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Tragically Widening the Grounds of Legitimate Divorce

A Response to Instone-Brewer's Article in Christianity Today



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The October issue of *Christianity Today* carried an astonishing [article on divorce and remarriage by David Instone-Brewer](#). What makes it especially amazing is that *CT* simply published it as if it were faithful to Scripture, with no counterpoint, and used the phrase on the cover “when to separate,” not “whether to separate”—even though Jesus said, “What therefore God has joined together, let not man separate” ([Mark 10:9](#)).

To put it bluntly, the implication of this article is that every marriage I am aware of could already have *legitimately* ended in divorce. I knew I disagreed with Instone-Brewer’s position. I wrote [three chapters](#) on marriage and divorce and remarriage in [What Jesus Demands from the World](#) and considered Instone-Brewer’s views more fully at that time. But I did not expect to read this astonishing extension of the divorce license. It is, in our context of easy divorce and cavalier covenant-breaking, tragic.

Widening the Grounds from Exodus 21

From the teaching of [Exodus 21:10-11](#) concerning the rules about a woman sold into slavery as a wife or concubine, Instone-Brewer infers three grounds for divorce besides adultery. The text says, “If he [the man who bought the woman] takes another wife to himself, he shall not diminish her food, her clothing, or her marital rights [a word used only here and of uncertain meaning]. And if he does not do these three things for her, she shall go out for nothing, without payment of money.”

Instone-Brewer’s dealing with these verses is problematic at almost every level.

1) His claim that Jesus didn’t reject the (ostensible) grounds for divorce in [Exodus 21:10-11](#) is an argument from silence. Jesus never alluded to these verses. And when he did speak about Old Testament grounds for divorce, he rejected them as owing to the hardness of heart ([Matthew 19:8](#); [Mark 10:5](#)).

2) Keil and Deilitzsch have a totally different take on these verses than Instone-Brewer which does not assume that the purchased slave was already married to the purchaser when she is dismissed (*Commentaries*, Vol. 2, p. 131).

3) Worst of all, Instone-Brewer infers three grounds for divorce from [Exodus 21:10-11](#), neglect of “food, clothing, and love.” These correspond to “later Jewish and Christian” marriage vows: “love, honor, and keep.” He then concludes—read and weep—“Thus, the vows we make when we marry correspond directly to the biblical grounds for divorce [namely, ‘emotional and physical neglect’].”

Now Instone-Brewer may not want to say it, but he does say it: We have a ground for divorce if we are not “honored” by our spouse. I don’t know *any* spouses who are so well honored by the other that they could not make a case that they are insufficiently honored. Instone-Brewer may have safeguards he puts around these sweeping grounds for divorce. But they are not in this article.

So in the meantime, hundreds of wavering spouses may finally feel legitimized in their desire for divorce. “Here, at last, is a scholar who tells me that not only adultery, but *neglect of honoring me* is enough.” That just about releases all of us from our marriage covenants and puts an end to all church discipline. For there are no spouses who do not regularly dishonor their mate.

The Any-Cause Divorce

Concerning the one other main point in Instone-Brewer’s article, he is not persuasive either. He argues that when Jesus was asked in [Matthew 19:3](#), “Is it lawful to divorce one’s wife *for any cause*?” the phrase “for any cause” was a technical rabbinic phrase of the Hillel school referring to wide-open divorce for things as minor as burning a meal or getting wrinkles. So, Instone-Brewer argues, the question Jesus was asked meant: Do you agree with the Hillelite interpretation of [Deuteronomy 24:1](#) that allows divorce for virtually “any cause.” It follows, he says, that Jesus’ negative answer does not mean there is no legitimate divorce, but that it is wrong to claim that “any cause” is legitimate.

Instone-Brewer says that “Jesus agreed firmly with” the Shammaite rabbis that [Deuteronomy 24:1](#) referred to only one ground of divorce, namely, immorality. So when Jesus answered negatively to the Pharisee’s question, Instone-Brewer says, “He wasn’t rejecting the Old Testament—he was rejecting a faulty Jewish interpretation of the Old Testament.”

Instone-Brewer’s interpretation is an example (common, it seems, in New Testament studies today) of taking extra-biblical observations and using them to silence the fairly plain meaning of biblical texts. Over against what Instone-Brewer says, Jesus did in fact reject, for his disciples, what Moses commanded ([Mark 10:5](#)) or permitted ([Matthew 19:8](#)) in [Deuteronomy 24:1](#).

The Pharisees said to Jesus, “Moses allowed a man to write a certificate of divorce and to send her away.” To this Jesus said, “Because of your hardness of heart he wrote you this commandment.” In other words, he did not approve of Moses’ permission of divorce. Then he pointed them to the other part of Moses’s writings, namely, Genesis: “But from the beginning of creation, ‘God made them male and female.’ ‘Therefore a man shall leave his father and mother and hold fast to his wife, and the two shall become one flesh.’ So they are no longer two but one flesh. What therefore God has joined together, let not man separate” ([Mark 10:4-9](#)). Jesus does not line up nicely with the Shammaites. He demands a higher standard than [Deuteronomy 24:1](#).

It does not settle the issue of what Jesus meant by pointing out that there was a controversy over the meaning of “any cause.” We can only make a final decision about what Jesus meant on the basis of what he said. And when he was asked, “Is it lawful to divorce one’s wife *for any cause?*” what he said, in sum, was, “Go back to the beginning; realize God made the two into one flesh; so no human has the right to break what God joined” ([Matthew 19:3-6](#)).

You cannot infer from this that Jesus was simply forbidding divorce for burned toast and wrinkles. His prohibition of divorce was sweeping. When Instone-Brewer meets this prohibition in its most inclusive form ([Luke 16:18](#), “Everyone who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery”), he calls it “typical Jewish hyperbole.”

The Exception Clause

I suppose there will always be disagreement about the meaning of the “exception clause” in [Matthew 19:9](#) (“Whoever divorces his wife, *except for sexual immorality*, and marries another, commits adultery”). [I have argued elsewhere](#) that it refers to fornication during betrothal and means that “divorce” during betrothal would be permissible if one of the partners had committed fornication against the other.

Hence the paraphrase of [Matthew 19:9](#) would be, “Whoever divorces his wife and marries another, commits adultery—and I am excluding here the matter of fornication during engagement, as in the case of what Joseph thought Mary had done, and was thus about to divorce her.” It is significant that only Matthew has the exception clause (“except for fornication,” 5:32; 19:9) and only Matthew records Joseph’s intention to “divorce” (*apolusai*) Mary justly (*dikaiois*) during their betrothal.

One advantage of this interpretation is that the words of Jesus in [Matthew 19:9](#) are in complete harmony with his words in [Mark 10:11-12](#) where there is no exception mentioned (“Whoever divorces his wife and marries another commits adultery against her, and if she divorces her husband and marries another, she commits adultery”). And they are in harmony with [Luke 16:18](#) where there is no exception mentioned (“Everyone who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery”).

My aim here is not to persuade people that this understanding of the exception clause is right. My aim is to say that David Instone-Brewer’s argument is not compelling—neither the argument from the “any-cause divorce” in rabbinic literature, nor the argument from [Exodus 21:10-11](#). It is what I caution my students against. Beware of what looks like scholarly rank-pulling. For example, Brewer says, “I likely read every surviving writing of the rabbis of Jesus’ time. I ‘got inside their heads.’” So when he comes to the texts of the New Testament he says, “I was now reading them like a first-century Jew would have read them, and this time those confusing passages made more sense.”

My experience with the issue of divorce (and with the New Perspective on Paul) is that people who talk this way do not generally see the meaning of the New Testament as clearly as those who focus their attention not in the extra-biblical literature but in the New Testament texts themselves. For the ordinary layman who wonders what to do when scholars seem to see what you cannot see, I suggest that you stay with what you can see for yourself.

In sum, what I am pleading for here is that Jesus' standards for marriage were higher than the rabbinic schools. He is radical, not accommodating. The world we live in needs to see a church that is so satisfied in Christ that its marriages are not abandoned for something as amorphous as "emotional neglect." The deepest meaning of marriage is to display the covenant-keeping faithfulness of Christ and his church (Ephesians 5:25). And Christ will *never* divorce his wife and take another.