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MARRIAGE AS A (MUTUAL) OWNERSHIP
AN OVERLOOKED BACKGROUND OF BIBLICAL SAYINGS
ON MARRIAGE AND AGAINST DIVORCE

The last commandment of the Decalogue and other biblical laws and sayings presuppose that wife belongs to her husband. This position constitutes an obvious difficulty for modern readers, who easily disregard or dismiss it as a relic of ancient Near Eastern patriarchal mentality. It seems, however, that this metaphor of property has some significance for the whole biblical vision of marriage and was creatively reinterpreted in later biblical books.

1. Older laws

The text of the Decalogue states in the last commandment: “You shall not covet your neighbour’s house; you shall not covet your neighbour’s wife, or his manservant, or his maidservant, or his ox, or his ass, or anything that is your neighbour’s” (Exod 20:17).¹ The parallel text in Deut 6:21 puts neighbor’s wife before the house and other goods, but in the Exodus text the wife belongs to the household owned by her husband.

It is not the only case. Such thinking is reflected in naming the husband “owner, lord” of his wife, *ba’al* in Hebrew. Dictionaries list a dozen of such cases (Gen 20:3; Deut 22:22; cf Lev 21:4; Ex 21:3,22; Deut 24:4; 2 Sam 11:26; Prov 12:4; 31:11,23,28; Hos 2:18; Jl 1:8; Esther 1:17,20).² They are usually masked (censored?) by Bible translators who put words as “husband”, “married” etc. instead to avoid the problem. E.g. in Exod 21:3 (RSV) we read “married” instead of “owner of a wife”; in Exod 21:22 “woman’s husband” instead of her “owner”; etc. German *Eheherr* is a good translation.

The corresponding verb *B’L* means “own, take possession (of a woman)”. Husband acquired or even bought his wife (verb *QRH*). He paid to her father the price (*moher*), interpreted optimistically as a recompense for the loss of a young helper in the household.³ In Hebrew, love denotes most often man’s desire towards a woman and not their reciprocal feeling.

Treating wives as property is of course contrary to the modern concepts. We should however observe that our understanding of property is somewhat different that it was in the ancient world. This observation applies to two important aspects of property.

We limit property to things and animals. In the ancient world all the household, including wife, children, slaves, was owned in some way by their master. It does not have to mean that they were treated as things, even if it did happen. Rather, it suggests a wider understanding of the category of property. This notion included many cases of personal dependence or submission to others.⁴

¹ Biblical quotations are taken from RSV.

² E.g. Ludwig Koehler, Walter Baumgarten, *Lexicon in Veteris Testamenti libros* (Leiden: Brill, 1958), 137.

³ For the wider background see e.g. Millar Burrows, *The Basis of Israelite Marriage* (New Haven: AOS, 1938), esp. 14-15; 26-29; J. Harold Ellens, *Sex in the Bible. A New Consideration* (Westport-London: Praeger, 2006), esp. 67-79; Deborah L. Ellens, *A Comparison of the Conceptualization of Women in the Sex Laws of Leviticus and in the Sex Laws of Deuteronomy* (London: T&T Clark, 1998); Ken M. Campbell (ed.), *Marriage and Family in the Biblical World* (Downers Grove: InterVarsity, 2003); Michael L. Satlow, *Jewish Marriage in Antiquity* (Princeton – Oxford: PUP, 2001); Richard M. Davidson, *Flame of Yahweh: Sexuality in the Old Testament* (Peabody, Mass.: Hendrickson 2007).

⁴ If an ancient observer could see some modern totalitarian states, or even Western bureaucracies, he could have concluded that their citizens are owned by the government. The same applies to some enterprises in the countries where workers are not protected by law.

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Accordingly, the ownership implied more responsibility than it does now. The responsibility for a person is far-reaching by its very nature.

Dealing with material things today, we are used to getting rid of them and acquiring new ones, from houses to ball-pens. The ancient ideal preferred keeping property. What has been acquired, should remain in the household. The great merchant cities changed it, but they are not representative for the rural world of the Bible. Land and house should be kept, and the same applies to wife with children! Biblical laws favored keeping land in the family. Nabot lost his life because he loved his land (1 Kings 21).

These circumstances help to explain better the so-called divorce law in Deut 24:1-4. Change in mentality and modern needs of Jewish and Christian communities have distorted the interpretation of this text. What it really says? If a husband acquired a wife, he should keep her. The exception was *'erwat dābar*, incorrectly translated “the case of indecency” etc. This expression refers clearly to a physical repugnance, to something repelling. If so, sending back a wife was not a divorce in a modern sense of this term, but rather sending back a merchandise unfit for use. The allowed reason, however, made it really exceptional. Further, premarital sex excluded the use of this law by the husband (Deut 22:29), because it obviously excluded *'erwah*. The wife, seen as property, had no right to sending away her husband.

2. Further developments in the Old Testament

The Bible itself tends to reinterpret and correct this unilateral perception of wife as her husband's property. To some extent, it has been overcome by monogamy and next by presenting the relation between the married persons as reciprocal. Some degree of mutuality in marriage proves that property and ownership have to be understood metaphorically in its context. Here are six examples, four of them from relatively later books. They represent a new approach, diverging to some extent from the older vision of marriage and developing it.

The only case of divorce in the Old Testament mentioning names, Hosea and Gomer, refers to prostitution as its reason (Hos 1:2; 2:2) – it means that the guilty wife ceased to be the exclusive property of her husband. The restoring of this marriage necessitated a renewed purchase and an exclusion of prostitution: “You shall not play the harlot or belong to another man; so will I also be to you” (Hos 3:3). Here the wife should belong to her husband, but the husband will belong to her as well. The idea of mutuality in marriage makes its appearance. It is reflected also in the metaphor of marriage as applied to God and his people: “You are **my** people – Thou art **my** God” (Hos 2:25). Accordingly, the marital relation between God and his people can end with a divorce. It is stated in Jer 3:8: “For all the adulteries of that faithless one, Israel, I had sent her away with a decree of divorce”. The reason of sending wife away is different than in Deut 24:1-4 and approaches the reason given in Hosea, because adulteries (in plural) are something close to prostitution. Israel was not more an exclusive property of her God. Both books probably reflect some laws concerning divorce.

In the Book of Tobit,⁵ Sarah becomes the wife of young Tobias. At this occasion we meet the following formula of marriage. Her father says to him: "She is given to you ... From now on you are her brother and she is your sister. She is given to you from today and forever ... Take her to be your wife in accordance with the law and decree written in the book of Moses. Take her and bring her safely to your father" (Tob 7:11-12, NRSV). It is an act of transmission of property and related rights and duties, but with two modifications. First, she is given forever. The Book of Tobit presupposes the durability of marriage, planned already in heaven.⁶ Next, calling the young couple brother and sister not only suggests durability of their relation, but also makes it mutual. The vision of marriage is positive and optimistic, although it remains based on the notion of property.

In the Song of Songs⁷ the bride says: "My beloved is mine and I am his" (Song 2:16); "I am my beloved's and my beloved is mine" (Song 6:3). It is taken instinctively in a romantic sense, but incorrectly, as the romantic love is something very rare in the Bible (Gen 29:20).⁸ The passionate love in the Song of Songs should not be classified so. The first meaning of the quoted expression is that the girl belongs to her beloved and wants to own him as well. The Bible does not abandon the principle that the wife is her husband's property, but adds that the husband belongs also to his wife. The same should be said about Song 8:6: "Set me as a seal upon your heart, as a seal upon your arm". It is usually explained as a wish of the girl to be as near to his beloved as his signet, worn on a cord around the neck, or as a ring on his hand.⁹ However, seals were used by the owners to mark things belonging to them. Here, quite clearly, the girl wishes to stamp his beloved as her property. It covers both the personal relation, the heart, as well as the external aspects, the arm. She wants to own him completely.

The tendency to make the marital relation mutual is confirmed also by the Book of Malachi, which interprets marriage as a covenant.¹⁰ "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" (Mal 2:14). The prophet not only rejects divorce (cf. Mal 2:16), but also interprets

⁵ This book seems earlier than the Song of Songs and Malachi, discussed below. I follow some proposals from my commentary on Tobit in Polish: Michał Wojciechowski, *Księga Tobiasza czyli Tobita* (Nowy Komentarz Biblijny. Stary Testament XII; Częstochowa: Edycja Świętego Pawła, 2004).

⁶ Cf. Geoffrey D. Miller, "A Match Made in Heaven? God's Role in Marriage according to the Book of Tobit", *Rivista Biblica* 57(2009)2, 129-153.

⁷ Recent commentaries tend to disregard the dimension of the text we look for; cf. *ad locum* Yair Zakovitsch, *Das Hohelied* (Herders Theologischer Kommentar zum Alten Testament; Freiburg/B et al.: Herder, 2004); Marvin H. Pope, *Song of Songs* (Anchor Bible 7C; New York, Doubleday, 1977); R.E. Murphy, *The Song of Songs* (Hermeneia; Minneapolis: Fortress, 1990); J. Cheryl Exum, *Song of Songs. A Commentary* (Old Testament Library; Louisville: Westminster John Knox, 2005).

⁸ Cf. Gen 29:30. See John P. Baker, "Biblical Attitudes to Romantic Love", *Tyndale Bulletin* 35(1984), 91-128, but the author goes far behind the notion of romantic love, dealing with any signs of emotional love between man and woman.

⁹ Pope, *Song*, 666; Murphy, *Song*, *ad locum*; Zakovitsch, *Hohelied*, 269-270; cf. Gianni Barbiero, „Leg mir wie ein Siegel auf dein Herz – Fliehe, mein Geliebter". Die Spannung in der Liebesbeziehungen nach dem Epilog des Hoheliedes", in: Barbiero, *Studien zu alttestamentlichen Texten* (Stuttgarter Biblische Aufsatzbände AT 34; Stuttgart: Katholisches Bibelwerk, 2002).

¹⁰ Cf. Gordon P. Hugenberger, *Marriage as Covenant: A Study of Biblical Law and Ethics Governing Marriage Developed from the Perspective of Malachi* (Supplement to Vetus Testamentum 52; Leiden: Brill, 1994).

marriage as a reciprocal, durable covenant and obligation. Here, too, the husband lawfully belongs in some way to his wife and not only his wife to him.

3. Marriage in the New Testament¹¹

The obligations of married people mentioned in 1 Cor 7 are to be explained by the Old Testament background, and namely by the metaphor of mutual ownership. Paul comments there on the opinion of Corinthian Christians who apparently were suspicious towards sex: "It is well for a man not to touch a woman" (1 Cor 7:1).¹² "Woman", *gunē* in Greek, means also "wife".

The answer is: "Because of the temptation to immorality [*porneias*], each man should have his own wife and each woman her own husband. The husband should give to his wife her conjugal rights [*ofeilen*], and likewise the wife to her husband. For the wife does not rule [*exousiazeti*] over his own body [*somatos*], but the husband does; likewise the husband does not rule over her own body, but the wife does. Do not refuse one another except perhaps by agreement for a season, that you may devote yourselves to prayer; but then come together again, lest Satan tempt you through lack of self-control" (1 Cor 7:2-5).

The usual comments on these verses concentrate on three points. Avoiding temptation and prostitution seems to us a very insufficient reason for marriage (the answer is that Paul wrote it for people with different concerns; they undervalued sex whereas we tend to overvalue it). Church law has interpreted sexual life as a marital right and duty. Avoiding sex in marriage under a religious pretext is rejected.

Behind these factors we find, however, a specific concept of marriage. Why Paul came to such conclusions? He apparently presupposed that wife belongs to her husband and husband to his wife. After getting married, they do not rule over themselves. They renounce their former independence and give themselves as a gift, to be at disposal of the other person. They are as an owner ruling over his or her property. It is, however, a mutual ownership. His whole vision of marital relations seems

¹¹ Some works on marriage and divorce in the New Testament: Heinrich Baltensweiler, *Die Ehe im Neuen Testament* (Abhandlungen zur Theologie des Alten und Neuen Testaments 52; Zürich: Zwingli 1967); Roman Bartnicki, *Bedą dwoje jednym ciałem. Małżeństwo w świetle Nowego Testamentu* (Warszawa: WAW, 2007); Joseph Bonsirven, *Le divorce dans le Nouveau Testament* (Paris: Desclée, 1948); Raymond F. Collins, *Divorce in the New Testament* (Good News Studies 38; Collegeville, Liturgical Press, 1992); Raymond F. Collins, *Sexual Ethics in the New Testament: Behavior and Belief* (New York: Crossroad, 2000); Craig S. Keener, *And Marries Another. Divorce and Remarriage in the Teaching of the New Testament* (Peabody: Hendrickson, 1991); Walter Kirschschläger, *Ehe und Ehescheidung im Neuen Testament* (Wien: Herold, 1987); Donald W. Shaner, *Christian View of Divorce According to the Teachings of the New Testament* (Leiden: Brill, 1969); Gordon J. Wenham, William E. Heth, *Jesus and Divorce* (London: Paternoster, 1984).

¹² Some works on Paul and marriage: Will Deming, *Paul on Marriage and Celibacy: The Hellenistic Background of 1 Cor 7* (SNTS Monograph Series 83; Cambridge: CUP, 1995); Walter Neidhart, "Das paulinische Verständnis der Liebe und die Sexualität", *Theologische Zeitschrift* 40(1984), 245-250; Francis Watson, *Agape, Eros, Gender: Towards a Pauline Sexual Ethic* (Cambridge: CUP, 2000); Werner Wolbert, *Ethische Argumentation und Paränese in 1 Kor 7* (Düsseldorf: Patmos, 1981); O. Larry Yarbrough, *Not Like the Gentiles: Marriage Rules in the Letters of Paul* (SBL Dissertation Series 80; Scholars Press, Atlanta 1985).

presuppose mutuality on all levels: fidelity, rights, authority, ban on divorce (except of the unions with unbelievers)¹³ and so on.¹⁴

The situation of married people is implicitly compared to slaves, sometimes called “bodies” (cf. Rev 18:13), who were owned by their masters. Being a property constitutes a bondage. In 1 Cor 7 Paul counsels to remain in the state in which someone was called (1 Cor 7:20): marriage (1 Cor 7:10) and slavery (1 Cor 7:21) are examples.

Temporary abstinence is possible (1 Cor 7:5) for religious purposes. It probably reflects the idea that belonging to God is something higher than belonging to a spouse. Further, the understanding of marriage as ownership throws some light on celibacy. It should be considered not as bare abstaining from sex but rather as gaining a new freedom for the Kingdom of God (to be free is not to be someone’s property) and on the other hand also as a renouncing one’s possessions, something close to poverty by choice.¹⁵ Being poor is paradoxically superior.

The idea of marriage as ownership has some reflections elsewhere. In 1 Thess 4:4 acquiring a wife involves responsibility: “That each one of you know how to take a wife for himself [*heautou skeuos ktasthai*] in holiness and honour” (I assume with RSV and many commentators that *skeuos* refers to one’s wife). In Col 3:18-19 wives should be subject, husbands should love; the mutuality is much less pronounced. 1 Pet 3:1-6 says a lot about submissive wives and much less about considerate husbands. Cf. also Rom 7:2; Tit 2:5. Here we find some reflections of Old Testament laws and of a social custom, even if modified according to Christian principles.

On the other hand, the mutual submission is suggested in Matt 19:6: “What therefore God has joined together, let not man put asunder”. It is so, because “joined” corresponds in Greek to *sunezeuxen*, “yoked together”. Two oxen are equal... The mutual relation is suggested also by the expression “husband of one wife”: without divorce, remarriage, and adultery (1 Tim 3:2,12; Tit 1:6; cf. 1 Tim 5:9).

The language of mutual dependence¹⁶ reappears in Eph 5:21-33.¹⁷ The leading sentence says: “Be subject to one another [*hupotassomenoi allelois*] out of reverence for Christ” (Eph 5:21). This verb, *hupotasso*, was applied elsewhere, in Col 3:18; 1 Pet 3:1,5; Tit 2:5, only to wives. It denotes a complete dependence, often in a religious sense. It can describe the subjection of slaves to their masters (Tit 2:5; 1 Pet 2:18). An idea of mutual ownership can be felt behind this mutual subjection. Further: “Husbands should love their wives as their own bodies. He who loves his wife

¹³ For comparison, the difference of religion imposes sending wives away in Ezra/Nehemiah. According to Plutarch, wives should adopt the religion of their husbands (*Advice to the Bride and Groom, Moralia* 140D); cf. Caroline Johnson Hodge, “Married to an Unbeliever: Households, Hierarchies, and Holiness in 1 Corinthians 7:12-16”, *Harvard Theological Review* 103(2010)1, 1-25.

¹⁴ Cf. Ronald W. Pierce, “First Corinthians 7: Paul’s Neglected Treatise on Gender”, *Priscilla Papers* 23(2009)3, 8-13.

¹⁵ The same is true about abandoning family; cf. Mk 10. 28-29 par; further Mk 1 :20; Lk 5 :11,28).

¹⁶ Cf. Silvain Romerowski, « La soumission de l’épouse au mari en Ephésiens 5: un cas particulier de soumission mutuelle? », *Revue Réformée* 57(2006), no. 240, 31-77.

¹⁷ This text is dependent on Col 3:18-19. However, the subjection of wives is, spiritualized through the comparison to the subjection of the church to Christ (vv. 22-24). The love of husbands is enhanced through the comparison to Christ loving his church (vv. 25-27). In these comparisons the notion of property is absent.

loves himself" (Eph 5:28, cf. vv. 29-33). Having a wife, compared to possessing one's own body, appears as most intimate.

4. Divorce in the New Testament

The above sayings on marriage presuppose its continuity and durability. The situation of being a mutual property seems to exclude a divorce initiative. Neither a thing nor a slave can free itself from the dependence on the owner. Accordingly, the prohibition of divorce in 1 Cor 7:10-11 can be inferred from the mutual ownership presupposed already in 1 Cor 7:2-5. We read: "To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband) – and that the husband should not divorce his wife". Once more there is a symmetry in the rights and obligations of both sides, resulting from the mutual ownership relation between husband and wife.¹⁸

This principle explains the prohibition of divorce in its symmetric form, found in Mark: "Whoever divorces¹⁹ [*apolysē(i)*] his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery" (Mark 10:11-12). It is usually explained as an expansion of the original shorter saying of Jesus quoted in the other Gospels (Matt 5:32; 19:9; Luke 16:18). Jesus would have forbidden divorce to husbands, because the Jewish law accorded the right to divorce only to them. Next, the influence of Roman law (which gave the right to initiate the divorce also to wives) would have made Christians to supplement this saying. However, already some Old Testament texts on the mutual marital obligations would have had justified this symmetric prohibition from Mark. Therefore, it could have been formulated by Jesus himself, as it is confirmed independently by 1 Cor 7:10.

The so-called divorce clause in Matt 5:32; 19:9²⁰ has also something to do with the idea of property. Divorcing is not possible except of *porneia*. This word, *porneia* means "prostitution" in Greek, in a wider sense "behaving like a prostitute" (Hebrew *z'ēnūt* has the same meaning). Numerous attempts of explaining and translating *porneia* as adultery, unchastity, fornication, incest or invalid marriage have to be rejected. Sometimes they are confessional; sometimes they justify divorce laws.

Prostitution is obviously contrary to belonging to only one man or woman as his or her property. This idea is linked with Deut 24:1-4, because prostitution is repugnant and nullifies the marriage; *logos porneias* corresponds structurally to *'erwat dābar*. Hosea 1:2; 2:2, discussed above, furnishes an example.

Therefore, a prostitute neither can contract a marriage nor be considered an exclusive property of her husband or his wife. The Gospel does not refer here to divorce in the modern sense, but rather

¹⁸ For Paul, abandoning such "marital property" cancels the marriage in only one case: when an unbelieving person does not want to live more with a Christian (1 Cor 7:12-16).

¹⁹ More exactly, "dismisses", "sending away" in Hebrew.

²⁰ My position on the origin of this clause is that it was indeed added to the original shorter saying, but not because of some Church needs. It was added because Jesus on another occasion had mentioned such an exception to the ban on divorce.

to an impossibility of marriage. Biblical “sending away” should not be equaled with divorce we know, but rather interpreted as declaring marriage null or as renouncing the spouse, seen as a sort of property.

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Conclusion: sentences like “she *has* a husband” should be taken in their full sense. Accordingly, in the Bible there is virtually no space for divorce in a modern sense of this term, even if the marriage can be occasionally nullified by circumstances like physical repugnance, prostitution or rejection of faith. In the Bible, wife belongs to her husband and husband belongs to his wife.

Why it is not known and understood nowadays? The social changes are the reason. Modern marriages are usually far from this biblical view. Married person wants to preserve his or her freedom, freedom to leave, and to remain in possession of oneself. Biblical marriage, however, implies the mutual gift and mutual possession (cf. Acts 20:35 on giving). If we apply the biblical principles, modern marriages are of doubtful validity, not surprisingly they are not durable. According to the Bible, married persons do not belong only to themselves any more; they transmit their property rights to wife or husband.

Summary

The last commandment of the Decalogue and other biblical laws and sayings presuppose that wife belongs to her husband, who is in care of his “property”. For this reason, she could not divorce, and divorcing by husbands equaled to renouncing property and was not current. In these cases ownership had a wide meaning, referring to things and persons from the household. However, this idea, although not accepted today, could be seen in a positive way (as in Tob 7:12). This ownership could be idealized and mutual (Song 6:3; 8:6). The marital covenant from Mal 2:14 has similar meaning.

The obligations of married people mentioned in 1 Cor 7:2-5 are to be explained by the metaphor of mutual ownership. The same background can be traced in the prohibition of divorce in Mark 10:11 par. and in 1 Cor 7:10-11: mutual ownership excludes divorce initiative. It defines also to some extent the situation in marriage (common yoke in Matt 19:6: *synezeugen*). Prostitution demolishes this ownership relation, hence the *porneia* clauses in Matt 5:32; 19:9 (cf. Hos 1:2; 2:2). Next, renouncing marriage is similar to renouncing possessions. The idea of mutual ownership can be traced also in Col 3:18-19 and Eph 5:21-22,28-29,33; cf. 1 P 3:6. This metaphor contributes to the understanding of Christian marriage as a mutual gift (cf. also Acts 20:35). Preserving individual freedom after getting married is contradictory to it.