ree*') at Strong's (3318) is a prime root meaning to go; bring out (of) and is used in a variety of ways such as; carry out, break out, be condemned, departing, go abroad, lead out, etc.

Again the difference in the usage of these words appears to be in the severity of the putting away. For example, In Ezra where 3318 is used, it denotes the putting away of the strange women from among them:

"....We have trespassed against our God, and have married strange women of the peoples of the land: yet now there is hope for Israel concerning this thing.

"Now therefore let us make a covenant with our God to put away all the wives, and such as are born of them,...." Ezra 10:2-3

Scripture records that only Noah was "*perfect in his generations*." The nation of Israel was forbidden to marry outside their own race and later that prohibition was extended to each tribe for inheritance reasons. In Ezra we see that they recognized the prohibition and they "*let it be done according to the law*." This was a serious putting away as husbands and wives were separated, not to mention the children involved, and by

the law they could never return. This putting away was being "put away" outside the nation.

We also know that priests were forbidden from marrying those women who had been put away. However, this putting away did not banish people from the nation and, in fact, they were to return to their father's house.

Israel was also put away (Isa 50:1) and given a bill of divorcement (Jer 3:8). This putting away was not permanent as God pled with Israel for them to return unto Him (Jer 3:14, Hos 2:2). In addition, scripture records that Israel will return again to the Lord (Hos 3:5, Romans chapters 9 through 11).

Greek - Put Away

The Greek word is "*apoluo*" (ap-ol-oo'-o) at Strong's (630) meaning to free fully; relieve, release, dismiss, let go, loose, put (send) away, release, set at liberty.

Hebrew - Divorced

The word "*divorced*" is used 4 times in scripture at Lev 21:14, 22:13; Num 30:9; and Matt 5:32b.

The Hebrew word is Strong's (1644) "*garash*" (gaw-rash') a prime root meaning to drive out from a possession; esp to expatriate or divorce:-- cast up (out), drive away, expel, put away, thrust out.

A reading of the Old Testament verses in conjunction with the above meanings indicate that the correct usage of this word should be "sent away" or a like term, rather than "divorce."

Greek - Divorced

As stated, the word "*divorced*" should not appear in the New Testament as it is the Greek word "*apoluo*" and the majority of times is translated as "*away*," "*release*," "*go*," "*put away*," and "*let*". The word "*apoluo*" appears 93 times and is translated 21 different ways which will be addressed in more detail later.

Hebrew - Divorcement

The word divorcement is used 6 times in Scripture at Deut 24:1,3; Isa 50:1; Matt 5:31, 19:7; and Mark 10:4. This word is

the actual word meaning divorce or more appropriately "*divorcement*."

The Hebrew word is listed at Strong's (3748) as "*keriythuwth*" (ker-e-thooth') from 3772; and means a cutting (of the matrimonial bond) i.e. divorce:-- divorce(ment).

It should be noticed that "*drive out*," "*cast out*," "*put away*," and "*expel*" have the sense of putting to one side. We often cast things aside or put them away but at some future date we again reuse them. The same is true in our relationships with people; we may cast them aside but later we reestablish the relationship. Conversely, "*a cutting*" of a divorcement indicates a permanent severing of a relationship.

The word "*divorce*" appears one time in Scripture at Jeremiah 3:8 where God gave the House of Israel a divorce. However, this word is Strong's (3748) and should also appear as divorcement. God gave them a "bill of divorcement." The word "*divorce*" is not used in the New Testament.

The Hebrew word "*kerithuth*" refers to the procedure (bill of divorcement) by which the marriage relationship is lawfully terminated. It is used only four times in the Old Testament, and each time it is used in the full phrase, "bill of divorcement" (Deut. 24:1-3; Isaiah 50:1; Jer. 3:8).

Greek - Divorcement

The Greek word is Strong's (647) "*apostasion*" (ap-os-tas'-ee-on) meaning something separative, divorce, writing of divorcement. From 868 meaning to remove. Motion or movement is connected with this word; hence the act or motion of writing a bill of divorcement.

The Greek word comes from Apo meaning "away from;" and stasis meaning "*title deed*," referring in this case to the written marriage contract. Each spouse "owns" the other by contract (see 1 Cor. 7:4). The Greek word "*apostasion*" signifies more than a mere separation, or "putting away." It is the lawful relinquishment of a title deed, effected by a written bill of divorcement.

God's law states that a bill of divorcement (*kerithuth*) must always accompany the act of separation, or "*putting away*"

(shalach or garash). Without such a written document, the act of putting away does NOT constitute a lawful divorce in the eyes of God, and the wife is not free to remarry.

Concluding then, the phrase "*put away*" refers to separation, a setting free, while the word "divorce," or more appropriately "*bill of divorcement*," refers to the actual termination of the marriage contract by written notice. Therefore a woman could be "put away," and as such, never be able to return to her husband, but under the law she was still bound to her husband. The "bill of divorcement" was the physical evidence of the putting away, and the putting away was not final until it was issued.

The fact that God allows not only a "*putting away*," but also divorce, shows that it cannot be a transgression of the law to get a divorce, so long as there is a **just cause** to cancel the marriage contract.

Thus we see that the two terms "*put away*" and "divorcement" are not synonymous, although by law they will always go together. If the two words meant the same thing, it would not have made sense to talk about putting away and divorcing in the same sentence like in Deut. 24:1. This point will take on great importance when we study Matthew 5:32.

CHRIST DID NOT BAN DIVORCE

In Mark 10:2-9 the Pharisees asked Christ if it were lawful to put one's wife away. Christ asked them, in turn, what Moses had said. They answered that Moses had commanded them to write a "*bill of divorcement*" and to put her away. Christ then replied:

"For the hardness of your heart he wrote you this precept."

He went on to explain that divorce did not follow the perfect order of creation that was set up at the beginning.

In other words, divorce is not a good thing, but because men's hearts are hard, it is necessary that provisions be made for handling broken marriage contracts. For the same reason, God provided for the forgiving of sins and instituted the death

CHRIST DID NOT BAN REMARRIAGE AFTER DIVORCE

Matthew 5:31-32 is by far the most important passage used by most people to prove that remarriage after divorce is adultery. It reads:

"It hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement;

"But I say unto you, that whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced committeth adultery."

As interpreted in the King James translation, it would appear that Christ positively condemned divorce and remarriage, making God's law inferior to moral standards. If divorce causes one to commit adultery, then divorce itself would be a transgression of the law, according to God's law. Remarriage too, would constitute adultery. However, neither premises are possible, because if true, both would result in the death penalty.

First of all, this passage is part of Jesus' "Sermon on the Mount," which is, for the most part, a commentary on Bible law. In verses 17-19 He disclaimed the idea that He was trying to destroy or undermine the Law. Further, He positively condemned those who would break the shortest commandment and teach others to do so. From this alone it should be clear that Christ did not abolish God's laws on divorce and remarriage.

Then in verse 20 Christ said that our righteousness must EXCEED that of the scribes and Pharisees. With that in mind, He began to give us examples of Bible law to show how they fell short of the Law's righteousness. They did not keep the true spirit of the Law and misinterpreted it in many ways.

1. Thou shalt not kill (vs. 21-26)
2. Thou shalt not commit adultery (vs. 27-32)
3. Thou shalt not bear false witness (vs. 33-37)
4. An eye for an eye (vs. 38-42)
5. Thou shall love thy neighbor as thyself (vs. 43-48)

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In each case the law in question is introduced with this format: *"It has been said (by the Pharisees) but I say unto you"* This is not to be construed to mean that Christ is putting away all of these laws, or that He is replacing each of them with something different or better. It is not the Law of God He is discrediting; it is the pharisaical interpretation of the Law that He is disagreeing with.

In other words, Christ did NOT put away the law on murder when He said, *"Thou shalt not kill.....but I say unto you..."* Nor did He make it lawful to commit adultery, so long as you don't look upon another with lust while you do it.

The purpose of the *"Sermon on the Mount"* was to improve upon the Law's interpretation and application. The true spirit of the law had been lost through the traditions of the elders. With that context in mind, and knowing that Christ did not come to destroy any law, let's look at Matthew 5:31-32 in greater detail.

Matthew 5:31-32

Before looking at the two verses in Matthew 5, a closer look at the inconsistency of the translation of the word *"apoluo"* (Strong's 630) is in order. *"Apuluo"* appears 93 times in the New Testament and was translated as follows:

- Away 15 times
- Release 13 times
- Go 12 times
- Put away 10 times
- Let 9 times
- Send 6 times
- Sent 5 times
- Released 4 times
- Put 3 times
- Loosed 2 times
- Depart 2 times
- Dismissed 2 times
- Set at Liberty 2 times

Divorced 1 time
 Sent Away 1 time
 Letteth 1 time
 Forgive 1 time
 Forgiven 1 time
 Putteth away 1 time
 Let go 1 time
 Departed 1 time

The majority of the meanings have the connotation of being released, let loose, put away, or to go. There is no sense of any degree of permanency in the use of these words. Just because we "go" somewhere does not mean that we will not return. Just because we "*put away*" something does not mean that we will not again take it back.

The two verses in Matthew 5 are a part of Christ's comment, "*Thou shalt not commit adultery*," so the final thrust of His comment is to define adultery in relation to the laws on divorce and remarriage. Verse 31 simply refers to Deut. 24:1, where God demanded that men give their wives a WRITTEN bill of divorcement before they could lawfully put away their wives. Verse 2, of course, allowed divorced wives to remarry after a lawful divorce.

So let us take another look at Matthew 5:31-32, inserting a few key words in the original Greek, so that we get a proper translation of the passage. Remember that the word used for "put away" is *apoluo* and the word for divorcement is "apostasion."

"It hath been said, whosoever shall put away (apoluo) his wife, let him give her a writing of divorcement (apostasion).

"But I say unto you, that whosoever shall put away (apoluo) his wife, saving for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced (apoluo - "put away") committeth adultery."

In the literal translation of the Texus Receptus, Matthew 5:31-32 reads as follows:

*"It was said also that whoever shall put away his wife, let him give to her a letter of divorce: but I say to you. That whoever shall put away his wife, except on account of fornication, causes her to commit adultery; and whoever her who has been **put away** shall marry, commits adultery."*

Fortunately, almost the same story is told in Matthew 19:7-9 where Christ stated:

*"And I say unto you, Whosoever shall **put away** his wife, except for fornication, and shall marry another, committeth adultery: and he that marrieth her when she is **put away** committeth adultery." Matt 19:9*

Interestingly, these usages of "*put away*" were translated from the same Greek word "*apoluo*" and neither time were they translated as "*divorce*." The same story is basically told in the Gospel of Luke where it is reads

*"...and whosoever marrieth her that is **put away** (apoluo) from her husband committeth adultery." Luke 16:18*

The literal translation from the Textus Receptus reads:

"Everyone who puts away his wife and marries another commits adultery; and everyone who her put away from a husband marries, commits adultery."

Please notice that the "*put away*" in this verse is not translated as "*divorced*;" yet the word in the Greek is identical with the word in Matt 5:31 where it has been translated as "*divorced*." While the translation found in the Textus Receptus is consistent, the King James Authorized is not. It is also interesting to note that the 1881 KJ ERV translates the Greek word as "*put away*" and the New Literal Concordant uses the word "*dismissed*" rather than divorced.

In Matthew and Luke, Christ was condemning men who put away their wives Babylonian style (verbally), instead of putting them away in the manner prescribed by God's law requiring a "*bill of divorcement*."

The whole point of Christ's commentary is to bring out a point of law that had not been covered by the Pharisees in their

interpretations. The Pharisees were, in fact, putting away their wives for any cause that suited their fancy. This conveniently absolved them of any further monetary liability in the marriage as the woman returned to her father's house as if the marriage never was.

But what of the phrase, "*Saving for the cause of fornication?*" What does this mean? Most people assume it means that if a wife commits adultery, then it is lawful to divorce her. However, it does NOT say, "except for the cause of ADULTERY." Remember, the penalty for adultery was death -- not divorce.

So what is meant by "fornication?" Why is it all right to **put away** one's spouse without divorce papers in case of fornication?

THE MEANING OF FORNICATION

Hebrew - Fornication

In Hebrew the word for fornication is "*zanab*" (zaw-naw), Strong's (2181), meaning highly fed and therefore wanton: to commit adultery; fig. to commit idolatry; (be an, play the) harlot; (cause to be, play the) whore; (commit, fall to) whoredom; (cause to) go a-whoring, whorish.

This word is used 93 times in Scripture and is translated as:

Harlot 33 times

Whoring 19 times

Whore 9 times

Commit whoredom 6 times

Whoredom 3 times

Harlots 3 times

Whorish 3 times

Committed 3 times

Harlot's 2 times

Commit fornication 2 times

Whores 2 times

Commit 2 times

Whoredoms 1 time

Whore's 1 time

Committed fornication 1 time

Commit whoredoms 1 time

Committed whoredom 1 time

Committest whoredom 1 time

Generally whoring, harlot, etc. is used of Israel who went a whoring after other gods, idols, heathen, etc.

Greek - Fornication

In the Greek several words are translated as "*fornication*" and they are:

"*Porneia*" (por-ni'-ah) (Strong's 4202) meaning harlotry (including adultery and incest) fig idolatry and comes from Strong's 4203

"*Porneuo*" (porn-yoo'-o) (Strong's 4203) meaning to act the harlot; indulge unlawful lust, to practise idolatry and is from Strong's 4204.

"*Porne*" (por'-nay) (Strong's 4204) meaning a strumpet; fig an idolater:- harlot, whore. It is the feminine of the word at Strong's 4205.

"*Pornos*" (por'-nos) (Strong's 4205) meaning to sell, a male prostitute, a debauchee (libertine):-- fornicator, whoremonger.

"*Ekporneuo*" (ek-porn-yoo-o) Strong's 1608) meaning to be utterly unchaste:- give self over to fornication.

The word "*fornication*" appears in Scripture 39 times as follows:

Fornication (4202) 24 times

Fornication (4203) 7 times

Fornicators (4205) 3 times

Fornications (4202) 2 times

Fornicator (4205) 2 time

Fornication (1608) 1 time

Fornication

The most common type of fornication is prostitution (Ex. 22:16). This is where a man has sexual relations with an unmarried woman, usually for a price.

However, the word "*fornication*" also covers other forms of unlawful sexual relations. In Hebrew's 12:16 Esau is called a fornicator; yet there is no record in Scripture of his buying the services of a prostitute. However, it should be noted that Genesis 26:34 does say that Esau married Hittite wives, and we know that it was unlawful to mix seed. Thus, it may be concluded that a marriage relationship other than "*kind with kind*" is classified as an unlawful marriage or fornication.

The term "*fornication*" is also used in 1 Cor. 5:1:

"It is reported commonly that there is fornication among you, and such fornication as is not so much as named among the gentiles, that one should have his father's wife."

Thus we see that Paul uses the term "fornication" to describe another unlawful marriage or sexual relationship that has been forbidden in Leviticus 18:7,8.

In Jude 7 we read of the people of Sodom and Gomorrah who had given themselves over to "*fornication*," going after "*strange flesh*." This, too, is obviously a sexual transgression of the law, and yet what is on record of their sexual tendencies is homosexuality, or "*sodomy*" (Gen 19:4-8).

Each of these examples has one thing in common: they are unlawful sexual relationships, and therefore, there is no LAW-FUL marriage contract to bind the two parties together. In other words, God did not recognize the "*marriage*" in the first place.

Thus, when Christ says it is always right to "put away" (separate without divorce papers) one's spouse in the case of fornication, the reason is quite obvious. Where there was fornication involved, there was no lawful binding marriage contract in the first place; therefore, no need to appeal to the Law to have it voided. A reading of the verses quoted earlier in Ezra will provide a vivid example of many women who were "*put away*" and there is no mention of any "*bill of divorcement*." A

like story is found in Nehemiah and there it simply states "*they separated (divided, sever out) from Israel all the mixed multitude.*" No mention of any bill of divorcement.

God does not recognize relationships which are homosexual, incestuous, or interracial as being lawful or constituting a marriage, even if the parties should agree to be married. Prostitutes do not agree to be married before having a relationship with a client; therefore, there is no need to draw up a bill of divorcement for a condition that never existed.

PAUL DID NOT BAN REMARRIAGE AFTER DIVORCE

Paul actually wrote that remarriage is NOT a transgression of the law in 1 Cor 7:10-11:

"And unto the married...let not the wife depart (chorizo) from her husband;

"But and if she depart (chorizo), let her remain unmarried (agamon), or let her be reconciled to her husband; and let not the husband put away (aphiemi, "to dismiss") his wife."

At first glance it might appear that Paul is speaking of divorce and remarriage. However, the Greek word apostasion (away from--title deed) does not appear here. Paul is not discussing divorce, but rather the problem of separation or the putting away. Verse 1 of this chapter introduces the subject:

"Now concerning the things whereof ye wrote unto me: It is good for a man not to touch a woman."

Thus, the subject of this discussion is whether or not to abstain from sexual relations and marriage itself. Paul had previously taught that, "It is good for a man not to touch a woman," but the Corinthian church had misinterpreted it to mean that sexual relations prevented Christians from attaining a truly spiritual life. Thus, the young people were being discouraged from marrying and some of the married couples were even separating.

Here, Paul simply corrects their error. He had told them it was good not to marry, it is true, but NOT because marriage itself was a transgression of the law or a hindrance to one's per-

sonal relationship to God. Rather, it was because of two things:

- (1) The "present distress" discussed in verse 26; and
- (2) To be able to devote more time and energy to spreading the Gospel (vs. 32-35).

In those days, like today, a man never knew if he were going to be imprisoned or executed and his family with him. So because of the dangerous political climate, it was a good idea not to marry, if a person could bear the incontinence. Imagine how difficult it would have been for Paul to travel as he did if he had been burdened with a wife and children to protect and support. In light of those times, it was an advantage to be unmarried -- so long as they had the gift of continence.

However, in verse 5 Paul makes it clear that it was not right for married couples to separate, or even to abstain from normal sexual relations, except during times of prayer and fasting:

"Defraud ye not one the other, except it be with consent for a time, that ye may give yourselves to fasting and prayer; and come together again, that Satan tempt you not for your incontinency."

Paul does tell unmarried people in verses 7-9 that if they can take a life of celibacy, they may do so; but if they do NOT have that gift, it is better to marry than to burn (with lust).

"And unto the married I command, yet not I, but the Lord, Let not the wife depart from her husband:

"But and if she depart, let her remain unmarried or be reconciled to her husband: and let not the husband put away his wife."

Paul then turns his attention to married couples, and especially to those couples who had already separated, thinking this was the spiritual thing to do. Paul's words in verse 10 are, *"Let not the wife separate from her husband."* Paul is saying that if the wife has separated from her husband there are only two alternatives open to her:

- (1) Remain agamos (unmarried), or
- (2) Be reconciled to her husband.

Most people are taught this means the wife should not divorce her husband, but if she does, she must remain single for the rest of her life, or else remarry her former husband. This cannot be true as the one thing a person cannot do is return to a previous spouse once one of the two has remarried. The context of the above passage is referring to the problem of separation rather than divorce, which should be plain to everyone because the Greek word apostasion is not used. The word that is used is agamos, and agamos means "unmarried" or separated.

The way verse 11 is translated in the King James version, most assume it to mean, "*Let her remain in the unmarried STATE.*" However, it is more likely to mean, "*Let her not get married to anyone else,*" since she is only separated from her husband.

In other words, let the wife not separate from her husband, thinking that this is pleasing to God. But if she does, she should not get married to anyone else, because she is still under contract with her original husband.

Later in the same chapter, Paul does deal with the question of divorce and remarriage. He does not use the technical words for divorce and remarriage, but rather the descriptive terms, "*bound*" and "*loosed*." To be bound by law is to be married by contract; and to be loosed by law is to be divorced. For example, 1 Cor 7:27- 28 reads:

"Art thou bound (by law) unto a wife? Seek not to be loosed (from the bonds of marriage). Art thou loosed from a wife? Seek not a wife.

"But and if thou marry, thou hast not sinned; and if a virgin marry, she hath not sinned."

Few verses are plainer than these. If you are married, do not seek a divorce. If you are divorced, do not seek a wife, because of the "*present distress*" mentioned in verse 26. But if you do marry, YOU HAVE NOT SINNED; and if a virgin marry, she has not sinned either. Verse 28 is very interesting in that the latter part of the verse is directed to virgins which would indicate that the first part of the verse would be directed to non-

virgins. A strange way to word a verse if something else was intended. If they were non-virgins, hopefully they got that way from a previous marriage from which they were put away and divorced.

In any event, Paul says remarriage after a divorce is NOT a transgression of the law. Therefore, divorce and remarriage is NOT adultery.

THE DEVELOPMENT OF AMERICAN LAW ON DIVORCE

Divorce was entirely unknown to the courts of the common law in England until long after the latest date at which the American law diverged from the parent system. The only divorce from the bond of marriage was given by the legislative power by a private bill in each case. Blackstones' Commentaries, Book I, Section 594.

The "in each case" referred to was one of two types of divorces. The divorce could be total, or simply from bed and board (put away). Obviously early English law was patterned after the law in Scripture.

In England, divorces were handled by ecclesiastical courts, for which there never have been any provisions in this country. The courts in this country probably refused to hear divorce cases until there was some statutory authority because:

"It (the state) may not require anything forbidden by Christianity, but it may forbear to enact many things which Christianity requires." Blackstone's Commentaries, Book I, 441, note 3.

No court would want to determine what was or was not forbidden by Christianity.

The jurisdiction in the United States over the status of marriage is almost entirely statutory. It has been held, however, that the court of chancery, by virtue of its inherent equity powers, has jurisdiction to declare marriages null on the ground of fraud, mistake, or defect of mental capacity. *Clark v. Field*, 13 Vt 460; *Ferris v. Ferris*, 8 Conn 166;

Blackstone states:

"The civil law, which is partly of pagan origin,..."
Blackstone's Commentaries, Book I, 441.

It makes sense that since the civil law is a statutory law and a form of law in direct contradistinction to the common law (unwritten law), it is pagan in form.

CONCLUSION

We have seen, then, that not only did the Code of Hammurabi permit divorce and remarriage, but so did God's law. The main difference was the legal procedure of obtaining a proper divorce in order to protect the woman involved. We have also seen how Christ added teeth to God's law by proclaiming that he who puts away his wife without a written "bill of divorcement" causes her to commit adultery. Finally, we have seen how the Apostle Paul also understood that remarriage after divorce is not a transgression of the law.

In addition, it should be clear that early English and American traditions and customs pertaining to divorce were based upon the law in Scripture.

However, somewhere in early American history, legislative bodies began passing statutes pertaining to marriage and divorce, placing everyone into a civil law jurisdiction (alien, foreign, and pagan jurisdiction) from the moment the marriage license is applied for, filled out, and signed.

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WHY THE DIFFERENCE?

"It hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement:

"But I say unto you, That whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery: and whosoever shall marry her that is divorced (put away) committeth adultery." Matt 5:31-32

"And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery." Matt 19:9

"Whosoever putteth away his wife, and marrieth another, committeth adultery: and whosoever marrieth her that is put away from her husband committeth adultery." Luke 16:18

