

Texts for Scriptural Reasoning

Divorce

The Scriptural Reasoning Society

Deuteronomy 24:1-5 (JPS Translation with Rashi Commentary)

א כִּי-יִקַּח אִישׁ אִשָּׁה, וּבָעָלָהּ; וְהָיָה אִם-לֹא תִמְצָא-חֵן בְּעֵינָיו, כִּי-מִצָּא בָּהּ עֲרֹנֹת דְּבָר--וְכָתַב לָהּ סֵפֶר כְּרִיתֹת וְנָתַן בְּיָדָהּ, וְשָׁלְחָהּ מִבֵּיתוֹ.

1 When a man taketh a wife, and marrieth her, then it cometh to pass, if she find no favour in his eyes, because he hath found some unseemly thing in her, that he writeth her a bill of divorcement, and giveth it in her hand, and sendeth her out of his house,

1 [When a man takes a wife... that she does not find favour in his eyes] because he discovers in her an unseemly [moral] matter [In this case] he has an obligation to divorce her, lest she find favour in his eyes [and he might consequently wish to keep her, which he must not do, since she had committed an act of impropriety].-[*Gittin* 90b]

ב וַיִּצְאָהּ, מִבֵּיתוֹ; וְהָלְכָהּ, וְהָיְתָה לְאִישׁ-אַחֵר.

2 and she departeth out of his house, and goeth and becometh another man's wife,

2 [and goes and marries] another man who differs from her first husband, for that one sent the evil woman out of his home, whereas this [man] has taken her in[to his home].-[*Gittin* 90b]

ג וּשְׂנֵאָהּ, הָאִישׁ הָאֲחֵרוֹן, וְכָתַב לָהּ סֵפֶר כְּרִיתֹת וְנָתַן בְּיָדָהּ, וְשָׁלְחָהּ מִבֵּיתוֹ; אוֹ כִּי יָמוּת הָאִישׁ הָאֲחֵרוֹן, אֲשֶׁר-לָקַחָהּ לוֹ לְאִשָּׁה.

3 and the latter husband hateth her, and writeth her a bill of divorcement, and giveth it in her hand, and sendeth her out of his house; or if the latter husband die, who took her to be his wife;

3 if the latter husband hates her Scripture informs him that eventually he will [come to] despise her, and if not, she will bury him, for it says, "or if the latter husband... dies."-[*Sifrei* 24:135]

ד לֹא-יִוָּכַל בְּעָלָהּ הָרִאשׁוֹן אֲשֶׁר-שָׁלְחָהּ לָשׁוּב לְקַחְתָּהּ לְהִיּוֹת לוֹ לְאִשָּׁה, אַחֲרֵי אֲשֶׁר הִטְמְאָה--כִּי-תוֹעֵבָה הוּא, לִפְנֵי יְהוָה; וְלֹא תַחֲטִיא, אֶת-הָאָרֶץ, אֲשֶׁר יְהוָה אֱלֹהֶיךָ, נָתַן לְךָ נַחֲלָה. {ס}

4 her former husband, who sent her away, may not take her again to be his wife, after that she is defiled; for that is abomination before the LORD; and thou shalt not cause the land to sin, which the LORD thy God giveth thee for an inheritance. {S}

4 since she was defiled [to him] [This unusual expression comes] to include a *sotah* [a woman suspected of adultery] because she secluded herself [with another man]. [Until her trial ceremony takes place (see *Num.* 5:11-31) and it is yet unknown whether she has indeed committed adultery, he may not have relations with her.] - [*Sifrei* 24:136]

ה כִּי-יִקַּח אִישׁ, אִשָּׁה חֲדָשָׁה--לֹא יֵצֵא בַּצִּבָּא, וְלֹא-יַעֲבֹר עָלָיו לְכָל-דְּבָר : נָקִי
יְהִיָּה לְבֵיתוֹ, שָׁנָה אֶחָת, וְשָׂמַח, אֶת-אִשְׁתּוֹ אֲשֶׁר-לָקַח.

5 When a man taketh a new wife, he shall not go out in the host, neither shall he be charged with any business; he shall be free for his house one year, and shall cheer his wife whom he hath taken.

5 [When a man takes] a new wife [i.e., one] who is new to him, even if she is a widow [i.e., she was previously married to someone else], but this excludes [a man who] remarries his divorcee.- [*Sotah* 44a] nor shall he be subjected lit., nor shall it pass over him, [referring to] the order of the army. to anything associated with it that is required by the army: [For instance,] he must not supply water and food or repair the roads [for the army]. However, men who return from the battlefield by the order of the *kohen* because they either built a house but did not yet dedicate it, or betrothed a woman but did not yet take her [as a wife] [see *Deut.* 20:5-7], are required to supply water and food and repair the roads [for the army].- [*Sotah* 43a] He shall remain [free] for his home Heb. לְבֵיתוֹ, lit., “for his house,” [meaning] also for his house. If he built a new house and dedicated it, or if he planted a vineyard (see *Deut.* 20:6) and redeemed it [i.e., he just began to partake of its fruits in the fourth year by redeeming them and eating their value in Jerusalem], he does not move from his home for the needs of war. for his home Heb. לְבֵיתוֹ. This refers to his house [as explained above]. must remain Heb. יְהִיָּה. [This] comes to include his vineyard [as explained above]. and delight Heb. וְשָׂמַח. [The word אֶת in this phrase, אֶת-אִשְׁתּוֹ, can mean “with,” or it can introduce the direct object, namely, “his wife.” Thus, this phrase can either mean “he shall rejoice with his wife,” or it could mean “he shall delight his wife.” Here, Rashi decides that the meaning is] “He shall delight his wife” [that is, the verb is in the *piel* (intensive causative) conjugation]. Thus, the [correct] rendering is as it appears in the *Targum* [*Onkelos*]: וְיִתְחַדֵּי יַת אִיתְתָּהּ: “and he shall make his wife happy.” One who renders: וְיִתְחַדֵּי יַת אִיתְתָּהּ, “he shall rejoice with his wife,” is mistaken, for this is not the translation of וְשָׂמַח [in the *piel*, causative conjugation], but [the translation] of וְשָׂמַח, [the *kal*, simple intransitive conjugation].

Matthew Henry Commentary

This is that permission which the Pharisees erroneously referred to as a precept, *Matt. xix. 7, Moses commanded to give a writing of divorcement*. It was not so; our Saviour told them that he only suffered it because of the hardness of their hearts, lest, if they had not had liberty to divorce their wives, they should have ruled them with rigour, and it may be, have been the death of them. It is probable that divorces were in use before (they are taken for granted, *Lev. xxi. 14*), and Moses thought it needful here to give some rules concerning them. 1. That a man might not divorce his wife unless he *found some uncleanness in her*, v. 1. It was not sufficient to say that he did not like her, or that he liked another better, but he must show cause for his dislike; something that made her disagreeable and unpleasant to him, though it might not make her so to another. This uncleanness must mean something less than adultery; for, for that, she was to die; and less than the suspicion of it, for in that case he might give her the waters of jealousy; but it means either a light carriage, or a cross forward disposition, or some loathsome sore or disease; nay, some of the Jewish writers suppose that an offensive breath might be a just ground for divorce. Whatever is meant by it, doubtless it was something considerable; so that their modern doctors erred who allowed divorce for every cause, though ever so trivial, *Matt. xix. 3*. 2. That it must be done, not by word of mouth, for that might be spoken hastily, but by writing, and that put in due form, and solemnly declared, before witnesses, to be his own act and deed, which was a work of time, and left room for consideration, that it might not be done rashly. 3. That the husband must give it into the hand of his wife, and send her away, which some think obliged him to endow her and make provision for her, according to her quality and such as might help to marry her again; and good reason he should do this, since the cause of quarrel was not

her fault, but her infelicity. 4. That being divorced it was lawful for her to marry another husband, v. 2. The divorce had dissolved the bond of marriage as effectually as death could dissolve it; so that she was as free to marry again as if her first husband had been naturally dead. 5. That if her second husband died, or divorced her, then still she might marry a third, but her first husband should never take her again (v. 3, 4), which he might have done if she had not married another; for by that act of her own she had perfectly renounced him for ever, and, as to him was looked upon as defiled, though not as to another person. The Jewish writers say that this was to prevent a most vile and wicked practice which the Egyptians had of changing wives; or perhaps it was intended to prevent men's rashness in putting away their wives; for the wife that was divorced would be apt, in revenge, to marry another immediately, and perhaps the husband that divorced her, how much soever he thought to better himself by another choice, would find the next worse, and something in her more disagreeable, so that he would wish for his first wife again. "No" (says this law) "you shall not have her, you should have kept her when you had her." Note, It is best to be content with such things as we have, since changes made by discontent often prove for the worse. The uneasiness we know is commonly better, though we are apt to think it worse, than that which we do not know. By the strictness of this law God illustrates the riches of his grace in his willingness to be reconciled to his people that had gone a whoring from him. Jer. iii. 1, *Thou hast played the harlot with many lovers, yet return again to me.* For his thoughts and ways are above ours.

Here is, I. Provision made for the preservation and confirmation of love between new-married people, v. 5. This fitly follows upon the laws concerning divorce, which would be prevented if their affection to each other were well settled at first. If the husband were much abroad from his wife the first year, his love to her would be in danger of cooling, and of being drawn aside to others whom he would meet with abroad; therefore his service to his country in war, embassies, or other public business that would call him from home, shall be dispensed with, *that he may cheer up the wife that he has taken.* Note, 1. It is of great consequence that love be kept up between husband and wife, and that every thing be very carefully avoided which might make them strange one to another, especially at first; for in that relation, where there is not the love that should be, there is an inlet ready to abundance of guilt and grief. 2. One of the duties of that relation is to cheer up one another under the cares and crosses that happen, as helpers of each other's joy; for a cheerful heart does good like a medicine.

Talmud Bavli *Gittin* III:24b

MISHNAH. ANY BILL OF DIVORCE WHICH IS NOT WRITTEN [EXPRESSLY] FOR THE WOMAN [FOR WHOM IT IS INTENDED] IS INVALID. FOR INSTANCE, IF A MAN PASSING THROUGH THE STREET HEARS THE VOICE OF A SCRIBE DICTATING¹⁸ 'SO-AND-SO DIVORCES SO-AND-SO FROM SUCH AND SUCH A PLACE' AND HE SAYS 'THAT IS MY NAME AND THAT IS THE NAME OF MY WIFE, IT IS NOT A VALID [DOCUMENT] TO DIVORCE HIS WIFE WITH. MOREOVER: IF HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND AND A FELLOW-TOWNSMAN MET HIM AND SAID TO HIM, MY NAME IS THE SAME AS YOURS AND MY WIFE'S NAME THE SAME AS YOUR WIFE'S', IT IS NOT VALID [FOR THE SECOND] ONE TO DIVORCE HIS WIFE WITH.

MOREOVER: IF HE HAD TWO WIVES WITH THE SAME NAME AND WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER. MOREOVER: IF HE SAID TO THE SCRIBE,¹ WRITE AND I WILL DIVORCE WHICHEVER I CHOOSE,' IT IS NOT VALID TO DIVORCE THEREWITH EITHER.

GEMARA. [The second clause of the Mishnah puts the case where] HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND. What then is the case put in the first clause? — R. Papa said: We are dealing there with scribes practising [to write bills of divorce]. R. Ashi said: The language of the Mishnah bears this out, since it says 'DICTATING' and not 'reading', which shows that R. Papa is right.

What is the point of the word MOREOVER? — The school of R. Ishmael taught: 'Not only is a Get invalid that has not been written for purposes of divorce [but for practice]. but also one that has been written for purposes of divorce [but not of this man's wife]; and not only is this [one invalid] that has not been written for the purposes of his divorce, but even the other one that has been written for the purposes of his divorce is invalid; and not only is this [one invalid] which has not been written for divorcing this [wife], but even the other one which has been written for divorcing this [wife] is invalid'. What is the reason? — If [the Scripture] had written, 'he shall give a writ of divorce into her hand,' I should say that this excludes the first case [mentioned above] where [the Get is not written] for the purpose of effecting a divorce, but that if a husband writes [a Get] to divorce his wife and then changes his mind, seeing that the document is meant to effect a divorce I should say it is valid; therefore the Divine Law says, 'and he write'.² And if it had merely said and he write, I should have said that this excludes the case where he does not write [the Get] for her,³ but if he has two wives [and writes for one or other of them] in which case he does [in a way] write for her, I should say that it is valid: therefore the text says, for her, that is to say. for her name. Why then is the last case specified?⁴ — To show that there is no [such thing as] a retrospective decision.⁵

IF HE WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER. It is the younger only whom he must not divorce with it, but he may divorce with it the elder.⁶ Raba said: This means to say that if there are two men named Joseph b. Simeon living in a town, either can claim from a third party on the strength of a bond [written in his name].⁷ Said Abaye to him: On your reasoning, from the first clause of the Mishnah which says that if a man says to another MY NAME IS THE SAME AS YOURS [and takes a Get from him]. HE MAY NOT USE IT TO DIVORCE HIS WIFE, I understand that it is the second only who may not use it but the first may; but how can this be

seeing that it is laid down⁸ [in reference to the case of two men named Joseph b. Simeon] that a third party cannot claim against either of them on the strength of the bond?² The truth is that [in regard to the latter kind of Get written by one man and used by another] we say it is valid [if used by the first] only if there are witnesses to the delivery,¹⁰ [the Mishnah] following R. Eleazar. So too [in regard to the former kind of Get where the two wives have the same name the Get is valid if given to the one for whom it was written] only if there are witnesses to the delivery, [the Mishnah following] R. Eleazar.¹¹

Raba said: All the kinds [of Get mentioned in our Mishnah] disqualify [the woman named in them from living with her husband] if he is a priest,¹² except the first,¹³ Samuel said that the first also disqualifies. Samuel applies here the principle which he had elsewhere laid down, that wherever the Rabbis have declared a Get invalid, it does not effect divorce but it does disqualify [the wife of a priest from living with him], and wherever they have declared a *halizah*¹⁴ invalid it does not release¹⁵ [the sister-in-law] but it does disqualify her from [marrying] any of the brothers-in-law. In the West¹⁶ they said in the name of R. Eleazar: [If the *halizah* was performed with] the left hand or by night, it does not release [the woman] but it does disqualify her;¹⁷

Matthew 19:1-12 (New Revised Standard Version with Matthew Henry Commentary)

1 Καὶ ἐγένετο ὅτε ἐτέλεσεν ὁ Ἰησοῦς τοὺς λόγους τούτους μετῆρην ἀπὸ τῆς Γαλιλαίας καὶ ἦλθεν εἰς τὰ ὄρια τῆς Ἰουδαίας πέραν τοῦ Ἰορδάνου

2 καὶ ἠκολούθησαν αὐτῷ ὄχλοι πολλοὶ καὶ ἐθεράπευσεν αὐτοὺς ἐκεῖ

3 Καὶ προσῆλθον αὐτῷ Φαρισαῖοι πειράζοντες αὐτὸν καὶ λέγοντες Εἰ ἔξεστιν ἀπολῦσαι τὴν γυναῖκα αὐτοῦ κατὰ πάσαν αἰτίαν

4 ὁ δὲ ἀποκριθεὶς εἶπεν Οὐκ ἀνέγνωτε ὅτι ὁ κτίσας ἀπ' ἀρχῆς ἄρσεν καὶ θῆλυ ἐποίησεν αὐτούς

5 καὶ εἶπεν Ἔνεκα τούτου καταλείψει ἄνθρωπος τὸν πατέρα καὶ τὴν μητέρα καὶ κολληθήσεται τῇ γυναικὶ αὐτοῦ καὶ ἔσονται οἱ δύο εἰς σάρκα μίαν

6 ὥστε οὐκέτι εἰσὶν δύο ἀλλὰ σὰρξ μία ὃ οὖν ὁ θεὸς συνέζευξεν ἄνθρωπος μὴ χωριζέτω

7 λέγουσιν αὐτῷ Τί οὖν Μωϋσῆς ἐνετείλατο δοῦναι βιβλίον ἀποστασίου καὶ ἀπολῦσαι

8 λέγει αὐτοῖς ὅτι Μωϋσῆς πρὸς τὴν σκληροκαρδίαν ὑμῶν ἐπέτρεψεν ὑμῖν ἀπολῦσαι τὰς γυναῖκας ὑμῶν ἀπ' ἀρχῆς δὲ οὐ γέγονεν οὕτως

9 λέγω δὲ ὑμῖν ὅτι ὅς ἂν ἀπολύσῃ τὴν γυναῖκα αὐτοῦ μὴ ἐπὶ πορνείᾳ καὶ γαμήσῃ ἄλλην μοιχᾶται

10 λέγουσιν αὐτῷ οἱ μαθηταὶ Εἰ οὕτως ἐστὶν ἡ αἰτία τοῦ ἀνθρώπου μετὰ τῆς γυναικός οὐ συμφέρει γαμῆσαι

11 ὁ δὲ εἶπεν αὐτοῖς Οὐ πάντες χωροῦσιν τὸν λόγον ἀλλ' οἷς δέδοται

12 εἰσὶν γὰρ εὐνοῦχοι οἵτινες ἐκ κοιλίας μητρὸς ἐγεννήθησαν οὕτως καὶ εἰσὶν εὐνοῦχοι οἵτινες εὐνουχίσθησαν ὑπὸ τῶν ἀνθρώπων καὶ εἰσὶν εὐνοῦχοι οἵτινες εὐνούχισαν ἑαυτοὺς διὰ τὴν βασιλείαν τῶν οὐρανῶν ὃ δυνάμενος χωρεῖν χωρεῖτω

1 When Jesus had finished saying these things, he left Galilee and went to the region of Judea beyond the Jordan.

2 Large crowds followed him, and he cured them there.

3 Some Pharisees came to him, and to test him they asked, "Is it lawful for a man to divorce his wife for any cause?"

4 He answered, "Have you not read that the one who made them at the beginning 'made them male and female,'

5 and said, 'For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh'?

6 So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate."

7 They said to him, "Why then did Moses command us to give a certificate of dismissal and to divorce her?"

8 He said to them, "It was because you were so hard-hearted that Moses allowed you to divorce your wives, but from the beginning it was not so.

9 And I say to you, whoever divorces his wife, except for unchastity, and marries another commits adultery."

10 His disciples said to him, "If such is the case of a man with his wife, it is better not to marry."

11 But he said to them, "Not everyone can accept this teaching, but only those to whom it is given.

12 For there are eunuchs who have been so from birth, and there are eunuchs who have been made eunuchs by others, and there are eunuchs who have made themselves eunuchs for the sake of the kingdom of heaven. Let anyone accept this who can."

We have here the law of Christ in the case of divorce, occasioned, as some other declarations of his will, by a dispute with *the Pharisees*. So patiently did he endure the contradiction of sinners, that he turned it into instructions to his own disciples! Observe, here

I. The case proposed by the Pharisees (*v. 3*); *Is it lawful for a man to put away his wife?* This they asked, tempting him, not desiring to be taught by him. Some time ago, he had, in Galilee, declared his mind in this matter, against that which was the common practice (*ch. v. 31, 32*); and if he would, in like manner, declare himself now against divorce, they would make use of it for the prejudicing and incensing of the people of this country against him, who would look with a jealous eye upon one that attempted to cut them short in a liberty they were fond of. They hoped he would lose himself in the affections of the people as much by this as by any of his precepts. Or, the temptation might be designed this: If he should say that divorces were not lawful, they would reflect upon him as an enemy to the law of Moses, which allowed them; if he should say that they were, they would represent his doctrine as not having that perfection in it which was expected in the doctrine of the Messiah; since, though divorces were tolerated, they were looked upon by the stricter sort of people as not of good report. Some think, that, though the law of Moses did permit divorce, yet, in assigning the just causes for it, there was a controversy between the Pharisees among themselves, and they desired to know what Christ said to it. Matrimonial cases have been numerous, and sometimes intricate and perplexed; made so not by the law of God, but by the lusts and follies of men; and often in these cases people resolve, before they ask, what they will do.

Their question is, *Whether a man may put away his wife for every cause.* That it might be done for some cause, even for that of fornication, was granted; but may it be done, as now it commonly was done, by the looser sort of people, for every cause; for any cause that a man shall think fit to assign, though ever so frivolous; upon every dislike or displeasure? The toleration, in this case, permitted it, *in case she found no favour in his eyes, because he hath found some uncleanness in her*, Deut. xxiv. 1. This they interpreted so largely as to make any disgust, though causeless, the ground of a divorce.

II. Christ's answer to this question; though it was proposed to tempt him, yet, being a case of conscience, and a weighty one, he gave a full answer to it, not a direct one, but an effectual one; laying down such principles as undeniably prove that such arbitrary divorces as were then in use, which made the matrimonial bond so very precarious, were by no means lawful. Christ himself would not give the rule without a reason, nor lay down his

judgment without scripture proof to support it. Now his argument is this; "If husband and wife are by the will and appointment of God joined together in the strictest and closest union, then they are not to be lightly, and upon every occasion, separated; if the know be sacred, it cannot be easily untied." Now, to prove that there is such a union between man and wife, he urges three things.

1. The creation of Adam and Eve, concerning which he appeals to their own knowledge of the scriptures; *Have ye not read?* It is some advantage in arguing, to deal with those that own, and have read, the scriptures; *Ye have read* (but have not considered) *that he which made them at the beginning, made them male and female*, Gen. i. 27; v. 2. Note, It will be of great use to us often to think of our creation, how and by whom, what and for what, we were created. *He made them male and female*, one female for one male; so that Adam could not divorce his wife, and take another, for there was no other to take. It likewise intimated an inseparable union between them; Eve was a rib out of Adam's side, so that he could not put her away, but he must put away a piece of himself, and contradict the manifest indications of her creation. Christ hints briefly at this, but, in appealing to what they had read, he refers them to the original record, where it is observable, that, though the rest of the living creatures were made male and female, yet it is not said so concerning any of them, but only concerning mankind; because between man and woman the conjunction is rational, and intended for nobler purposes than merely the pleasing of sense and the preserving of a seed; and it is therefore more close and firm than that between male and female among the brutes, who were not capable of being such help-meets for one another as Adam and Ever were. Hence the manner of expression is somewhat singular (Gen. i. 27), *In the image of God created he him, male and female created he them*; *him* and *them* are used promiscuously; being one by creation before they were two, when they became one again by marriage-covenant, that oneness could not but be closer and indissoluble.

2. The fundamental law of marriage, which is, that *a man shall leave father and mother, and shall cleave to his wife*, v. 5. The relation between husband and wife is nearer than that between parents and children; now, if the filial relation may not easily be violated, much less may the marriage union be broken. May a child desert his parents, or may a parent abandon his children, for any cause, for every cause? No, by no means. Much less may a husband put away his wife, betwixt whom, though not by nature, yet by divine appointment, the relation is nearer, and the bond of union stronger, than between parents and children; for that is in a great measure superseded by marriage, when a man must leave his parents, to cleave to his wife. See here the power of a divine institution, that the result of it is a union stronger than that which results from the highest obligations of nature.

3. The nature of the marriage contract; it is a union of persons; *They twain shall be one flesh*, so that (v. 6) *they are no more twain, but one flesh*. A man's children are pieces of himself, but his wife is himself. As the conjugal union is closer than that between parents and children, so it is in a manner equivalent to that between one member and another in the natural body. As this is a reason why husbands should love their wives, so it is a reason why they should not put away their wives, for *no man ever yet hated his own flesh*, or cut it off, *but nourishes and cherishes it*, and does all he can to preserve it. They two shall be one, therefore there must be but one wife, for God made but one Eve for one Adam, Mal. ii. 15.

From hence he infers, *What God hath joined together, let not man put asunder*. Note, (1.) Husband and wife are of God's joining together; *synezeuxen--he hath yoked them together*, so the word is, and it is very significant. God himself instituted the relation between husband and wife in the state of innocence. Marriage and the sabbath are the most ancient of divine ordinances. Though marriage be not peculiar to the church, but common to the world, yet, being stamped with a divine institution, and here ratified by our Lord Jesus, it ought to be managed *after a godly sort, and sanctified by the word of God, and prayer*. A conscientious regard to God in this ordinance would have a good influence upon the duty, and consequently upon the comfort, of the relation. (2.) Husband and wife, being joined together by the ordinance of God, are not to be put asunder by any ordinance of man. Let not man put them asunder; not the husband himself, nor any one for him; not the magistrate, God never gave him authority to do it. The God of Israel hath said, that *he hateth putting away*, Mal. ii. 16. It is a general rule that man must not go about to *put asunder what God hath joined together*.

III. An objection started by the Pharisees against this; an objection not destitute of colour and plausibility (v. 7); *"Why did Moses command to give a writing of divorcement, in case a man did put away his wife?"* He urged scripture reason against divorce; they allege scripture authority for it. Note, The seeming contradictions that are in the word of God are great stumbling-blocks to men of corrupt minds. It is true, *Moses was faithful to him that appointed him*, and commanded nothing but *what he received from the Lord*; but as to the thing itself, what they call a *command* was only as *allowance* (Deut. xxiv. 1), and designed rather to restrain the exorbitances of it than to give countenance to the thing itself. The Jewish doctors themselves observe such limitations in that law, that

it could not be done without great deliberation. A particular reason must be assigned, the bill of divorce must be written, and, as a judicial act, must have all the solemnities of a deed, executed and enrolled. It must be given into the hands of the wife herself, and (which would oblige men, if they had any consideration in them, to consider) they were expressly forbidden ever to come together again.

IV. Christ's answer to this objection, in which,

1. He rectifies their mistake concerning the law of Moses; they called it a *command*, Christ calls it but a *permission, a toleration*. Carnal hearts will take an ell if but an inch be given them. The law of Moses, in this case, was a political law, which God gave, as the Governor of that people; and it was for reasons of state, that divorces were tolerated. The strictness of the marriage union being the result, not of a natural, but of a positive law, the wisdom of God dispensed with divorces in some cases, without any impeachment of his holiness.

But Christ tells them there was a reason for this toleration, not at all for their credit; *It was because of the hardness of your hearts*, that you were permitted to *put away your wives*. Moses complained of the people of Israel in his time, that *their hearts were hardened* (Deut. ix. 6; xxxi. 27), hardened against God; this is here meant of their being hardened against their relations; they were generally violent and outrageous, which way soever they took, both in their appetites and in their passions; and therefore if they had not been allowed to put away their wives, when they had conceived a dislike of them, they would have used them cruelly, would have beaten and abused them, and perhaps have murdered them. Note, There is not a greater piece of hard-heartedness in the world, than for a man to be harsh and severe with his own wife. The Jews, it seems, were infamous for this, and therefore were allowed to put them away; better divorce them than do worse, than that *the altar of the Lord should be covered with tears*, Mal. ii. 13. A little compliance, to humour a madman, or a man in a frenzy, may prevent a greater mischief. Positive laws may be dispensed with for the preservation of the law of nature, for *God will have mercy and not sacrifice*; but then those are hard-hearted wretches, who have made it necessary; and none can wish to have the liberty of divorce, without virtually owning the hardness of their hearts. Observe, He saith, It is for the hardness of *your* hearts, not only theirs who lived then, but all their seed. Note, God not only sees, but foresees, the hardness of men's hearts; he suited both the ordinances and providences of the Old Testament to the temper of that people, both in terror. Further observe, The law of Moses considered the hardness of men's hearts, but the gospel of Christ cures it; and his grace *takes away the heart of stone, and gives a heart of flesh*. By the law was the knowledge of sin, but by the gospel was the conquest of it.

2. He reduces them to the original institution; *But from the beginning it was not so*. Note, Corruptions that are crept into any ordinance of God must be purged out by having recourse to the primitive institution. If the copy be vicious, it must be examined and corrected by the original. Thus, when St. Paul would redress the grievances in the church of Corinth about the Lord's supper, he appealed to the appointment (1 Cor. xi. 23), *So and so I received from the Lord*. Truth was from the beginning; we must therefore enquire for *the good old way* (Jer. vi. 16), and must reform, not by later patterns, but by ancient rules.

3. He settles the point by an express law; *I say unto you* (v. 9); and it agrees with what he said before (*ch. v. 32*); there it was said in preaching, here in dispute, but it is the same, for Christ is constant to himself. Now, in both these places,

(1.) He allows divorce, in case of adultery; the reason of the law against divorce being this, *They two shall be one flesh*. If the wife play the harlot, and make herself one flesh with an adulterer, the reason of the law ceases, and so does the law. By the law of Moses adultery was punished with death, Deut. xxii. 22. Now our Saviour mitigates the rigour of that, and appoints divorce to be the penalty. Dr. Whitby understands this, not of adultery, but (because our Saviour uses the word *porneia--fornication*) of uncleanness committed before marriage, but discovered afterward; because, if it were committed after, it was a capital crime, and there needed no divorce.

(2.) He disallows it in all other cases: *Whosoever puts away his wife, except for fornication, and marries another, commits adultery*. This is a direct answer to their query, that it is not lawful. In this, as in other things, gospel times are *times of reformation*, Heb. ix. 10. The law of Christ tends to reinstate man in his primitive integrity; the law of love, conjugal love, is no new commandment, but was from the beginning. If we consider what mischiefs to families and states, what confusions and disorders, would follow upon arbitrary divorces, we shall see how much this law of Christ is for our own benefit, and what a friend Christianity is to our secular interests.

The law of Moses allowing divorce for the hardness of men's hearts, and the law of Christ forbidding it, intimate, that Christians being under a dispensation of love and liberty, tenderness of heart may justly be expected among them, that they will not be hard-hearted, like Jews, *for God has called us to peace*. There will be no occasion for divorces, if we *forbear one another, and forgive one another, in love*, as those that are, and hope to be, forgiven, and have found God not forward to *put us away*, Isa. l. 1. No need of divorces, if *husbands love their wives, and wives be obedient to their husbands*, and they live together as heirs of the grace of life: and these are the laws of Christ, such as we find not in all the law of Moses.

V. Here is a suggestion of the disciples against this law of Christ (v. 10); *If the case of the man be so with his wife, it is better not to marry*. It seems, the disciples themselves were loth to give up the liberty of divorce, thinking it a good expedient for preserving comfort in the married state; and therefore, like sullen children, if they have not what they would have, they will throw away what they have. If they may not be allowed to put away their wives when they please, they will have no wives at all; though, from the beginning, when no divorce was allowed, God said, *It is not good for man to be alone, and blessed them*, pronounced them blessed who were thus strictly joined together; yet, unless they may have a liberty of divorce, they think it is good for a man not to marry. Note, 1. Corrupt nature is impatient of restraint, and would fain break Christ's bonds in sunder, and have a liberty for its own lusts. 2. It is a foolish, peevish thing for men to abandon the comforts of this life, because of the crosses that are commonly woven in with them, as if we must needs go out of the world, because we have not every thing to our mind in the world; or must enter into no useful calling or condition, because it is made our duty to abide in it. No, whatever our condition is, we must bring our minds to it, be thankful for its comforts, submissive to its crosses, and, as God has done, *set the one over against the other*, and make the best of that which is, Eccl. vii. 14. If the yoke of marriage may not be thrown off at pleasure, it does not follow that *therefore* we must not come under it; but *therefore*, when we do come under it, we must resolve to comport with it, by love, and meekness, and patience, which will make divorce the most unnecessary undesirable thing that can be.

VI. Christ's answer to this suggestion (v. 11, 12), in which,

1. He allows it good for some not to marry; *He that is able to receive it, let him receive it*. Christ allowed what the disciples said, *It is good not to marry*; not as an objection against the prohibition of divorce, as they intended it, but as giving them a rule (perhaps no less displeasing to them), that they who have the gift of continence, and are not under any necessity of marrying, do best if they continue single (1 Cor. vii. 1); for they that are unmarried have opportunity, if they have but a heart, to care more *for the things of the Lord, how they may please the Lord* (1 Cor. vii. 32-34), being less encumbered with the cares of this life, and having a greater vacancy of thought and time to mind better things. The increase of grace is better than the increase of the family, and fellowship with the Father and with his Son Jesus Christ is to be preferred before any other fellowship.

2. He disallows it, as utterly mischievous, to forbid marriage, because *all men cannot receive this saying*; indeed few can, and therefore the crosses of the married state must be borne, rather than that men should run themselves into temptation, to avoid them; *better marry than burn*.

Christ speaks here of a twofold unaptness to marriage.

(1.) That which is a calamity by the providence of God; such as those labour under who are born eunuchs, or made so by men, who, being incapable of answering one great end of marriage, ought not to marry. But to that calamity let them oppose the opportunity that there is in the single state of serving God better, to balance it.

(2.) That which is a virtue by the grace of God; such is theirs who *have made themselves eunuchs for the kingdom of heaven's sake*. This is meant of an unaptness for marriage, not in body (which some, through mistake of this scripture, have foolishly and wickedly brought upon themselves), but in mind. Those have thus made themselves eunuchs who have attained a holy indifference to all the delights of the married state, have a fixed resolution, in the strength of God's grace, wholly to abstain from them; and by fasting, and other instances of mortification, have subdued all desires toward them. These are they that *can receive* this saying; and yet these are not to bind themselves by a vow that they will never marry, only that, in the mind they are now in, they purpose not to marry.

Now, [1.] This affection to the single state must be given of God; for none can receive it, *save they to whom it is given*. Note, Continence is a special gift of God to some, and not to others; and when a man, in the single state,

finds by experience that he has this gift, he may determine with himself, and (as the apostle speaks, 1 Cor. vii. 37), stand steadfast in his heart, having no necessity, but having power over his own will, that he will keep himself so. But men, in this case, must take heed lest they boast of a false gift, Prov. xxv. 14.

[2.] The single state must be chosen for the kingdom of heaven's sake; in those who resolve never to marry, only that they may save charges, or may gratify a morose selfish humour, or have a greater liberty to serve other lusts and pleasures, it is so far from being a virtue, that it is an ill-natured vice; but when it is for religion's sake, not as in itself a meritorious act (which papists make it), but only as a means to keep our minds more entire for, and more intent upon, the services of religion, and that, having no families to provide for, we may do the more works of charity, then it is approved and accepted of God. Note, That condition is best for us, and to be chosen and stuck to accordingly, which is best for our souls, and tends most to the preparing of us for, and the preserving of us to, the kingdom of heaven.

From the Commentary of Ibn Kathir on Quran 2 – The Heifer 226-232

The Ila' and its Rulings

Ila' is a type of vow where a man swears not to sleep with his wife for a certain period, whether less or more than four months. If the vow of Ila' was for less than four months, the man has to wait for the vow's period to end and then is allowed to have sexual intercourse with his wife. She has to be patient and she cannot ask her husband, in this case, to end his vow before the end of its term. It is reported in the Two Sahihs that `A'ishah said that Allah's Messenger swore he would stay away from with his wives for a month. He then came down after twenty-nine days saying:

«الشَّهْرُ تِسْعٌ وَعِشْرُونَ»

(The (lunar) month is twenty-nine days.)

Similar was narrated by `Umar bin Al-Khattab and reported in the Two Sahihs. If the period of Ila' is for more than four months, the wife is allowed in this case to ask her husband, upon the end of the four months, to end the Ila' and have sexual relations with her. Otherwise, he should divorce her, by being forced to do so by the authorities if necessary, so that the wife is not harmed. Allah said:

[لِلَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ]

(Those who take an oath not to have sexual relations with their wives) meaning, swear not to have sexual relations with the wife. This Ayah indicates that the Ila' involves the wife and not a slave-women, as the majority of the scholars have agreed,

[تَرْبُصُ أَرْبَعَةَ أَشْهُرٍ]

(...must wait for four months,) meaning, the husband waits for four months from the time of the vow and then ends the Ila' (if the vow was for four or more months) and is required to either return to his wife or divorce her. This is why Allah said next:

[فَإِنْ فَآءُوا]

(...then if they return,) meaning, to a normal relationship, having sexual intercourse with the wife. This is the Tafsir of Ibn `Abbas, Masruq, Ash-Sha`bi, Sa`id bin Jubayr and Ibn Jarir.

[فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ]

(...verily, Allah is Oft-Forgiving, Most Merciful.) with any shortcomings that occurred in the rights of the wife because of the vow of Ila'.

Allah said:

[وَإِنْ عَزَمُوا الطَّلَاقَ]

(And if they decide upon divorce,) indicating that divorce does not occur by merely passing the four month mark (during the Ila'). Malik reported from Nafi' that `Abdullah bin `Umar said, "If the man swears to Ila' from his wife, then divorce does not occur automatically even after the four months have passed. When he stops at the

four months mark, he should either divorce or return." Al-Bukhari also reported this Hadith. Ibn Jarir reported that Suhayl bin Abu Salih said that his father said, "I asked twelve Companions about the man who does Ila' with his wife. They all stated that he does not have to do anything until the four months have passed and then has to either retain or divorce her." Ad-Daraqutni also reported this from Suhayl.

It is also reported from `Umar, `Uthman, `Ali, Abu Ad-Darda', `A'ishah, Ibn `Umar and Ibn `Abbas. This is also the opinion of Sa'id bin Musayyib, `Umar bin `Abdul-`Aziz, Mujahid, Tawus, Muhammad bin Ka'b and Al-Qasim.

[وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ]

(228. And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs, if they believe in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable, but men have a degree (of responsibility) over them. And Allah is All-Mighty, All-Wise.)

The `Iddah (Waiting Period) of the Divorced Woman

This Ayah contains a command from Allah that the divorced woman, whose marriage was consummated and who still has menstruation periods, should wait for three (menstrual) periods (Quru') after the divorce and then remarry if she wishes.

The Meaning of Al-Quru

Ibn Jarir related that `Alqamah said: We were with `Umar bin Al-Khattab when a woman came and said, "My husband divorced me one or two periods ago. He then came back to me while I had prepared my water [for taking a bath], took off my clothes and closed my door." `Umar asked `Abdullah bin Mas`ud, "What do you think" He said, "I think that she is still his wife, as long as she is not allowed to resume praying (i.e., until the third period ends before he takes her back)." `Umar said, "This is my opinion too." This is also the opinion of Abu Bakr As-Siddiq, `Umar, `Uthman, `Ali, Abu Ad-Darda', `Ubadah bin As-Samit, Anas bin Malik, Ibn Mas`ud, Mu`adh, Ubayy bin Ka'b, Abu Musa Al-Ash`ari and Ibn `Abbas. Furthermore, this is the opinion of Sa'id bin Musayyib, `Alqamah, Aswad, Ibrahim, Mujahid, `Ata', Tawus, Sa'id bin Jubayr, `Ikrimah, Muhammad bin Sirin, Al-Hasan, Qatadah, Ash-Sha`bi, Ar-Rabi`, Muqatil bin Hayyan, As-Suddi, Makhul, Ad-Dahhak and `Ata' Al-Khurasani. They all stated that the Quru' is the menstruation period. What testifies to this is the Hadith that Abu Dawud and An-Nasa'i reported that Fatimah bint Abu Hubaiysh said that Allah's Messenger said to her:

«دَعِيَ الصَّلَاةَ أَيَّامَ أَقْرَائِكَ»

(Do not pray during your Aqra' (pl. for Quru', the menstruation period).)

If this Hadith was authentic, it would have been a clear proof that the Quru' is the menstruation period. However, one of the narrators of this Hadith, Al-Mundhir, is an unknown person (in Hadith terminology), as Abu Hatim has stated, although Ibn Hibban has mentioned Al-Mundhir in his book Ath-Thiqat.

A Woman's Statement about Menses and Purity is to be accepted

Allah said:

[وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ]

(...and it is not lawful for them to conceal what Allah has created in their wombs,) meaning, of pregnancy or menstruation periods. This is the Tafsir of Ibn `Abbas, Ibn `Umar, Mujahid, Ash-Sha`bi, Al-Hakam bin `Utaybah, Ar-Rabi` bin Anas, Ad-Dahhak and others.

Allah then said:

[إِنْ كُنَّ يُؤْمِنَنَّ بِاللَّهِ وَالْيَوْمِ الْآخِرِ]

(...if they believe in Allah and the Last Day.)

This Ayah warns women against hiding the truth (if they were pregnant or on their menses), indicating that they are the authority in such matters as they alone know such facts about themselves. Since verifying such matters is difficult, Allah left this decision with them. Yet, women were warned not to hide the truth in case they wish to end the `Iddah sooner, or later, according to their desires. Women were thus commanded to say the truth (if they were pregnant or on their menses), no more and no less.

The Husband has the Right to take back his Divorced Wife during the `Iddah (Waiting Period)

Allah said:

[وَبِعَوْلْتِهِنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا]

(And their husbands have the better right to take them back in that period, if they wish for reconciliation.)

Hence, the husband who divorces his wife can take her back, providing she is still in her `Iddah (time spent before a divorced woman or a widow can remarry) and that his aim, by taking her back, is righteous and for the purpose of bringing things back to normal. However, this ruling applies where the husband is eligible to take his divorced wife back. We should mention that (when this Ayah 2:228 was revealed), the ruling that made the divorce thrice and specified when the husband is ineligible to take his divorced wife back, had not been revealed yet. Previously, the man used to divorce his wife and then take her back even if he had divorced her a hundred separate times. Thereafter, Allah revealed the following Ayah (2:229) that made the divorce only thrice. So there was now a reversible divorce and an irreversible final divorce.

The Rights the Spouses have over Each Other

Allah said:

[وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ]

(And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable,)

This Ayah indicates that the wife has certain rights on her husband, just as he has certain rights on her, and each is obliged to give the other spouse his due rights. Muslim reported that Jabir said that Allah's Messenger said:

«فَاتَّقُوا اللَّهَ فِي النِّسَاءِ، فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ، وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ، وَلَكُمْ عَلَيْهِنَّ أَنْ لَا يُوطِئَنَّ فُرُشَكُمْ أَحَدًا تَكْرَهُونَهُ، فَإِنْ فَعَلْنَ ذَلِكَ فَاصْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرِحٍ، وَلَهُنَّ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ»

a(Fear Allah regarding your women, for you have taken them by Allah's covenant and were allowed to enjoy with them sexually by Allah's Words. You have the right on them that they do not allow anyone you dislike to sit on your mat. If they do that, then discipline them leniently. They have the right to be spent on and to be bought clothes in what is reasonable.)

Bahz bin Hakim said that Mu`awiyah bin Haydah Al-Qushayri related that his grandfather said, "O Messenger of Allah! What is the right the wife of one of us has" The Prophet said:

«أَنْ تُطْعِمَهَا إِذَا طَعِمْتَ، وَتَكْسُوَهَا إِذَا اكْتَسَيْتَ، وَلَا تَضْرِبِ الْوَجْهَ، وَلَا تُقْبِحْ، وَلَا تَهْجُرْ إِلَّا فِي الْبَيْتِ»

(To feed her when you eat, buy her clothes when you buy for yourself and to refrain from striking her on the face, cursing her or staying away from her except in the house.)

Waki` related that Ibn `Abbas said, "I like to take care of my appearance for my wife just as I like for her to take care of her appearance for me. This is because Allah says:

[وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ]

(And they (women) have rights similar (to those of their husbands) over them to what is reasonable.)" This statement is reported by Ibn Jarir and Ibn Abu Hatim.

The Virtue Men have over Women

Allah said:

[وَلِلرِّجَالِ عَلَى النِّسَاءِ دَرَجَةٌ]

(but men have a degree (of responsibility) over them.)

This Ayah indicates that men are in a more advantageous position than women physically as well as in their mannerism, status, obedience (of women to them), spending, taking care of the affairs and in general, in this life and in the Hereafter. Allah said (in another Ayah):

[الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ]

(Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means.) (4:34)

Allah's statement:

[وَاللَّهُ عَزِيزٌ حَكِيمٌ]

(And Allah is All-Mighty, All-Wise) means, He is Mighty in His punishment of those who disobey and defy His commands. He is Wise in what He commands, destines and legislates.

[الطَّلَقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ - فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدِ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ وَتِلْكَ حُدُودُ اللَّهِ يُبَيِّنُهَا لِقَوْمٍ يَعْلَمُونَ

(229. The divorce is twice, after that either you retain her on reasonable terms or release her with kindness. And it is not lawful for you (men) to take back (from your wives) any of what you gave them (the Mahr, bridal-money given by the husband to his wife at the time of marriage), except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g., to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back (the Mahr or a part of it). These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the wrongdoers.) (230. And if he has divorced her (the third time), then she is not lawful unto him thereafter until she has married another husband. Then, if the other husband divorces her, it is no sin on both of them that they reunite, provided they feel that they can keep the limits ordained by Allah. These are the limits of Allah, which He makes plain for the people who have knowledge.)

Divorce is Thrice

This honourable Ayah abrogated the previous practice in the beginning of Islam, when the man had the right to take back his divorced wife even if he had divorced her a hundred times, as long as she was still in her `Iddah (waiting period). This situation was harmful for the wife, and this is why Allah made the divorce thrice, where the husband is allowed to take back his wife after the first and the second divorce (as long as she is still in her `Iddah). The divorce becomes irrevocable after the third divorce, as Allah said:

[الطَّلَقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ]

(The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness.)

In his Sunan, Abu Dawud reported in Chapter: "Taking the Wife back after the third (Divorce) is an abrogated practice," that Ibn `Abbas commented on the Ayah:

[وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ]

(And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs.) (2:228) The man used to have the right to take back his wife even if he had divorced her thrice. Allah abrogated this and said:

[الطَّلَقُ مَرَّتَانِ]

(The divorce is twice.)

This Hadith was also collected by An-Nasa'i. Ibn Abu Hatim reported that `Urwah said that a man said to his wife, "I will neither divorce you nor take you back." She said, "How" He said, "I will divorce you and when your term of `Iddah nears its end, I will take you back." She went to Allah's Messenger and told him what happened, and Allah revealed:

[الطَّلُقُ مَرَّتَانِ]

(The divorce is twice.)

Ibn Jarir (At-Tabari) also reported this Hadith in his Tafsir.

Allah said:

[فَأَمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ]

(...after that, either you retain her on reasonable terms or release her with kindness.) meaning, 'If you divorce her once or twice, you have the choice to take her back, as long as she is still in her `Iddah, intending to be kind to her and to mend differences. Otherwise, await the end of her term of `Iddah, when the divorce becomes final, and let her go her own way in peace, without committing any harm or injustice against her.' `Ali bin Abu Talhah reported that Ibn `Abbas said, "When the man divorces his wife twice, let him fear Allah, regarding the third time. He should either keep her with him and treat her with kindness, or let her go her own way with kindness, without infringing upon any of her rights."

Taking back the Mahr (Dowry)

Allah said:

[وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا]

(And it is not lawful for you (men) to take back (from your wives) any of (the dowry) what you gave them,) meaning, you are not allowed to bother or pressure your wives to end this situation by giving you back the Mahr and any gifts that you have given them (in return for divorce). Similarly, Allah said:

[وَلَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبِينَةٍ]

(...and you should not treat them with harshness, that you may take away part of what you have given them, unless they commit open illegal sexual intercourse.) (4:19)

However, if the wife willingly gives back anything with a good heart, then Allah said regarding this situation:

[فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا]

(...but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm.) (4:4)

Allowing Khul` and the Return of the Mahr in that Case

When the spouses have irreconcilable differences wherein the wife ignores the rights of the husband, dislikes him and becomes unable to live with him any longer, she is allowed to free herself (from married life) by giving him back what he had given her (in gifts and Mahr). There is no sin on her in this case nor on him if he accepts such offer. This is why Allah said:

[وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ]

(And it is not lawful for you (men) to take back (from your wives) any of what you gave them, except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g., to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back.)

Sometimes, the woman has no valid reason and she still asks for her marriage to be ended. In this case, Ibn Jarir reported that Thawban said that Allah's Messenger said:

«أَيُّمَا امْرَأَةٍ سَأَلَتْ زَوْجَهَا طَلَاقًا فِي غَيْرِ مَا بَأْسٍ، فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ»

(Any woman who asks her husband for divorce without justification, then the scent of Paradise will be forbidden for her.)

At-Tirmidhi recorded this Hadith and stated that it is Hasan.

Ibn Jarir said that the Ayah (2:229) was revealed about Thabit bin Qays bin Shammas and his wife Habibah bint `Abdullah bin Ubayy bin Salul. In his Muwatta', Imam Malik reported that Habibah bint Sahl Al-Ansariyah was married to Thabit bin Qays bin Shammas and that Allah's Messenger once went to the Fajr (Dawn) prayer and found Habibah bint Sahl by his door in the dark. Allah's Messenger said, "Who is this" She said, "I am Habibah bint Sahl, O Messenger of Allah!" He said, "What is the matter" She said, "I and Thabit bin Qays", meaning, (she can no longer be with) her husband. When her husband Thabit bin Qays came, Allah's Messenger said to him:

«هَذِهِ حَبِيبَةُ بِنْتِ سَهْلٍ قَدْ ذَكَرْتَ مَا شَاءَ اللَّهُ أَنْ تَذُكُرَ»

(This is Habibah bint Sahl, she said what Allah has permitted her to say.)

Habibah also said, "O Messenger of Allah! I still have everything he gave me." Allah's Messenger said:

«خُذْ مِنْهَا»

(Take it from her.) So, he took it from her and she remained in her family's house."

This was reported by Ahmad, Abu Dawud and An-Nasai.

Al-Bukhari reported that Ibn `Abbas said that the wife of Thabit bin Qays bin Shammas came to the Prophet and said, "O Messenger of Allah! I do not criticize his religion or mannerism. But I hate committing Kufr in Islam (by ignoring his rights on her)." Allah's Messenger said:

«أَتُرِدِّينَ عَلَيْهِ حَدِيقَتَهُ»

؟

(Will you give him back his garden)

She said, "Yes." Allah's Messenger said:

«أَقْبَلَ الْحَدِيثَةَ وَطَلَّقَهَا تَطْلِيقَةً»

(Take back the garden and divorce her once.)

An-Nasa'i also recorded it.

The `Iddah (Waiting Period) for the Khul'

At-Tirmidhi reported that Rubayi` bint Mu`awwidh bin `Afra' got a Khul` during the time of Allah's Messenger and the Prophet ordered her to wait for one menstruation period for `Iddah.

Transgressing the set limits of Allah is an Injustice

Allah said:

[تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ]

(These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the wrongdoers.)

This means that the laws that Allah has legislated are His set limits, so do not transgress them. An authentic Hadith states:

«إِنَّ اللَّهَ حَدَّ حُدُودًا فَلَا تَعْتَدُوهَا، وَفَرَضَ فَرَائِضَ فَلَا تُضَيِّعُوهَا، وَحَرَّمَ مَحَارِمَ فَلَا تَنْتَهِكُوهَا، وَسَكَتَ عَنْ أَشْيَاءَ رَحْمَةً لَكُمْ مِنْ غَيْرِ نَسْيَانٍ فَلَا تَسْأَلُوا عَنْهَا»

(Allah has set some limits, so do not transgress them; and commanded some commands, so do not ignore them; and made some things unlawful, so do not commit them. He has also left some matters (without rulings) as a mercy with you, not because He has forgotten them, so do not ask about them.)

Pronouncing Three Divorces at the same Time is Unlawful

The last Ayah we mentioned was used as evidence to prove that it is not allowed to pronounce three divorces at one time. What further proves this ruling is that Mahmud bin Labid has stated - as An-Nasa'i recorded - that Allah's Messenger was told about a man who pronounced three divorces on his wife at one time, so the Prophet stood up while angry and said:

«أَيْلَعِبُ بِكِتَابِ اللَّهِ وَأَنَا بَيْنَ أَظْهُرِكُمْ»

؟

(The Book of Allah is being made the subject of jest while I am still amongst you)

A man then stood up and said, "Should I kill that man, O Messenger of Allah"

The Wife cannot be taken back after the Third Divorce

Allah said:

[فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ]

(And if he has divorced her (the third time), then she is not lawful for him thereafter until she has married another husband.)

This Ayah indicates that if the man divorces his wife for the third time after he divorced her twice, then she will no longer be allowed for marriage to him. Allah said:

[حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ]

(...until she has married another husband.) meaning, until she legally marries another man. For instance, if she has sexual intercourse with any man, even her master (if she was a servant), she would still be ineligible for marriage for her ex-husband (who divorced her thrice), because whomever she had sexual relations with was not her legal husband. If she marries a man without consummating the marriage, she will not be eligible for her ex-husband. Muslim reported that `A'ishah said that Allah's Messenger was asked about a woman who marries a man who thereafter divorces her (thrice). She then marries another man and he divorces her before he has sexual relations with her, would she be allowed for her first husband Allah's Messenger said:

«لَا، حَتَّى يَذُوقَ عُسَيْلَتَهَا»

(No, until he enjoys her `Usaylah (sexual relation).) Al-Bukhari also reported this Hadith.

Imam Ahmad recorded that `A'ishah said, "The wife of Rifa`ah Al-Qurazi came while I and Abu Bakr were with the Prophet and she said, 'I was Rifa`ah's wife, but he divorced me and it was an irrevocable divorce. Then I married `Abdur-Rahman bin Az-Zubayr, but his sexual organ is minute like a string.' She then took a small string of her garment (to resemble how small his sexual organ was). Khalid bin Sa`id bin Al-`As, who was next to the door and was not yet allowed in, said, 'O Abu Bakr! Why do you not forbid this (woman) from what she is revealing frankly before the Prophet' The Prophet merely smiled. Then, Allah's Messenger asked her:

«كَأَنَّكَ تُرِيدِينَ أَنْ تَرْجِعِي إِلَى رِفَاعَةَ، لَا، حَتَّى تَذُوقِي عُسَيْلَتَهُ، وَيَذُوقَ عُسَيْلَتِكَ»

(Do you want to remarry Rifa`ah You cannot unless you experience his `Usaylah and he experiences your `Usaylah (i.e., had a complete sexual relation with your present husband)."

Al-Bukhari, Muslim, and An-Nasa'i also recorded this Hadith. Muslim's wording is "Rifa`ah divorced his wife for the third and final time."

The word `Usaylah mentioned in the Hadith means sexual intercourse. Imam Ahmad and An-Nasa'i reported that `A'ishah said that Allah's Messenger said:

«أَلَا إِنَّ الْعُسَيْلَةَ الْجَمَاعَ»

(`Usaylah is sexual intercourse.)

The Curse on the Participants of Tahlil/Halalah

The reason for the woman (who was divorced thrice) to marry another man must be that the man desires her and has the intention of having an extended married life with her. These are the legal goals and aims behind marriage. If the reason behind the second marriage was to make the woman eligible for her ex-husband again, then this is the Tahlil that the Hadiths have cursed and criticized. In addition, when the reason behind this

marriage (if it was Tahlil) is announced in the contract, it would make the contract invalid according to the majority of the scholars.

Imam Ahmad reported that `Abdullah bin Mas`ud said, "Allah's Messenger cursed the one who does Tahlil, the one in whose favor it is done, those who eat Riba (usury) and those who feed it (pay the usury)." At-Tirmidhi and An-Nasa'i reported this Hadith and At-Tirmidhi said, "This Hadith is Hasan." He said, "This is what is acted upon according to people of knowledge among the Companions, among whom are `Umar, `Uthman and Ibn `Umar. It was also the saying of the scholars of Fiqh among the Tabi`in (second generation of Islam). And it has been reported from `Ali, Ibn Mas`ud and Ibn `Abbas".

In his Mustadrak, Al-Hakim reported that Nafi` said: "A man came to Ibn `Umar and asked him about a man who divorced his wife three times. Then, his brother married her to make Tahlil for his brother, without the brother knowing this fact. He then asked, "Is she allowed for the first (husband)" He said, "No, unless it is a marriage that involves desire. We used to consider this an act of adultery during the time of Allah's Messenger ." Al-Hakim said, "This Hadith has a Sahih chain although they (Al-Bukhari and Muslim) did not record it." The wording of this Hadith indicates that the ruling came from the Prophet . Abu Bakr bin Abu Shaybah, Al-Jawzjani, Harb Al-Kirmani and Abu Bakr Al-Athram said that Qabisah bin Jabir said that `Umar said, "If the participants to Tahlil are brought to me, I will have them stoned."

When does a Woman who was divorced Three Times become Eligible for Her First Husband

Allah said:

[فَإِنْ طَلَّقَهَا]

(And if he has divorced her) meaning, the second husband after he had complete sexual relations with her,

[فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا]

(it is no sin on both of them that they reunite) meaning, the wife and her first husband,

[إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ]

(provided they feel that they can keep the limits ordained by Allah.) meaning, they live together honorably. Mujahid said, "If they are convinced that the aim behind their marriage is honourable." Next, Allah said:

[وَتِلْكَ حُدُودُ اللَّهِ]

(These are the limits of Allah,) His commandments and legislation,

[يُبَيِّنُهَا]

(He makes plain)

[لِقَوْمٍ يَعْلَمُونَ]

(for the people who have knowledge.)

[وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَلَبَّغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا
وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ وَلَا تَتَّخِذُوا آيَةَ اللَّهِ هُزُوعًا وَادْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ
الْكِتَابِ وَالْحِكْمَةِ يَعِظُكُمْ بِهِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ]

(231. And when you have divorced women and they have fulfilled the term of their prescribed period, either take them back on a reasonable basis or set them free on a reasonable basis. But do not take them back to hurt them, and whoever does that, then he has wronged himself. And treat not the verses (Laws) of Allah in jest, but remember Allah's favors on you (i.e., Islam), and that which He has sent down to you of the Book (i.e., the Qur'an) and Al-Hikmah (the Prophet's Sunnah - legal ways - Islamic jurisprudence) whereby He instructs you. And fear Allah, and know that Allah is All-Aware of everything).

Being Kind to the Divorced Wife

This is a command from Allah to men that when one of them divorces his wife with a reversible divorce, he should treat her kindly. So when her term of `Iddah (waiting period) nears its end, he either takes her back in a way that is better, including having witnesses that he has taken her back, and he lives with her with kindness. Or, he should release her after her `Iddah finishes and then kindly asks her to depart from his house, without disputing, fighting with her or using foul words. Allah then said:

[وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا]

(But do not take them back to hurt them,)

Ibn `Abbas, Mujahid, Masruq, Al-Hasan, Qatadah, Ad-Dahhak, Ar-Rabi` and Muqatil bin Hayyan said that a man used to divorce his wife, and when her `Iddah came near its end, he would take her back to harm her and to stop her from marrying someone else. He then divorced her and she would begin her `Iddah and when her `Iddah term neared its end, he would take her back again, so that the term of `Iddah would be prolonged for her. After that, Allah prohibited this practice. Allah has also threatened those who indulge in such practices, when He said;

[وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ]

(...and whoever does that, then he has wronged himself.) meaning, by defying Allah's commandments. Allah then said:

[وَلَا تَتَّخِذُوا آيَةَ اللَّهِ هُزُوعًا]

(And treat not the verses (Laws) of Allah in a jest,)

Ibn Jarir said that Abu Musa (Al-Ash`ari) narrated that Allah's Messenger once became angry at the Ash`ari tribe. Abu Musa went to him and said, "O Messenger of Allah! Are you angry with the Ash`ariyyin" The Prophet said:

«يَقُولُ أَحَدُكُمْ: قَدْ طَلَّقْتُ، قَدْ رَاجَعْتُ، لَيْسَ هَذَا طَلَاقُ الْمُسْلِمِينَ، طَلَّقُوا الْمَرْأَةَ فِي قُبُلِ عِدَّتِهَا»

(One of you says, 'I divorced her' -then says- 'I took her back!' This is not the appropriate way Muslims conduct divorce. Divorce the woman when she has fulfilled the term of the prescribed period.)

Masruq said that the Ayah refers to the man who harms his wife by divorcing her and then taking her back, so that the `Iddah term is prolonged for her. Al-Hasan, Qatadah, `Ata' Al-Khurasani, Ar-Rabi` and Muqatil bin Hayyan said, "He is the man who divorces his wife and says, 'I was joking.' Or he frees a servant or gets married and says, 'I was only joking.' Allah revealed:

[وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوًا]

(And treat not the verses (Laws) of Allah in a jest,)

Then such men were made to bear the consequences of their actions.

Allah then said:

[وَاذْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ]

(. .but remember Allah's favors on you,) meaning, by His sending His Messenger with the right guidance and clear signs to you:

[وَمَا أَنْزَلَ عَلَيْكُمْ مِّنَ الْكِتَابِ وَالْحِكْمَةِ]

(...and that which He has sent down to you of the Book (i.e., the Qur'an) and Al-Hikmah) meaning the Sunnah,

[يُعِظُكُمْ بِهِ]

(...whereby He instructs you.) meaning, commands you, forbids you and threatens you for transgressing His prohibitions. Allah said:

[وَاتَّقُوا اللَّهَ]

(And fear Allah) meaning, concerning what you perform and what you avoid,

[وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ]

(and know that Allah is All-Aware of everything.) none of your secret or public affairs ever escapes His knowledge, and He will treat you accordingly.

[وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَّغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرْضَوْنَ بَيْنَهُمْ بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ أَزْكَى لَكُمْ وَأَطْهَرُ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ]

(232. And when you have divorced women and they have fulfilled the term of their prescribed period, do not prevent them from marrying their (former) husbands, if they mutually agree on reasonable basis. This (instruction) is an admonition for him among you who believes in Allah and the Last Day. That is more virtuous and purer for you. Allah knows and you know not.)