

# Divorce and Remarriage-After-Divorce in Jesus and Paul: A Response to David Instone-Brewer

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[N.B.: An abridged version of the following was originally written for my chapter on “Sexuality” (pp. 449-64) in *The Oxford Handbook of Evangelical Theology* (New York: Oxford University Press, 2010) but could not be included owing to space limitations. Readers should regard this as an extension to the “Sexuality” chapter.]

Evangelicals have been softening their stance on divorce-and-remarriage for decades but a recent, well-researched book by evangelical scholar David Instone-Brewer, *Divorce and Remarriage in the Bible*, may be speeding up the process.<sup>1</sup> Instone-Brewer argues that Jesus did not oppose all divorce but only the “any matter” or no-fault divorce promulgated for men by the Hillelite (not Shammaite) branch of the Pharisees. Jesus and Paul assumed the universally accepted grounds for divorce in early Judaism reflected in the marriage contracts of the day: not only adultery but also failure to comply with the three marital obligations specified in Exod 21:10-11 (food, clothing, and conjugal rights).<sup>2</sup> The latter three were grouped in rabbinic sources as material neglect (withholding food and clothing) and emotional neglect (withholding sexual relations, perhaps widened already in the first-century to acts of cruelty and public humiliation). According to Instone-Brewer, Jesus and Paul held that both a person who divorces on valid grounds and a person who is divorced on invalid grounds are free to remarry.

In my opinion, Instone-Brewer has made the best scriptural case, not only to date but also for the foreseeable future, for broadening the grounds for divorce and remarriage-after-divorce beyond the grounds of adultery, extreme physical abuse, and desertion that are normally accepted in evangelical churches. Many evangelicals have rushed to accept this interpretation of New Testament divorce texts—no doubt, partly on humane grounds, partly out of self-interest, and partly as a way of accommodating to the high divorce rate among evangelicals.

What is at stake here? The practical implications of Instone-Brewer’s argument could be far-reaching. The broad classification of “material or emotional neglect” could be

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<sup>1</sup> *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002). The book has received great fanfare, with the author writing both an op-ed piece in *The Wall Street Journal* (“Evangelical Separation Anxiety,” Apr. 6, 2007 [2 pgs.]) and a cover article in *Christianity Today* (“[What God Has Joined](#),” Oct. 2007, pp. 26-29). On his website at [www.instonebrewer.com](http://www.instonebrewer.com) one can view not only the *WSJ* and *CT* articles but also a plethora of both academic and non-technical articles by Instone-Brewer related to the subject, video presentations, and Instone-Brewer’s responses to readers’ questions and comments. Dr. Instone-Brewer and I are friendly acquaintances who appreciate each other’s scholarship. We corresponded briefly in 2004 and then extensively in Oct.-Nov. 2007. Our e-mail exchanges on the subject of divorce and remarriage in the New Testament ran a total of about 40 single-spaced pages.

<sup>2</sup> Note that the case for regarding refusal of conjugal rights as sufficient grounds for divorce in the first century is much shakier than the case for food and clothing.

misused to permit divorce for almost anything. Indeed, Instone-Brewer himself recommends that pastors not investigate the circumstances of a person's divorce as a precondition to officiating at a remarriage. So long as the divorced person expresses repentance for breaking marriage vows the pastor can remarry the divorced person, whatever the circumstances of the divorce. While acknowledging that Jesus rejected the "any matter" divorce of the Pharisaic followers of Hillel, Instone-Brewer appears for all practical purposes to end up with "any matter" divorce for Christians or something very much like it.

As fraught with difficulty as these practical implications may be, my primary concern here is with the question of whether Instone-Brewer correctly understands the positions of Jesus and Paul on divorce and remarriage. I will focus here on three major problems with Instone-Brewer's reading (there are others).

### *I. Jesus on Divorce and Remarriage-After-Divorce*

First, Instone-Brewer's thesis runs up against the specifics of Jesus' treatment of the hardest case for a prohibition of remarriage after divorce: the future of a woman invalidly divorced. According to the "Q" tradition in Matt 5:32b par. Luke 16:18b<sup>3</sup> Jesus stated that a man who "marries a released woman [i.e. a woman divorced by her husband] commits adultery."<sup>4</sup> The wording indicates that Jesus had in view a woman whose husband had divorced her for insufficient cause. For if she were divorced on valid grounds, how could a man who subsequently married her be committing adultery? Adultery is only possible on the assumption that her original marriage is still intact. Therefore, she must have been divorced on *invalid* grounds, whether because all divorce is invalid or because (as Instone-Brewer believes) she was divorced for some other cause than adultery or (perhaps) serious material or emotional neglect. She was not at primary fault for the divorce: she neither initiated the divorce nor engaged in behavior that would justify her husband divorcing her. Yet any remarriage that she might want to contract remains inhibited by the characterization of any man who marries her as an adulterer.

Similarly, according to Matt 5:32a (which may represent the original Q tradition), Jesus stated: "everyone who releases [i.e. divorces] his wife ... makes [or: causes] her to commit adultery."<sup>5</sup> The ellipse above is filled in by Matthew's famous "exception

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<sup>3</sup> Q (for German *Quelle*, "source") is the designation that scholars give to the "double tradition": material (mostly sayings of Jesus) found in Matthew and Luke but not in Mark and commonly thought to designate a written source for these two Gospels.

<sup>4</sup> That the husband in this case is the initiator of the divorce is evident, first, from the use of the passive feminine participle *apolelumenēn* ("a released/divorced woman, a divorcee") to describe the woman; and, second, from the fact that Jewish law gave the right of divorce only to the husband (though a woman could petition a Jewish court to force her husband to divorce her).

<sup>5</sup> The parallel in Luke 16:18b reads instead: "everyone who releases [i.e. divorces] his wife *and marries another commits adultery*." Despite the fact that the International Q Project regards Luke's version of the saying as the original Q text, it is more likely (with the ICC Matthew commentary by Dale Allison and W. D. Davies) that Matthew's version reproduces Q, for two reasons: (1) Luke's version appears to be formulated from Mark 10:11 ("... and marries another commits adultery against her") which Luke otherwise (along with the rest of Mark 10:2-12) does not reproduce. (2) Matthew shows no aversion to the formulation in Mark 10:11a given that he reproduces it in whole in Matt 19:9. So if his Q version had read "... and marries another commits adultery" there is no discernable reason for Matthew to have altered it.

clause”: “other than [or: except] for a matter of sexual immorality (*porneia*).”<sup>6</sup> This addition by Matthew makes clear that he understands the case in question as a man’s divorce of his wife on *invalid* grounds. A woman divorced on grounds of sexual immorality has *already* made herself an adulteress before she remarries; the divorcing husband cannot make her into an adulteress. So Matthew was addressing a case where the woman had not committed adultery and thus, presumably, had done nothing to justify being divorced. This is confirmed by the fact that she could only commit adultery when remarrying if her original marriage was presumed to be still intact.

In Instone-Brewer’s view, an invalidly divorced woman is free to remarry since divorcing one’s wife against her will and without substantial grounds is tantamount to extreme material and emotional neglect—in short, abandonment (and adultery if her husband remarries). Yet Jesus here states that a woman who remarries after being divorced without just cause commits adultery, adding that men who marry such women commit adultery (thereby essentially directing men not to marry the female victims of divorce). If Jesus were saying that the moral guilt for remarriage lies *solely* with the husband who unjustly divorced his wife and that the victimized divorcee should not be penalized, then he expressed himself very badly indeed—even by loose sermonic standards.<sup>7</sup>

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Another option is to understand Matthew’s version as the original Q text but to read the passive verb *moicheuthēnai* as “to be committed-adultery-against,” i.e., “to be victimized by (the) adultery (of her ex-husband)” —a reading that would have the advantage of making the same basic point as Luke’s (and Mark’s) version. The problem, though, is that, consistent with ancient Greek generally, extant Jewish Greek texts always use the passive of *moicheuō* in an active sense when a woman is the subject (Lev 20:10 [LXX]; Sir 23:23; Philo, *Decal.* 124; Josephus, *Ant.* 7.131; cf. John 8:4; Aristophanes, *Pax* 980; Aristotle, *Hist. Animal.* 586a.3; 619a.10; Chariton 1.4.6; Achilles Tatius 6.9.7). The passive voice here denotes the more passive sexual role of the female in an adulterous relationship; in effect, “becomes a woman with whom a man commits adultery.” So, all in all, it seems likely that the original Q text stated that “every man who divorces his wife causes her to commit adultery” when she remarries as she would almost invariably do in first century Judaism.

<sup>6</sup> That this is Matthew’s addition to the Q text is evident from the fact that he adds a similar exception clause when he reproduces Mark 10:11: “not for sexual immorality.”

<sup>7</sup> Instone-Brewer’s response to my argument (as indicated in e-mail correspondence) is that one shouldn’t press the point about the immorality of remarriage for an invalidly divorced woman. Jesus, he argues, is speaking here, as with the antitheses in Matt 5:21-48 generally, in a Jewish sermonic style loaded with exaggeration and hyperbole. Jesus doesn’t mean that the man in question is literally or legally committing adultery (with civil penalties attached) when he marries an invalidly divorced woman but rather that he is committing adultery at most only in a virtual or moral sense (with guilt before God but no civil penalty).

In my view, this response by Instone-Brewer is inadequate. The setting for Jesus’ discussion of divorce in Mark 10:2-12 par. Matt 19:3-12 is more like a halakhic (legal) debate than a haggadic or sermonic message. Matthew’s inclusion of an exception clause in both 5:32 and 19:9 also suggests a halakhic (not haggadic) mode. Luke, for his part, does not appear to treat the Q saying in Luke 16:18 as a piece of exaggerated sermonizing but rather as a ruling by Jesus that safeguards the sanctity of God’s law against human efforts at self-serving manipulation.

Moreover, even the instances of hyperbole in the antitheses still depict the behaviors in question as sinful: anger is tantamount to murder, looking at a woman lustfully is tantamount to adultery, and one should pluck out one’s eye or cut off one’s hand if it leads to one’s spiritual downfall (not literally so but as a metaphor for avoiding such behavior at all costs). So if Jesus asserts that it is sinful (i.e., tantamount to adultery) (1) for a man to marry an unjustly divorced woman and (2) for an invalidly divorced woman to remarry, what else could his point be but that a man should not marry a divorced woman of any kind and a divorced woman of any kind should not remarry?

## II. Jesus on Creation and the Law of Moses

A second major problem with Instone-Brewer's thesis lies with the premise that Jesus' stance on the grounds for divorce must comply with the law of Moses (specifically, the allowance for divorce in Exod 21:10 as regards cases of material and conjugal neglect). The problem here is that both Mark and Matthew present Jesus in a different light in his controversy with the Pharisees (Mark 10:2-12 par. Matt 19:3-9). There Jesus *overrides* Mosaic law with an appeal to a higher standard set by God at creation (Matt 10:2-12 par. Matt 19:3-9).

Jesus could have said that he preferred a strict interpretation of the phrase '*ervath davar* in Deut 24:1 ("a nakedness of a thing," "an indecency of some sort" understood as adultery—the Shammaite interpretation) over a loose interpretation (understood as anything that the husband might find objectionable about his wife—the Hillelite interpretation). In other words, he could have kept the debate within the law of Moses. But he didn't. Instead, even in Matthew's version (which Instone-Brewer favors over Mark's), Jesus *contrasted* what Moses permitted with what God implicitly disallowed in Gen 1:27 and 2:24: "Moses, with a view to your hardness of heart, permitted you to release [i.e. divorce] your wives; *but from the beginning it has not happened in this way* [or: it was not so]" (Matt 19:8).<sup>8</sup> "So they [i.e., the man and woman joined in marriage in Gen 2:24] are no longer two but one flesh. What then God yoked together a human must not separate. . . . Whoever releases [i.e. divorces] his wife—not for sexual immorality [adds Matthew]—and marries another commits adultery" (Matt 19:6, 9; cf. Mark 10:8b-9, 11). For Jesus, God's will in creation trumped subsequent relaxations of that will, including deviations in Scripture found in the law of Moses.

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Instone-Brewer's other retort is to say that such a view punishes the wrong person and "God does not do that." Yet this retort comes close to operating on the false premise that "sexual starvation" is a greater consideration than sexual purity. It presumes, against Jesus' apparent meaning, that it is more important that a person be given another opportunity to have a sexual partner than it is to remain faithful to one's original spouse (even when the latter has not been a good spouse). It also wrongly arrives at an historical conclusion on the basis of the modern interpreter's own standards of what is permissible. I admit that Jesus' words about not marrying an invalidly divorced woman are hard. Yet it would not be the first time that Jesus said something hard. Jesus directed his followers to take up their cross, deny themselves, and lose their life (Mark 8:34-37 par.; Matt 10:39 par. Luke 17:33; Matt 10:38 par. Luke 14:27 [cf. *Gos. Thom.* 55:20]; John 12:25). He told followers that if a body part threatened their spiritual downfall they should cut it off or tear it out because it was better to go into heaven maimed than to be sent to hell full-bodied (Mark 9:42-48 par.; a saying that Matthew at least connected to sexual offenses: Matt 5:29-30). He told his male followers that having lustful thoughts toward a woman was an adultery committed "in his heart" (Matt 5:27-28). Jesus insisted his call superseded family obligations (Matt 8:21-22 par. Luke 9:59-62; Matt 10:37 par. Luke 14:26 [cf. *Gos. Thom.* 55, 101]). Some should even abstain from marriage and sexual relations altogether (Matt 19:11-12). He required his followers to love their enemies (Matt 5:38-48 par. Luke 6:27-36) and demanded that they grant forgiveness to those who claimed repentance even after an extraordinarily high number of offenses and relapses (Luke 17:3-4 par. Matt 18:21-22). Jesus prohibited his followers from taking oaths (Matt 5:33-37). With respect to money and possessions, Jesus warned his disciples not to lay up treasures on earth and enjoined at least some of them to sell their possessions (Matt 6:19-21 par. Luke 12:33-34; 14:33; Mark 10:17-27 par.). He forbade the charging of interest (Matt 5:42; cf. *Gos. Thom.* 95). He called some of his disciples away from their professions (Mark 1:16-20 par.; 2:14 par.). He sent out missionaries without food and money and with only one tunic, instructing them to survive from the generosity of those to whom they proclaimed the gospel (Mark 6:8-10; Matt 10:9-12; Luke 9:3-4; 10:7). A hard saying about divorce and remarriage fits the general profile of Jesus in the Gospels.

<sup>8</sup> Cf. Mark 10:6 "but from the beginning of creation" and Matt 19:4 "the Creator from the beginning."

Although Matthew's use of an exception clause, "not for sexual immorality," establishes for Instone-Brewer that Jesus is merely adopting the stricter (Shammaite) reading of *'ervath davar* in Deut 24:1, Matthew does not present Jesus as saying: "Moses permitted you to divorce your wives but only on the grounds of sexual immorality." For Matthew, it was not a question of the Pharisees misinterpreting Moses but rather of God now revoking the concession granted by Moses to male "hardness of heart." This is consistent with Matt 5:32 where Jesus' teaching about divorce is contrasted ("but I say to you") with the permission to divorce in Deut 24:1.<sup>9</sup>

Instone-Brewer responds that Jesus could not be abolishing the moral law of Moses. I think a better term than "abolish" here would be "fulfilling by going beyond." Moses does not command divorce; he only permits it. It is thus not a direct violation of the law to revoke one of its permissions; no boundary is crossed. Jesus is rather closing loopholes in the law in order to make it more internally consistent with God's pre-Fall will for humanity. Instone-Brewer himself acknowledges as much when he states that Jesus cancelled Mosaic permission to men regarding polygyny (multiple wives). Indeed, we find just such a cancellation among the Essenes in a context where they insist on rigorous fidelity to the law of Moses.<sup>10</sup> It is a characteristic feature of Jesus' teaching to demand more than what the law explicitly demands.

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<sup>9</sup> To be sure, Instone-Brewer reads Matt 19:8 differently. For him "with a view to our hardness of heart" (*pros tēn sklērokardian humōn*) echoes Jer 4:4 (LXX) where the word *sklērokardia* (a Septuagint invention) refers in context to an unfaithful spouse who stubbornly refuses to repent of her adulteries (cf. Jer 3:1, which images Israel as an unfaithful wife and echoes Deut 24:1-4; also Jer 3:17, 20). In other words, the "hardheartedness" alludes not to the one doing the divorcing but the one whose unrepentant infidelities necessitate the divorce. Instone-Brewer then understands the "it" of the clause "but from the beginning it was not so" to be this human hardheartedness, not Mosaic permission for men to divorce their wife. The entrance of sin into the world necessitated that God permit divorce in extreme circumstances. If it were not for human sinfulness there would be no need for divorce.

However, this interpretation of Matt 19:8 will not work.

First, as regards the phrase "with a view to your hardness of heart," "your" must refer in context to husbands who divorce their wife, given the following two second-person plurals ("permitted you to divorce your wives"), not to the wives who are impenitently adulterous. Jesus is clearly addressing men throughout 19:3-9. A better Old Testament parallel than Jer 4:4, then, is Mal 2:14, which refers, just before a possible allusion to Gen 2:24, to "the wife of your youth, to whom you have been faithless [in divorcing her], though she is your companion and your wife by covenant." "Your hardheartedness" in Matt 19:8 par. Mark 10:5 refers to husbands who stubbornly persist in the evil of divorcing their wives (at least on grounds other than adultery), thereby rebelling against God's will for marital permanence established at creation.

Second, the phrase "but it has not happened in this way" must contrast with the whole preceding action, not just the prepositional phrase "because of your hardness of heart." The phrase "from the beginning" also precedes the citation of Gen 1:27 and 2:24 in both Matt 19:4 and Mark 10:6. What was "from the beginning" was God's design for marriage as a "one flesh," "yoked-together" indissoluble union between "male and female," man and woman. The contrast is with the whole action of Moses *permitting* men to divorce their wives because of their hardheartedness. Jesus is no longer allowing hardheartedness to be an excuse for permitting men to divorce their wives, inasmuch as he regards the excuse as trumped by God's creation will.

<sup>10</sup> Instone-Brewer himself notes that the Essenes rejected polygyny in Israel based on their understanding of Gen 1:27. They rejected "taking two wives in their lives" because "the foundation of creation is 'male and female he created them' [Gen 1:27]" and because "those who entered (Noah's) ark went in two by two into the ark [Gen 7:9]" (*Damascus Covenant* 4.20-5.1; note that the phrase *zākār ûnēqēvâ*, "male and female," appears outside of Gen 1:27 only in Gen 5:2, a restatement of Gen 1:27, and in the Noah's ark narratives, alongside of the "two by two" directive: Gen 6:19; 7:3, 9, 16).

### III. Paul and Remarriage-After-Divorce

A third major problem in Instone-Brewer's thesis is his interpretation of Paul's remarks in 1 Cor 7. In vv. 10-11, Paul delivers to the Corinthians a charge that he derived from "the Lord," namely, "for a wife not to be separated from a husband ... and for a husband not to send away [i.e., divorce] a wife." In between these two clauses Paul adds parenthetically, perhaps echoing Jesus' words against remarriage: "but even if she is separated, *she should remain unmarried* or be reconciled to the husband." This parenthetical remark suggests a general principle: a divorced woman should not remarry anyone other than her original husband.

However, Instone-Brewer argues that Paul is referring to the specific case of Greco-Roman divorce-by-separation where neither grounds for divorce (as in Hillelite "any matter" divorce) nor even a divorce certificate was needed. In Instone-Brewer's thinking Paul would thus be rejecting remarriage only for spouses who divorce without valid grounds (i.e., whose spouse had not committed adultery or been guilty of material or emotional neglect). However, Paul nowhere indicates such a limitation to the principle of "no remarriage."<sup>11</sup> Indeed, there is every indication in 1 Cor 7 that Paul was responding to a community predisposed to abstain from sexual relations in marriage (7:1-7), break engagements (7:25-28, 36-38), and even dissolve existing marriages (7:12-16). Paul had to have known that an unqualified statement about divorced spouses "remaining unmarried" would have been construed by the Corinthians as just that: unqualified.

Instone-Brewer's entire case for remarriage of divorced persons, so far as New Testament texts are concerned, ultimately rests on 1 Cor 7:15: "But if the unbeliever separates, let that one separate. The brother or sister has not been enslaved [i.e., is not bound] in such circumstances." According to Instone-Brewer, since the phrase "has not been enslaved" is similar to the provision in Jewish divorce certificates and most Greco-Roman ones about being "free to marry any man you wish," Paul's words would have meant to the Corinthians that they were free to remarry if their spouse was determined to divorce.<sup>12</sup>

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<sup>11</sup> The fact that Paul speaks only about the woman not remarrying may indicate a specific situation at Corinth where a Christian woman has already separated from her husband (due to her husband's adultery?). But, if so, it does not follow that the principle of "no remarriage" is restricted to a woman who has separated from her husband for invalid grounds, particularly since Paul is in context referring to Jesus' own charge and Jesus (as we have seen) appears to reject remarriage even for women divorced on invalid grounds.

<sup>12</sup> Instone-Brewer raises four other arguments for Paul's approval of some instances of divorce (in addition to the obvious instance of a marriage to an unbeliever who insists on separating [7:12-16]) and remarriage after divorce. In my view none of these arguments is particularly compelling.

(1) Instone-Brewer cites Paul's remarks in 7:3-6 about withholding sexual relations only for a limited time as evidence that Paul believed that neglect of conjugal rights was grounds for divorce. Yet Paul never offers this circumstance as grounds for divorce and, indeed, it would have cut against the grain of his argument in ch. 7 for him to have done so. The point of the discussion in ch. 7 is to emphasize that, as regards singleness and marriage, believers should remain in the condition that they find themselves at the time of their Christian calling. Where there are exceptions to this rule he makes the exceptions clear (as in the case of marriage to an unbeliever who insists on leaving, 7:12-16; or in the case of a single person who cannot control sexual passions, 7:9, 36). Instone-Brewer claims that Paul doesn't have to say explicitly that refusal of conjugal rights is grounds for divorce inasmuch as it was stated in marriage contracts and could be assumed. However, this begs the question whether Paul regarded the demands on Christians as greater than what marriage contracts in Jewish and Greco-Roman society stipulated. Clearly Paul (following Jesus)

There are two chief problems with this assumption.

First, given that Paul does use the expression “free to be married to the one whom she wants” later in 7:39 when discussing the case of a widow, it is odd that Paul does not use the expression in 7:15 if that is what he intended. Remember that the Corinthian believers were not disposed toward marriage at all. They were counseling others *not* to marry. They wouldn’t likely presume that Paul intended to say that remarriage was possible unless Paul spelled it out. It is certainly conceivable that Paul meant by “has not been enslaved” no more than that believers were not bound to persist in efforts at reconciliation with an unbelieving partner. Instone-Brewer claims that such an interpretation would be “meaningless . . . because there was nothing one could do about reversing the separation, other than pestering one’s former partner to return.”<sup>13</sup> But this conclusion ignores the first line in 7:15 where Paul enjoins the believing spouse: “But if the unbeliever separates, *let that one separate*.” If it is meaningless for Paul to tell the believing partner in such circumstances not to persist in efforts to stop the separation, why is Paul issuing a command to that effect?

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was more stringent on some matters even in relation to the Old Testament and certainly as regards sexual behavior. We don’t even have evidence that the early rabbis ever granted divorce for refusal of conjugal rights (they rather seem to have imposed fines *ad infinitum*). Only one of nine Jewish marriage certificates that have survived from the first few centuries (C.E.) contains a reference to conjugal rights. So the evidence for Paul granting a divorce based on withholding sexual relations, much less other forms of emotional neglect, is weak.

(2) Instone-Brewer states that Paul’s remarks in 7:33-34 about married person being concerned about pleasing their spouse and about “the things [or: affairs] of the world” indicate that Paul viewed material neglect as adequate grounds for divorce and remarriage. However, the citation of 7:33-34 to prove this point is at least as tenuous as the citation of 7:3-5 with reference to emotional neglect. In fact, Paul’s remarks about “those who have wives living as though they had none” in view of the passing away of “the form of this world” (7:29-31) suggest that he believed that spouses should be prepared to experience extreme deprivation of material provision.

(3) In 7:27-28a Paul says: “Have you been bound to a woman? Don’t be seeking release. Have you been released from a woman? Don’t be seeking a woman. But even if you marry, you have not sinned, and if the virgin marries, she did not sin.” That Paul means here “have you been released from (engagement to) a woman?” and not also “. . . from (marriage to) a woman” is indicated by two things: the parallel mention of “the virgin” in v. 28a (which suggests that the men addressed were likewise previously unmarried); and the fact that the whole of 7:25-38 treats the issue of whether men engaged to be married should break the engagement.

(4) Instone-Brewer cites 7:39 to contend that the similarity between Paul’s statement that a widow “is free to be married to the one whom she wants, only in the Lord” is so similar to the clause in Jewish divorce certificates (“You are free to marry any Jewish man you wish”) that Paul probably derived this permission to widows from the freedom that a divorced Jewish woman had to remarry. However, the argument does not follow. In the divorce sayings of Jesus the problem with a divorced woman remarrying is that the original marriage is still intact in God’s eyes, making the remarriage an act of adultery. This principle of virtual adultery obviously does not apply in circumstances where one’s spouse has died, as Paul himself makes clear here in 7:39 (“a woman has been bound for as long a time as her husband lives,” a point restated in Rom 7:1-3). Paul predicates the right of the widow to remarry on the death of the first husband, not on some putative right to remarry after divorce. The right of widows to remarry is not contested by Jesus and Paul; there are no restrictions placed on that right other than that the widowed person marry a believer. By contrast, the right of divorce-and-remarriage is very much contested by Jesus and Paul. This comes across clearly in the juxtaposition of 1 Cor 7:8-9 and 7:10-11: It is good for widows to remain single but if they lack self-control it is better for them to marry. But (*de*) as to the married the Lord commands that a wife should not be separated from her husband (and, if separated, should remain unmarried or be reconciled) and the husband should not send away his wife.

<sup>13</sup> *Divorce and Remarriage in the Bible*, 201.

Second, even if Paul meant by “has not been enslaved” the possibility of remarriage (I believe that there is an even chance of this), it is not likely that Paul extended this permission beyond marriage to an unbeliever. The Old Testament provides precedents for the dissolution of marriages to pagans (e.g., Num 25; Ezra 9-10). Paul insists in 7:39 that, if the widow remarries, she marries “only in the Lord.” Paul explicitly switched topics in 7:12-16 to the specific circumstance of marriage to an unbeliever, as is clear from the introductory phrase in 7:12, “Now to the remaining persons.”<sup>14</sup> Five times in 7:12-15 Paul makes specific mention of the “unbelieving” (*apistos*) spouse. Paul’s remarks in 7:14 about both the unbelieving spouse being “made holy through” the believing spouse and the holiness of the offspring that result from such a bond are indicative both of Corinthian assumptions that such marriages are not binding and of Paul’s effort at integrating the special circumstance of a mixed marriage into his overall principle in 7:10-11 that the married should stay married. The question in 7:16 about saving one’s unbelieving spouse, however it is to be interpreted, underscores the special problem of marriage to an unbeliever: he or she is not part of the redeemed community. So the content of 7:12-16 gives indication that the subtext is the question: *Does marriage to an unbeliever count as a real marriage? Do the rules that apply to a marriage between believers also apply to such a union?*<sup>15</sup>

Paul’s answer to the question is a mixed one. On the one hand, he argues that the presence of a believer in the union is enough to sanctify the union as a whole, that is, make it serviceable for God’s use. On the other hand, Paul’s remark in 7:15 about the believing spouse not being “enslaved *in such circumstances*” is probably conditioned in part by *the particular circumstance* of marriage to an unbeliever.<sup>16</sup> I don’t think that Paul has developed here a “*general principle . . . that a man or woman who has been divorced against his or her will should be free to marry.*”<sup>17</sup> I think that, at most, Paul has developed a specific principle for the circumstance when one is unequally yoked to an unbelieving pagan spouse who insists on leaving.<sup>18</sup> Paul probably knew Jesus’ statement that even an

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<sup>14</sup> “Now to the remaining persons [or: remaining items; either way in contrast to “those who have married” believers in 7:10] I say, not the Lord: If any brother has an unbelieving wife . . .” (7:12). There would be little reason for Paul to limit his remarks to those married to unbelievers if he intended his remarks to apply as well to a marriage between believers. He could have just kept going with his address “to those who have been married,” merely adding that if the spouse separates, believing or not, the believer “has not been enslaved.” When Paul says, “I say, not the Lord,” he means the special circumstance of marriage to an unbelieving “pagan,” which Jesus never addressed, and not the question of whether a believer is permitted remarriage if divorced for invalid reasons.

<sup>15</sup> The question is not just: Aren’t unbelieving spouses more inclined to leave on invalid grounds? The issue is deeper: Does a marriage with an unbeliever have *any* legitimate standing before God?

<sup>16</sup> This supposition is confirmed by the following verse, which treats the question of whether the unbelieving spouse can be saved by the believing spouse’s staying in the marriage.

<sup>17</sup> *Ibid.*, 204; emphasis added.

<sup>18</sup> Instone-Brewer’s response is that, far from making a distinction between the validity of a mixed marriage and a marriage between two Christians, Paul appears to be contending for precisely the opposite against some Corinthians who want to divorce their unbelieving spouse. I agree that Paul is arguing in 7:14, against the Corinthians, that the presence of one believing spouse is enough to sanctify the whole marriage. However, this is not the same as stating that Paul regarded such a union as of equal validity in all respects with a union of two believers. The fact that Paul insists that one ought to marry only someone “in the Lord” (7:39) indicates that he does not see a mixed marriage as having equal validity in all respects. God can use a mixed marriage, to be sure, if the unbelieving partner wishes to stay. But it is not hard to imagine that Paul saw the bond between a believer and unbeliever as only half worth the preserving in comparison to a



invalidly divorced woman commits adultery when she remarries. Indeed, he probably alludes to it in 7:11 when he says: “But if also she is separated, let her remain unmarried or be reconciled to her husband.”

Instone-Brewer believes that remarriage is possible for believers who initiate a divorce on valid grounds (adultery, material or emotional neglect), whether the spouse is a believer or not. Yet even if the phrase “has not been enslaved” in 7:15 allowed for remarriage (by no means certain), and even if it were applicable equally to marriage to a believer (very unlikely), the phrase still would provide no support for a believer *initiating* divorce. Paul is explicit here that a believer is not to leave a mixed marriage if the unbelieving spouse is amenable to living in the same house (7:12-13).

#### *IV. Other Considerations*

Instone-Brewer’s case for expanding Christian options for believers to divorce and remarry after divorce is not helped by the fact that, by his own admission, “the general consensus” of the Church Fathers was that “marriage is indissoluble except by death, though husband and wife can separate ‘from bed and hearth’ if either commits adultery.”<sup>19</sup> Only “Ambrosiaster” is recorded as allowing remarriage for a divorced person and even then only for a man who had divorced an adulterous wife. Others, such as Epiphanius and Augustine, viewed the remarriage of someone who divorced on the grounds of adultery as a lesser sin. On the whole I think that the Church Fathers understood the witness of Jesus and Paul.

Whether Jesus would have adopted an exception for adultery as Matthew thought, I do not know. I doubt that he would have permitted separation for anything less than adultery that was both persistent and unrepentant, given his teaching on forgiveness (Matt 6:14; 18:15-35) and the message of the six antitheses in Matt 5:21-48 (including the antitheses about not being angry, keeping one’s vows, turning the other cheek, and loving one’s enemy). He did not address the question of physical abuse but, consistent with the approach of later rabbis, I suspect that he would have regarded this as a criminal matter. One might reasonably guess that, as a safety precaution, he would have allowed separation if staying in the same domicile posed a substantial risk of serious physical harm. If he would have allowed remarriage for anything, undoubtedly it would have been for a divorce that occurred on the grounds of persistent and unrepentant adultery and extreme physical endangerment, and perhaps too for abandonment. Yet I think the evidence suggests that he would not have permitted remarriage for anything less than the death of one’s spouse (and it wouldn’t count if the spouse who did the divorcing was the killer). For anything else separation might be necessary but the remarriage remains intact. There can never be a real “divorce” apart from death of one of the spouses.

Would Jesus have insisted on divorce of persons already remarried at the time that they first heard his teaching on divorce and remarriage or for followers who disobeyed

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bond between believers. There is an “unequal yoking” (cf. 2 Cor 6:14) that permits Paul to be more lenient on the question of dissolving the union and perhaps too of being remarried than he would otherwise be if it were a case of a marriage between believers. God has greater interest in the preservation of a union where both parties bow to him than with a union in which one of the partners does not.

<sup>19</sup> Ibid., 258.

his teaching but subsequently repented? Probably in some cases but I doubt that he would have applied it as a general principle. It is invalid to argue that if Jesus insisted on a lesser action (forbidding remarriage to those not yet remarried) he would also have insisted on a greater action (dissolving existing remarriages). It is far more impractical to command the dissolution of an already existing marital union than to prohibit someone from entering into an invalid union. A prohibition of remarriage after divorce for those not yet remarried does not disrupt an already existing union with children. Furthermore, requiring the dissolution of invalid remarriages renews the cycle of divorce that Jesus is trying to end.

The teaching of Jesus on divorce and remarriage after divorce raises a host of hermeneutical challenges, not the least of which is implementing obedience to it. The reformation of the church on this matter has to begin with a renewed sense of accountability on the church's part to obeying Jesus' teaching on sexual ethics. A large measure of responsibility for high divorce rates in the evangelical community lies with pastors, particularly in the mainline denominations, who out of fear of appearing "judgmental" ignore or dilute Jesus' teaching. Moreover, the church has largely failed to communicate that Jesus regarded both remarriage after divorce and marriage to a divorced person as more serious than even divorce itself since the former two cases constitute virtual adultery. Needless to say, there would be significantly fewer divorces in the church today if more Christians recognized that the alternative to staying married was a life bereft of any future sexual intimacy and companionship.

Some will object that such a message is inherently unloving and unreasonable. But this objection leads to the untenable conclusion that Jesus himself was unloving and unreasonable. The exercise of forgiveness for penitent violators is, of course, an essential part of recovery; but this forgiveness does not come at the cost of changing the teaching of the church. Others will claim that Jesus was not interested so much in sexual purity as in empowering wives who could be victimized by their husband's autocratic right to divorce. Yet, if Jesus had been more interested in women's rights than in sexual purity, he could have advocated that the right to divorce be equally available to women. He certainly would not have said, "Whoever marries a divorced woman commits adultery."