

## Nomological Exegesis in Qumran 'Divorce' Texts

### Summary

The Damascus Document and the Temple Scroll both forbid polygamy (CD 4:20-5:6; 11QT 57:15-19). Many commentators think that these passages also prohibit divorce with remarriage, though the method of exegesis is uncertain. This paper examines the exegetical techniques and assumptions employed in these passages, and find that they are similar to those used by first century rabbinic sources. Seen in this light, these passages do not forbid divorce or remarriage, and prohibit only polygamy.

### Exegesis at Qumran

There have been a large number of studies of exegesis at Qumran,<sup>1</sup> the most seminal of which was probably Brownlee's in 1951, where he enumerated thirteen 'Hermeneutic Principles'.<sup>2</sup> Brooke has demonstrated that these thirteen could be defined in terms of rabbinic midrashic techniques,<sup>3</sup> and other rabbinic techniques have also been found.<sup>4</sup>

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<sup>1</sup> Important works include Patte, D. *Early Jewish Hermeneutic in Palestine* (SBLDS 22), Scholars Press, Missoula 1975) pp. 209-308; Fitzmyer, J. A. "The Use of Explicit Old Testament Quotations in Qumran Literature and in the New Testament" in *Essays on the Semitic Background of the New Testament* (London, Geoffrey Chapman, 1971) pp. 3-58, originally in *NTS* 7 (1960-61) 297-333; Bruce, F. F. "Biblical Exposition at Qumran" *Gospel Perspectives III. Studies in Midrash and Historiography*. Vol. 3 (eds. R.T. France - D. Wenham, JSOT Press, Sheffield 1983), 77-98; Brooke, G. J. *Exegesis at Qumran: 4QFlorilegium in its Jewish Context*. *JSOTSup* 29, (Sheffield, Sheffield Academic Press, 1985)

<sup>2</sup> Brownlee, W.H. "Biblical Interpretation among the Secretaries of the Dead Sea Scrolls", *BA* 14 (1951) pp. 54-76. These 13 should not be confused with R.Ishmael's list of 13 exegetical techniques.

<sup>3</sup> Brooke, G. J. *Exegesis at Qumran*, pp. 283ff.

The exegesis at Qumran has also been shown to have similarities to that found in the NT,<sup>5</sup> Apocalyptic literature,<sup>6</sup> ANE dream interpretations,<sup>7</sup> and especially in the Targumim.<sup>8</sup>

These parallels with a variety of types of exegesis have sometimes disguised the most obvious link, which is with the Pharisaic and Sadducean scribes in Palestine. These precursors of the Talmudic rabbis, whom I will call the Scribes, had their own form of exegesis, which I have termed Nomological. This paper will examine a sample exegesis

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<sup>4</sup> See Wernberg-Møller, P., "Some Reflections on the Biblical Material in the Manual of Discipline", *ST* 9 (1955), 40-66; Bruce, F.F., *Biblical Exegesis in the Qumran Texts*, (Tyndale Press, London, 1959); Finkel, A., "The Peshier of Dreams and Scriptures", *RQ* 4 (1963-64), 357-370; Driver, G.R., *The Judean Scrolls: The Problem and a Solution*. (Oxford, 1965), pp. 335ff; Slomovic, E. "Towards an Understanding of the Exegesis in the Dead Sea Scrolls", *RQ* 7 (1969-71), 3-15; Talmon, S., "The Textual Study of the Bible - A New Outlook" in F.M. Cross, S. Talmon *Qumran and the History of the Biblical Text* (Cambridge, Mass. 1975) pp. 321-400; Fishbane, M., "The Qumran Peshier and Traits of Ancient Hermeneutics", *PWCJS* 6 (1977) I:97-114; Fishbane, M., "Use, Authority and Interpretation of Mikra at Qumran" in M.J. Mulder (ed.) *Miqra: Text, Translation, Reading and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity. Compendia Rerum Iudaicarum ad Novum Testamentum*. II. 1 (Philadelphia, 1988) 339-377, especially pp. 369-371, 374f; Moo, D.J., *The Old Testament in the Gospel Passion Narratives*. (Sheffield, 1983) pp. 36ff; Brooke, G., "The Amos-Numbers Midrash (CD 7.13b-8.1a) and Messianic Expectation.", *ZAW NS* 51 (1980) 397-404; Brooke, G., "Qumran Peshier: Towards the Redefinition of a Genre", *RQ* 10 (1979-81) pp. 483-503, especially pp. 496f; Brooke, G. J. *Exegesis at Qumran*; Chester, A.N., "Citing the Old Testament" in D.A. Carson, H.G.M. Williamson (eds.) *It is Written: Scripture Citing Scripture. Essays in Honour of Barnabus Lindars*, SSF, (Cambridge, 1988) pp. 141-169.

<sup>5</sup> Especially regarding introductory formulae and contextualisation into the present - see Schmitt, J., "Qumran et L'exégèse apostolique" *DBSup* 9 (1978) c1011-1014; Fitzmyer, J.A., "4Q Testimonia and the NT", *JS* 18 (1957) 513-537; Fitzmyer, J. A. "The Use of Explicit Old Testament Quotations".

<sup>6</sup> See references in my *Techniques and Assumptions in Jewish Exegesis before 70 CE* (Mohr, Tübingen, 1992) p. 192f

<sup>7</sup> Especially Fishbane, M., "The Qumran Peshier and Traits of Ancient Hermeneutics". See other references in my *Techniques and Assumptions* p. 193

<sup>8</sup> Brownlee W.H. "The Habakkuk Midrash and the Targum of Jonathan" *JJS* 7 (1956) pp. 169-186. See also many references in my *Techniques and Assumptions* p. 193f

and find that the exegetes at Qumran had more in common with their scribal contemporaries than is usually realised.

Jewish exegesis is often divided into two modes: *Peshat*, which seeks the plain meaning of the text, and *Derash* which seeks hidden or multiple meanings of the text. These are terms used only in post-70 CE rabbinic literature, and they do not fully describe the exegesis in pre-70 CE Judaism. In my *Techniques and Assumptions in Jewish Exegesis before 70 CE* I isolated all the exegeses which could be given an early date, and analysed the techniques and assumptions used in these texts. They turned out to be so different from later exegeses that I was forced to invent a new term to describe their mode of exegesis. I called it Nomological, because they almost always read the Biblical text as a legal document written by an infallible legal genius, even when they interpreted non-legal passages.

The Nomological mode of exegesis appears to be based on five assumptions:

- 1) Scripture is totally self-consistent
- 2) Every detail in Scripture is significant
- 3) Scripture is read according to its context
- 4) Scripture does not have a secondary meaning
- 5) There is only one valid text form of Scripture.

These assumptions about the text determined the types of exegesis which they employed, and also the types of exegesis which they did not consider appropriate. Contrary to later rabbinic exegesis, the early Scribes did not employ allegory, they did not change the text to fit the exegesis, and they interpreted the text in the light of its context. Techniques which were favoured by the early Scribes included the seeking of a reason for a seemingly superfluous word, seeking the full nuance of a strange word, removing contradictions, and interpreting one text by means of another.<sup>9</sup>

Some of the techniques favoured at Qumran are totally contrary to these Nomological assumptions. In particular the ignoring of the original context and the interpretation of

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<sup>9</sup> For further details and examples of these techniques see my *Techniques and Assumptions* pp. 17-23

variants (which might even be invented for a particular exegesis<sup>10</sup>) would not be countenanced by the early scribes, though the later rabbis used such exegesis frequently.<sup>11</sup> However, as I showed in a sample exegesis elsewhere,<sup>12</sup> the context of a passage is sometimes the *key* to understanding a Qumran exegesis which otherwise looks forced and contrived. Also, as will be shown here, a variant is sometimes ignored, even though it would be very helpful to the argument.

It will not be argued here that Qumran exegesis should be forced into the mould of early Scribal exegesis, but rather that Qumran exegetes were aware of the Nomological assumptions used by the Scribes and they were able to restrict themselves to this style when they felt it was useful to do so. The passages explored here are directed against their opponents, which included these Scribes, so there is a strong motivation for the Qumran exegetes to use techniques which their opponents could not disagree with.<sup>13</sup>

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<sup>10</sup> See examples in G. Vermes 1969b “The Qumran Interpretation of Scripture in its Historical Setting”, *ALUOS* 6 (1969), *Dead Sea Scroll Studies* 85-97; H. Ringgren “Some Observations on the Qumran Text of Job”, *ASTI* 11 (1977-78) pp. 119-126; D.J. Moo *The Old Testament in the Gospel Passion Narratives*, Sheffield 1983 pp. 43ff; and especially G.J. Brook “The Biblical Texts in the Qumran Commentaries: Scribal Errors or Exegetical Variants?” in *Early Jewish and Christian Exegesis: Studies in Memory of William Hugh Brownlee* Eds. C.A. Evans & W.F. Stinespring, Atlanta, Georgia 1987 pp. 85-100.

<sup>11</sup> The invention of variants is, in practical terms, identical to the exegetical technique known as *al tiqre*.

<sup>12</sup> See my *Techniques and Assumptions* pp. 190-192 regarding the Diggers of the Well (CD.6:3ff)

<sup>13</sup> This is probably also the case with CD.6:3ff, the exegesis of which is referred to in the previous note. Davies suggests that both of these passages come from a separate source, which the editor or author of the bulk of the Damascus Document has incorporated. This may also explain why the exegesis is different to that normally found at Qumran. See Davies, Philip R., *The Damascus Document: An interpretation of the “Damascus Document”*, JSOT supp. 25 (Sheffield, Sheffield, 1983) pp. 106-108.

## The Qumran 'Divorce' texts

The 'divorce' texts referred to in the title are two passages in the Qumran corpus which many commentators have understood as forbidding divorce, or at least forbidding remarriage of a divorcee. They are CD 4:19-5:5 concerning the sexual immorality which is the first of the "Nets of Belial", and Temple Scroll 57:15-19 concerning the marriage of the king. The passage about the Nets of Belial is one of the most studied portions of the Dead Sea Scrolls<sup>14</sup>, partly because it was found among the Geniza fragments long before it was found at Qumran, and partly because of its implications for Qumran teaching on divorce and its parallels with NT teaching. This discussion was diminished somewhat by the publication of the Temple Scroll, because many thought that the passage concerning the king's marriage had resolved the debate.

It is generally accepted that the primary purpose of both of these passages is to prohibit polygamy.<sup>15</sup> The teaching about divorce or remarriage is inferred by many

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<sup>14</sup> See Broshi, Magen, *The Damascus Document Reconsidered* (Israel Exploration Society, Jerusalem, 1992) p. 66 for a bibliography up to 1990. For more detailed bibliography from 1910 to 1956, see Winter, P., "Sadoquite Fragments IV 20, 21 and the Exegesis of Gen I 27 in Late Judaism", ZAWLXVIII, 1956, 71-84 especially pp. 74-77.

<sup>15</sup> Polygamy was widely accepted, and probably widely practised, though mainly among the upper and middle classes who could afford to support two wives. Polygamy was recognised as permitted by Josephus (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) and Justin Martyr says that Jews practised it (*Dialogue* 141).. There are a few first century examples of bigamy, mainly among the rich. Epstein lists examples from the priests' 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) (Epstein, Louis *Sex Laws and Customs in Judaism*. (American Academy of Jewish Research, 1948; reprinted New York: KTAV Publishing House 1967) p. 17). A middle class example is found in the documents of the Babatha family dating from 93-132 CE - see Lewis, Naphtali *The documents from the Bar Kokhba period in the cave of letters: Greek Papyri* (Jerusalem, Israel Exploration Society, 1989) p. 22. There was much rabbinic teaching concerning it. Epstein lists teaching concerning the co-wife (*Zareh*) which is discussed frequently (e.g. mYeb.1 etc.); the interval between marriages (bKet.93b - 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). But there were also many negative comments about it in rabbinic writings.

commentators as a result of a difficulty with the exegesis of Lev.18:18 in these passages.<sup>16</sup> Vermes suggested that the exegesis of the other proof texts in these passages may hold the key, and he made an initial attempt to decode them.<sup>17</sup> This paper will examine the exegeses of all the texts in these passages in the light of first century Jewish exegetical techniques. It will conclude that these passages prohibit polygamy, and say nothing about divorce or remarriage.

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Epstein 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. The (erem of R Gershom of Mayence (960-1040) finally prohibited polygamy (Responsa "Asheri" 42.1), probably in 1030 at Worms (the document has not survived), but it had probably ceased to be practised long before this.

<sup>16</sup> See especially Schechter, Solomon, *Documents of Jewish Sectaries* (Cambridge, Cambridge University Press, 1910, reprinted New York, Ktav Publishing House, 1970) ad loc.; Winter, P., "Sadoquite Fragments"; Murphy-O'Connor, Jerome "An Essene Missionary Document? CD II, 14-VI,1" *RB* 77 (1970), 201-229, p. 220, and "Remarques sur l'exposé du Prof. Y., Yadin," *RB* 79 (1972), 99-100; Davies, P. R. *Behind the Essenes. History and Ideology in the Dead Sea Scrolls* (Scholars Press, Atlanta 1987) pp. 73-85; Mueller, James R. "The Temple Scroll and the Gospel Divorce Texts." *Revue de Qumran* 38 (1980) 247-256; Stock, Augustine "Matthean Divorce Texts", *Biblical Theology Bulletin* 8 (1978) 24-33, p. 27f.; Charles, R. H., *Fragments of a Zadokite Work*, (Oxford, 1912), pp. 791, 796; Moore, G. F. "The Covenanters of Damascus; A Hitherto Unknown Jewish Sect" (*HTR* IV (1911) 330-377), p.344; Kampen, John, "A Fresh Look at the Masculine Plural Suffix in CD iv, 21" (*Revue de Qumran* 16:91-97 S 1993). The notable commentators who do not think that divorce is an issue in these passages are Ginzberg, Louis. *An Unknown Jewish Sect* (New York, Jewish Theological Seminary of America, 1978.) p. 19f; Rabin, Chaim, *The Zadokite Documents* (Oxford, Clarendon Press, 1954) ad loc.; Yadin, Y. "L'Attitude essénienne envers la polygamie et le divorce," *RB* 79 (1972), 98-99 and *The Temple Scroll* (3 vols, Israel Exploration Society, Jerusalem, 1983) I pp. 355-357); and especially Vermes, G. "Sectarian Matrimonial Halakhah in the Damascus Rule" *JJS* 25 (1974), 197-202 reprinted in *Post-Biblical Jewish Studies* (Leiden, 1975), pp. 50-56. Some commentators take a middle ground, saying that it prohibits remarriage after divorce but only for the King and other holy individuals, but not for the normal Israelite - see Wacholder, B. Z. , *The Dawn of Qumran: The Sectarian Torah and the Teacher of Righteousness* (Cincinnati, 1983) pp. 16, 125; 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) 13-24 especially pp. 14f.

<sup>17</sup> Vermes, G. "Sectarian Matrimonial Halakhah in the Damascus Rule", p. 200.

The section concerning the Nets of Belial in the Damascus Document may be directed against the Pharisees,<sup>18</sup> but it criticises practices which were condoned also by Sadducees and presumably by other groups, so it may be addressed to the opponents of Qumran generally.

CD 4:20-5:6<sup>19</sup>:

. . . They are caught by two (snares). By sexual sin (ṭwnz), (namely) taking (21) two wives in their lives (Mhyxb), 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 it is written, (2) “Let him not multiply 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.

The phrase “taking two wives in their lives” has a masculine suffix for “their lives” (Mhyxb), so that it appears to criticise any man who takes two wives within his own lifetime. This would include those who practice polygamy or remarriage. This led some early commentators like Schechter to argue that this virtually prohibited divorce,

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<sup>18</sup> The opponents are called “builders of the wall”, and this may be a reference to the “fence” which the Pharisees put around the law (mAv.1.1). Charlesworth suggests that the similar phrase at CD 8:12 may also refer to the Pharisees (Charlesworth, James H., *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek Texts with English Translations* (vol. 2 Tübingen, Mohr, 1995) ad loc.). In the same passage they are also called “whitewash-daubers” which has interesting NT parallels (Matt. 23:27; Acts 23:3).

<sup>19</sup> Based on Charlesworth, J. H., *The Dead Sea Scrolls*. 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.

because it did not allow divorcees to remarry.<sup>20</sup> Other early commentators like Rabin suggested that “in their (*masc.*) lives” was an allusion to Lev.18:18 so it should be emended to read “in their (*fem*) lives”<sup>21</sup>. 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 largely ended this debate because it was felt by most scholars that the Temple Scroll supported this emendation.<sup>22</sup>

Temple Scroll column 57 is an expansion of Deut.17:14-20 concerning the ideal king. The Temple Scroll may not have been written by the same group which wrote the Damascus Document, but they help to illuminate each other at many points including this passage, because they both use Lev.18:18 as a proof text for monogamy.

Col.57:15-19<sup>23</sup>

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

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<sup>20</sup> Schechter *Documents of Jewish Sectaries* ad loc. See also Mueller, J. R., "The Temple Scroll and the Gospel Divorce Texts."

<sup>21</sup> i.e. **Nhyyx** instead of **Mhyyx** e.g. Rabin, C., *The Zadokite Documents* 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.” (*Documents of Jewish Sectaries* p. xvii). Yadin says “most of the early scholars” read it this way (Yadin, Y., *The Temple Scroll* vol. 1 p. 356.).

<sup>22</sup> According to Yadin, only J. Murphy-O’Conner still defends the masculine reading since the publication of the Temple Scroll (*The Temple Scroll* vol. 1 p. 356). A more recent defence of this ‘literal’ interpretation of the masculine suffix is also found in Davies, P. R. *Behind the Essenes*, pp. 73-85, and a very early one in Winter, P., “Sadoquite Fragments”

<sup>23</sup> Based on Yadin, Y., *The Temple Scroll* vol. 2 p. 258.



ל וּכְ). But should she die, he may take (19) unto himself another (wife) from the house of his father, from his family.

This section of the Temple Scroll concerns the king's wife and is an expansion of Deut.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 rabbinic interpretation is that one may not take more than 18 wives.<sup>24</sup> The Temple Scroll author seems to interpret the phrase "lest his heart turn away" in the light of Deut.7:3f<sup>25</sup> and 1Kings 11.1f which said that their hearts will be turned away by foreign women, as Solomon's was. Therefore, the Temple Scroll said that 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 Leviticus 18:18 with the phrase "all the days of her life"<sup>26</sup>. 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"<sup>27</sup>.

It is impossible to know whether the Temple Scroll regarded monogamy as mandatory for all Jews, or just for the King. They may at least have regarded the King as an

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<sup>24</sup> 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)).

<sup>25</sup> Cf. Schiffman, Lawrence H., "Laws Pertaining to Women in the Temple Scroll" (*The Dead Sea Scrolls: Forty Years of Research* ed. D. Dimant, U Rappaport, (Brill, Leiden, 1992) pp. 210-228) p. 213

<sup>26</sup> 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.

<sup>27</sup> This detail is greatly emphasised in this short passage: "from his father's house . . . from the family of his father. . . .And should she die, he may take unto himself another (wife) from the house of his father, from his family. 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, L. H., "Laws Pertaining to Women in the Temple Scroll" p. 214f says that the main emphasis was to make the King like a High Priest, who may not marry a non-Israelite.

example to look up to and probably to emulate, but it is also likely that the King and other holy individuals were expected to follow a higher standard of morality.<sup>28</sup> Schiffmann has pointed out that the King in the Temple Scroll is often expected to follow the holiness commands of the High Priest,<sup>29</sup> and Baumgarten has pointed out that a two-tier approach to holiness is common in Qumran documents.<sup>30</sup> Davies has suggested that the King may have been a special case because it was important that there was always a queen, and this passage mandated not only that he remain married while she lived but also that he remarry when she died.<sup>31</sup> 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 very brief. The precise way in which it was exegeted will be explored below. It is followed by three further texts which strengthen the argument against polygamy.

The two citations from Genesis are very weak arguments by themselves.<sup>32</sup> However, they should be considered together, because they are linked by the words “male and

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<sup>28</sup> Kampen argues this by suggesting that CD was alluding to this regulation for the King in the Temple Scroll, and that the masculine plural in “their lives” was a deliberate change from the feminine singular in the Temple Scroll to show that this regulation applied to everyone and not just to the king (see Kampen, J., “A Fresh Look at the Masculine Plural Suffix” p. 96). This is unconvincing because the allusion to “in her life” which is much more likely to be an allusion to Lev.18:18 than the Temple Scroll.

<sup>29</sup> For example, the King is expected to marry only an Israelite, and a virgin, as is the High Priest - see Schiffman, L. H., “Laws Pertaining to Women in the Temple Scroll” p. 214, 216.

<sup>30</sup> Baumgarten, J.M., “The Qumran-Essene Restraints on Marriage” p. 15. See also Wacholder, B. Z. , *The Dawn of Qumran*, p. 16

<sup>31</sup> Davies, P. R. *Behind the Essenes*. pp. 77f

<sup>32</sup> Vermes tried to treat these verses in isolation, and concluded that the first was a very weak argument, and the second was simply an example of monogamy (“Sectarian Matrimonial Halakhah in the Damascus Rule” p. 200). Similarly Fitzmyer who said that in Gen.1:27 “there is really no reference to monogamous marriage”, so he said that the text was ‘accommodated’ to the interpretation (Fitzmyer, J. A. “The Use of Explicit Old Testament Quotations” p. 38).

female” (hkqnw rkz) which occurs immediately after the text cited from Gen.7:9.<sup>33</sup> By linking the two texts the exegete can infer that “male and female” is further defined by the words “two by two”, so that the use of this phrase in Gen.1:27 implied that monogamy was the ‘foundation of creation’.<sup>34</sup> Linking two texts in this way was called *Gezera Shava* in later lists of exegetical techniques,<sup>35</sup> and was very common in early Scribal exegeses. A further argument may be based on the fact that God’s choice is an ethical example which must be followed. God chose to make one man and woman, and chose to send animals into the Ark in pairs.<sup>36</sup>

The third text from Deut.17:17, about the king multiplying wives, made the Qumran exegete keenly aware that King David did not follow this law. This is probably because the example of King David became the basis for rabbinic teaching that the maximum number of wives permitted was 18, which was traditionally the number of wives which

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<sup>33</sup> This was pointed out in 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.

<sup>34</sup> It is significant that the same verse is used in the same way in Mk.10:6 where it is introduced with the phrase “From the beginning of creation”, (cf. Bruce, F.F., *Biblical Exegesis in the Qumran Texts*, p. 33) though there it is linked with Gen.2:24, which only has the word “two” in non-Hebrew texts. In Matt.19:4 the introduction becomes “he made them from the beginning”. The exegesis in CD is more tightly argued, being based on two texts which contain the same phrase “male and female”. But the context of the gospel passages are more concerned with marriage than polygamy, so Gen.2:24 is more suitable.

<sup>35</sup> It occurs in the lists of Middoth of Hillel (no.2), Ishmael (no.2) and Eliezer b.Jose Ha Gelili (no. 7)

<sup>36</sup> This same kind of argument from God’s example is used by the Hillelites in mYeb.6:6 and parallels, to counter the Shammaites who argued from the example set by Moses. The debate concerned how many children and of what sex had to be born before a man had fulfilled the command to increase and multiply. Shammaites said two sons (from the example of Moses) but the Hillelites said a son and daughter (from the example of God at creation). See my *Techniques and Assumptions* pp. 142-143.

David had.<sup>37</sup> There is a long explanation about King David's polygamy, arguing that he was ignorant of the Law because it was hidden during his time.<sup>38</sup>

The Deut.17:17 text is not applied here to ordinary Israelites. Perhaps it was introduced here simply to forestall the counter argument from this verse about David. But it is also possible that this text was expected to be understood as a proof text against polygamy in general, though the reader would have to assume that commandments directed to the king applied also to all Israelites. Rabbi Simeon ben Yohai is attributed with the principle that "All Israel are sons of kings".<sup>39</sup> There is no exegesis attached to this, but it may be linked with Num.21:18 (which is interpreted as "God calls all of them Princes" at CD.6.3ff<sup>40</sup>) or Ps.82:6f (which is interpreted as "The princes of God are Israel" in Songs Rabbah I.2.5<sup>41</sup>).

Daube has persuasively argued that Deut.17:17 was used as a proof text against polygamy from an early time. He showed that this text was probably used in this way by R. Simeon ben Yohai (later 2nd century), and that traces of this same teaching can be found in the gospels. He argued that R. Simeon was against polygamy, because there is a story where he helped a childless couple conceive in order to avoid either

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<sup>37</sup> See note 24.

<sup>38</sup> B.Z. Wacholder argues that the "sealed book of the Torah" was actually the Temple Scroll (*The Dawn of Qumran* p. 125) but this would still leave David open to the charge that he had not obeyed the canonical Torah which the exegete had shown to forbid divorce. VanderKam argues convincingly that Zadok was the priest in King David's day, because David married all his wives except Bathsheba before Zadok brought the Ark (and the Law) to Jerusalem - see VanderKam, James C., "Zadok and the spr htwrh hhwtm in Dam Doc 5:2-5" (*Revue de Qumran* 11 1984 561-570)

<sup>39</sup> mShab.14:4; yShab.14:4; bShab.67a cited at bBM.113b; bShab.128a, Rashi at bShab.59b.

<sup>40</sup> This is applied only to the Covenantors "who went out from the land of Judah and sojourned in the land of Damascus". This text is not interpreted in this way anywhere in rabbinic literature or in the Targums. The word 'princes' is **Myr#** not **Mykl m ynb** as in mShab.14:4.

<sup>41</sup> Attributed to R.Levi. Here too, the word 'princes' is **Myr#**. In SongsR only a few words of Ps.82:6 are cited, but the reader is expected to make the link with 'princes' in v.7.

divorce or polygamy as a remedy for the childlessness. He also pointed out that R.Simeon had a separate tradition relating to the exegesis of Deut.17:17, which said that Solomon removed a *yod* from **hbry )l** “do not multiply wives” to make **hbr)l** ‘to a multitude of wives’.<sup>42</sup> When this is put together with his tradition that “All Israel are sons of kings”, Deut.17:17 becomes a proof text against polygamy. Daube pointed out that the link between this exegesis of the missing *yod* and polygamy is older than R.Simeon because the same link is seen in Luke 16:17f.<sup>43</sup>

One proof text against polygamy is significantly missing from this passage in the Damascus Document. One would have expected the exegete to cite Gen.2:24 with the common gloss “two”, which was added to the text so that it read “and they two shall become one flesh”. This gloss is seen in the Septuagint and almost all other ancient versions, including the Peshitta, Samaritan Pentateuch, Vulgate, Targum Pseudo-Jonathan and Targum Neofiti. It is missing from Targum Onqelos (which is often corrected back to the Massoretic text) and the Massoretic text itself. This gloss was widely quoted, as evidenced in the NT where the text is quoted in this form by Jesus and Paul<sup>44</sup>. Although this gloss was widespread, it did not cause the Hebrew text to be changed, and it is not used when the Hebrew text is quoted. It is very significant that this variant was not cited in these Qumran texts.<sup>45</sup> This would have been an ideal opportunity for a typical Qumran exegesis based on a variant, but it appears that they restricted themselves on this occasion to exegeses which the early scribes regarded as acceptable.

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<sup>42</sup> Daube, David, *The New Testament and Rabbinic Judaism* (Athlone Press, London, 1956) p. 298. He refers to ExR.6.2 but this should be ExR.6.1, where the tradition is attributed to ‘our Sages’. In Lev.R.19:2 and ySan.2:6 it is attributed to Simeon b Yohai.

<sup>43</sup> Daube, D. *The New Testament and Rabbinic Judaism* p. 297. This is based on the assumption that Jesus’ teaching prohibited polygamy as well as divorce. He referred to remarriage after invalid divorces as “adultery”. The term “adultery” could only be used if polygamy was also disallowed.

<sup>44</sup> Matt.19:5; Mk.10:8; 1Cor.6.16

<sup>45</sup> George Brooke has suggested in a private communication that perhaps the Qumran exegetes did not know this variant. However the variant is so widespread that this seems unlikely. Unfortunately no text of Gen.2:24 has been found at Qumran.

Both the authors of CD and the Temple Scroll were therefore 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, as well as contrary to a command in Torah at Lev.18:18. Their use of this Lev.18:18 text must have been well known, because they do not attempt to exegete it clearly. Their very brief allusion to this text will now be explored with regard to the implications for their teaching on divorce and remarriage.

### **The implications of these texts for Divorce**

The phrase "taking two wives in their lives" at CD 4:21 is very difficult to interpret. Originally, as already stated, this was interpreted to mean that divorce was effectively prohibited, because a man could not remarry during his lifetime. After the publication of the Temple Scroll, there was a general consensus that the Rabin and others were correct to emend מִחַיַּיָּב "in their (*masc.*) lives" to read נִחַיַּיָּב "in their (*fem*) lives". This portion of the Damascus Document is preserved in only one manuscript - MS A of the Geniza Zadokite fragments. This is a very well preserved manuscript in a clear square script, and there is no doubt that the text itself reads נִחַיַּיָּב<sup>46</sup> so one must assume scribal error in order to make this emendation. This emendation is also difficult to accept because the new reading produces new problems in interpretation.

If the emended reading is accepted, it would imply that a divorced man cannot remarry unless his former wife has died. This has huge implications, which are not explored in the Qumran documents. These two passages are the only places where Lev.18:18 is used in this way, and neither passage says anything about divorce. There is no further teaching about divorce anywhere else in the Qumran documents, other than a couple of references which appear to be neutral about divorce<sup>47</sup>. Even given the fragmentary

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<sup>46</sup> See the photographs in Broshi, M., *The Damascus Document Reconsidered*.

<sup>47</sup> Temple Scroll 54:4 and CD 13:17 which are explored below. Wacholder thinks that he has found an account of Qumran teaching in the writings of a 10th century Karaite Abu Jusuf ja'qub Al-

nature of the texts, one would expect to find further teaching on this point. It is likely that there were more cases of divorce and remarriage than of polygamy, because only a wealthy man could afford to support two wives. Therefore, teaching on remarriage would have been of far greater practical importance than their teaching on polygamy. Also, as Ginzburg<sup>48</sup> has pointed out, if they believed that remarriage was prohibited, this would also have formed a far more effective criticism of their opponents. If they believed that remarriage before the death of a former wife was invalid, they could have charged their opponents with committing and condoning adultery, which was a far greater offence than polygamy.

There are three references to divorce in the Qumran documents and none of them are critical of divorce. They appear to allow divorce, and certainly do not condemn it. They do not say anything about restrictions to remarriage after divorce.

In the Temple Scroll there is a brief reference to the nature of a vow made by a divorcee:

Temple Scroll 54:4-5<sup>49</sup>

But any vow of a widow or of a divorced woman, anything by which she has bound herself (5) shall stand against her, according to all that proceeded out of her mouth.

In the Damascus Document there is a longer reference which is very fragmentary. It concerns the role of the Examiner who governed many aspects of personal life for the members of the community:

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Qirqisani, which includes a prohibition of divorce. Al-Qirqisani produced the *Book of Lights and Watch-Towers* which deals with sects, including the Zadokites who prohibited marrying a niece and divorce, and have calendar beliefs similar to the Book of Jubilees (30 day months and Passover on a Sunday) - see Wacholder, B. Z. , *The Dawn of Qumran*, p. 148-153. However, these beliefs were contained in "a large book", while Wacholder has to bring together the Damascus Document, the Temple Scroll and the Book of Jubilees to find all their beliefs. Also there is no reference to prohibiting polygamy, which a Karaite would be keen to point out.

<sup>48</sup> Ginzberg, L. *An Unknown Jewish Sect* p. 131

<sup>49</sup> Based on Yadin, Y., *The Temple Scroll* vol. 2 p. 399.

CD 13:15-18:<sup>50</sup>

Let no man do anything involving buying and selling without informing (16) the Examiner in the camp. He shall do (it) [ ] and not [ ](17) and so for one divorcing and he [ ](18) humility and with loving mercy.

This has been reconstructed by Schiffman to read as follows:

And let no one do anything in regard to buying or selling unless he has made (it) known to the examiner who is (in charge of) the camp, and does so with (his) counsel, lest they e[rr]. And thus] for 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). And he (the examiner) shall [instruct their sons and their daughters with a spirit of] humility and with lovingkindness.

Schiffman concluded from this passage that the Qumran community allowed divorce. Rabin, who was more cautious with his reconstruction, nevertheless pointed out that there is no evidence from this passage that divorce is accompanied by a warning, or by any special regulations concerning remarriage.<sup>51</sup>

The third reference to divorce in Qumran literature, at 11QT 66:11 is actually a prohibition for the seducer who “may not divorce her all his life”. Gershon Brin pointed out that this implies the normal acceptance of divorce at Qumran.<sup>52</sup>

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<sup>50</sup> Based on Charlesworth, J. H., *The Dead Sea Scrolls*.

<sup>51</sup> Rabin, C., *The Zadokite Documents* re CD.4.20. He reconstructs 13:15-17 as: “And let no man make a partnership for trade unless he informs | the overseer in the camp and makes a *written* agreement, and let him not (... | ...) the council. And likewise with regard to him that divorces (**#r<sup>g</sup>ml**) his wife and he (... |...) they shall answer him, and ‘with merciful love’”. Davies feels that even this reconstruction is not cautious enough, and suggests that the more normal meaning of **#r<sup>g</sup>ml** is ‘common land’ which may fit the context better - see Davies, P. R. *Behind the Essenes*. p.81. Fitzmyer suggests that it is the pual participle of **#r<sup>g</sup>** “to drive out”, concerning one who is banished from the community (Fitzmyer, J.A. “Divorce Among First-Century Palestinian Jews”, *Eretz-Israel* 14 (1978), 103-110 (English section)).

<sup>52</sup> He showed that the Temple Scroll omits laws from Deuteronomy which do not fit in with Qumran theology, so the presence of this law with this wording implied that divorce was a normal right, which was taken away from someone who has to marry the woman he has seduced. See Brin, Gershon,



Schiffman and Murphy O’Conner (supported by P. R. Davies<sup>53</sup>) are the only scholars who still defend the unemended reading “in their (*masc.*) lives” in CD 4:21. Murphy O’Conner had a debate with Yadin in *Revue Biblique*<sup>54</sup> in which he reasserted the idea that Qumran condemned all remarriage, but he admitted that this interpretation does not fit well with the Temple Scroll text. Schiffman proposed a new reason for the plural masculine, that it indicated that the law applied to both male and female - i.e. that both a man and a woman are prohibited from remarrying their spouse after a divorce.<sup>55</sup> This is a very plausible explanation because it takes into account both the text in Leviticus, which certainly does imply a feminine suffix, and the principle in the Damascus Document of equal application of laws to both male and female.

The principle of equal application of laws to both male and female is spelled out in the Damascus Document in the section following the prohibition of polygamy:

CD 5:6-11<sup>56</sup>:

..And they also continuously polluted the sanctuary by not (7) separating according to the Torah, and they habitually lay with a woman who sees blood of flowing; and they marry (8) each one his brother’s daughter or sister’s daughter. But Moses said, “To (9) your mother’s sister you may not draw near, for she is your mother’s near relation.” [Lev.18:13] Now the precept of incest is written (10) from the point of view of males, but the same (law) applies to women, so if a brother’s daughter uncovers the nakedness of a brother or (11) her father, she is a (forbidden) close relationship.

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“Divorce at Qumran” in *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies, Cambridge 1995* ed. M. Bernstein, F. García Martínez, J. Kampen (Brill, Leiden, 1997) pp. 231-244, especially p. 239.

<sup>53</sup> Davies, P. R. *Behind the Essenes*. pp. 78-85

<sup>54</sup> Murphy-O’Connor, Jerome “An Essene Missionary Document?”; Yadin, Y., “L’Attitude essénienne envers la polygamie et le divorce,”; Murphy-O’Connor, J., “Remarques sur l’exposé du Prof. Y. Yadin,”

<sup>55</sup> Schiffman, L. H., “Laws Pertaining to Women in the Temple Scroll” p. 217

<sup>56</sup> Based on Charlesworth, J. H., *The Dead Sea Scrolls*.

The Law said that an aunt and nephew should not marry (Lev.18.13), but it did not say that an uncle and a niece should not marry. The Damascus Document said that this law should have equal application to male and female, so this law would rule out marriages to a niece as well as a nephew. The same conclusion, though without stating this principle, is found at 11QTemple 66:16-17. This principle of equal application is expressed by the words “(it) is written from the point of view of males, but the same (law) applies to women” (CD 5:9-10). This statement is not justified in any way, so it is assumed that the reader would understand it and agree with it as an accepted principle for interpreting scripture. If this principle had not been named, the same exegesis could have been produced by *heqqesh* or analogy, which was a later name given to a common nomological exegetical method.<sup>57</sup>

This principle of equality was probably widely accepted. The Mishnah summarised the obligations of women at mKidd.1:7:

All positive commands not limited to time are binding upon both men and women, and all negative commands ... are binding upon both men and women.

There are a few other caveats, but in general women were required to obey all laws equally with men, except when the law had time constraints which might conflict with women’s periods of uncleanness or with their domestic duties.<sup>58</sup> It is difficult to date this mishnah, and it is unlikely that this summary dates before the end of the second century, because it is compared to other rulings made by second century authorities.<sup>59</sup> However, these other rulings suggest that the general principle of equality was widely accepted at an early date in rabbinic Judaism.

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<sup>57</sup> A 10th century Karaite Abu Jusuf ja’qub Al-Qirqisani suggested that the prohibition of marrying a niece could be deduced by *heqqesh* - see Wacholder, B. Z., *The Dawn of Qumran*: pp. 148f. David Chapman has also suggested (in a private communication) that it may be based on *qal vahomer*, or ‘from minor to major’, i.e. ‘if this restriction applies to a man, it surely applies to a woman’.

<sup>58</sup> A good summary of the issues is found in Wegner, Judith R., *Chattel or Person? The Status of Women in the Mishnah* (Oxford University Press, Oxford, 1988) pp. 150-155.

<sup>59</sup> bKidd.35a related this summary to rulings by R. Ishmael, R. Eliezer and the School of Hezekiah.

## Ginzburg's explanation explored and expanded

Ginzburg, who was one of the first commentators on the Damascus Document, had an even more convincing explanation for the unemended “in their (*masc.*) lives” which has been largely ignored.<sup>60</sup> This may be partly because the explanation was presented in a complex way, and partly because the explanation was slightly incomplete. He pointed out that if this principle of equal application to male and female was applied to Lev.18:18, it would explain why the Qumran exegetes interpreted it in the way that they did. He also implied that this would mean that they did not forbid remarriage of divorcees. Unfortunately he did not expound this explanation very completely, and he failed to point out that this exegesis explains why the masculine plural suffix is used in CD 4:20. As will be shown below, his explanation has been vindicated by the Temple Scroll text which was not known to him.

The law of Lev.18:18 states:

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

hyxb hyl ( htwr( twl gl rrcl xqt )l htx)-l )

h#)w

By the principle of equal application, this law would also teach that a woman may not marry her husband's brother during the lifetime of her first husband. The word “during their life” would imply that she would be able to marry him after her husband died. However, this would break the law stated a few verses earlier in Lev.18:16 that a man cannot marry the wife of his brother after he has died.<sup>61</sup> Ginzburg proposed that the Qumran exegetes, in order to get round this difficulty, read the word “sister” (htx) )

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<sup>60</sup> Ginzberg, L. *An Unknown Jewish Sect* p. 19f. Angelo Tosato (“The law of Leviticus 18:18: a reexamination”) has interacted in detail with Ginzberg, but otherwise he is usually just cited as in general terms.

<sup>61</sup> The law actually says simply that he cannot marry the wife of his brother, but it is self-evident that this is true during his brother's lifetime, so this law is always interpreted to apply after his death.

as “other”, which is linguistically possible<sup>62</sup> so that this law prohibited a man marrying another woman besides his wife.<sup>63</sup>

Ginzburg criticised those who said that the Damascus Document prohibited remarriage before the death of a former partner. He answered them with the words: “Naturally, however, he is permitted to marry a second woman after he is divorced from his first wife, since he thus has only one wife. The addition of *Mhyyxb* (=Nhyyxb) in our text is borrowed from Scripture and means only that this prohibition of marriage differs from all the others in so far as it is in force only so long as a man lives with his first wife in marital union.”<sup>64</sup> This rather compact answer can perhaps be unpacked as follows.

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, as indicated by the words in italics: “You shall not take a wife *with her sister to be a rival*, to uncover her

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<sup>62</sup> He cites examples at Ex.26:5, 6, 17. Angelo Tosato (“The law of Leviticus 18:18: a reexamination” (Catholic Biblical Quarterly 46:199-214 Ap 1984) pp. 201-207) argues that this is the true original understanding of this text. However, it was certainly not the way that the contemporaries of the Qumran exegetes understood it.

<sup>63</sup> The Karaites also used this same principle of equality, and they dealt with Lev.18:18 in similar way, but they had difficulty with Deut.21:15-17 which allowed polygamy. Aaron ben Elijah of Nicomedia said that Lev.18:18 only prohibited a second marriage if it was the husband’s intention to neglect his first wife, based on “to be a rival” (**ררכל**) (Nashim IX, 164d ). Toviah ben Eliezer said that Deut.21:15-17 only applied where the second wife was a captive woman (*Midrash Leqah Tov* to Deut.21:15). See Schiffman, L. H., “Laws Pertaining to Women in the Temple Scroll” p. 217; Ginzberg, L. *An Unknown Jewish Sect* p.19.

<sup>64</sup> Ginzberg, L. *An Unknown Jewish Sect* p.20

nakedness *beside* her, during her life.” The Qumran exegete may be arguing that the reason for the presence of the apparently superfluous words (“with” and “beside”) is to emphasise that this refers to having two women as wife at the same time, and not to having two women as wife at different times. Arguments which demonstrate the significance of seemingly superfluous words are very common in Nomological exegesis.

The word “during her life” in Lev.18:18 was also seemingly superfluous, and the whole of the Qumran exegesis hangs on their exegesis of this term. This particular word was important because it is this word which demonstrates the untenability of the traditional interpretation. If the word “during her life” was missing, the law would not imply that a woman may marry her dead sister’s husband, and there would be no need to read  $\text{h}\tau\chi$ ) as “other” rather than the more normal “sister”. In CD 4:21 it is cited in the form “during their (*masc. plural*) lives”. The masculine plural was presumably used in order to indicate that both male and female are included, so that it implies the principle of equal application. By alluding to this word, they show that they are basing their interpretation on a seemingly superfluous word and that this interpretation was necessary to avoid the contradiction which this word might otherwise create. In seeking the reason why that word was included, they argued that they had found the true meaning of the text.

The principle of equal application to male and female is also found in the Temple Scroll. Although it is not named, there is a lengthy justification for this principle at the end of its last column. This lists various forbidden degrees of sexual relations, some of which are specifically mentioned in Leviticus 18, and some which are not. In the following, those which are not mentioned in Leviticus are in italics:

Temple Scroll 66:12-17

A man shall not take his father’s wife, nor shall he uncover his father’s skirt.

A man shall not take (13) his brother’s wife, nor shall he uncover *his brother’s skirt, be it his father’s son or his mother’s son*, for this is impurity.

(14) A man shall not take his sister, his father’s daughter or his mother’s daughter, for this is an abomination. A (15) man shall not take his father’s

sister or his mother's sister, for it is wickedness. A man (16) shall not take  
(17) his *brother's daughter or his sister's daughter*, for it is an abomination.  
A [man] shall not[...

Leviticus named the nakedness of both one's mother, father, sister and half-sister, but not brother or half-brother, which the Temple Scroll specifically adds. This addition was probably regarded as self-evident and a matter of everyday taboo, so it is mentioned here in order to justify the principle of equal application. The Temple Scroll then listed aunts from both families, as in Leviticus, and added nieces of brother or sister. Like the Damascus Document, the Temple Scroll infers from the prohibition of marrying an aunt that a niece cannot marry her uncle. They are arguing, in effect: 'Just as the law of nakedness refers to a brother as well as a sister, so the law of prohibited degrees refers to an uncle as well as an aunt'. In the Damascus Document the principle of equal application is specifically referred to at this point. It is clear that the Temple Scroll is arguing in exactly the same way, though without giving a name to the principle.

The Temple Scroll used Lev.18:18 in a similar way to the Damascus document, but the argument is carried further. They both saw that there was something strange about Lev.18:18, because the principle of equal application made it seem like a contradiction of v.16. Ginzburg suggested that they solved this contradiction by reading  $h\tau x$ ) as "other". The Temple Scroll is a confirmation that this is precisely what they did. They indicated this reading by paraphrasing Lev.18:18 using "another" instead of "sister" as follows (the vocabulary shared with Lev.18:18 is underlined):

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

hyyx ymy l wk wm( hyht hdbl h)yh yk trx) h#)  
hyl ( xqy )wl w

The Temple Scroll exegetes explored the word 'sister/other' further than the Damascus Document. They explored the extra nuance which was given to the text by using the unusual word  $h\tau x$ ). This exploration of an unusual word was a common

technique in Nomological exegesis.<sup>65</sup> If the primary meaning of  $\text{h}\text{t}\text{x}$ ) was regarded as “other”, but could also mean “sister”, then exegetes were entitled to point out that this was an unusual word and to look for the reason why it was used. They argued that this word suggested that the other woman was like a “sister”, by which they meant that she was a “fellow Israelite”. This meant that the text not only prohibited polygamy but also assumed that one would only marry an Israelite. This concept of “sister” as a member of the family of Israel is given great emphasis by repeated phrases 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.” (11QT 57:15-19). They concluded from this that the king should only marry a “sister”, which meant that that he should only marry an Israelite.

This extra meaning, that the “other” wife would be a sister, did not constitute a new law which could be applied to all Israelites. It applied to the King because he would be expected to demonstrate the highest morals, and conform not only to the laws of Scripture, but also to the norms demonstrated by Scripture<sup>66</sup>. Similarly the Temple Scroll assumed that the king would not divorce his wife. After their paraphrase of “in her lifetime” they added “But should she die, he may take to himself another ...”. They cannot argue that “in her lifetime” is a prohibition of divorce, any more than it is a command to remarry after a first wife has died. The only command in Lev.18:18 is the negative one either against polygamy or against marrying two sisters (depending how one reads  $\text{h}\text{t}\text{x}$ )). But they could argue that “in her lifetime” demonstrates the scriptural assumption that marriage lasts for a lifetime. The King would be expected to live up to this ideal, and the other people might be expected to emulate him, but this exegesis could not negate the Law which allowed Israelites to divorce.

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<sup>65</sup> See my *Techniques and Assumptions* p. 20f

<sup>66</sup> Schiffman pointed out that this is one of several instances where the King is expected to have the same standards of purity as the High Priest - see “Laws Pertaining to Women in the Temple Scroll” p. 216

## Conclusions

In conclusion, the Qumran exegetes have displayed a perfect command of the disciplines of Nomological exegesis, as practised by the early scribes. They have avoided the use of variants, even though a very well known and useful variant existed in Gen.2:24. They have applied the technique of reconciling contradictions and using one text to explain another, which was very popular among early scribes. To do this they have argued from the existence of a seemingly superfluous word, they have explored the extra nuance of a strange word, and they have interpreted their text in the light of its context, all of which were also favourite techniques of the Scribes. It is possible that they restricted themselves to Nomological exegetical techniques in these passages so that their opponents would not have any grounds for dismissing their criticisms.

Ginzburg's suggestion that the Damascus Document exegetes read  $htx)$  in Lev.18:18 as "other" has been confirmed by the Temple Scroll which cites the text in exactly this way. They applied this text only if the first wife was not divorced (she was "with her . . . a rival") or dead ("during her life"). They therefore used the text to forbid polygamy, not divorce. Ginzburg's explanation, as expanded here, is both comprehensive and coherent, and it allows the text of the Damascus Document to be understood in an unemended form.

The subject of these passages is polygamy, as is evident from the context, the thrust of the whole argument, and the minute examination of each stage of exegesis. The term "their lives", from which a teaching about remarriage has been inferred, was a shorthand reference which summarised their nomological exegesis of a seemingly superfluous word. The phrase "taking two wives during their lives" emphasises that the text prohibited marriage to two women at the same time. There is no prohibition of divorce and remarriage, though the Temple Scroll text assumes that the king will give a moral example and not divorce his wife. But it does not prohibit divorce or remarriage for the general population, as seen in the other references to divorce in Qumran texts.



Therefore the so-called 'divorce' texts in the Damascus Document and Temple Scroll condemn polygamy but they have no implications with regard to divorce or remarriage. This explains why they did not make a direct criticism of remarried divorcees, which would have enabled them to accuse their enemies with the much more damning charge of adultery. This also solves the problem that other references to divorce at Qumran appear to be neutral rather than condemnatory, so that there is a total lack of corroboration for what would have been a very distinctive doctrine.