Jesus' Old Testament basis for Monogamy

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Summary

When Jesus was questioned about divorce (in Matt.19:2-; Mk.10:2-), he tried to steer the debate to the subject of monogamy. He used very similar exegetical arguments to those found in the Damascus Document and used a variant found in non-Massoretic texts of Gen.2.24. Although most modern treatments of these passages concentrate on the subject of divorce, the early church responded equally to his teaching on monogamy. This may have resulted in a large number of unmarried widows in the church.

Polygamy in Judaism

Polygamy was undoubtedly part of life in first century Judaism, but it is uncertain how widespread it was. Although it was sometimes thought that only the rich could afford more than one wife, it is now known that the middle classes also practiced polygamy.

Polygamy was allowed in Mosaic law[1] though it was nowhere spoken of with approval. Although many Old Testament characters and heroes had more than one wife, there is no evidence that polygamy was widespread in Israel, except perhaps after times of war when the male population was diminished.[2] In the OT, polygamy is almost always related to childlessness,[3] and is often associated with problems.[4] Leaders

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[1] Ex,21.10f; Deut.21:15-17. Polygamy may also be implied in the laws that a man who seduces an unbetrothed virgin (Ex.22:16) or rapes her (Deut.22:28f) must marry her, because it does not state that the man must be unmarried.

[2] See Isa.3:25; 4:1. Nelly Stienstra points out that even when war made an imbalance of women:men ratio, polygamy was seen as a shameful response to it - Stienstra, N. *YHWH is the husband of his people: Analysis of a biblical metaphor with special reference to translation* (Kampen, Kok Pharos, 1993) p. 79

[3] E.g. Sarah & Hagar, (Gen 16:1-4). Elkanah also had a second wife because his favourite (perhaps his first) couldn't conceive (1Sam.1). Jacob was a special case because of Laban's trick (Gen.29:15-30). This mirrors the situation in other ANE countries - see Hugenberger, G P *Marriage as a Covenant. A Study of Biblical Law and Ethics Governing marriage, developed from the perspective of Malachi* (Supp to Vetus Test. 52, 1994), p. 108-112

[4] Stienstra lists Hagar and Sarah (Gen.16:4-6); Rachel and Leah (Gen.30:14-16); Peninnah and Hannah (1Sam.1-6-8). She also lists laws which imply problems with polygamy: Lev.18:18 says do not marry two sisters, because this may cause rivalry (cf. the story of Rachel and Leah); Deut.21:15-17 says the son of a favourite wife should not rob the firstborn of his rights (cf. the story of Joseph); Ex.21:10f assumes there will be problems of neglect for the first wife. She also cites the Targum of Ruth 4:6 which has Ruth's kinsman redeemer say: "On this ground I cannot redeem it, because I have

and kings like Gideon, Samson, David and Solomon had many wives, probably to imitate leaders in other countries[5]. Although there is some criticism of the "many wives" of the kings, some of whom were foreigners, there is little or no criticism of other polygamy.[6]

It is unlikely that there was any teaching against polygamy in the early history of Israel. The phrase "they shall be one flesh" would probably have been interpreted to mean "they shall be one family".[7] In the Later Prophets monogamy was taught as an ideal,[8] but polygamy was never made illegal, and God was portrayed as married to both Israel and Judah, without any shame attached to this.[9]

In the first century CE, polygamy was still considered to be part of traditional Jewish teaching and practice[10] though, in practice, most men would have had only one wife for financial reasons. There is very little evidence of polygamy in this period, and it might be assumed that only the very rich practiced polygamy. However, this may simply be due to the paupacy of family records from that time, except for those of the rich.[11] The family documents of one middle-class family, the Babatha family of the late first and second century, have survived almost intact. They show that when Babatha was widowed she became someone's second wife,[12] which might indicate that

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a wife already, and I have no desire to take another, lest there should be contention in my house" (*YHWH is the husband of his people* p. 82).

[5] Cf. 1Sam.8:5; 8:19f - criticised in Deut.17:17

[6] Louis Epstein summarised the biblical data in *Marriage Laws in the Bible and Talmud: A Study in the Status of the Woman in Jewish Law* (New York, 1927) pp.3-7 . He points out that the Law assumed polygamy in Ex.21.10, Deut.21.15 and Lv.18.18. He lists among the polygamists of the OT, Lamech, Abraham, Nahor, Esau, Jacob, Simeon, Gideon, Elkanah, Saul, David, Solomon, Rehoboam, Jehoash, Abiah, Manasseh, and Sheharaim.

[7] Skinner pointed out that flesh, r#b, is synonymous with 'clan', 'family group' in both Hebrew and Arabic usage. Cf. Lev.25.49 "a near kinsman belonging to his flesh may redeem him" - Skinner, John. *Genesis: International Critical Commentary* (T & T Clarke, Edinburgh, 1930) p. 70.

[8] e.g. Is.50.1; Jer.2.2; Ezk.16.8; Prov.12.4; 18.22; 19.14; 31.10-31; Ps.128.3

[9] Jer.3:7-20; Ezk.23

[10] Safrai cites Josephus (Ant.17.14; War 1.477). Justin Martyr (Dialogue 141) and some examples of polygamy in 1st C rabbinic sources (tYeb.1.10; bSuk.27a; bYeb.15a) - Safrai, S. "Home and Family.": 2:728-92 in *The Jewish People in the First Century: Historical Geography, Political History, Social, Cultural and Religious Life and Institutions.* 2 vols. Ed. S, Safrai and M. Stern with D. Flusser and W.C. van Unnick. Section 1 of *Compendia Rerum Iudaicarum ad Novum Testamentum.* Vol.1: Assen: Van Gorcum & Co. B. V.., 1974; vol.2: Philadelphia: Fortress Press, 1976), 2:749

[11] Most first century examples of bigamy occur among the rich. Epstein (*Marriage Laws* p. 17) lists Herod Archelaus, Herod Antipas (Jos.Ant.17.13.1); from priest's families, Alubai, Caiaphas, and Josephus (tYeb.1.10; bYeb.15b; yYeb.3a; Jos.Life 75); from the Rabbis, Abba b. Rn. Simeon b. Gamaliel I (bYeb.15a), R Tarphon (tKet.5.1), Rab & R.Nahman (bYom.18b; bYeb.37b) .

[12] The documents of the Babatha family dating from 93-132 CE have been found in found in a cave at Nahal Hever. These are edited in Cotton, Hannah M. and Yardeni, Ada, *Aramaic, Hebrew and*

polygamy was much more widespread in the middle classes than previously thought. Polygamy among Jews is stated as normal practice by Josephus[13] and Justin Martyr,[14] and the early rabbinic writings contains much legislation concerning it, including regulations for middle-class families.[15]

Monogamy in Judaism

Many people were unhappy with the practice of polygamy. Even in Rabbinic Judaism, which was the last section of Judaism to register this unease, there are negative comments about it in the early centuries.[16] Polygamy was eventually prohibited in Judaism in the 11th century[17], though it had probably ceased to be practiced long before this.

Outside Israel the disquiet with polygamy can be seen in the marriage contracts in Elephantine. The large body of papyri unearthed at Elephantine in Egypt include several marriage contracts and documents relating to divorce. They are the documents of a few Jewish families living in this Greek society in the 5th century BCE. [18] The

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Greek documentary texts from Nahal Hever and other sites: with an appendix containing alleged Qumran texts, Discoveries in the Judaean Desert 27 (Oxford, Clarendon, 1997)

[13] Jos.Ant.17.14 "For it is our ancestral custom that a man may have several wives at the same time" - also War 1.477

[14] Justin Martyr says that Jews practiced polygamy (Dialogue 141)

[15] Epstein (*Marriage Laws* p. 18) lists teaching concerning the co-wife (Zareh) which is discussed frequently (e.g. mYeb.1 etc.); the interval between marriages (bKet93b - less than one day!) ; that wives should know each other, lest their children marry each other (bYom.18b); compelling a second wife if the first is barren (bYeb.21b; bSot.24a). He does not list mKet.10.5 which is important because it can be dated before 70 CE and because it refers to a case where the husband could not afford to pay the ketuvoth for all his wives, which suggests that he was not rich.

[16] The rabbinic writings have many negative comments about it. Epstein (*Marriage Laws* p. 19) lists bAb.2.5: "He who multiplies wives multiplies witchcraft"; bYeb44a - polygamy creates strife in a house; bYeb44a - no more than four wives are permitted so that each gets their conjugal rights at least each month.

[17] The Herem of R Gershom of Mayence (960-1040) finally prohibited it (Responsa "Asheri" 42.1), probably in 1030 at Worms (the document has not survived). Previously the marriage contract had prohibited polygamy without the wife's consent, but this Herem prohibits it even with wife's consent.

[18] The marriage and divorce texts are published with useful commentary in Cowley, A E. *Aramaic Papyri of the Fifth Century BC* (Oxford, Clarendon Press, 1923) and Kraeling, Emil G. *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine* (New Haven, 1953). These and the other texts from Elephantine have been re-edited and translated in Porten, Bezalel and Yardeni, Ada, *Textbook of Aramaic Documents from Ancient Egypt*, Vol.2: *Contracts* (Jerusalem: Akedemon, 1989). The traditional numbering is based on the collections of Cowley (C1 etc.) and Kraeling (K1 etc.) but the later numbering used by Porten & Yardeni (B1.1 etc.) is more useful because it groups together texts which belong to the same family archive or the same type of document. The two main family archives belonged to Mibtahiah (B2.1-11 - 471-410 BCE) and Anani (B3.1-13 - 456-402 BCE). Marriage contracts which are not part of these archives are collected as B6.1-4.

collection includes a betrothal contract,[19] seven marriage contracts (though four of these are very fragmentary),[20] two documents concerning payment of the divorce settlement[21] and many other commercial and family documents.

These are not typical Jewish contracts, and are affected more by Gentile customs than Jewish ones.[22] Nevertheless, they show the kinds of influences which Greek and Roman customs were beginning to have on Judaism. One of the most significant influences is the move towards monogamy.[23] Although a monogamy clause is found in some ANE marriage contracts,[24] the Greco-Roman was a stronger influence because it held to a strict monogamy.[25]

Some of the marriage contracts state that the man must not marry more than one wife, and nor must the wife marry more than one husband. If they do, they are liable to be divorced.

> And <the wife> shall not be able to take another man beside <her husband>.
> And if she do thus, it is hatred. They shall do to her the law of hatred.[26] And

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[19] C48=B2.5 - a very small fragment which includes the words "your daughter to take her for wifehood"

[20] Three marriage contracts are mostly complete (C15=B2.6 concerning a divorcee; K2=B3.3 concerning a slave girl; K7=B3.8 concerning a freedwoman) and four are fragmentary (K14=B6.1; C36=B6.2; C46=B6.3; C18=B6.4).

[21] C14=B2.8; C35=B4.6.

[22] If these are typical of 5th century BCE contracts, we must conclude that either the Jewish *ketuvah* changed a great deal during the next few centuries, or the Jews at Elephantine had lost most of their Jewish roots. Hillel, in the first century BCE, recognised that the marriage contracts of Egyptian Jews were different to those of Palestinian Jews. (tKet.4:9).

[23] These contracts were also influenced by Ancient Near Eastern contracts, but the move to monogamy and other aspects of sexual equality can perhaps be traced to early Semitic influences. Lipinski, E. "The Wife's Right to Divorce in the light of an ancient Near Eastern Tradition." In *The Jewish Law Annual* 4: 9-26. Ed. B.S. Jackson. (Leiden: E.J.Brill, 1981) collected a handful of early Semitic ANE marriage contracts which do show equality of divorce rights for men and women. He points out that the terminology of these contracts show such substantial similarities to the Elephantine contracts that they may be considered as their precursors. He said that they were not influenced by Egyptian divorce certificates, because Egyptian divorce documentation has survived from the 19th Dynasty (1320-1200 BCE) but there is no divorce on the wife's initiative. However, in the area of monogamy, the most likely influence is the Greco-Roman world.

[24] Of Roth's 45 marriage certificates, 15 have a clause anticipating what will happen if the husband divorces his wife because he wants to marry another woman (Nos. 1, 2, 4, 5, 6, 8, 15, 16, 17, 19, 20, 25, 26, 30, 34 in Roth, M.T. *Babylonian Marriage Agreements: 7th-3rd Centuries B.C.* (Neukirchen 1989)).

[25] See Deborah F. Sawyer *Women and Religion in the First Christian Centuries* (Routledge, London, 1996) p. 15-19. Other aspects of equality, as found at Elephantine did not develop this far in the Greco-Roman world till about the third century.

[26] It is "hatred" was a standard ANE term for divorce. This passive "they shall do to her the law of hatred" is probably what made I. Abrahams conclude that women at Elephantine could not truly declare a divorce, but they could claim one. (Abrahams, I *Studies in Pharisaism and the Gospels*

<the husband> shall not be able to take another woman beside <his wife>.
And if he do thus, it is hatred. He shall do to her the law of hatred.[27]

Many other sections of Judaism were also leaning towards monogamy. One indication of this is a gloss which is found in non-Massoretic versions of Gen.2:24, which adds the word "two" so that it reads, "and they two shall become one flesh". The word "two" is not present in the Massoretic text, but it is found in almost every other ancient version - Syriac Peshitta, Samaritan Pentateuch, Vulgate, Targum Peudo-Jonathan, Targum Neofiti and Septuagint, including the quotations of the text in the NT.[28] It is missing only from Targum Onqelos, but this is probably because this Targum was consciously corrected back to the Massoretic text. It is not found in any Hebrew text or any quotation of the Hebrew text. [29]

It appears that this gloss was a very common addition to the text. The gloss affirmed that a marriage is made between only two individuals, so that polygamy is an aberration of this.

Qumran arguments against Polygamy

The documents preserved at Qumran shows that some sections of Judaism actually forbade polygamy. The sectarians at Qumran differed from the rest of Judaism over several matters concerning worship, cleanliness and other laws. They separated from the worship of other Jews because of differences of interpretation concerning the religious calendar. Many of them separated physically from other Jews, living apart in the desert, because of their concern over cleanliness. Many of them also lived celibate lives[30], but they were still interested in matters of marriage, and especially polygamy.

(London, Macmillan, 1917) p. 67). However, this passive occurs only in K7=B3.8. The same passive is not used with regard to women divorcing husbands for neglecting their conjugal rights ("she shall do to him the law of hatred" - see the next paragraph), though it must be admitted that there is only one contract for those words too.

[27] K7=B3.8; C18=B6.4; C15=B2.6. C15=B2.6 forbids polygamy only to the husband, and speaks in the first person, using completely different language: "And I shall not be able to say: I have another wife beside <name of wife> and other children besides the children whom <the wife> shall bear to me. If I say: I have other children and wife beside <name> and her children, I shall give to <the wife> silver, 20 karsh by the stone-weights of the king. And I shall not be able to release my goods and my property from <name of wife>. And should I remove them from her, I shall give to <the wife> silver, 20 karsh by the stone-weights of the king.". C18=B6.4 also forbids polygamy to the husband only, but it uses the same wording as K7=B3.8, and the fragmentary nature of this document means that it may also have included a prohibition to the wife.

[28] Matt.19:5; Mk.10:8; 1Cor.6.16

[29] The Hebrew text is not found at Qumran, so we only have the witnesses of rabbinic literature, much of which is late, though is cited by Aqiva (bSanh.58a - early second century) and Hananiah (GenR.18:5 - mid second century), both without the word "two".

[30] The Manual of Discipline found at Qumran suggests that the community was celibate, though an appendix to it (1QSa 1:8-11) and the Damascus Document (CD 7:7-8) suggest that at least some members were married.

These matters were discussed in their writings particularly when they were criticising the practices of others.

In the Damascus Document,[31] the sectarians criticise the "builders of the wall" (CD 4:19-5:5), which may be a reference to the Pharisees or non-Qumran Jews in general.[32] They accuse them of sexual sin, and of polluting the Temple.[33] They presumably thought that they polluted the Temple by going there when they were themselves polluted. They were polluted by two other practices concerning sexual taboo - menstrual blood and marrying near relations.

One of the two main criticisms which the Damascus Document brought against the Pharisees concerned the practice of polygamy, which they regarded as a sexual sin.

> They are caught by two (snares). By sexual sin (twnz), (namely) taking (21) two wives in their lives (Mhyyxb), while the foundation of creation is "male and female he created them." [Gen.1:27]. (5:1) And those who entered (Noah's) ark went in two by two into the ark [Gen.7:9]. And of the prince ()y#n) it is written, (2) "Let him not multiply (hbry)l) wives for himself." [Deut.17:17] And David did not read the sealed book of the Torah which (3) was in the Ark (of the Covenant), for it was not opened in Israel since the day of the death of Eleazar (4) and Joshua and the elders. For (their successors) worshipped the Ashtoreth, and that which had been revealed was hidden (5) until Zadok arose, so David's works were accepted, with the exception of Uriah's blood, (6) and God forgave him for them. (CD 4:20-5:6)[34]

This passage contains three independent exegetical arguments for monogamy, which will be dealt with in turn. It is perhaps significant that the variant text of Gen.2:24 with the word "two" is not employed as one of the arguments. I have suggested elsewhere that this was omitted because the Palestinian rabbis, against whom this is a polemic, did not accept exegesis from variant texts. Therefore, on this occasion, they only used arguments with which these rabbis could find no fault.[35]

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[31] The Damascus Document is named after its references to Damascus. It was first discovered in the Cairo Geniza, so it was called CD for Cairo: Damascus.

[32] The "wall" may be a reference to the "fence" which the Pharisees put around the law (mAv.1.1). The fence was the system of rabbinic laws which amplified and specified what the Biblical law said and what it implied. By keeping all these rabbinic laws, one would be certain to fulfil all the Biblical laws, so they were a "fence" to protect one from trespassing a Biblical law. Charlesworth suggests that the similar phrase at CD 8:12 may also refer to the Pharisees (Charlesworth, J. H., The Dead Sea Scrolls ad loc.). In the same passage they are also called "whitewash-daubers" which has interesting NT parallels (Matt. 23:27; Acts 23:3).

[33] Two of the three sins are listed in CD 4:17 - the other was probably arrogance or materialism, which was perhaps reserved for the Sadducees.

[34] Based on Charlesworth, James H., *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek Texts with English Translations* (vol.2 Tübingen, Mohr, 1995). This portion only exists in the Geniza MS A. CD has been found in Qumran fragments 6Q15 and 4Q226-273 but only a couple of words from this passage are found in these fragments.

[35] Instone Brewer, D., "Nomological Exegesis in Qumran 'Divorce' Texts", *Revue de Qumran,* 18 (1998) 561-579

1) "taking two wives in their lives", based on Lev.18:18

Taking two wives in their lives   Mhyyxb My#n yt# txql

The phrase "taking two wives in their lives" has a masculine suffix for "their", so that it appears to criticise any man who takes two wives within his own lifetime. This would include those who practice polygamy, remarriage after divorce or remarriage after widowhood. This led some early commentators like Schechter to argue that this virtually prohibited divorce, because it did not allow divorcees to remarry.[36] Other early commentators like Rabin suggested that "in their (*masc.*) lives" was an allusion to Lev.18:18 so it should be read as "in their (*fem*) lives"[37]. This would mean that divorce and remarriage was possible but only after the former wife had died.

This suggestion caused a great deal of debate, but the publication of the Temple Scroll convinced most scholars that this emendation was correct.[38] Temple Scroll column 57, which is an expansion of Deut.17:14-20 concerning kings, also used Lev.18:18 as a proof text for monogamy.

> 15 ... And he [the king] shall not take a wife from all (16) the daughters of the nations, but from his father's house he shall take unto himself a wife, (17) from the family of his father. And he shall not take upon her another wife, for (18) she alone shall be with him all the days of her life (hyyx ymy lwk). But should she die, he may take (19) unto himself another (wife) from the house of his father, from his family. (11QT57:15-19)[39]

This section of the Temple Scroll concerns the king's wife and is an expansion of Dt.17:17: "And he shall not multiply wives for himself, lest his heart turn away." The Temple Scroll interprets this as an injunction against polygamy, whereas the standard

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[36] Schechter, Solomon, *Documents of Jewish Sectaries* (Cambridge, Cambridge University Press, 1910, reprinted New York, Ktav Publishing House, 1970) ad loc. For a full bibliography and an analysis of the exegesis of this passage see my "Nomological Exegesis in Qumran"

[37] i.e. Nhyyxb instead of Mhyyxb e.g. Rabin, Chaim, *The Zadokite Documents* (Oxford, Clarendon Press, 1954) ad loc. It should be noted that Schechter probably realised this too, though he does not say so in his commentary, because in his introduction he concluded that CD prohibited "marrying a second wife, as long as the first wife is alive though she had been divorced." (p. xvii). Yadin says "most of the early scholars" read it this way (Yadin, Yigael, *The Temple Scroll* (3 vols, Israel Exploration Society, Jerusalem, 1983) vol. 1 p. 356.).

[38] According to Yadin, only J. Murphy-O'Conner still defends the masculine reading since the publication of the Temple Scroll. He has carried on a long debate with Yadin - see the references in Yadin, Y., *The Temple Scroll* vol. 1 p. 356.

[39] Based on Yadin, Y., *The Temple Scroll* vol.2 p. 258.

rabbinic interpretation is that one may not take more than 18 wives.[40] The Temple Scroll author seems to interpret the phrase "lest his heart turn away" in the light of Deut.7:3f[41] and 1Kings 11.1f which says that their hearts will be turned away by foreign women, as Solomon's was. Therefore, the Temple Scroll says, the king may only marry an Israelite and may only take one wife. In order to justify the interpretation 'one wife' rather than 'few wives', the Temple Scroll alludes to Lev.18:18 with the phrase "all the days of her life".[42] Leviticus 18:18 says that one may not marry the sister of one's wife (or former wife) while she is still alive. In order to apply this law to the king, the Temple Scroll emphasises that the whole of Israel is one family: "he shall not take a wife from all the daughters of the nations, but from his father's house".[43]

It is impossible to know whether the Temple Scroll regarded monogamy as mandatory for all Jews, but they would at least have regarded the King as an example to look up to and probably to emulate. It is unfortunate that the section regarding Deut.21:15-17 (which allows polygamy for the ordinary Israelite) is not preserved - it would have been at the start of Col.54 which is missing.

In the Damascus Document, the allusion to Lev.18:18 is not accompanied by any explanation. There is not even the briefest of explanations, as found in the Temple Scroll. The reader is assumed to understand the text and its importance.

In both the Damascus Document and the Temple Scroll, this exegesis of Lev.18:18 is accompanied by other arguments for monogamy (see below). It now seems likely that the whole force of both passages was against polygamy, and there are no implications for divorce or remarriage. Rabin's emendation of the Damascus Document suggested that a man was forbidden to remarry during the lifetime of his former wife, but Ginzberg suggested a way of reading this text without any emendation, and without any reference to divorce or remarriage. Ginzberg's interpretation has been confirmed both by the Temple Scroll and by other more recent texts which show that divorce was accepted at Qumran.

Ginzberg argued that the Damascus Document read the word "sister" (htx)) in Lev.18:18 as "other", which is linguistically possible, so that this law forbade a man marrying "another" woman besides his wife. This is confirmed by the way the Temple Scroll also reads htx) as "other".

The law of Lev.18:18 states:

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[40] See R Judah at mSan.2:4 and PalTg ad loc. This is probably based on the tradition that David had 18 wives (bSanh.21a; ySanh.2:6(20c)).

[41] Cf. Schiffman, Lawrence H., "Laws Pertaining to Women in the Temple Scroll" in *The Dead Sea Scrolls: Forty Years of Research* ed D. Dimant, U. Rappaport, (Brill, Leiden, 1992) pp. 210-228, p. 213.

[42] Yadin (*The Temple* Scroll 1 p. 355; 2 p. 300) suggests that Lev.18:18 was cited at the top of Col.57, which is missing.

[43] It was natural to regard God as the father of Israel (as at Is.63:16; Jer.31:9) when the context concerned turning away to other gods. Schiffman ("Laws Pertaining to Women" p. 214f) says that the main emphasis was to make the King like a High Priest, who may not marry a non-Israelite.

You shall not take a wife with her sister to be a rival, to uncover her nakedness beside her, during her life.

hyyxb hyl(htwr(twlgl rrcl xqt)l htx)-l) h#$w

The Temple Scroll paraphrased Lev.18:18 as follows (the shared vocabulary is underlined and other shared ideas are dotted):

And he shall not take with her another wife, for she alone shall be with him all the days of her life.

hyyx ymy lwk wm(hyht hdbl h)yh yk trx) h#) hyl(xqy)wlw

Unlike the Damascus Document, the Temple Scroll exegetes gave a new emphasis to the idea of htx) as "sister". They understood "sister" as "fellow Israelite", so that the text not only prohibited polygamy but also assumed that one would only marry an Israelite. This is given great emphasis in the Temple Scroll passage: "....from his father's house.... from the family of his father.... another (wife) from the house of his father, from his family." If the primary meaning of htx) is regarded as "other", then an exegete is entitled to point out that this is an unusual word and to look for a reason for it.[44] The reason they found is that a wife should only be taken from among one's "sisters", so one should not marry a non-Israelite.

Ginzberg pointed out that the natural meaning of "during their lives" now becomes "you may not have another husband or another wife during the lives of your present husband or wife". This does not, of course, preclude remarriage after divorce, because then you no longer have a husband or wife. The law of Lev.18:18 (according to the Qumran exegetes) concerns a man who has a wife and wants to take another, which is prohibited unless the first wife has died. If a man is divorced from his first wife, he no longer has a wife, so this law does not apply to him. We can see that this interpretation was in the minds of the Qumran exegetes in the way they summarise the teaching of Lev.18:18 with the words "taking two wives during their lives". This phrase reminds the reader that Lev.18:18 is emphatically speaking about being married to two wives at once: "You shall not take a wife **with** her sister **to be a rival**, to uncover her nakedness **beside** her, during her life."

Ginzberg's explanation removes all references to divorce or remarriage from the Damascus Document. The Temple Scroll has a more stringent rule for the King, as it does for many other matters other than divorce and remarriage. This explanation is confirmed considerably by the Qumran texts which show that divorce was permitted.[45]

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[44] This is an exegetical technique which is found in early rabbinic exegesis - see my *Techniques and Assumptions in Jewish Exegesis Before 70 CE.,* Texte und Studien zum Antiken Judentump 30 (Tübingen: Mohr & Siebeck, 1992) p. 20f

[45] Divorce is assumed to be lawful in 11QT 54:4-5 ("But any vow of a widow or of a divorced woman ..."); 11QT 66:8-11 ("If a man violates a young virgin... she will be his wife ... and he cannot dismiss her all his life" and CD 13:15-17 (the examiner who is (in charge of) the camp .... A[ny]one who ma[rr]ies a wo[man], i[t] (must be)[with] (his) counsel. And thus (also) for one who divorces (his wife).).   The latter text is fragmentary. Shiffman's reconstruction (in Schiffman, Lawrence H., *Reclaiming the Dead Sea Scrolls: the history of Judaism, the background of Christianity, the lost library of Qumran*, (Philadelphia, The Jewish Publication Society, 1994), p. 122) has been confirmed

Therefore this exegetical argument does not prohibit divorce or remarriage at Qumran, but is directed solely at the practice of polygamy which the Qumran exegetes considered to be unlawful .[46]

2) "male and female", based on Gen.1:27 & Gen.7:9

The foundation of creation is	h)yrbh dwsyw
"male and female he created them." [Gen.1:27].	Mtw))rb hbqnw rkz
And those who entered (Noah's) ark	hbth y)bw
"went in two by two into the ark" [Gen.7:9].	hbth l) w)b Myn# Myn#

Lövestam pointed out that these two passages, Gen.1:27 and 7:9 are linked by the words "male and female" (hkqnw rkz) which occurs immediately after the text cited from Gen.7:9.[47] When the texts have been linked by a shared phrase, the definition or description of this phrase in one of the texts can be applied to the other text. This type of exegesis was later called *gezerah shahvah,* but it was already common in early rabbinic Judaism before 70 CE.[48]

The second text showed that the phrase "male and female" meant a pair, because they went in "two by two". The first text showed that God himself was responsible for putting the male and female together. Taken together, these texts could be used to show that God put men and women together in pairs. Therefore God instituted marriage as one wife and one husband. Marriage is not actually mentioned in either text, but in the verse following 1:27 God tells them to multiply, so it could be argued that marriage is implied.

From the opening phrase "beginning of creation" it might be supposed that the force of the argument lay in the fact that this is how it was done "in the beginning". However the emphasis was more likely to be on "creation", which was an act of God. In other words, if God did something one way, we should follow his example. The same type of argument, based on an example given by God, is found in a Hillel-Shammai debate about how many children one has to have before one has fulfilled the command to "increase and multiply" (Gen.1:28). The Shammaites argued that "two children" were sufficient, based on the example of Moses (Ex.18:2f). The Hillelites said "a male and

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by the newly published 4Q266 (of col.8 line 6-7) - see Holmén, Tom, "Divorce in CD 4:20--5:2 and in 11Q 57:17-18: Some remarks on the Pertinence of the Question" (*Rev Qum* 71(1998) 397-408, p. 403.

[46] I have dealt with these matters in greater detail in my "Nomological Exegesis in Qumran"

[47] Lövestam, Evald "Divorce and Remarriage in the New Testament" In *The Jewish Law Annual* 4: 47-65 Ed B. S. Jackson. (Leiden: E.J. Brill, 1981), p.50

[48] See my *Techniques and Assumptions*, p 17f.

female" were sufficient, based on the example of God who created Adam and Eve. The Hillelites won the debate because they cited a higher example than Moses.[49]

3) "not multiply wives", based on Deut.17:17

And of the prince it is written,	bwtk)y#nh l (w
"Let him not multiply wives for himself." [Deut.17:17]	My#n wl hbry)l

This text appears to apply only to kings in the context of Deut.17:17. However, this text would have little value here if it was understood in this way. It seems that the Qumran exegetes intended to apply it to all Israelites but they do not state how they did this. Probably they used the same kind of argument as found a couple of generations later on the lips of Simeon b Yohai who said: 'all Israelites are children of kings' (mShab.14:4)[50]. Although he was a mid-second century rabbi, it is likely that he was presenting a traditional interpretation.

Presumably the Qumran exegetes felt that this interpretation was too obvious to be spelled out. This same interpretation is found in the Well Midrash at CD 6:3ff, where the "princes" (Myr#) of Num.21:18 are interpreted as "the returned of Israel who went out from the land of Judah and sojourned in the land of Damascus" - i.e. the members of the Qumran community, or the true Israel.

The phrase used here, "of the prince ()y#nh) it is written" confirms a link with this traditional interpretation. It would have been more natural to say "of the king (Klm) it is written", because "king" is used constantly in Deut.17:14-20. It seems that "prince" has been deliberately used here to point to the well-known equivalence of 'princes = all Israel'.

The Temple Scroll also cites Deut.17:17 in 11QT.56:18, applying it to the ideal King. It is part of the long passage describing the ideal king (11QT. 56:12-58:21), so it is difficult to know whether it was supposed to apply to all Israel. Some of the regulations for the king are higher than those for the normal Israelites, while others are those which apply to everyone. Baumgarten claims that the Temple Scroll allows polygamy, because 11QT 64 partially preserves a discussion of Dt.21:15 concerning a

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[49] tYeb8:4; mYeb.6:6; yYeb.6:6; bYeb.61b-62a. Difference versions have different rulings for the Shammaites. Mishnah and Jerusalem Talmud have "two sons". Babylonian Talmud has "2 males and 2 females". Tosephta has two opinions - Nathan said it was "two children" and Jonathan said it was "male and female" (while Hillelite was "male or female").

[50] "all Israel are princes" [lit: 'all sons of kings'] (Myklm ynb l)r#y lk) is cited frequently, usually attributed to Simeon (mShab.14:4; yShab.14:4; bShab.67a; bBM.113b; bShab.128a, Rashi at bShab.59b). There is no early exegetical basis for this, but the later R.Levi derived it from 1Chron.24:5 "the princes of God" and Ps.82:6 "you are gods... but you will fall like one of the princes" (Songs Rabbah 1.2.5).

man who has two wives. However the text is totally missing, and it is impossible to reconstruct how it was interpreted.[51]

An interesting exegesis of "do not multiply" has been preserved by the Simeon b.Yohai, the same rabbi who is normally associated with the equation "all Israelites are children of kings". He records a story that the Book of Deuteronomy went up to heaven to charge Solomon with annulling a *yod* in the law. Solomon had changed 'he shall not multiply (hbry)l) wives to himself' to 'to a multitude (hbr)l) of wives for himself'. This removal of a *yod* amounted to a cancellation of the entire law. God assured him (the book of Deuteronomy) that "Solomon and a thousand like him will perish, but a word of thee will not perish"[52]

Although the exegesis is told in fanciful agadic language which is normally associated with later traditions, it is possible that the core of the exegesis is early. Daube[53] pointed out that this is very similar to the gospel logion about the *yod*, and he suggested that Luke's juxtaposition of this logion next to the divorce logion may be particularly significant:

> But it is easier for heaven and earth to pass away, than for one *yod* of the law to become void. (18) "Every one who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery. (Luke 16:17f)

As will be seen below, Jesus' teaching on monogamy is found within a digression on his teaching about divorce.

The Qumran exegetes, therefore, used "do not multiply wives" as one of their proof texts for monogamy among all "princes", which included all true Israelites. They followed this with a long apology about why David did not obey this law, arguing that he was ignorant of the Law because it was hidden during his time.

These three arguments in the Damascus Document, with the similar arguments in the Temple Scroll, show that the authors of both documents were highly critical of polygamy. They regarded it as sexual immorality, as contrary to the ideals shown in the examples of the Creator, of Adam, and of Noah's Ark, and contrary to the commands in Torah at Lev.18:18 and Deut.17:17. One of these exegetical arguments is used by Jesus (as seen below), and another is possibly alluded to by Luke in his editorial arrangement of pericopae.

The Divorce debate in the Gospels

Matthew portrayed Jesus as taking part in the Hillel-Shammai debate about the grounds for divorce. The same material is present in Mark, but the interaction with the

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[51] Baumgarten, J.M., "The Qumran-Essene Restraints on Marriage", (*Archaeology and History in the Dead Sea Scrolls* (JSPS 8) ed. L.H. Schiffman, JSOT Press, Sheffield 1990) pp. 13-24, p.14

[52] ExR.6:1, where it is attributed to 'our Sages', and Lev.R.19:2 where it is attributed to Simeon b Yohai. This was pointed out by Daube (p.298), though the rabbinic references there are incorrect.

[53] Daube, David, *The New Testament and Rabbinic Judaism* (Athlone Press, London, 1956) p.299

rabbinic debate is less obvious in his version. I will not cover the divorce debate in any detail here, except as far as it concerns the structure of these pericopae, and the accompanying teaching about monogamy.[54]

> Mark 10:2   And Pharisees came up and in order to test him asked, "Is it lawful for a man to divorce his wife?"
>
> Kai\ proselqo/ntej Farisai=oi[55] e0phrw/twn au0to\n eiO e1cestin **a0ndri** gunai=ka a0polu=sai, peira/zontej au0to/n.
>
> Matt. 19:3   And Pharisees came up to him and tested him by asking, "Is it lawful for a person to divorce his wife **for any matter?**"
>
> 3 Kai\ prosh=lqon au0tw=| Farisai=oi peira/zontej au0to\n kai\ le/gontej: eiO e1cestin **a0nqrw/pw|**[56] a0polu=sai th\n gunai=ka au0tou= **kata\ pa=san ai0ti/an**;

The main difference between the accounts in Mark and Matthew is the inclusion of the phrases "for any matter" and "except (for a matter of) indecency" in Matthew. Most commentators have concluded that these phrases have been added by Matthew, because the latter phrase is present in both the logion in Mt.5:32 (while it is absent from Lk.16:18) and in the debate in Mt.19:9 (while it is absent in Mark.10:12). Although I will conclude that Matthew has probably added these phrases to the tradition which he received, I will also argue that he has correctly re-inserted something which was present in the original debate. These phrases (or their equivalent) were removed when the debate was summarised for oral or written transmission, because they were so obvious and well known to the original audience that they were superfluous. They would have been mentally inserted by any Jewish reader whether they were included or not.

The phrases "any matter" and "except indecency" were the phrases which encapsulated the positions of the Hillelites and Shammaites respectively in their debate about the meaning of rbd twr(in Deut.24:1.

> The School of Shammai says: A man should not divorce his wife except if he found indecency in her, since it says: *For he found in her an indecent matter* [Deut.24:1].

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[54] I am covering the whole topic of Jewish background of divorce and remarriage in a forthcoming monograph. In the meantime my work is available on the Web at:
http://www.tyndale.cam.ac.uk/Brewer/divorce.htm

[55] MS D omits Kai\ proselqo/ntej Farisai=oi and some editors of the UBS text think that the phrase was assimilated from Matthew (Metzger, Bruce M., *A textual commentary on the Greek New Testament:* A companion volume to the United Bible Societies' Greek New Testament, fourth ed. revised) (2nd ed: Stuttgart, Deutsche Bibelgesellschaf, 1994), ad loc.).

[56] Some important MSS omit a0nqrw/pw| () B L 579 700) and one minuscule imports a0ndri\ from Mark. Metzger points out these are mainly Alexandrian MSS, which might have preferred a more concise literary style, though he admits that scribes would be more likely to add the word than omit it.

> And the School of Hillel said: Even if she spoiled his dish, since it says: *[Any] matter.*

> (Sifré Deut.269, ed. Finkelstein 288. See also mGit.9:10; ySot.1.2, 16b)

These phrases would be well known by a large proportion of the Jewish population, because they were the basis of divorce law. They would have been as well known as similar legal phrases today, such as 'irreconcilable breakdown', 'joint custody', and 'maintenance' etc. The phrases 'any matter' and 'a matter of indecency' were very important for a lay person to understand *before* they went to see a legal expert, because their understanding of these would determine which legal expert they went to visit. If they wanted to punish an unfaithful partner by divorcing them, they would choose to go to a Shammaite court which would apply the interpretation "for a matter of indecency". If they wanted a divorce for a lesser matter or they did not want to go through the difficult and humiliating procedure of proving adultery or other faults, they would go to a Hillelite court which would apply the interpretation "for any matter". Therefore this debate between the Hillelites and Shammaites, and these phrases which summarise the debate, would be well known by anyone who had a divorce in their family or circle of friends.

A first century Jewish reader would mentally insert the phrase "for any matter" into the question which the Pharisees asked Jesus, whether or not it occurred in the text. They would do this, not only because they were familiar with the debate, but also because the question makes no sense without it. The question "Is it lawful to divorce a wife" is a nonsensical question because it can only be answered by "Yes - it says so in the Law". This question would only make sense if there was a portion of the Jewish world which did not allow divorce under any circumstances, so that the question would mean 'Are you one of those who does not allow divorce?'. However, as far as we know, there was no such group.[57]

The progression of the debate in the gospels confirms that the opening question concerned the phrase "for any matter" and the interpretation Dt.24:1. The Pharisees brought Jesus back to the interpretation of Deut.24:1 when they spoke about Moses' divorce certificate, because Deut.24:1-4 is the only text which deals with the divorce certificate. Before Jesus gave an answer to their question, he digressed into other matters concerning monogamy and lifelong marriage, which he felt were more important.

Jesus' digression on Monogamy

Jesus' digression is dealt with differently by Matthew and Mark. A certain amount of unraveling is necessary to understand the text, and some tentative judgments must be made about which version came first.

The Synoptic problem is still a problem. The recent revival of Matthean primacy may prove to be a passing fad, and consensus certainly lies with Markan priority. But good

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[57] It had been thought in the past that the Qumran exegetes held this position. However, as I showed in "Nomological Exegesis in Qumran" and as summarised above, the so-called divorce texts at Qumran are actually concerned solely with polygamy.

arguments come from both sides, and any conclusion in the overall argument may not provide a definitive solution about every passage. For that reason, we must examine this pericope on its own merits. I will conclude that both Matthew and Mark have edited the material for different purposes.

The Question, (Matt. 19:3)

And Pharisees came up to him and tested him by asking, "Is it lawful to divorce one's wife **for any matter**?"

The Question (Mk.10:2)

And Pharisees came up and in order to test him asked, "Is it lawful for a man to divorce his wife?"

Digression (Matt. 19:4-6)

He answered, "Have you not read that **he who created them from the beginning** *made them male and female*, [Gen.1:27] (5) and said, '*For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh*? [Gen.2:24] (6) So they are no longer two but one flesh. What therefore God has joined together, let not man separate."

Moses' Teaching (Mk.10:3-5)

He answered them, "**What did Moses command you**?" (4) They said, "Moses allowed a man to write a certificate of divorce, and to put her away." (5) But Jesus said to them, "For your hardness of heart **he wrote you this commandment.**

Moses' Teaching (Matt. 19:7-8)

They said to him, "**Why then did Moses command** one to give a certificate of divorce, and to put her away?" (8) He said to them, "For your hardness of heart Moses allowed you to divorce your wives, **but from the beginning it was not so.**

Digression (Mk.10:6-9)

But **from the beginning of creation**, '*He made them male and female*.' [Gen.1:27] (7) '*For this reason a man shall leave his father and mother and be joined to his wife, (8) and the two shall become one flesh*.' [Gen.2:24] So they are no longer two but one flesh. (9) What therefore God has joined together, let not man separate."

Answering the Question (Matt. 19:9)

And I say to you: whoever divorces his wife, **unless for indecency,** and marries another, commits adultery."

Answering the Question (Mk.10:10-12)

And in the house the disciples asked him again about this matter. (11) **And he said to them**, "Whoever divorces his wife and marries another, commits adultery against her; (12) and if she divorces her husband and marries another, she commits adultery."

Marriage is Optional (Matt. 19:10-12)

The disciples said to him, "If such is the case of a man with his wife, it is not expedient to marry."........

The differences between the two pericopae are highlighted in bold. The two accounts of Jesus' teaching on divorce in Matthew and Mark are clearly related, but they have been edited for two different purposes or situations. They both share an overall structure, of Question, Digression, Moses' Teaching, and Jesus' Answer, though the middle two sections are reversed in the two versions.

Mark's version is more suitable for use in a sermon. The question-and-answer session at the beginning (2-4) summarises the position of the Jews and the latter three quarters (5-12) has the teaching of Jesus. The teaching of Jesus is directed first to the Jews (5-9) and then to the Church (10-12). The flow of the teaching is more natural than in Matthew. The Question leads to the statement that Moses' command was necessitated by sin, which leads to teaching on Monogamy based on the ideals of sinless Eden, which leads to the Answer for a sinful society.

Matthew's version reflects a real rabbinic debate. The opening question frames the debate and leads into an exegesis concerning a related point. A second question brings

Jesus back to the area of the original question. The second question is answered, and then finally the opening question is dealt with. This is not a typical form for recording rabbinic debates. Normally a question would be followed by an answer, and then a further question from the original questioner, or a counter question from the person who was questioned. There was usually a degree of balance in the reporting of a debate, so that both sides are more-or-less equally represented. In this debate with Jesus, the Pharisees' point of view is very poorly represented, though Matthew takes care to record a summary of the two main Pharisaic viewpoints in this debate.

From this structure, it could be argued that neither of these accounts was the original. It could be argued that Matthew reconstructed the teaching into the form of a rabbinic debate in order to interact with the debate which was still going on in the Jewish world. Equally, it could be argued that Mark transformed a rabbinic debate, which was becoming increasingly irrelevant to the church, into a form which lent itself to Christian teaching.

Further analysis provides more arguments for the originality of neither version. It has often been argued that Matthew's version is secondary because he has added the phrases summarising the two schools of opinion, "for any matter" and "a matter of indecency". It is likely that these have been added by Matthew rather than omitted by Mark, because both accounts in Matthew have such summaries, but neither account in Mark or Luke have them. It is also likely that Matthew has changed "from the beginning of creation" in Mk.10:6 and witnessed to in CD.4:21, to "who created them from the beginning". On the other hand, it could equally be argued that Mark's version has lost the contrast where the Pharisees say 'Moses commanded divorce' and Jesus says 'Moses allowed divorce'. He has managed to retain the phrase 'Moses allowed', but his editing has put this into the mouth of a Pharisee, and he has had to repeat 'Moses commanded', once in the words of the Pharisees, and once in the words of Jesus.

Another structure which can also be discerned is Public Question, Public Answer, Private Question and Private Answer. This is a structure which occurs in a few rabbinic debates at about 70 CE.[58] In Matthew the private question concerns whether one should marry or not (10-12). In Mark the private question is a repeat of the original question ("And in the house the disciples asked him again about this matter.") and the private answer is Jesus' answer to the original question which is given in public in Matthew. Both Matthew and Mark have retained this form, though they have employed it in different ways. Again, it is difficult to decide which version was adapted from which.

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[58] Five early debates of Yohannan ben Zakki follow this form. In two debates with Angetos, a Gentile, he is asked a question and he first gives a public answer which is well reasoned and acceptable. Then his disciples say to him in private that *they* cannot be dismissed with such an easy answer, and so he gives them an answer which is more difficult for the uncommitted Gentile to accept. See ySan.1.2, 19b; Num.R.19.8 - for a full analysis, see my *Techniques and Assumptions* p.80-82. In his three debates with the Sadducees he uses a variant of this form, giving the same questioner first an obscure and clever reply and then a more closely argued reply. The second reply is prompted when the Sadducee, like his disciples, says that he cannot be dismissed with that answer. See bBB.115b-116a; bMen.65ab; MegTaan.p338 - for a full analysis and parallels, see my Techniques and Assumptions p.96-100; 109-114.

It could be argued that Mark's version is closest to the rabbinic form, where the same question is always asked in both halves of the debate. Also it could be said that Matthew has clumsily added the teaching on optional marriage into the debate by transforming it into a private question and answer. On the other hand, the double question and answer in Matthew does conform very closely to the rabbinic form, and the extra question in private may simply be an extension of it.[59] Also it seems unlikely that the Pharisees in Mark's version would consider that their question had been answered. It is likely that, as in Matthew's version, they would have attempted to pin Jesus down to a definite answer.

It is unlikely that any definitive answer can be reached about which version developed from which. It is my personal view that both versions show signs of adaptation, though Matthew's version represents more aspects of the original version. It is likely that Matthew did add the summaries of the Hillelite and Shammaite position, but that these correctly represented ideas which had been abbreviated out previously. He added them because he realised that his readers were not so easily able to supply them from their own knowledge of Jewish oral law. The debate form was probably original. If Matthew had wanted to reconstructed it into the form of a rabbinic debate, he would have given more balance to the two sides. Mark has also edited the original in order to make it more usable in sermons and other Christian teaching, and has removed much of the debate structure. Both writers have adapted the original debate in order to help their own readers.

Jesus' teaching on monogamy

> Mark 10:6-9 But from the beginning of creation, *'He made them male and female.'* [Gen.1:27] (7) *'For this reason a man shall leave his father and mother and be joined to his wife, (8) and the two shall become one flesh.'* [Gen.2:24] So they are no longer two but one flesh. (9) What therefore God has joined together, let not man separate."

6 ἀπὸ\de\ἀρχῆς ktisewj ἄρσεν kai\qῆλu ἐποίhsen aὐτούς :[60] 7 e#eken toύtou katal eίψei ἀhqrwpoj tὸn patéra **aὐτοῦ** kai\thὴ mhtéra [kai\ **pros**koll hqῆsetai **pro**ὺ thὴ gunaῖka aὐτοῦ] [61] 8 kai\ἔsontai oi(dύo eiὐ σάrka miάan: w#ste oukέti eiὐὶh dύo aὐlaὶ\miὰ saὶrc. 9 o$ὖh o(qeoὶ\ sunέzeucen ἀhqrwpoj mh\xwrizέtw.

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[59] Matthew may be regarded as an amalgamation of the two varieties of this form as seen in the debates of Yohannan ben Zakkai. The first public debate with the Pharisees is very similar to Yohannan's debates with the Sadducees, where the original answer is dismissed as irrelevant, and they are finally satisfied with a clearer answer. The second question and answer in private is like the second half of Yohanan's debates with the Gentile where he gives his disciples a more difficult teaching in private.

[60] Several MSS read oὐqeov instead of aὐτούς. Metzger suggests that a scribe wanted to make clear that "he" is not a reference to Moses, who was the last named subject.

[61] Most MSS retain this phrase (only missing in) B Y). Perhaps a scribe missed it due to the two occurrences of kai or perhaps it was assimilated from Matt.19:5 or from Gen.2:24.

Matt. 19:4-6 **He answered, "Have you not read that** he who created them from the beginning *made them male and female*, [Gen.1:27] (5) **and said,** *'For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh?* [Gen.2:24] (6) So they are no longer two but one flesh. What therefore God has joined together, let not man separate."

4 **o(de\ aÞokriqei\j eiÞen: ou)k a)nÕegnwte o#ti** o(ktiÞsaj [62] a)p' a)Õxh=j a)rsen kai\ qh=lu e)Þoih\sen au)Õtou\j; 5 **kai\ eiÞen:** e#neka tou/tou katalei\yei a)nqrwpoj to\n pate/ra kai\ th\n mhte/ra kai\ kollhqh\setai [63] th=| gunaiki\ au)Õtou= kai\ e)sontai oi(du\o ei)j sarka mi/an. 6 w#ste ou)ke/ti ei)si\n du\o a)lla\ sa\rc mi/a. o$ ou)=n o(qeo\j sune/zeucen a)nqrwpoj mh\ xwrize/tw.

Jesus does not appear at first to be interested in answering the question about the interpretation of Deut.24:1. He is more concerned to remind the Pharisees that marriage was meant to be monogamous and lifelong. He used two exegetical arguments to prove that the Old Testament taught monogamy. He then combined them to produce the new conclusion, that married partners are joined together by God.

1) "male and female", based on Gen.1:27 [and Gen.7:9]

The first text used by Jesus has clear links with the Damascus Document proof texts. Not only is the same text used at Qumran, but the same introductory phrase is used.[64]

CD.4:21	The foundation of creation	h)yrbh dwsy
Mk.10:6	from the beginning of creation	a)po\ de\ a)Õxh=j ktiÞsewj
Mt.19:4	created them from the beginning	ktiÞsaj a)p' a)Õxh=j

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[62] Almost all MSS read poih/sav instead of ktiÞsav (which is only in B Q 1 124 700). Metzger thinks it more likely that a scribe would change the text to poih/sav which conforms with the LXX, than change to the text to ktiÞsav which fits better with the Hebrew "create".

[63] Many MSS read proskollhqh/setai ( ) C G K L M Y D P f1 118 124 1071 33 565 579 700 1424 t) which agrees with Mark.

[64] See Bruce, F.F., *Biblical Exegesis in the Qumran Texts*, (Tyndale Press, London, 1959), p. 33. The phrases are not identical, and neither use the vocabulary of Genesis in Greek or Hebrew, but they are semantically equivalent. If this phrase in Mark was based on Genesis one might expect the use of poiew instead of ktiÞma for creation. However, ktiÞma is common in Wisdom literature (it occurs with a)rxh in Prov.8:22; Sir.24:9; 36:14; 39:25; Sol.18:12) and phrases identical to a)rxhv ktisewv are found in Mk.13:19; 2Pet.3:4, and very similar in Rev.3:14. If this phrase in the Damascus Document was based on Genesis, one might expect the use of)rb, *to create*, instead of dsy, *to found*. The use of dsy may have been influenced by its use in Ezek.13:14 which is alluded to in CD 8:12. In CD.8:12 the "builders of the wall" are also called the "whitewash- daubers" (lpth yx+ - cf. Ezk.13:14 lpt ytx+ - cf. also NT parallels at Matt. 23:27; Acts 23:3), and these same "builders of the wall" are being addressed in CD.4:19. Therefore both Mark and the Damascus Document had influences which moved them away from the obvious vocabulary of Genesis 1:1.

As discussed above, this introductory phrase indicates that the importance of the exegesis lies in the fact that this the example that the Creator set for everyone else. Matthew has a slightly different version, perhaps to indicate this even more clearly.

It is unlikely that Jesus was consciously or unconsciously referring to the Damascus Document. It is more likely that this was a standard proof for monogamy which was well known. For this reason both Jesus and the Qumran exegete start off with this proof.

The text used by Jesus, Gen.1:27, would normally be linked with Gen.7:9. By linking these two texts by *gezerah shahvah* the exegete could infer that "male and female" in 1:27 is defined as "a pair" by the phrase "two by two" in 7:9. This means that marriage involved only two people. The second half of this pair of proof texts, Gen.7:9, has been lost in the abbreviation of the argument in the gospels.

One might try to guess why the text from Gen.7:9 was omitted. Perhaps this omission was deliberate, on the assumption that the audience would be able to mentally supply the missing text, but this supposes a very sophisticated audience. More likely the text was omitted in the mistaken belief that it was not necessary for the argument. A more generous conclusion would be that it was omitted knowing that any learned person would be able to mentally fill the gap, and that an unlearned person would not miss it.

Either way, the text of Gen.7:9 is not necessary for the more significant argument which Jesus develops in stage 3 below.

2) "the two shall become one flesh", based on a variant of Gen.2:24

The use of Gen.2:24 to prove monogamy was very widespread by the time of the gospels, as indicated by the addition of the variant "two" in almost all the ancient versions except the Hebrew. It is possible that there was a Hebrew text which contained this variant, but the widespread use of this variant in ancient versions in contrast to the most influential Hebrew text, suggests that there was either a theological reason for including it or a contrary theological reason for the rabbis to exclude it. The actual situation was probably a mixture of these two.

This variant text is used very self-consciously in the gospels. It is highlighted by the additional comment "So they are no longer two but one", which emphasises the presence of the word "two".

3) "whom God has joined", based on the combined proofs

Jesus combined these two standard proofs for monogamy and produced an argument for lifelong marriage. He linked the two texts, Gen.1:27 and 2:24, by *gezerah shahvah* so that a single conclusion can be drawn from them. The two text are linked by the phrases "male and female" in 1:27 and "the man and his wife" in 2:25 (immediately after the quoted text). This exegesis did not need to be explained, because it would have been obvious to any intelligent listener. This type of exegesis is not normally accompanied by any kind of explanation when it occurs in rabbinic literature or in the Targums.

In Gen.2:24 the act of joining is not ascribed to anyone, though it might be inferred that the couple join themselves to each other. In Gen.1:27 the first male and female are brought together by God. By combining both texts it can be concluded that a couple are joined together by God.

In Judaism it would generally be assumed that a couple were joined together by their promises to each other, as formalised in the marriage contract. Or it might be assumed that they were joined by a business transaction based on payment of the dowry and exchange of goods. Jesus wished to re-emphasise the role of God in the joining of marriage. This is probably based on the picture presented by Malachi, who pictures God as a witness to the marriage vows (Mal.2:14-16).[65]

> Mal. 2:14f (RSV): ...The LORD was witness to the covenant between you and the wife of your youth, to whom you have been faithless, though she is your companion and your wife by covenant. (15) .... let none be faithless to the wife of his youth.

This leads into Jesus' final and startling statement: Whom God has joined, let no man separate. The word "separate" (χωρίζω) is a standard term meaning "to divorce", with almost exactly the same semantic field as the word ἀπολύω, divorce (literally 'to release'), which was used in the Pharisee's question to Jesus. The word χωρίζω was probably used because it formed a better antonym to "join". If ἀπολύω had been used, the saying would have to be something like: "Whom God has bound, let no-one release". The picture of God's activity in Gen.1:27 is much more that of someone who 'joins' than one who 'binds'.

In passing, it should be noted that Daube proposed a very different explanation of the word "joined". He suggested that this is a reference to the rabbinic aggada about the Androgynous Adam, who had both male and female organs before Eve was created. This was deduced from the mixing of singular and plural in Gen.1:27, "God created him; male and female he created them".[66] This may possibly be an underlying theme, but it does not fit in with the overall theme of Jesus' exposition.

We could attempt to reconstruct the unabbreviated version of Jesus' teaching on monogamy. It would contain a reference to Gen.7:9, and it might also have an extended quotation from Gen.2:24, as suggested above. Therefore a fuller version of Jesus' argument for monogamy might be:

> From the beginning of creation, *'He made them male and female.'* [Gen.1:27], and those who entered (Noah's) ark *'went in two by two. . into the ark, male and female'* [Gen.7:9]. When taken together, these texts, show that God created human males and females in pairs. Scripture also says: *'For*

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[65] This passage is notoriously difficult to translate. Hugenberger (*Marriage as a Covenan)* has done more than others to solve the problems. However one might solve the various difficulties, there are two clear themes: God is a witness to the marriage vows, and he is against the one who ends the marriage by treacherously breaking the marriage vows.

[66] This tradition was known to Philo and rabbis tell us that the LXX said "a male with his female parts created he them' or 'male and female created he him' (GenR re Gen.1.26f; Mekh on Ex.12.40). No surviving LXX manuscripts contain this wording. See Daube, David, *The New Testament and Rabbinic Judaism* (Athlone Press, London, 1956) p.73

> *this reason a man shall leave his father and mother and be joined to his wife, (8) and they shall become one flesh, and the* two *were naked, the man and woman.'* [Gen.2:24f]. This shows that they have been joined by God. So they are no longer two but one flesh. What therefore God has joined together, let not man separate.

When the exegesis is restored in this way, the flow of the argument is smoother. The argument has three stages which flow naturally from one to the next. First he puts together the two texts Gen.1:27 and 7:9 in a well established way, to show that human "male and female" groups should be made up of two people, and not three or more in a polygamous marriage. He then moves to another standard proof text for monogamy based on "two" in Gen.2:24f, which is linked to the previous verses by a phrase similar to "male and female". Combining these, Jesus shows that the couple are joined by God. He then makes the same plea as Malachi, that marriage should be lifelong, and one should not cause a separation by breaking one's marriage vows.[67]

Effects on the early church

It is difficult to know whether this teaching on monogamy would have had many practical consequences, because we do not know how widespread polygamy was among the Jews of the first century. As stated above, it used to be assumed that it occurred only among the rich, but now it appears that it was also the practice of the middle classes. It is likely that there were few polygamous marriages outside Israel, because they would not be recognised in Roman law.

There would have been four consequences of this teaching for the early church, but only the latter two leave any evidence in the New Testament Acts and Epistles. The first two, which involve the subject of divorce and remarriage cannot be explored in detail here.[68]

1) Remarriage after an invalid divorce was adulterous

Jesus rejected most of the grounds which Jews used for divorce, and pointed out that remarriage after an invalid divorce was adulterous. This is presumably because the previous marriage was still valid, so that the new partner is committing adultery.

In first century Judaism, a woman who remarried after an invalid divorce was treated exactly like an adulteress,[69] but a man did not face this problem because he could have

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[67] This does not mean that divorce is impossible. If divorce was impossible, Jesus would have said: No–one *can* separate. Both Matthew and Mark have the imperative χωριζετω which implies that it is possible for couples to separate. If it were not possible to separate, it would be meaningless to command them not to do so.

[68] See note 54

[69] This type of situation is dealt with at length in mGit.8.5; mYeb.10.1. See the helpful analysis in Wegner, Judith R., *Chattel or Person? The Status of Women in the Mishnah* (Oxford University Press, Oxford, 1988), p. 65f.

more than one wife. Jesus taught that both the man and the woman would be guilty of adultery because a man could only have one wife.

2) Women gain the right to use adultery as a ground for divorce.

In ancient Judaism, when polygamy was still permitted, a husband did not make a vow of sexual exclusiveness when he married. This meant that he could not be divorced for being sexually unfaithful. He could still be accused of adultery, but the offense was against the husband of the other woman, and not against his wife. However, if polygamy was no longer permitted, a husband must be assumed to owe sexual exclusivity to his wife, and therefore adultery becomes a ground for divorce which can be used equally by men and women. This was already the case in some contracts which had an additional monogamy clause, such as some of those at Elephantine, as seen above. When this clause was added, a man could be divorced if he was unfaithful.

Women already had the right to divorce their husbands in first century Judaism. They couldn't write out their own divorce certificate, but they could take their case to a court of three rabbis or priests. If these agreed that she had sufficient grounds, they would force her husband to write the divorce certificate.[70] Although this was the correct procedure, it is likely that some Jewish women employed a scribe to write out a divorce. One such document has survived from the second century, though this is still under dispute.[71]

The permissible grounds for women to get a divorce from their husbands in first century Judaism were infertility, or neglect of the physical and emotional support as defined in Ex.21.10f. However, as a result of Jesus' teaching, divorce would also be possible on the grounds of adultery.

3) Widows could not become a second wife

As mentioned above, the family records of a middle-class second wife of the second century have survived. If she is typical, a second wife was often a widow. Marrying a widow was affordable even for the lower middle classes, because the dowry was half, and she often came with money of her own from the previous marriage which would help the family finances. However, if polygamy was no longer permitted, a widow could only marry an unmarried man, of which there were far fewer. Therefore, one consequence of Jesus' teaching on monogamy for the early church would have been an increase in the number of unmarried widows.

The early church appears to have met this problem very soon. The widows of Acts 6:1 may simply have been the equivalent of the poor in any Jewish community, but by the

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[70] See my "Jewish women divorcing their husbands in early Judaism: the background to papyrus Se'elim 13", *Harvard Theological Review*, forthcoming.

[71] See the history of the dispute in my "Jewish women divorcing their husbands"

time of the Pastoral epistles, the widows were starting to pose problems.[72] Unmarried widows had more freedom than married women, and they were causing problems by going house to house and gossiping.[73] Therefore the young widows were actively encouraged to marry,[74] and the older ones were organised into a special order of Widows.[75] They were supported by the church,[76] and they were given tasks such as teaching the younger women.[77]

In the early centuries, widows were a significant burden on the church. There were over 1500 widows and needy in the Roman church, and 3000 widows and virgins in Antioch who received daily support.[78] The orders of widows declined after a few hundred years, probably because they were replaced by convents.[79]

4) Some converts had too many wives

Converts with more than one wife faced the problem of what to do with their extra wives. This is a problem which is still causes great anguish in several African countries. The almost total silence of the Epistles on this matter suggests that the problem was not felt very keenly. Perhaps this was because the number of people involved were small. Most men with more than one wife were relatively wealthy and they would be very unlikely to live in the Diaspora, whereas most early Christians were poor and they did live in the diaspora.

It is very likely that polygamous converts were permitted to join the church without divorcing any of their wives. Jesus did not specifically teach that a second wife should

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[72] The whole subject of widows in the NT and the early church is covered in superb detail by Gustav Stählin in xhra, Kittel, Gerhard., *Theological Dictionary of the New Testament Vols.1-10* (Grand Rapids: Eerdmans, 1964-) IX, 440-465.

[73] 1Tim.5:13; 2Tim.3:6. The letter text does not specifically mention widows, but the language used here normally refers to widows - see Stählin p.455 n.140

[74] 1Tim.5:11,14. In the Roman world widows were expected to remarry if of child-bearing age - i.e. under 50. Augustus even put this into law in AD 9 - Winter, B.W. "Providentia for the Widows of 1 Timothy 5.3-16" (*Tyndale Bulletin* 39 (1988) 83-99) p.85

[75] 1Tim.5:9-12. It is not certain whether this was a recognised order in NT times (Stählin p.455 n.144), but it became one soon after, and in some places the order came to hold a status almost akin to deaconesses - Stählin p.459-465.

[76] Acts.6:1 is presumably the starting point for this. Tabatha supported the widows in her community, and Stählin suggested that she may have been doing this on behalf of the church (Act.9:36-41; Stählin p.451f) By the time of 1Tim.5:3-16, the church is beginning to restrict the women who qualify for support.

[77] 1Tim.5 does not list any specific tasks, because it is dealing with entrance requirements. Perhaps they had tasks similar to deaconesses in Tit.2:3-5, leading younger women to proper marriage and family life, and taking part in visitation of women.

[78] Stählin p.460.

[79] Stählin p.465

be divorced. This is in contrast to marriages which took place after an invalid divorce, which he declared to be adulterous. The church would no-doubt forbid a member to marry a second wife, but if a convert had more than one wife when he joined, the teaching of Jesus did not have any consequences for them.

The restriction of leaders to those who were a "husband of one wife"[80] implies a slight discrimination against polygamy. However, it also implies that a polygamous man was permitted into church membership.

The meaning of the phrase "man of one wife" is not certain. It could also refer to 'a man who has not remarried after divorce or death of his wife', or 'a man who is not a womaniser'. These alternative meanings have the advantage of working well with the similar phrase "woman of one husband" at 1Tim.5:9. Craig Keener has made a very persuasive case for the latter meaning,[81] pointing out that funeral inscriptions and other honorary references use a similar phrase when speaking about a men who were not necessarily married to the same woman throughout their life. However, even if the phrase did exclude those who were remarried, or those who were unfaithful, it would also undoubtedly exclude those who were married to more than one wife at the same time.

It would appear that the number of individuals in the church with more than one wife were few, and that they were allowed to keep their wives. The only restriction was that they could not serve in leadership positions. This is consistent with the teaching of Jesus who forbade a second marriage, but did not call a second wife an "adulterer", in the way that a marriage after an invalid divorce was called adultery.

Conclusions

Judaism allowed polygamy, but it was not widespread and it was already declining in the first century. There was already a widespread feeling that polygamy was inappropriate and some groups taught that it was not permitted by scripture. Jesus' teaching on monogamy echoed that found at Qumran, even so far as using the same proof texts and an identical introductory phrase. Both sources probably reflected a widely accepted teaching, though rabbinic Judaism did not forbid polygamy for several centuries. This teaching was easily accepted by the church, especially in the diaspora where monogamy was the norm. There would have been a few converts with more than one wife. These were allowed to keep their wives, but they could not serve as leaders. With the decline of Jewish converts, this number would have shrunk to insignificance. By the time the Gospels were written, the teaching on monogamy was recorded as an unimportant digression within Jesus' teaching on divorce.

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[80] 1Tim.3:2, 12; Tit.1:6.

[81] The term "wife-of-one-man" (Latin *univera*, Gk *monandros*) occurs commonly, and refers to a faithful wife. It is often on Jewish funeral inscriptions, written by the surviving husband - i.e. it was not a term for a widow. It therefore fits in with the list of other attributes of a leader who should be "above reproach". See Keener, Craig S. *... And Marries Another: Divorce and remarriage in the Teaching of the New Testament* (Hendrickson, Peabody MA, 1991) pp. 81-103. See also the discussion in Stählin p.442f; 457, and W. Lock, *The Pastoral Epistles* (ICC, Edinburg: T&T Clark, 1936) at 1Tim.3:2 & 5:10.