

Naked Bible Podcast Transcript
Episode 316
Divorce and Remarriage in the Old Testament
March 22, 2020

Teacher: Dr. Michael S. Heiser (MH)
Host: Trey Stricklin (TS)
Guest: Dr. David Instone-Brewer (DIB)

Episode Summary

Divorce and remarriage are obviously sensitive and difficult subjects. Not surprisingly, the Bible has something to say about both. In this episode we chat with Dr. David Instone-Brewer about what the Old Testament teaches about divorce and remarriage, situating the biblical text in its ancient Near Eastern and ancient Jewish contexts. The discussion includes Deut 24:1-4, a major biblical text on the issue, as well as God's tumultuous relationship with Israel, often depicted by analogy to both marriage and divorce.

Transcript

TS: Welcome to the Naked Bible Podcast, Episode 316: Divorce and Remarriage in the Old Testament with David Instone-Brewer. I'm the layman, Trey Stricklin, and he's the scholar, Dr. Michael Heiser. Hey, Mike! How are you doing?

MH: Good, good. How are you doing, Trey?

TS: Doing pretty good. Can't complain. How's the School of Theology going? Y'all getting that under control?

MH: [laughs] Isn't that a good way to put it: "under control"? We're a few weeks in now and so now we know who's submitting work and how many people are going for the certificate. And it's about three quarters of the people enrolled. We have about 120 live and another 700 in distance. So lots and lots of grading to do. But we'll get through it. We'll staff up for next year. But it's a really, really good start. A good kind of busy.

TS: I'm sure you've missed grading papers since you left Liberty.

MH: [laughs] Yeah, right. [laughs] There's a lot I could say about that. These assignments are real short, so I didn't take the shackle back and put it back on my ankle. So it's not that magnitude of grading drudgery. (Every professor knows what I'm talking about.) But yeah. It's good.

TS: Well this is our first podcast outside of Exodus. So we have several interviews lined up and this is our first interview of several. This will be a two-parter, covering divorce and remarriage in the Old and New Testaments. And I'm excited about this topic. I know you get lots of questions about stuff like this. And it's going to be great to have a reference podcast to refer back to for answers.

MH: Yeah, I feel the same way. Because I do get questions on this, so it'll be nice to say, "Hey, here's a book we recommend," "Here's a discussion we had." I have to telegraph to everybody up front, though, we're not going to entirely escape Exodus. We are going to dip into Exodus in this podcast (I imagine, anyway), just because having read David's book I think that'll pop up. But it's a good example of when you go through Exodus, you can't land everywhere. There are a few verses in Exodus that are actually going to matter for this discussion. So we're not quite entirely away. [laughs] We can't quite get there, Trey.

TS: Well, at least it's Bible study-related. At least we're out of that forest.

MH: Yep, agreed.

TS: Alright, let's not keep David waiting. Let's get into it.

MH: Well, we *are* thrilled to have David Instone-Brewer with us, all the way from the U.K. David, I'd like you to introduce yourself to our audience briefly first. Just tell everybody who you are and a little bit about your academic background and what you do.

DIB: Hi, I'm David. I'm a Baptist pastor, though I've been seconded by the Baptist Union into the academic world, which is a great place to be because I'm at Tyndale House, where I get to meet all the best scholars from around the world as they come for sabbaticals or breaks and to do further degrees. So I get to meet everyone just by standing in one place. And that place is a very nice place, in Cambridge. I have a lovely wife and daughters. So I'm in a good place.

MH: Yeah, it sounds quite good. Tell us a little bit about Tyndale House. What is its purpose?

DIB: It's an academic research institute in Cambridge. It's attached to the university, but not part of it. We have arguably the third best library in the world (maybe *the* best, but among the top three) for biblical studies, the others being the École Biblique in Jerusalem and the Pontifical Biblical Institute in Rome. And it's just a superb place to do research because everything is there in one little place. And *if*, by any chance, we don't have the book, five minutes down the road is a library with another eight million books. [laughter]

5:00

MH: Yeah, they should have it then. Well, before we transition to our actual topic, I would like people to know about your website as well. So I want to do it here before I forget it. Because you've been, I think it's fair to say, at the forefront of providing digital resources online for biblical studies. So can you tell your listeners a little bit about that?

DIB: Yeah, I rely on computers, because I have a very poor memory for most things. [laughter] So I make tools for using on computers. There are various things. The STEP Bible is probably the most important one at the moment. That's STEP Bible.org. And that's for reading the Bible in any language you want to read it in. I think there are 280 languages there. And it takes you straight through to the Greek and Hebrew if you want to go there. And you can explore as deep as you like or just read the Bible along with any number of other Bibles in parallel or interlinear or linear. It's a great thing, just to play around and read the Bible.

MH: Sure. Yeah. That was our initial attachment, because I was at Logos, and of course we had heard about you. And there was some back-and-forth there, and eventually you came in to do a Mobile Ed. course. So we've had an attachment of sorts over the years. Obviously the distance (because you're in the U.K.)... But I've read your work in a number of different areas and did an article through the journal that you edit (the *Tyndale Journal*), so we've had this attachment on and off, back and forth, and I've been accustomed to your scholarship.

But I get questions a lot on divorce and remarriage. And I'm not a pastor. [laughs] I'm a geek. I don't really have a whole lot of experience really talking to people directly about these kinds of issues. Obviously, we all run into it, either in our own efforts to maintain our marriage or with relatives—people in our family. So everybody experiences this in some way. And in the course of getting questions, I have looked at your book off and on a number of times, just to get some guidance. And I figured after this latest round... I got peppered with three or four more questions, kind of all in succession, a few months back. And I thought, "You know, we really need to do this on the podcast. And what better source could there be other than David Instone-Brewer?" I not only want to promote your book... And before I forget about that, this is a terrific resource (David's book). Why don't you just tell the audience a little bit about the book, when it came out, what the reception has been. So I want to promote that, because I do think it's a great resource. But to actually have you on the podcast (really, we're going to do two episodes: sort of an Old Testament and a New Testament) I just think is great for our audience.

DIB: Yeah, *Divorce and Remarriage in the Bible* I brought out in 2001 and followed it up fairly soon after with *Divorce and Remarriage in the Church*. Because the first one deals with technical issues and different manuscripts and Jewish sources and Babylonian sources and the Early Church sources. But the *Divorce and Remarriage in the Bible* is not for the person who's in the pew, necessarily. So I wrote *Divorce and Remarriage in the Church* to bring out the

more pastoral issues and the applications. I'm not quite sure which one you've read, Mike. I guess it was the *Divorce and Remarriage in the Bible*.

MH: Yeah, *in the Bible*. And this audience, believe it or not... I know if you get this book, you're going to see Greek and Hebrew in it and whatnot. But this audience is used to... Even if they don't have a year or so of either of the languages, they *will* jump into stuff like this and try to navigate it. So I figured it would be a good idea to do an episode (two episodes, actually) on the subject matter. And I think this is still a great resource. On this podcast, we value primary texts. We value taking Scripture in its own ancient context. And this is the sort of book that, if you're having to deal at all with the divorce and remarriage issue, you're going to want this as a resource. So that's why I'm not afraid to recommend the big one, the one with footnotes and Greek and Hebrew in it. But I'm glad you mentioned the other one.

10:00

DIB: The Greek and Hebrew is always translated. Because I recognize, "Hey, why should someone need to know it all?" And I always explain my sources carefully. So if it's a reference to an ancient document, which really doesn't make sense in the first place, then I explain it. So it's not like these technical works which have reams of Latin which they don't bother to translate.

MH: [laughs] Right. It's not like Mandelkern or something like that. [laughter]

DIB: And I've been really pleased with the way in which academic institutions have received it. There's one institution that actually uses this book, not as a way to teach ethics, but as a way in which to teach hermeneutics (how do we deal with a text, how do we interpret it, how do we look at the context, how do we look at the languages, how do we look at the culture, and put it all together to find out what the text says). And they use this book for that. Which I was *really* surprised at. It's wonderful.

MH: Yeah, that is really... That's a good idea, now that I actually hear of somebody doing that. It's like, "Yeah, that would work well. Why didn't I think of it before?" [laughs] Yeah, that's a great idea. Because it really is a good model for that. So yeah, I encourage everybody listening to check this book out and get it. It's a great resource.

So having said all that, I want to jump in here. In this episode, we're going to be talking more or less about Old Testament. We'll see how far we get. But I'm hoping we get into the Second Temple period. We can set up the next episode, which is really New Testament focused. But to jump in here, you begin the book with a chapter on the ancient Near East, and you emphasize in that chapter that marriage is a *contract*. This is a *legal contract* in the ancient Near East. And of course, that is something we're going to take into the discussion of the Old Testament material. But could you unpack that a little bit? Because I think a lot of people in the audience who are Christians tend to think about marriage more

ethereally. “Oh, it’s just something that... in the sight of God. This and that.” But it’s actually a legal thing. We sort of know that in the modern world, but I have noticed that there’s something of a tendency to theologize it too much—to take it out of its contract moorings and its context. So to start with, what kind of contract are we talking about here? Summarize that chapter for us.

DIB: Often we talk about marriage as a covenant, but in Old English, “covenant” and “contract” were exactly the same thing. It was an agreement between two people with stipulations and usually with penalties. If you don’t keep your half of the covenantal contract, then there’s a penalty to you. Or if the person doing a deal with you doesn’t deliver, then there’s a penalty for that.

MH: That doesn’t sound romantic. [laughter]

DIB: It doesn’t, no. But the two words (contract and covenant) have gradually split apart. And actually, in America covenant means something rather different in law than it does in the U.K. In U.K. law, a covenant is something which you inherit as part of who you are. So if you buy a house, you inherit a covenant, which puts various limitations on how you use that land along with the house. Or if you have a job, there will be a legal covenant which is part of that job. It’s not something you have to sign in order to have to fulfill. In America, a covenant is an agreement which doesn’t have penalties attached. You keep it just as a matter of honor. And I think it’s that meaning which is coming to the sense of marriage not being a legal thing, that it’s a matter of something you do because you’re a decent person and you keep the laws of marriage. But these are just ways in which the language has developed. In the Old Testament it’s just one word. It’s *berit*, which is for all covenants, all contracts. They have penalties. They have clauses. It’s legal jargon. Laban makes these contracts with Jacob. You have Solomon making contracts with Hiram to deliver wood. And if Hiram doesn’t deliver wood, then Solomon won’t pay by sending his end of the deal. And there’s no friendship involved. It’s just a contract. It’s just a *berit*. It’s a covenant. It’s legal. And when you come to marriage, you’ve got exactly the same thing. They have a document which you still know about from modern Jewish marriages. You have this long marriage contract which delineates exactly how much money is coming in from both sides. And it says (in the old versions and from Jesus’ day) that the woman is going to be doing the cooking and the man’s going to be providing the food and each side has obligations and each side will receive things. And it’s a contract.

15:00

MH: Yeah. What are some of the... You talked about terms. In your book, you cover terminology for payment. There were different kinds of payments. So let’s talk about some of the ingredients, if you will—the elements of the contract, other than “I’m going to do this; you’re going to do that.” There was actually money or property or wealth transferred to cement this agreement.

DIB: Well, the place in the Bible where we see this most strongly is, of course, when we see Jacob tries to get his wife, and then gets married to the wrong one and has to work another seven years for the right one. And there there's very clearly a payment being involved there. Different parts of society and different parts of the Old Testament have slightly different customs. But the *mahor* (the payment, the bride's price) is the common one in the Old Testament. And it's strange, in different parts of the world you have either the groom having to pay or you have the bride's family having to pay. And I never figured out how this comes about one way or the other. But we still have payments in our marriages. That's why you have the exchange of rings. It's what the lawyers call a *consideration*. Without *consideration*, there's no contract. And the consideration that we give is a ring. And you only have to give the bride a ring, because in our culture, the money comes from the groom. But nowadays we tend to exchange rings. So there's still this concept of a price being paid. And of course, in some cultures it's absolutely terrible. In Indian culture, there are huge payments. In a lot of African cultures, people just can't afford to get married. So we still have this payment, which is part of the contract.

MH: Yeah. Do you think it's fair to say, just going back to... There's bound to be somebody in the audience for whom this has popped into their head or they've heard it. But this notion that, "Well, I don't want the state involved in marriage. The state shouldn't have any say in whether I'm actually married or not. I'm going to promise myself to this person. And in the sight of God, that's good enough." So I think it would be fair to say that that really wouldn't be a biblical marriage, because you have this exchange. Do you think that's fair?

DIB: In the Bible, you have things exactly like that. It's called being a concubine.

MH: [laughs] There you go.

DIB: The definition of a wife in contradistinction to a concubine is a wife has exchanged vows with the husband before witnesses. If that hasn't happened, then the woman is a concubine. And the legal difference is, a concubine doesn't have the ownership of any children. The children all belong to the husband. The concubine can be sent out of the house at any point and the concubine doesn't have legal rights to any property. For a wife, the wife shares the property of the husband and shares the rights to the children, though it's not quite the same rights that we have nowadays. But it's very closely modeled. The concubine is in many details exactly like what we call a common law wife, someone who is living with a man without public ceremony of marriage.

MH: Now that's actually a nice transition into really, I think, in a lot of respects the guts of the matter here in the Old Testament, and that's Deuteronomy 24:1-4. There's also this inclination or this assumption that, "Well, back in the Old Testament, this is patriarchal culture, and the women didn't really have any rights. They had no recourse. They're essentially property." And there are

patriarchal-isms (just to use the broadest term that pops into my head), but the women *did* have property rights here, and a lot of that goes back to Deuteronomy 24:1-4. So I'd really like to spend some time hearing you talk about that passage in relationship to the contractual nature of marriage and honestly, how that really was a blessing for a woman (this contractual relationship).

20:00

DIB: The situation you described of a woman not having any property rights is, as far as we can tell, how it was in most of the ancient Near East. We have the remains of laws from Hammurabi and other law codes and women are very much property themselves rather than owning property. And if you get dismissed by your husband, the children belong to him. They are valuable assets because they can plow the land and they can do work for the family business. And you just lose them. Or if your husband goes away sometime and you're not quite sure if he's going to come back and you marry someone else, when he returns, he can just claim you back and claim back any children that you've had in the meantime that this other man... So a woman really didn't have many legal rights. And that's why Deuteronomy 24 is so different. It just stands out as a gold standard in the ancient Near East. Because there you can see that the woman, when she's dismissed, she *has* to be given a certificate of divorce. Now without that, if she didn't have a certificate saying "Yes, I'm divorcing you. You're now free to marry anyone you wish," then the man could come back at any point and just take her. So no one would marry her again, because they're going to lose any children they've had in the meantime and lose all the assets they've given to the woman. And you don't make any emotional commitment to someone who might just be taken from you. So having a divorce certificate like that was *such* a wonderful thing. There is a sort of equivalent to it in one ancient Near Eastern law, where a high-level commander, when he goes off to war, has to give his wife a divorce certificate in case he doesn't return, and then she's got something that can say, "Okay, I'm free to marry." But that was a great privilege. And here, Moses says it's for *every single* Jewess. Every Jewess has this right, that if the man leaves her, he *has* to give her a certificate saying she's now free of him and she can marry someone else.

MH: How does this play out into the latter part of the passage? We might as well just read it. This is ESV.

When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her, and he writes her a certificate of divorce and puts it in her hand and sends her out of his house, and she departs out of his house, ² and if she goes and becomes another man's wife, ³ and the latter man hates her and writes her a certificate of divorce and puts it in her hand and sends her out of his house, or if the latter man dies, who took her to be his wife, ⁴ then her former husband, who sent her away, may not take her again to be his wife, after she has been defiled, for that is an abomination

before the LORD. And you shall not bring sin upon the land that the LORD your God is giving you for an inheritance.

So we tend to look at this and I think we read it completely negatively because of words like “indecenty” and “defilement” and things like that. But there’s actually a lot more to it. So how does this whole thing work? If this is a great thing for her to be given a certificate of divorce because it allows her the freedom to remarry without the fear of just being arbitrarily claimed... Take us through this scenario of what these verses are actually describing.

DIB: With case law, which you have in the Old Testament, you always define for rights the very *minimum* requisite to get those rights. And for obligations you get the *worst* case. So here, you have a woman who is definitely a worst-case wife. [laughs] I mean, she is terrible. Her first husband found some indecenty in her. “A matter of nakedness,” it says. We don’t know what it is, but hey, it’s bad enough that he wants to get rid of her. And then she goes off and marries someone else and *he* hates her and sends her away. And in both cases... You wouldn’t expect this woman to get the divorce certificate, but the law says *even this woman* should get a divorce certificate. So the negative is there deliberately. This is the worst case scenario. And even that woman has to have a divorce certificate. So it’s a right which is for everyone. But you’re correct, the actual case that’s described here, it’s abysmal, isn’t it? [laughs]

MH: Would a woman who has a certificate of divorce... Does that mean to others that she was divorced legitimately? Or is it just wider? It’s really any case. Does this signify the *rightness* of the divorce, or is it sort of neutral?

25:00

DIB: We don’t know what the wording is back then. But in the rabbinic times, they said the minimum wording that *has* to be on a divorce certificate is, “You are now free to marry any man you wish.”

MH: So that’s the minimum legal statement, that basically the husband has to say yes to that. “Yes, this is what’s written on there,” and give it to the wife. So he couldn’t take that out, is what you’re saying. That’s the minimum requirement.

DIB: Yes. And he can’t say, “You can’t marry So-and-so,” or something like that. “You’re now free to marry any man you wish.” They did allow them to add “a Jewish man” because obviously a Jewess wouldn’t marry a non-Jew. But yes, that wording is very similar to wording we find in that case of the senior military man. They had wording very similar to that. And it’s also very similar to wording we find in other neo-Babylonian documents. So it’s quite likely this wording does go all the back to the 1400s (or whatever), when Moses was giving his laws. And that wording would make sense in the situation. Because as you say, he’s not saying anything good about her. He’s just saying, “Okay, I’m done with you. And you’re now free to go off.”

MH: Okay. And so this scenario is actually... Let's say she goes out. She has the certificate, so she's *allowed* to remarry. Regardless of what the circumstance was, she is *allowed* to remarry because she has this certificate. And then she gets married again. And like you said, the worst-case scenario, the second husband "hates her" (from verse 3) and he also writes her out a certificate of divorce and puts it in her hand and sends her out of his house. So I presume that we assume that it's the same kind of document. He says, "Hey, you can get married again. But I'm done with you." Or if the latter man dies. He sends her out of his house or if the latter man dies so she's by herself now, obviously. Then her former husband, though, is not allowed to take her again. Why? What is that preventing?

DIB: That's a mystery. I haven't seen any convincing explanation of this. But this is a bit of case law and this is how Old Testament works with some of the laws. Some of the laws are missives and regulations. Some of the laws are cases, such as with the Sabbath law, that they find a man picking up sticks and therefore they decide, "No, that is work and that mustn't be done, and you mustn't light a fire on the Sabbath." You get case law, and like in the U.S. and like in the U.K., case law builds up into actual law. So this is an actual case. Something has actually happened like this. And we don't know exactly what it is, why they're saying, "This second time, she can't go back to her former husband." And there are some theories. You've probably heard of some of these theories.

MH: Is this Westbrook's idea about the first husband would essentially be trying to... Let's put it this way. If the second dowry... If she comes into money with the second marriage, that he's going to go try and reclaim her... Is that what you're thinking of here?

DIB: Yep.

MH: Well let's just go there. Why don't we unpack that? Raymond Westbrook was an expert in ancient Near Eastern law, for those who are not familiar with his name. And he has a take on this that is interesting. The first marriage ends. He writes the wife that he's sending away a certificate of divorce, just like you should do for whatever the matter of indecency was. That's pretty nebulous. But the fact that, if he did have a valid ground for doing that... Let's just... We have to assume that. But she had broken the marriage agreement or something—however they defined the validity here. Then what happens to her dowry that she is given at the beginning of the marriage? There's that issue (what happens to that) and she goes and remarries and she gets another dowry. And the first guy says, "Well that one's bigger than the one that we had, so I'm going to try to reclaim her so that I can get to the money." Do you think there's any validity to that idea?

DIB: I think it's a great idea. It's very *creative*. That's the mild, British way of saying, "No. It won't work." [laughter]

MH: So you don't think there's enough evidence for Westbrook to make his case, is what you're saying?

30:00

DIB: Well, it isn't written in those terms. It's not written in terms of, "You can't keep collecting dowries." It's just in terms of, "You can't marry any wife like this that you've been married to before." And why not? She can marry a complete stranger. She can marry someone that she's committed adultery with. She can marry anyone. But she can't marry the person she was originally married to, which is weird.

MH: Right. And because it *is* weird, people have been looking for ways to explain the logic of it.

DIB: And it's very strong language. "It's an abomination," a word that's usually used for idolatry. It's a religious thing. The whole country is going to be defiled if this happens. And [Westbrook says] it's just a money thing.

MH: Do you think that he's also reading the validity angle in? Because again, if the indecency is really undefined, how can you be more precise than that? [laughs] You know what I mean? How do you apply any precision to that?

DIB: I don't think this is supposed to be precise. It *was* an actual case, but they want to bring generalities out of it, so they're not going into the precise details of that case. Because it's got to become general law. But about this "not marrying the original husbands," I have a pet theory.

MH: Okay. We like pet theories. [laughs] They're okay if they're clearly labeled. [laughter]

DIB: I haven't written it up in the scholarly journals, so I haven't had any comeback from other scholars about it. So I'll wait for your experts who are listening now to come back and say it's rubbish. [laughter] I came across this when I was looking on Shiite websites for the... I was interested in Islamic law. It was the website of a prominent Shiite cleric who was giving answers to questions. Amazing. People were asking all sorts of questions. And they were asking about this "pleasure marriage" (*mut'ah* marriage). You can look it up on Wikipedia: *mut'ah* marriage in Shiite law. What it means is, you can marry someone just for a short period. You can enter into a marriage agreement with a girl (or with a woman) for a few nights and then end it. And it's just temporary. Just a temporary marriage. Now they don't recommend this. This isn't something that is a terrible scandal in Shiite Islam. It's just something they've inherited and it is still practiced. (I'd say "under the covers," but...) [laughter]

MH: Right. They're not out there flag-waving for it, but it's still there.

DIB: It's still part of Islamic law. And presumably, it was part of the culture and probably part of the hospitality culture. And you can imagine that someone comes along. Hospitality is so important in Arabic culture, including before Islam was learned by the Arab tribes. And you give them every comfort you can imagine. You give them food; you give them the best place in the house (or in the tent). And you can imagine, you might also give them a wife for the night. But when Islam comes along, it says, "You can't just do this. You've got to actually have a marriage ceremony." So you have to have a very quick marriage, and in the morning, you say, "I divorce you, I divorce you, I divorce you," and it's over. And the woman can go back to her original husband who divorced her for the night. It's legal. In Islam, of course, you have to have some number of months to make sure the woman isn't pregnant from that temporary marriage before you remarry her, but you just remarry her. And if that was happening in Moses' time, this would be the exact way in which they would stop it. If a man divorces his wife and someone else marries her, then the man can't go and remarry his wife. That's an abomination before the Lord. And suddenly, that language (that very religious language and very strong language) makes sense. He's pimping his wife!

35:00

MH: Yeah. You're right. You do get the abomination language. It is religious language. But a lot of the cases are... That you find the term... You do have these sexual transgressions that are in Leviticus and whatnot. So I know you said it's a pet theory, but [laughs] it sure sounds good. I mean, it makes sense. Who knows if that's the case? But yeah, I could see how this would just stop it right in its tracks. So I understand why this has appeal to you. So are you sure you're not going to submit this for publication somewhere?

DIB: Well, I'd love to find some corroboration in an ancient Near Eastern text or something. But until I find that, it's really just a kite flying in the air.

MH: Right. Well, you need a website. [laughs] You don't need peer review for the website. You just throw it out there. But it is interesting, all kidding aside. It really would halt this with some immediacy. You'd be very, very... I don't know... If you really loved your wife, I don't know anybody that would do this. They wouldn't incur the risk and not being able to take her back again. Why would you do it? So yeah, I can see where that has a lot of appeal.

So we have Deuteronomy 24:1-4. The nature of it is somewhat nebulous as far as why the divorce occurs. But I think it's fair to say the important takeaway, for our discussion really... This is going to ripple out into other passages, both Old and New Testament. The important takeaway is that the woman who was given this certificate of divorce (whatever the cause or reason was), she is allowed to remarry. That much is clear. So how does this relate to what we see later on in the Old Testament, like when we get into the Prophets? Because when you talk

divorce and remarriage, somebody's going to bring up the Prophets. And they're going to find the verse that says that God hates divorce. And there's this language about God divorcing Israel and so on and so forth. So how does this Torah information in its context relate to what we see in the Prophets?

DIB: Well, it's directly related to what we see in Jeremiah. Because Jeremiah sees God divorcing Israel, and God has complete angst about this because he knows that he can't remarry Israel. Because Deuteronomy 24:1-4 says that you can't. In Jeremiah 3 and 4, this is a big, big topic. Of course, the main subject of Jeremiah there is that God has divorced Israel and he's about to divorce Judah. And Judah had better turn around and make sure that doesn't happen. That's what he's using it to warn her about. But yeah. He says here at the beginning of Jeremiah 3 [in verse 1], "If a man divorces his wife and she goes from him and becomes another's wife, will he return to her? Would not the land be greatly polluted?" That's exactly the language of Deuteronomy 24, so that's clearly in his mind.

MH: So does this mean that God's a polygamist? He's married to Israel *and* Judah? How do you handle that language?

DIB: Well of course, in the Old Testament, it wasn't wrong to have more than one wife. But God didn't set out to be a polygamist; it's just his wife turned into two. [laughter]

MH: Right. So that's probably not going to happen. [laughter]

DIB: I've just been watching *Altered Carbon* on Netflix. And you have this concept that you can be double-sleeved. You can put yourself in two bodies. So maybe it will happen. [laughter]

MH: Yeah, somebody will figure out a way to do that. Yeah. So we have the case of Jeremiah. What about some of the other prophets? Let's divide it up into a couple of questions. So is it proper to say that God divorced Israel? What would the grounds be? In other words, does this terminology apply? Or how does it apply to the question of individual divorce and remarriage? And then why does God say, "I hate divorce"? Put that together for us.

DIB: Certainly, Jeremiah does talk about God divorcing Israel and separating from Judah with the danger of divorcing her. And so does Isaiah. Isaiah says, "Where's your mother's divorce certificate?" He refers to the divorce certificate of Israel. And they are talking about God as being married to Israel, and because of her adulteries and things, he divorces her. And Ezekiel goes into details, exactly what the reasons are for that divorce. He doesn't just talk about the idolatry as adultery (which all the prophets seem to talk about). He also says, "Look, I gave you food and you gave it to the idols. I gave you clothing and you gave it to the idols. I gave you love and you loved the idols instead." All the grounds for divorce

40:00

which are in the Old Testament, including those three which we haven't looked at yet, are cited for God's divorce in Ezekiel.

MH: Let's pick that up. Because right there is the list. These are common stipulations (let's use the legal language here) that are part of the marriage contract. And so when the stipulations are not met, you have legitimate grounds for divorce. So what are the stipulations? You just mentioned a few of those. And then how they show up in the Prophets.

DIB: Yeah. We find them in Exodus 21. You have the obligations to the very lowest form of wife. That's a slave that you've decided to marry. And if you decide you want to take a second wife and then you sort of neglect the first wife (who is the slave wife), you still have obligations to her. And it lists as obligations in verse 10, "You cannot diminish her food, or her clothing, or her marital rights." That last word is difficult to translate, but marital rights is probably as good as any. So food, clothing, and marital rights. And those are the obligations a man has to his wife. And it says, "If he does not do those three things for her, she can go out for nothing, without payment of money." She is free from that marriage. Even though she came as a slave, she is absolutely free and there's nothing to pay or anything.

MH: Right. *She* doesn't have to pay *him*.

DIB: Yes.

MH: There's no cost to her.

DIB: She doesn't have to buy her freedom. She is completely free, because he hasn't fulfilled her obligations in marriage. And the rabbis quite sensibly took that as the minimum things that you have to give to your wife in marriage: food, clothing, and marital rights. And of course, faithfulness, which they got from Deuteronomy.

MH: Right. So if a woman says to whatever the local legal authorities or the rabbis (however we want to characterize that), "Look. My husband is not giving me enough food (or clothing, or marital rights)." I know in your book you talk about the possibility this could be referring to conjugal rights. But any one of those things (whatever they were)... And if the whole case is examined and, "Yeah, she's right. She is being deprived of whatever this thing is or one of these clear things," then she is allowed to leave. In other words, those are legitimate grounds for divorce. Correct? Are we reading that correctly?

DIB: Correct. And also the other way around. A man could say that the woman is not cooking the food and she's not sewing together the cloth into clothes and she's not reciprocating marital rights.

MH: Yeah. So this is the bare minimum, like you said. We do have these things listed in Exodus. The same language gets picked up in the Prophets to talk about the legitimacy of divorce. And right away, we've already moved beyond how divorce and remarriage typically get talked about in the Church. It's usually only one of those (the conjugal rights, if we're reading that correctly). And specifically, there's an unfaithfulness situation or adultery. But in Exodus here, this would have been a legitimate divorce if she or he is being deprived of one of these other things.

DIB: Yeah. We tend to see these verses as obscure, hidden away in a part of the Bible we don't often read. And who knows about it? But in the first century marriage contracts that we have found on Masada and in the Judean caves along with the Dead Sea Scrolls and things, in every marriage certificate which this part of it is preserved, you find this verse being quoted. And it says, "You must not diminish her food, her clothing, or her marital rights." It was written into a piece of paper that every Jewish bride owned and kept safe. Because that was her ticket to freedom if the marriage went wrong.

MH: Mm hmm. And to remarriage.

DIB: Oh, yeah, yeah.

45:00

MH: She wasn't just stuck. So again, just that and the fact that, if it's written into these marriage certificates (and the reverse, the divorce certificates), that tells you that these Exodus verses which seem peripheral to us were *not* peripheral. This is how they're reading it. They're serious.

DIB: Yeah. We see it with the Batra documents that a woman who was on the mount of Masada, ready to give her life with everyone else... She had a packet of her family documents. And marriage documents were the most valuable pieces of paper that you owned. Forget about your social security number. It's your marriage documents that save you and give you an income when that horrible man ditches you.

MH: So how does this relate to Hosea? Because that's always at the forefront of many of these discussions. And there, because of the nature of the story and Gomer, our mind defaults to the sexual infidelities and we never really get to Exodus 21. But we have to bring Hosea into the discussion. But how is that a factor as well?

DIB: It's a lovely story, isn't it? [MH laughs] I don't mean that facetiously.

MH: I know, because of the sacrifice involved and all. Yeah.

DIB: What's that movie, where he goes and marries his prostitute, his mistress?

MH: Is that *Pretty Woman*?

DIB: That's it! *Pretty Woman*. Such a moving story.

MH: I've seen parts of that, but that was a good guess on my part.

DIB: Very good, very good. Yeah, and this is the *Pretty Woman* of the Old Testament, if you like. [laughter] He has to go and marry this whore, this prostitute. And he has to love her, because that illustrates how fanatically in love God was with Israel, even though she was going through all these men, all these idols, and being unfaithful under every tree on every hill. And yet, God still loved her and was determined to bring her back. And although I say that Jeremiah was stuck because of Deuteronomy 24, he does find a way around. What Jeremiah says is, "Oh, it's okay because Israel and Judah are going to come back together again and be bound as one stick," (be one people again). And therefore, she can be married again because Judah herself wasn't actually divorced. And Isaiah has a completely different solution to the same problem. He says, "Clearly, Israel is divorced, but it doesn't matter. They're going to be reborn as a new bride, a newly virgin bride." It's a wonderful image. Whatever, they can see that God is going to be so fanatically in love with Israel that he will find a way to get 'round these laws and get back together again with his beloved. And somehow, he's going to win her over. And we don't see the solution to that until we get to the New Testament. We just can't see how God is going to win this love affair.

MH: Mm hmm. So how did the... This is the gist of the Old Testament material—God's situation with Israel, the split there with Israel and Judah, some of that divorce language. Essentially, the lesson of Hosea is that God is committed to the relationship. I know that there are some passages that you could legitimately read as though, "Yeah, God got divorced from Israel," like you just said, but he has a plan to reverse the situation in something that's totally innovative and new. Could we say that God was sort of forced into that decision but has this backup plan? Is that fair to throw that in the mix as well?

DIB: Yeah. It comes to a point where just continuing is just multiplying sin. Israel wasn't going to turn around. She wasn't going to change anything. And there's nothing that a decent man could do except end it. And we find in Malachi, God hates divorce. And hey, have you ever met a divorcee who doesn't?

MH: Yeah. And again, even though you have that situation... (God hates it, this isn't going to change, so we're going to go through with this.) It's not that his hands were tied, but that's where all the circumstances are driving this decision. It's not something that God wants, but like you said, this is what a decent husband would do. But God still has a commitment through all that, shown in the book of Hosea, that somehow (supernaturally or in a totally unexpected way) this is going to come full circle and be reversed somehow. And we can already see how some of that would apply to our own marital situations in principle, perhaps

50:00

even in all of it, maybe not in this lifetime, especially if there's a divorce between believers, and there might be a sort of a hopeless situation that...

What I'm getting at here is sort of leading up to a question. How much... We'll hit this when we talk New Testament, but I'm going to throw it out here anyway because I'm going to turn it back into the Second Temple community. But how much of this can we really use analogically to our human marital relationships? How much of it really applies and in what way would it apply? So that is a thought that we're going to have to take into the New Testament, but I'll just leave it here in the Second Temple period. Obviously, people get married, they run into problems, they know that this information is in their sacred texts, so how did they do this? How did they apply these passages? And some of them are pretty nebulous. They're not clear. They don't have the precision we'd want. What were the schools of thought in the religious community in the Second Temple period for applying all this stuff? How'd they do it?

DIB: Well, we have the writings of lawyers and how the lawyers applied it. And I think even for us, the Old Testament is important in that we see God as a divorcee. There are so many divorcees in churches who are just rejected because... They might be completely the innocent partner, but because they're a divorcee, they can't be an elder, say, or they can't even be a member in some churches. And we have to always remind ourselves, "Well, being a divorcee isn't necessarily a bad thing. God was a divorcee. [laughs] You're not going to let God be an elder in your church?"

MH: [laughs] Again, it sounds silly, but honestly, if you're going to press one passage into service to answer an ethical question or bring it up to interpret what Paul says about the qualification for elders... If you're going to do that with one Old Testament passage, on what grounds do you exclude others? So I do tend to agree there. There's a method question here that often gets avoided in the discussion. "How consistent are we in taking the Old Testament instead of just using it to angle for the position we've already decided we're going to land on? How consistent is that, really?" I think that's a good question that we need to ask ourselves. And you're obviously doing it now, and you've done it in the book. So can you elaborate on that a little bit, just in terms of method. How might we do it? How did they do it in the Jewish community?

DIB: The Jewish community we have to divide in half at the point of 70 A.D., because that's when Judaism came together as one community and followed one *halacha*, they called it (one way, one interpretation of the law). Before that, there were many, many different schools who had differing viewpoints. Although they were fairly agreed on marriage things, there was a very big division on divorce. But the principle that everyone followed was that a marriage stayed together and couldn't be broken unless someone broke a vow (broke one of the stipulations in the contract, if you like). And then a divorce could happen. So if someone was unfaithful, or if someone didn't supply the food and clothing, or if

someone wouldn't take part in conjugal relations, then a divorce was possible. But until one of those stipulations was broken, the marriage couldn't be ended.

55:00

MH: Hmm. You know, if you just think about that, if you didn't have a legitimate out, then what you're saying is, "You have to stay in the contract even though the other person broke it." That doesn't... It seems, when you think about it, just in contractual terms, pretty odd.

DIB: There is one situation in the Old Testament where that's the case. If you rape a woman, then you have to marry her and you can never divorce her.

MH: So there you get crime and punishment, yeah.

DIB: [laughs] Yes, she can be as horrible to you as she likes for the rest of your life, and you've got to take it.

MH: And chances are, she would, because of the circumstance. Chances are good, if there was no way to get out of that.

DIB: It wasn't compulsory. It was up to the father and presumably the father would listen to the daughter. But it was one way that she would be supported for the rest of her life. And she would not have to do what he said. So it's not ideal, but it's not bad either.

MH: This will be our last question for anything that we would call Old Testament leading up to the New for the next episode. But we often hear about the Shammai and Hillel division in Judaism about divorce and, of course, that affects remarriage. So can you give us a sentence or two about that to set up or at least provide a segue for when we get into the Gospels: "Is it lawful for a man to divorce his wife for any cause?" Some of the different wordings we get there. So people in the audience are going to know that there was this division of opinion within the Jewish community about what was a legitimate cause for divorce. So give us a few sentences about that.

DIB: We know both Hillelites and Shammaites accepted Exodus 21, because they both make regulations about exactly how much clothing, how much food, and how much marital rights have to be given. So they both agreed that those were grounds for divorce. But the Hillelites were genius. [laughs] They managed to find a ground for divorce in Deuteronomy 24 which they called something like "any cause"—an "any cause" ground for divorce. Because they said, "Well, it says here that this woman was divorced the first time for 'some indecency.'" Well, it's *ervat devar*, which is a rather strange phrase. It means something like "indecency of a thing." *Ervat* is nakedness. *Devar* is a thing, a deed, a clause, a word. So *indecency of a thing*. And they said, "Well, look. This can be two things. Indecency obviously means adultery. And then you've got a *thing*."

MH: [laughs] So they took the two words and took them in two different directions.

DIB: Yeah. So they said, “They’ve got two grounds for divorce here. You’ve got indecency and you’ve got a thing. And it doesn’t say what thing it is, so it’s anything! Anything will do! If she burns a dinner, that’s a thing! If she’s got wrinkles that I didn’t see when we got married, it’s a thing! Anything will do.”

MH: So the Hillel school is the No Fault divorce.

DIB: Yeah. You don’t have to find anything... Yeah. No Fault is what we call it.

MH: Yeah. And the other school would say what?

DIB: They were more traditional. As I said, they took Exodus 21 like the Hillelites did. But when they looked at Deuteronomy 24, they said, “No, there’s only one ground for divorce there. That’s adultery. That’s the only thing there. It’s just a single phrase. *Ervat devar* is just a single phrase. It’s not two clauses. It’s one clause. There’s nothing but adultery in Deuteronomy 24.”

MH: Like you said, isn’t that clever? There you have two words. What could be simpler? [laughs] Well, yeah, two words mean two things or two words equal a phrase that means one thing. So the ramifications are quite dramatic. That’s quite a difference.

DIB: Yeah. But you’ve got to stand on one side or the other. You’ve got to make a decision on this. And that’s why they went to Jesus and they said, “Well, what do you think? Does it mean one thing or does it mean two things? Does it mean “any cause” or... What do you think?”

MH: Well, that’s a good place to end. So I want to thank you for spending this time with us with respect to what the Old Testament says. And when we have you back, we’ll hit the New Testament. So thanks for being here.

DIB: Great talking to you.

TS: Alright, Mike. Wow, I’m looking forward to the next episode next week, when we get into the New Testament about this topic. This was a good one. Also, his resource... He mentioned STEP Bible.org. I’m on it now, looking at it. It’s pretty cool. What is that about again?

MH: It’s a good resource for not only providing the Bible for free in lots of translations... People are probably more familiar with something like Biblegateway to look at Scripture passages and different translations. But STEP Bible is multi-lingual, translations in all sorts of languages. *And* it is a site that allows you to penetrate beyond the translation into Greek and Hebrew with digital

tools, all for free. So David has been trying to do that for a number of years. He's sort of been at the forefront of providing free digital resources to people who want to do things like word studies. So it's a site I certainly recommend.

TS: That's awesome. And what is his book again?

MH: There are two of them: *Divorce and Remarriage in the Bible* is a more hefty, academic work. Lots of footnotes. You get Greek and Hebrew in there, but it's always translated. And then *Divorce and Remarriage in the Church* is a smaller version, kind of like what we did with *Unseen Realm* and *Supernatural*. So there are two of them.

TS: Yeah. I'll be looking forward to that one. I'll have to get that on my "to do" reading list of my mile-high stacked books to read.

MH: I have one of those, too.

TS: Alright, Mike. That was a great conversation and I'm looking forward to next week's about the New Testament. And we want to thank David for coming onto the podcast. And we look forward to him next week as well. And I want to thank everybody else for listening to the Naked Bible Podcast! God Bless.