

An Analysis of Deuteronomy 24:1-4 and its Implications for Divorce

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Deuteronomy 24:1-4 is an important piece of explicit instruction regarding divorce, but it can be difficult to properly understand. This paper will examine the overall context of the passage, the basis of the divorce in the hypothetical situation, the meaning of the divorce certificate, and reach some concluding remarks regarding the meaning of the passage, what doctrine can be drawn from it, and what application may be made from it.

The first issue is the overall passage structure. As some have pointed out, the very way the passage was translated in the KJV¹ and understood by the Pharisees² obscured its proper meaning. Many interpreters³ and translators today⁴ understand that vv1-3 are the protasis and v4 is the apodosis. This stands against the alternative view which understands the condition to be v1a, and the commands to be applied to be vv1b-4, especially a command in v1b that husbands were commanded to divorce their wives if the conditions were met. The overall context of the passage lends good support accepting that the conditions are vv1-3, and Jesus' own treatment of the Pharisees seems to reinforce that this was a permissive text, not a command (see Matt. 19:8).⁵ Thus, the passage should be seen to regulate the practice of divorce by stating what the divorced wife may do following a divorce.

Understanding this overall structure of the passage, there are two key interpretive issues that must be considered. The first issue is the basis for the original divorce. In the passage, the basis for the divorce is "some indecency in her." (Deu. 24:1) The precise meaning of the term is very difficult to determine, if not impossible,⁶ and Craigie suggests it may have been a legal term for which the meaning is now lost.⁷ The primary two approaches to its meaning⁸ are that it is some specific offense or that it is a general term of description to describe the husband's reason for the divorce, without actually identifying it. The weakness of the view that it is a general description is that it doesn't recognize the basic meaning of the word as referring to specifically a "nakedness" or the sexual organs.⁹ The fact that

¹ J. Carl Laney, "Deuteronomy 24:1-4 and the Issue of Divorce," *Bibliotheca Sacra* 149:593 (Jan. 1992), accessed March 5, 2016, in the Theological Journal Database, 5.

² Thomas L. Constable, "Notes on Deuteronomy: 2016 Edition," accessed March 31, 2016, <http://soniclight.com/constable/notes/pdf/deuteronomy.pdf>, 141.

³ Peter C. Craigie, *The Book of Deuteronomy, New International Commentary on the Old Testament* (Grand Rapids: Eerdmans, 1976), 304, provides a representative example.

⁴ Constable, 141.

⁵ *Ibid.*

⁶ Craigie, 305, and John F. Walvoord and Roy B. Zuck, eds., *The Bible Knowledge Commentary* (Colorado Springs: Cook, 1989), e-Sword edition, sec. Deuteronomy 24:1-4.

⁷ 305.

⁸ Constable, 141-142.

⁹ Eugene H. Merrill, *Deuteronomy: Vol. 4, New American Commentary* (Nashville: Broadman & Holman, 1994), ePub Edition, 326.

the term is used in a different context to refer to fecal matter not properly disposed of does not affect the base meaning which fits this context here.¹⁰ A wide variety of physical deficiencies have been suggested including the inability to bear children though an Assyrian marriage contract¹¹ is often cited errantly as evidence for this view.¹² The other problem in identifying this term concerns the relation of it to the sin of adultery. While some Jewish rabbis consider adultery as the only idea in mind,¹³ the clear Mosaic legislation required the execution of one guilty of adultery (see Deu. 22:22). Thus, most dismiss this as a possible identity of the indecency for which the man divorces his wife in Deu. 24.¹⁴ It is true that this penalty for adultery was never actually executed.¹⁵ Nevertheless, one cannot allow the passage under consideration here to contradict the legislation just a few verses earlier. Some may try to connect the phrase to adultery based on Jesus' exception clause,¹⁶ but that is not the only possible position regarding Jesus' teaching. Based on the overall thrust of the word itself, the best approach to the basis of this man's divorce is that it referred to some kind of indecent exposure or other sexual failure on the part of the wife that falls short of adultery.

A second key matter to be examined is whether the "certificate of divorce" given is permanent or not. Thus, this ties in with the possibility or requirement or impossibility for reconciliation. The term definitely has a likely background in common Near East practices regarding divorce, perhaps specifically Egypt.¹⁷ Two sample divorce contracts prior or around the time of the Exodus¹⁸ show a similarity to this passage in that they regulate the divorce but don't explicitly require it. There is no explicit statement about the possibility for remarriage. At this point, one should take note of Jesus' own statement on the reason for the Mosaic legislation, which is the sinful hearts of Israel. If that is the reason, does the divorce permanently dissolve the marriage bond? There is no reason to see any kind of difference in perspective from this passage to that of later NT writing in 1 Cor. 7:11. It is true that Deu. 24 describes a situation where a woman may not reconcile to her husband, in the event that she remarries. This is easily synthesized with Paul's statement that the woman is to stay unmarried if she does separate from her husband. Thus, while divorce does end a marriage, the divorce becomes permanent only if one of the divorced parties goes off and actually enters a new marriage.¹⁹

There certainly a wide variety of interpretive issues in Deuteronomy 24:1-4. The overall prescription is the prohibition of returning to a previous husband if a remarriage has taken place. This principle seems applicable regardless of the original grounds for the divorcing. There are two key implications. First, divorce can indeed be final and thus prevent reconciliation.²⁰ Second, the absence of

¹⁰ Contrary to Anthony Phillips, Deuteronomy, *Cambridge Bible Commentary on the New English Bible*, P. R. Ackroyd, A. R. C. Leaney, J. W. Packer, gen. eds. (New York: Cambridge University Press, 1973), 159-160.

¹¹ For the text of this contract, see James B. Pritchard, ed., *The Ancient Near East: Volume II* (Princeton: Princeton University Press, 1975), 72.

¹² Craigie, 305, and Laney, 5, are two such commentators who speak favorably of this interpretive approach.

¹³ Merrill F. Unger, ed., *New Unger's Bible Dictionary* (Chicago: Moody, 1988), WORDsearch edition, s.v. "Divorce."

¹⁴ Every commentator reviewed rejected adultery as the root issue here.

¹⁵ Mark Allan Powell, ed., *The HarperCollins Bible Dictionary*, rev. ed. (New York: HarperCollins, 2011), Logos edition, s.v. "Adultery."

¹⁶ See discussion in Merrill, 326, though in the end he admits that it can't be conclusively tied to this.

¹⁷ See Constable, 101.

¹⁸ Pritchard, 72 and 75-76.

¹⁹ Constable, 144.

²⁰ See comments by Constable, 144, regarding an objection that marriage is by its nature indissoluble.

explicit adultery language²¹ establishes that the women in this scenario is not perpetually committing adultery against her original husband. These two points provide valid theological justification to not break up remarriages of divorced people, regardless of the legitimacy of remarriage.²² This conclusion is one of the most practical results of this study. The more important affirmation is that this passage in no way requires or morally legitimizes divorce or remarriage. It regulates the practice of divorce if a man being chooses to divorce his spouse, but it does not give such an implicit or explicit right to remarry.

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²¹ Though perhaps implicitly it is present, see Craigie, 305.

²² Notably, all three contributors of *Remarriage After Divorce in Today's Church*, ed. Mark L. Strauss, (Grand Rapids: Zondervan, 2006), Kindle Edition, agree that remarriages should not be broken up.