



Yeshua in Hebrew

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TEACHINGS OF YESHUA

Learning what the teachings of the Jewish Jesus meant in his culture and time period.

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Yeshua on Divorce

by Jim Myers

Lessons From Previous Teachings

- (1) Yeshua came to correctly interpret the **Torah** and **Prophets** (sections of Jewish Scriptures).
- (2) He viewed his Movement as the **Kingdom of God** that would appear at the end of days.
- (3) The **Kingdom of God** is a group of people on the earth, not a kingdom in Heaven.
- (4) People did not have to agree with his interpretations to be in the Kingdom of God *ó* but they must be doers of **TZEDAQAH, MISHPAT & TESHUVAH**.
- (5) **TESHUVAH** gave each individual the power to determine his or her ultimate course in life and relationship to God and mankind.

For more information about the above teachings of Yeshua go to <http://biblicalheritage.org> & click on *ó*Yeshua.ó

Yeshua said, *ó*It was also said, 'Whoever divorces his wife, let him give her a certificate of divorce.' But I say to you, 'Whoever divorces his wife, except for the matter of fornication causes her to commit adultery; and whoever marries a woman who is divorced commits adultery.' (Matthew 5:31-32)

This is probably one of the most discussed and debated teachings of Yeshua in history. The first step in working with any text is to define the context in which it appears. In this case, the context began in verse 27.

(Yeshua said,) "You have heard that it was said to those of old, 'You shall not commit adultery.' But I say to you, 'Whoever looks at a woman to lust for her has already committed adultery with her in his heart. '" (Matthew 5:27-28)

The section on divorce is a subsection of his teaching about adultery. So, let's begin by defining what adultery was during Yeshua's time:

*Sexual intercourse of a married woman with any man other than her husband. Adultery can only be committed by and with a married woman; for the unlawful intercourse of a married man with an unmarried woman is not technically Adultery in the Jewish law. Under the Biblical law, the detection of actual sexual intercourse was necessary to establish the crime.*¹

Before we can discuss what Yeshua taught about divorce or adultery we need to know something about what marriage meant to him and his fellow Jews at that time. The first thing is the *ketubah* (*ó*marriage contract*ó*), which **Simon ben Shetach** introduced during the first century BCE as a safeguard and protection for married women.² It reveals three ways for a woman to become a wife -- and two ways to regain her freedom from the marriage (*keep in mind that you are reading law*):

The woman is acquired by three means and she regains her freedom by two methods. She is acquired by money, or by document, or by sexual intercourse.³

Notice that it does not begin *“the man acquires the woman.”* Why? The point is she cannot be betrothed without her full consent. Another important point is that before she makes her decision, she knows from the very beginning exactly how she can regain her freedom from the marriage. The phrase *“she regains her freedom”* in Hebrew is literally *“she buys herself out.”*⁴

The woman’s full consent is required & the divorce settlement is negotiated before the wedding -- the perfect time for the woman to negotiate!

Now let’s consider the ways a woman could enter into marriage:

- (1) **money** -- The School of Shammai says, *“By a denar or by a denar’s worth.”* The School of Hillel says, *“By a perutah or by a perutah’s worth.”* When the man hands her the money, he says, *“Be thou betrothed to me by virtue of this money.”*⁵ The smallest known coin was the **perutah** and four of them equaled a **dinar** (also called a **"zuz"**).⁶
- (2) **document** ó The man delivers to her a written document whereon is stated, *“Be thou betrothed to me.”*⁷
- (3) **sexual intercourse** -- There must be witnesses that they had been alone together and that he had said to her, *“Thou art betrothed to me because of this sexual intercourse.”* This means is severely discouraged by the Sages for the obvious reason that the witnesses must witness the act of intercourse and that would lead to moral deterioration.⁸

Betrothals (*engagements*) were arranged by members of the families of the bride and bridegroom, and once settled the betrothal was in all respects as legally binding as marriage ó *except for cohabitation and some modifications of civil or financial matters*. Twelve months after the betrothal -- *or thirty days if the bride was a widow or the groom a widower* ó the marriage rituals took place. During the period between betrothal and the rituals, the woman was considered to be a married woman under the law.⁹ This process applied to all three methods for entering into marriage. When the woman entered into the marriage she did it with a *ketubah* (*“marriage contract”*).

Below are some of the clauses found in early marriage contracts (*notice they are binding upon the bridegroom*):

- (1) Be my wife in accordance with the *Law of Moses* and Israel.
- (2) I will labor for you, honor, maintain and support you according to the custom of Jewish husbands who toil for their wives, honor, maintain and support them in integrity.
- (3) I will set aside for you (an amount of money) in lieu of your virginity, which is yours in accordance with the Law of Moses.
- (4) I will set aside (an amount of money) for your provisions, clothing and necessities.
- (5) I will live with you in conjugal relationship in accordance with universal custom.

- (6) The dower (*widow's share for life of her husband's estate*) which she brought from her father's home, in silver, gold, valuables, raiment, and bed-clothes, amounts to (an amount of money) and the bridegroom agreed to enlarge this amount from his own possessions with the sum of (an amount of money), making a total of (an amount of money).
- (7) I undertake, and my heirs too after me, the responsibility of this marriage contract, of the dower, and of the supplementary sum, so that all this shall be a charge upon the best of my property, real and personal, that I now possess or may acquire in the future.
- (8) All my possessions, even the cloak on my back, shall be pledged for the security of this contract and of the dower and of the supplementary sum assigned thereto.
- (9) I undertake the responsibility for all obligations of this marriage contract.
- (10) The marriage contract is signed by the bridegroom and two witnesses.

The *ketubah* is like a legal deed. The *dower* is also called the *marriage settlement* -- *the provisions for the maintenance of the woman if the husband died or if he divorces her*. In the case of divorce, the minimum amount of alimony was 200 zuz for a virgin, 100 zuz for a married woman from a first husband and 100 zuz from any subsequent husband. 200 zuz comes out to 701.565 grams of pure silver. This is equivalent to 24.7466 ounces of pure silver.¹⁰ Today, the price of pure silver is \$16.05 per oz., which means 200 zuz would be worth \$3,210.00. Also, keep in mind that the bridegroom might allocate a voluntary sum and the bride also had the option of returning any dowry she had brought into the marriage.¹¹

The *Get*, the *bill of divorce* or *letter of divorce* is the only means in Jewish law of separating husband and wife. The document must be handed to the wife by the husband and contain the formula *This is your letter of divorce and you are separated and permitted to whomsoever you desire*. The man did not have to go to court to divorce the woman.

A man can divorce his wife but a woman cannot divorce her husband.

A man can divorce his wife but a woman cannot divorce her husband, *except in the case of an orphan minor who had been given in marriage by her mother or brother(s)*. She may, on attaining puberty, repudiate her marriage.

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A woman has the right to seek the aid of the Court to induce or compel her husband to grant her a divorce under certain conditions -- refusal by the husband to grant her connubial rights, his apostasy, if he is impotent, if he suffers from a loathsome disease, for his unfaithfulness, if he refuses to maintain her, for cruelty towards her, etc. The phrase "grant her connubial rights" means "have sex with her." In this culture sex was a very important and public topic.

*If one put his wife under a vow to have no connubial intercourse, the School of Shammai say, for two weeks; but the School of Hillel say, For one week only. Disciples may go forth to the study of the Law without permission for thirty days; laborers for one week. The times for marital duties enjoined in the Law are: for men of independent means every day, for workmen twice weekly, for ass drivers once a week, for camel drivers once every thirty days, for sailors once every six months. This is the opinion of R. Eliezer.*¹²

*If a woman be refractory (refuses to have sex) against her husband, they may reduce her marriage settlement by seven denars every week. R. Judah says, "Seven half-denars." How long is the reduction to be continued? Until it reaches the full amount of her marriage settlement. R. Jose says, "He may continue to diminish it, in case an inheritance may fall to her from some source and he can then claim from her." And likewise also if one rebel against his wife (refuses to have sex with her), they may add to her marriage settlement three denars a week; R. Judah says, "Three half-denars."*¹³

Thou shall have sex.

Why was it very important for a wife to be guaranteed her husband will have sex with her a specific number of times in stated periods of times? One reason is that marriage is the way the commandment "be fruitful and multiple" is fulfilled. Another reason is that if she did not have a child within ten years, it was grounds for divorce.¹⁴ That could threaten her survival and diminish her worth in the eyes of society. *Connubial intercourse requirements* protected her.

It should also be noted that a man had no power to divorce his wife if:

- (1) *he wrongly accused her of immorality during the period of betrothal* (Deuteronomy 22:13-19)
- (2) *he had seduced her before marriage* (Deuteronomy 22:28-29)
- (3) *she is mentally defective*
- (4) *she is in captivity*
- (5) *she is a minor incapable of comprehending or taking care of the letter of divorce*¹⁵

The *Laws of Moses* that are central to understanding Yeshua's teaching about divorce are found in Deuteronomy 24:1-4.

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 bill of divorce and puts it in her hand, and sends her away out from his house. (24:1)

Notice the progression of steps:

- (1) *a man takes a wife and marries her*
- (2) *she finds no favor in his eyes because he has found some indecency in her*
- (3) *he writes her a bill of divorce, puts it in her hand and sends her away from his house*

In Yeshua's time, the first step requires the above requirements for the betrothal, marriage contract and marriage rituals. The second step took place the first time they had sex *ó he found some indecency in her that caused her to find no favor in his eyes*. What did he find? The marriage contract specified that she was a virgin and what he found was evidence that she was not a virgin. Step three defines the divorce process -- *write a bill of divorce, put it in her hand and sent her away from the house*.

Writing a *bill of divorce* would not have been done without a great deal of forethought for several important reasons. The first is that it has to be in accordance with the *Law of Moses* above and the *marriage contract*. Another reason is that it must comply with the *Law of Moses* in Deuteronomy 22 *ó he could be sure the bride's father knew them very well*.

If a man takes a wife, and goes in to her, and he hates her, and charges her with shameful conduct, and brings a bad name on her, and says, 'I took this woman, and when I came near to her and I did not find evidence of her virginity. And the father and mother of the young woman shall take and bring out the evidence of the young woman's virginity to the elders of the city at the gate. And the young woman's father shall say to the elders, 'I gave my daughter to this man as wife, and he hates her. And he has charged her with shameful conduct, saying, "I found your daughter was not a virgin," and yet these are the evidences of my daughter's virginity.' And they shall spread the cloth before the elders of the city. And the elders of that city shall take that man and punish him; and they shall fine him one hundred shekels of silver and give them to the father of the young woman, because he has brought a bad name on a virgin of Israel. And she shall be his wife; he cannot divorce her all his days. (Deuteronomy 22:13-19)

An important part of the post-marriage ritual was the examination of the bedsheets for blood *ó the proof of virginity* -- by the bride's family, usually under the direction of her mother. It was still prevalent in Eastern Europe and North Africa (and probably elsewhere) well into the twentieth century.¹⁶ After the witnesses were satisfied the bedsheets contained the evidence of the bride's virginity, the mother would store them away in a safe place. Later, if the husband gave her a *bill of divorce* based on a charge of her not being a virgin, her father would take the bedsheets to elders of the city. If the elders found in favor of the bride's father, this would be their ruling:

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(1) *the is husband fined one hundred shekels of silver that is paid to the father*

(2) *the woman is ruled to still be his wife*

(3) *the husband could never divorce her for any reason*

But, if the bride's father failed to protest or the city elders ruled in favor of the husband, the divorce stood. The next verse introduces a potential situation that might happen then.

*And she goes out from his house, and she goes,
and she becomes another man's wife. (24:2)*

We do not know how much time passes between her leaving the first husband's house and becoming the second husband's wife, but based on the *marriage contract* requirements above it would be a minimum of 30 days.

And the second husband hates her, writes her a bill of divorce, puts it in her hand, and sends her from his house; or if the second husband dies, that took her to be his wife (24:3)

The text doesn't specify why the second husband "hates" her, but it should be related to terms in the *marriage contract*. He repeats the divorce process and sends her away from his house. Let's review the two possible scenarios established by the verse above:

(1) *The woman was divorced by her second husband because he "hates" her.*

(2) *The woman became a widow because her second husband died.*

The *Law of Moses* now adds a restriction concerning what she can do next:

And the first husband, who sent her away, may not take her again to be his wife, after which she has been defiled; (Deuteronomy 24:4a)

"Defiled" simply means "she no longer meets the qualifications for being that man's wife." What makes her unqualified?

for that is abomination before Yahweh. You shall not bring sin into the land that Yahweh your elohim is giving you for an inheritance. (24:4b)

"Abomination" is one of those religious words that people view in a variety of ways. The Hebrew word **TO'EVAH** is the word translated "abomination" here, one of 116 times it appears in the biblical text. Its basic meaning is the *notion of irregularity – it offends the accepted order, ritual, or moral.*¹⁷ It was prohibited because it violated Yahweh's notion of regularity.

Now let's jump from the *Laws of Moses* to the time period and place where Yeshua was teaching about adultery and divorce. Yeshua wasn't the only one discussing divorce and adultery. An account in the *Mishnah* (Gittin 9:10) records the positions of three very famous Jewish teachers from that period:

The School of **Shammai** say, "A man may not divorce his wife unless he has found in her aught improper, as it is said, because he hath found some unseemly thing in her."

But the School of **Hillel** say, *“Even if she spoiled a dish for him, as it is said, because he hath found some unseemly thing in her.”*

R. Akiba says, *“Even if he found another more beautiful than she is, as it is said, Then it cometh to pass if she find no favor in his eyes.”*

The argument between Shammai and Hillel is linked to an argument over the meaning of the Hebrew word translated *“indecenty”* in Deuteronomy 24:1 -- *he has found some indecenty in her.*

Shammai argued it meant *“lewdness or unchastity.”* For Shammai the question of divorce centered on her status of being a virgin when the man married her.

Hillel argued it meant *“reprehensibility.”* (*very bad; deserving very strong criticism*¹⁸). For Hillel, the question of divorce was based on her actions during the marriage; for example, whether he like her cooking, the way she kept the house, etc.

Akiba took another position by focusing on the word *“favor”* in Deuteronomy 24:1 -- *she finds no favor in his eyes.*

The husband saw a more beautiful woman after the marriage and she found more favor in his eyes.

He could divorce the first wife and marry the more beautiful woman.

Now keeping all of the above in mind *“ marriage contracts, marriage settlements, legal conditions for divorce, Shammai’s position, Hillel’s position, Akiba’s position, etc. “* take another look at what Yeshua taught:

“Whoever divorces his wife, except for the matter of fornication causes her to commit adultery; (Matthew 5:31)

Let’s break down his position:

- (1) *A man divorces his wife.*
- (2) *If he divorced her for any reason other than fornication there is a problem.*
- (3) *He causes his wife to commit adultery.*

This raises two very important questions:

- (1) *How does his divorcing her cause her to commit adultery?*
- (2) *What is fornication?*

Adultery and fornication both involve sexual intercourse between a man and woman. What makes them different is the marital status of the woman involved:

Fornication is sexual intercourse of an unmarried or married man with an unmarried woman.¹⁹

Adultery is sexual intercourse of a married woman with any man other than her husband.²⁰

*For the woman to commit fornication, she would have had to have sex with someone before she married her husband. When her husband first had sex with her, if he had discovered she was not a virgin, he could have given her a bill of divorce then. Since he didn't, it appears the marriage met the requirements of the *marriage contract*. Yeshua agreed with the conservative position of Shammai *ó the man could not divorce her*. However, Yeshua didn't stop there. He definitely caught the attention of everyone when he added -- *and whoever marries a woman who is divorced commits adultery.*ö*

According to Yeshua, the *bill of divorce* was invalid and thus her status was still that of being ömarried.ö Therefore, if she had sex with any man but her husband it would be adultery. The penalty and seriousness of committing adultery is underscored by its being punishable by the death penalty for both the man and the woman.²¹ The penalty was public stoning, a procedure often prescribed for crimes felt to threaten the well-being of the nation as a whole, among which were sexual crimes.²² Yeshua's position created some very interesting questions and potential situations.

- (1) *What could the woman do if she had been given an illegal bill of divorce?*
- (2) *She couldn't run down and get a job to support herself. Marriage was very important for her survival. However, if Yeshua was right, since engaging in sex with the new husband would be required, then she would be exposing herself to a crime that carried the death penalty.*
- (3) *What position would this put any man in that had sex with her – and didn't know she had been given an illegal bill of divorce?*

A group that would have quickly picked up on Yeshua's interpretation of the Torah was the **Essenes**. The *Damascus Document* addresses the subjects of divorce and fornication. The Essenes banned *polygamy, divorce and niece marriage*.²³ It also contends öBelialö uses the following to ensnare Israel -- *fornication, riches, and the pollution of the Temple*.²⁴ The *Temple Scroll* makes the ödivorceö a concrete legal charge and generalizes it further where the *seduction of a virgin* is at issue and the ban on *marrying nieces is enunciated*.²⁵ Qumran documents were targeting members of priestly families and Herodians who were alleged to have been ensnared by *fornication and married nieces*.

So how does all of this apply to people today? It is important to remember that Yeshua introduced his interpretations of the Torah by stating that people did not have to agree with or do his interpretations to be in the Kingdom of God. It is also important to consider the fact that people today aren't living in a culture with the legal structures of the place he lived at that period of time. I have always found it interesting that groups that stressed öthey weren't under the lawö are often the ones that declare öa divorced woman shouldn't be married.ö Any discussion about Yeshua's view on divorce must include the full cultural context in which they took place. Providing you with an overview is the goal of this newsletter. *I hope you find it useful and valuable. Shalom!*

BHC

¹ <http://www.jewishencyclopedia.com/articles/865-adultery>

² *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kethuboth* Vol. 3 p. 122.

³ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kiddushin* 1:1; Vol. 3 p. 451.

⁴ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kiddushin* 1:1; Vol. 3 p. 451.

⁵ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kiddushin* 1:1; Vol. 3 p. 451.

⁶ <http://www.jewishvirtuallibrary.org/jsource/History/weightsandmeasures.html>

- ⁷ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kiddushin* 1:1; Vol. 3 p. 451.
- ⁸ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kiddushin* 1:1; Vol. 3 p. 451.
- ⁹ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Vol. 3 p. 449.
- ¹⁰ http://www.aish.com/atr/Ketubah_200_Zuz.html
- ¹¹ *Mishnayoth* by Philip Blackman, F.C.S. © 1963 The Judaica Press, Inc., New York, New York; Tractate *Kethuboth* Vol. 3 p. 122.
- ¹² *Mishnah Kethuboth* 5:6
- ¹³ *Mishnah Kethuboth* 5:7
- ¹⁴ *Mishnah Gittin* 4:7
- ¹⁵ *Mishnayoth*; p. 391.
- ¹⁶ *The Torah: A Modern Commentary* edited by W. Gunther Plaut; © 1981 by the Union of American Hebrew Congregations, New York, NY; p. 1493.
- ¹⁷ *Encyclopedia Judaica* © Keter Publishing House Jerusalem Ltd., Israel; Vol. 2 Col. 96-97.
- ¹⁸ <http://www.learnersdictionary.com/definition/reprehensible>
- ¹⁹ <http://www.jewishencyclopedia.com/articles/6238-fornication>
- ²⁰ <http://www.jewishencyclopedia.com/articles/865-adultery>
- ²¹ Lev. 20:10; Deut. 22:22
- ²² Lev. 18:24-27; 20:22; Deut. 24:4; cf. Jer. 3:1-2
- ²³ Damascus Document columns iv-vi.
- ²⁴ *The Dead Sea Scrolls and the First Christians: Essays and Translation* by Robert Eisenman © 1996; Castle Books, Edison, NJ; p. 208.
- ²⁵ *The Dead Sea Scrolls and the First Christians: Essays and Translation* by Robert Eisenman © 1996; Castle Books, Edison, NJ; p. 209.

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