

1 CORINTHIANS 7 IN THE LIGHT OF THE GRAECO-ROMAN MARRIAGE AND DIVORCE PAPYRI

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Summary

The language and social background of 1 Corinthians 7 are compared with that of the Greek and Latin marriage and divorce papyri. These papyri are found to be particularly useful for illuminating the issue of divorce-by-separation, which Paul appears to be combating in vv. 10-15. They also give insights into Paul's unusual use of ἀφίημι for 'divorce', and the curious absence of teaching about remarriage in this chapter. Paul is found to have a positive approach to marriage, emphasising the commitment it involves, while warning that bringing up a family was difficult at the present time of famine.

I. Introduction

Paul's teaching on divorce and remarriage in 1 Corinthians 7 is regarded as so problematic that there is still a debate about whether or not it contains any teaching on remarriage at all. We can assume that a first century reader at Corinth would not find the chapter so difficult to understand because Paul was a successful communicator who knew his readership at Corinth. Important light is thrown onto the issue when the chapter is read with a wider understanding of the social background and language of the Corinthian Christians.

The background literature which is the nearest equivalent to 1 Corinthians 7 is the legal papyri regarding marriage and divorce. Paul is presenting a Christian response to problems concerning marriage which were faced by Graeco-Roman and (to a lesser extent) Jewish converts at Corinth. He does not give a complete outline of Christian teaching in this area, but he deals with questions and problems which have arisen, and a few related issues. He is therefore

dealing with legal concepts which would be found in marriage contracts and divorce certificates of his readers. The Roman statutes and rulings of the time have been preserved to a large degree in the 4th century digests of Justinian, though for specifically Greek law we have just one very fragmentary papyrus.¹ Jewish law is preserved in better condition, but is still found only in 3rd-6th century collections. Our best sources are therefore the legal papyri of the time.

Marriage and divorce papyri have never been collected in one place. They are scattered throughout a large number of editions, and a few are found only in isolated articles. Montevocchi published incomplete lists of marriage and divorce papyri in 1936 and 1973 but did not collect the texts. As a basis of this study I collected all the available marriage and divorce documents in Greek, Latin and Aramaic from the 4th century BC to the 4th century AD and published them as a web site.² I have also consulted other documents as far as the 8th century BC and the 7th century AD in these languages and in Neo-Babylonian, Demotic and Hebrew. The most useful of these are the Graeco-Roman papyri of the 1st centuries BC and AD, which provide precise parallels to the vocabulary and concepts which are found in 1 Corinthians 7.

II. Graeco-Roman Marriage and Divorce Papyri

Most of the papyri which have survived originate in Egypt. A comparison with the few papyri which have survived outside Egypt shows a general homogeneity in legal papyri throughout the Graeco-Roman world. This is especially true for marriage and divorce papyri.³ There was no specific set of words which were followed by the marriage contracts or divorce deeds, though the same features appear in most such papyri. These features are present partly through custom, and partly because they were necessary for reporting the facts.

¹ GR50b, i.e. *Chr.M.*291 = *P.Fay.*22. This is copy of a series of regulations. It is very fragmentary (only the left half is legible), so only the drift can be followed. The editor concludes that 'The rules here laid down for divorce are very similar to those actually found in marriage contracts of the Ptolemaic and Roman periods.' (Bernard P. Grenfell, *Fayûm Towns and Their Papyri* [Graeco-Roman memoirs 3; London: Egypt Exploration Fund, 1900], p. 126).

² <http://www.tyndale.cam.ac.uk/Brewer/marriagepapyri/>

³ Hannah M. Cotton, 'A Cancelled Marriage Contract from the Judaean Desert (XHev/Se Gr.2)', *J. Roman Studies* 84 (1994) 64-86, esp. pp. 64f.

A marriage contract normally consisted of:

- date and place of the agreement
- names and home towns of the individuals concerned
- a detailed list of the dowry and the property brought by the bride
- stipulations about returning the dowry if there was a divorce
- signatures of witnesses

A marriage contract might also include many other matters such as:

- stipulations about behaviour of the woman and/or the man within the marriage
- stipulations about supporting the wife if the husband were to die first
- stipulations about inheritance by male and female children

A divorce deed normally consisted of:

- date and place of the agreement
- names and home towns of the individuals concerned
- acknowledgement that the dowry had been returned
- acknowledgement that neither party had grounds for litigation against the other
- signatures of witnesses

A divorce deed might also include many other matters such as:

- a list of the dowry and property of the wife which had been returned
- an affirmation that husband and wife were free to remarry whomever they wish

The following three papyri were among those chosen by Hunt for the Loeb series to illustrate typical Graeco-Roman marriage and divorce agreements. Specific names have been replaced by W (for wife or bride), H (for husband or groom), WM, WF, and WB (for wife's mother, father and brother) to help the reader understand relationships which might be obscured when using the names. Details such as lists of property, dates, and locations, have been summarised by words in square brackets.

Marriage Contract, AD 66, Bacchias, Egypt (GM66 = P.Ryl.154):⁴

[Time, Place]. H acknowledges to WF that he has received from him as a dowry on his daughter W, who has previously been living with H as his wife, [list of dowry], and as *parapherna*, [list of wife's personal belongings], and without valuation in usufruct and as a gift from the current year, [a field, described in detail]. Wherefore let the parties to the marriage, W and H, live together blamelessly as they have previously been doing, H conducting all the agricultural work of each year on [the field]. If a difference (διαφορᾶς) arise between them and they separate from each other ([χ]ωρίζονται ἀπ' ἀλλήλων), whether H sends away (ἀποπέμποντος) W or she voluntarily leaves him (ἐκουσίως ἢ παλασσομένῃς) [ἀπ' αὐτοῦ], [the field] shall belong to WF or, if he is no longer alive, to W. And H shall moreover return to her the aforesaid dowry and the *parapherna* in whatever state they may eventually be through wear, in the case of dismissal (ἀποπομπῆς) immediately, and in the case of her voluntary departure (ἐκουσίῳ) ἢ ἀπαλλαγῆς) within 30 days of demand. In whatever year the separation

⁴ Translation based on A.S. Hunt, C.C. Edgar, eds., *Select Papyri*, Loeb Classical Library; no. 266, 282, 360 (Cambridge, Mass: Harvard University; London: Heinemann, 1959-70) v. 1. *Non-Literary Papyri: Private Affairs*, pp. 12-17.

([χ]ωρ[ι]σμὸ[v]) of the parties to the marriage takes place, the proceeds of the holding for the 12 months of the year of the divorce ([ἀ]ποκλοκῆς) shall be divided [more details]. To enforce the terms of the contract WF or, if he is no longer alive, W and those for her shall have the right of execution upon H and all his property as if by legal decision. The signatory is WF, H being illiterate.

Whenever a couple lived together with the intention of being man and wife, this constituted a legal marriage. Cicero recounted a case of a Roman citizen who left his pregnant wife in Spain, and set up house with another woman in Rome without having told his intentions to his first wife. His sudden death and the birth of a son to both women posed the question as to which son was illegitimate. He considered that though it was not legally necessary to give notice of a divorce, he should have done so.⁵ The law continued in this way at least till Diocletian who ruled in AD 294 that 'Even though a bill of repudiation was not delivered or known to the husband, the marriage is dissolved.'⁶

The reference to previously living together means that they previously had an 'unwritten marriage' (γάμος ἄγραφος) which is here replaced by a 'written marriage' (γάμος ἔγγραφος). A written contract was usually entered into when children were born or when there was a significant value of dowry involved. This was a widespread practice and an unwritten marriage was not considered less valid or less pious.⁷ Termination of a marriage was almost as simple. Either partner could leave or be dismissed (depending on who

⁵ *De Oratore* I, XL, 183—discussed in A.M. Rabello, 'Divorce of Jews in the Roman Empire', *Jewish Law Annual* 4 (1981) 79-102, esp. p. 80.

⁶ More examples and references are usefully collected in Craig S. Keener, *...And Marries Another: Divorce and Remarriage in the Teaching of the New Testament* (Peabody MA: Hendrickson, 1991), p. 51.

⁷ This is found also outside Egypt, in early 3rd century Syria (GD204) and early 2nd century Palestine (JM131). Lewis, who first edited JM131, thought that this referred to a minor living with her groom before marriage—Naphtali Lewis, Yigael Yadin, Jonas C. Greenfield, eds., *The Documents from the Bar Kokhba Period in the Cave of Letters: Greek Papyri* (Jerusalem: Israel Exploration Society; Hebrew University of Jerusalem: Shrine of the Book, 1989), p. 130. Cotton pointed out that other documents of the same family show that she was not a minor—Hannah M. Cotton, and Ada Yardeni, *Aramaic, Hebrew and Greek Documentary Texts from Nahal Hever and Other Sites: With an Appendix Containing Alleged Qumran Texts* (Discoveries in the Judaean Desert 27; Oxford, Clarendon, 1997), p. 227. On this subject in general, see Hans Julius Wolff, *Written and Unwritten Marriages in Hellenistic and Postclassical Roman Law* (Philological Monographs of the American Philological Association; no. 9; Haverford, Pa.: American Philological Association, 1939).

owned the marital home), so long as the dowry and the wife's personal belongings (*parapherna*) were returned.⁸

This situation is seen in 1 Corinthians 7:10-11 which assumes that either the husband or wife could end a marriage at any time, and that the wife could legally remarry. There was nothing that the other partner could do to save the marriage except, as Paul advises, remain separated and hope for reconciliation. However, as Paul admits in v. 15, this was pointless if the other partner did not want a reconciliation and they were not a Christian (so they would not be reconciled for the sake of following Christian morals). Fitzmyer has argued that the wife does not separate *herself* in v. 10, but is instead separated against her will. He argues that χωρίζω can only bear the middle (reflexive) mood in the present tense, and that the best texts have the aorist tense in v. 10.⁹ This would mean that the woman in vv. 10f. is not separating herself from the marriage in a Graeco-Roman fashion but she is *being* separated in a Jewish divorce. He says that vv. 10f. refer to Jewish divorce while vv. 12f. refer to Graeco-Roman divorce. However, it is not possible to maintain this fine distinction between tenses. We find an example in a papyrus dated 13 BC where the aorist tense is used in a reflexive sense.¹⁰ It therefore makes more sense to translate 'separate' reflexively throughout vv. 10-15.

This papyrus illustrates the wide variety of words used for the concept of separation or divorce. This short contract uses six different words meaning divorce, all with slightly different core meanings (as defined in Liddell, Scott & Jones): χωρίζω (*separate, divide*),

⁸ Good summaries of Graeco-Roman law of divorce are found in: Jane F. Gardner, *Women in Roman Law & Society* (London: Croom Helm, 1987) pp. 81-95; Dixon, Suzanne *The Roman Family* (Johns Hopkins University Press, Baltimore & London, 1992) pp. 66-81; Jane F. Gardner, *Women in Roman Law & Society* (London: Croom Helm, 1987). There were two types of wife who could not simply declare an end to their marriage—the woman married under *manus* (an old form of marriage contract which was virtually unknown in the 1st century AD) and a freedwoman who married her patron. Augustus tried to require a certificate of divorce with witnesses, but his legislation was largely ignored.

⁹ J.A. Fitzmyer, 'The Matthean Divorce Texts and Some New Palestinian Evidence', *Theological Studies* 37 (1976) 197-226. This assertion has been repeated by other authors who depend on it for their argument, especially J. Murphy-O'Connor, 'The Divorced Woman in 1 Corinthians 7:10-11', *JBL* 100 (1981) 602-606. The aorist is found in \aleph B C Ψ 33^{vid} while the present is found in \wp ⁴⁶ A D F G 614 1505 1881.

¹⁰ GM-13 (i.e. BGU.IV.1101) reads ἐχωρίσθημεν ἀπ' ἀλλή(λων) 'separated from each other'. It is not possible they could both *be* separated from each other (i.e. a passive mode), but they could both separate themselves from each other (i.e. a reflexive mood).

ἀποπέμω (*send off or away, dispatch, dismiss*), ἀπαλλάσσω (*set free, deliver from*), ἀποπομπή (*sending away*), ἀπαλλαγή (*deliverance, release, relief from*), and ἀποπλοκή (*chemical separation*). It is possible that different words were used according to the slightly different nuances attached to them, but it is more likely that this is simply a matter of rhetorical variation. There is a huge number of synonyms for ‘divorce’ used in the papyri, so there were always plenty for a contract writer to chose from.¹¹

Some commentators have tried to give a reason why 1 Corinthians 7 contains both the common verb χωρίζω (1 Cor. 7:10, 11, 15) and the less common verb ἀφίημι (1 Cor. 7:11, 12, 13):

1 Cor. 7:10-14, 15 ‘To the married I give charge, not I but the Lord, that a wife is not to separate herself (χωρισθῆναι, pass./mid.) from her husband, [11] (but should she separate herself (χωρισθῆ, pass./mid.), let her remain unmarried, or else be reconciled to her husband); and a husband is not to release (ἀφιέναι, act.) his wife. [12] To the rest I say, not the Lord, that if any brother has an unbelieving wife, and she is content to live with him, let him not release (ἀφιέτω, act.) her. [13] And a woman that has an unbelieving husband ... let her not release (ἀφιέτω, act.) her husband ... [15] But if the unbeliever separates themselves (χωρίζεται, pass./mid.), let them¹² separate themselves (χωριζέσθω, pass./mid. imperat.)...’

Some have suggested that these two verbs demonstrate a distinction in Paul between divorce and separation.¹³ Although it is possible that these two verbs have slightly different connotations (χωρίζω has a sense of ‘separate’ while ἀφίημι has a sense of ‘release’) they are used in 1 Corinthians 7 as synonymous terms,¹⁴ and there is no doubt

¹¹ See the appendix which lists 51 words used for ‘divorce’ in the papyri, as well as another 14 which are found in literary sources.

¹² This is a ‘permissive imperative’. Wallace says that it is usually used when there is a *fait accompli*—‘the mood could almost be called “an imperative of resignation”’, Daniel B. Wallace, *Greek Grammar Beyond the Basics: An Exegetical Syntax of the New Testament* (Zondervan, Grand Rapids, 1996)

¹³ See J.K. Elliott, ‘Paul’s Teaching on Marriage in 1 Corinthians: Some Problems Reconsidered’, *NTS* 19 (1972-73) 219-25, esp. 224; William F. Luck, *Divorce and Remarriage: Recovering the Biblical View* (San Francisco, Harper and Row, 1987), p. 166; R.H. Charles, *The Teaching of the NT on Divorce* (Williams & Norgate, London, 1921), p. 46; David Daube, *The New Testament and Rabbinic Judaism* (London: Athlone Press, 1956), pp. 363-66 and ‘The New Testament Terms for Divorce’, *Theology* 47 (1944) 65-67; C.K. Barrett, *A Commentary on the First Epistle to the Corinthians* (London: A. & C. Black, 1968), p. 186; Gordon D. Fee, *The First Epistle to the Corinthians* (NICNT; Grand Rapids: Eerdmans, 1987), ad loc.

¹⁴ Some have suggested that they are virtually synonymous, though χωρίζω implies leaving the house while ἀφίημι implies sending out of the house, so their use depends on who owns the house. See Fee, *The First Epistle to the Corinthians*, pp. 293f., 298; Daube, *NT & Rabbinic Judaism*, pp. 363f. However, this does not fit the general way in which they are used, unless vv. 12f. are addressed only to

that χωρίζω means 'divorce'.¹⁵ There is no distinction in the marriage papyri between divorce and separation, and in Graeco-Roman law, separation with intention to end the marriage *was* divorce.

This still leaves the possibility that Paul meant to convey some special nuance by his use of ἀφίημι. This word is not used elsewhere in the NT or LXX for divorce,¹⁶ and it occurs in only one marriage papyrus, and then merely with the meaning of 'leaving' not 'divorce',¹⁷ though it is used occasionally in Greek literature with the meaning of 'divorce'.¹⁸ An interesting passage in Josephus uses a similar pair of words to those chosen by Paul:

But some time afterward, when Salome happened to quarrel with Costobarus, she sent him a document (γραμμάτιον) and dissolved her marriage (ἀπολυομένη τὸν γάμον) with him, though this was not according to the Jewish laws; for with us it is lawful for a husband to do so; but a wife, if she departs from (διαχωρισθείση) her husband, cannot of herself be married to another, unless her former husband put her away (ἐφίεντος).¹⁹

Josephus is making a distinction between the Graeco-Roman divorce-by-separation, for which he uses διαχωρίζω, and the further step in Jewish divorce of releasing the woman to remarry by giving her a divorce certificate, for which he uses ἀφίημι. These are very similar to the Pauline uses of χωρίζω and ἀφίημι, though only in emphasis. One could not say that Paul uses χωρίζω when he refers to a Graeco-Roman divorce and ἀφίημι when he refers to a proper Jewish divorce with a certificate, because in v. 13 a woman is told not to release (ἀφιέτω) her husband. However, it is possible that Paul wanted to emphasise the concept that marriage is a bond which cannot simply be broken by separation. There is a further clue in the more normal

male and female believers who are householders.

¹⁵ χωρίζω is 'a technical expression for divorce' in the papyri—see G.A. Deissmann, *Bible Studies* (Edinburgh: T. & T. Clark, 1901), p. 247. It is perhaps the one term of the dozens available which is unambiguous.

¹⁶ The Gospels and LXX use mainly χωρίζω (Mt. 19:6; Mk. 10:9; LXX Ezra 6:21?; Ne. 13:3?; 1 Esdr. 9:9) and ἀπολύω (Mt. 1:19; 5:31, 32; 19:3, 7, 8, 9; Mk. 10:2, 4, 11, 12; Lk. 16:18; LXX 1 Esdr. 9:36). The LXX also uses ἐξαποστέλλω 'send away' (LXX Dt. 24:4, 5, 6; Mal. 2:16), ἐγκαταλείπω 'forsake' (LXX Mal. 2:15) and ἀποστάσιον 'divorce certificate' (LXX Dt. 24:3, 5).

¹⁷ JM125 'If she wishes to leave [the marital home] after his death'.

¹⁸ Liddell, Scott & Jones, *Greek-English Lexicon*: 'put away, divorce', e.g. Herodotus 5.39, 'Therefore send away the wife that you have, seeing that she bears you no children, and wed another'; Euripides *Andromache* 973, 'I begged him to relinquish his marriage to you.'

¹⁹ Josephus *Ant.* 15.7.10, 259.

meaning of ἀφίημι as ‘release from an obligation or bondage’.²⁰ Paul may be emphasising here that marriage is an obligation and a bond which needs to be taken seriously, and it should not be ended at a whim, as often occurred in Graeco-Roman culture.

Marriage Certificate, 92 BC, Tebtunis, Egypt (GM-92 = P.Tebt. I.104):²¹

[Date, Place]. H acknowledges to W, having with her as guardian WB that he has received from her [money], the dowry for herself, W agreed upon with him. W shall live with H, obeying him (πειθαρχοῦσα αὐτοῦ) as a wife should (ὡς προσή[κό]ν ἐστιν) her husband, owning their property in common with him. H shall supply to W all necessities (δέοντα π[ά]ντα) and clothing ([ἡμ]ατισμόν) and whatever is proper for a wedded wife, (τάλλα ὅσα προσήκει γυναικὶ γαμετῇ) whether he is at home or abroad, according to their means (κατὰ δύναμιν). It shall not be lawful for H to bring in any other wife but W, nor to keep a concubine or boy, nor to have children by another woman while W lives (ζώσ[η]σ), nor to live in another house over which W is not mistress, nor to eject or insult or ill-treat her, nor to alienate any of their property to W’s disadvantage. If he is proved to be doing any of these things or does not supply her with necessities (δέοντα) and clothing (ἡματισμόν) and the rest as stated, H shall forfeit forthwith to W the dowry [money]. In the same way it shall not be lawful for W to spend the night or day away from the house of H without H’s consent or to have intercourse with another man or to dishonour the common household or to bring shame upon H in anything that causes a husband shame. If W wishes of her own will to separate (ἐκουσάβούλη[ται] ἀπαλλάσσεσθαι) from H, H shall repay her the bare dowry within ten days from the day it is demanded back. If he does not repay it as stated he shall forthwith forfeit the dowry he has received increased by one half. [Witnesses].

The extra stipulations in this contract about the lifestyle of husband and wife are atypical, though similar phrases occur occasionally in other contracts.²² These stipulations were gradually replaced by the more general phrase ‘Let the parties live together in a righteous marriage (γάμου δίκαια).’²³ The normal stipulations concerned only

²⁰ Liddell, Scott & Jones, *Greek-English Lexicon*: ‘let go, loose, set free, acquit of a charge or engagement, released from duty’.

²¹ Translation based on Hunt, *Select Papyri* I, pp. 5-9.

²² This is not to say that the stipulations were unique in each contract. Grenfell points out that almost exactly the same stipulations, with striking verbal parallels, occurs in GM-150—see Bernard P. Grenfell, Arthur S. Hunt, and J. Gilbert Smyly, eds., *The Tebtunis Papyri* (University of California publications; Graeco-Roman archaeology 1-4; London; New York: H. Frowde, OUP [etc.], 1902-1976) vol. I, p. 449. Other than these contracts, various extra stipulations are found in GM-311, GM-267, GM-179, GM-179g, GM-173, GM-150b, GM-50, GM-10b. For a general study of these extra stipulations, see Rupprecht, ‘Marriage Contract Regulations’.

²³ γάμου δίκαια is found in GM170c, GM201, GM260.

the provision of maintenance. The penalties are, however, typical. If the man failed to provide maintenance he was liable to return the dowry with an extra half of the value as a fine, and if the wife committed adultery she forfeited her dowry. Even after these stipulations were widely used, there was still a basic set of rights one could appeal to. A woman in AD 20-50 asked a court for her dowry plus one half because her husband mistreated her.²⁴ Rupprecht pointed out that these cases were extremely rare and there is no surviving divorce certificate mentioning any such penalties and only a few claims for unpaid compensation.²⁵ This suggests that it was very difficult to enforce this type of claim.

Paul indicates that there is nothing which can be done if a non-Christian partner has deserted a Christian (1 Cor. 7:15). If the dowry was withheld, a woman could go to court to claim it, but this would be very difficult. Paul does not say anything about the dowry, and one can assume that he is referring to a perfectly normal separation with the return of dowry (if there was any). In this situation the man or woman who has been left has no means of challenging the divorce.

Paul refers to the fact that a husband was responsible for giving material support to his wife in v. 33. Instead of the common term 'necessaries' (δέοντα), Paul uses the word 'pleasure' or 'well-being' (ἀρέσις). Perhaps he does this so that he can then make the reciprocal statement that the wife is equally responsible for supporting her husband (v. 34). The term 'necessaries' may have been in his mind when he said a husband was 'bound' (δέδεσσαι)²⁶ to a wife (v. 27).

The contract might appear, at first glance, to forbid remarriage during the lifetime of the wife, when it says:

And it shall not be lawful for Philiscus to bring in any other wife but Apollonia, nor to keep a concubine or boy, nor to have children by another woman while Apollonia lives.²⁷ (lines 19f.).

καὶ μὴ ἐξέστω Φιλίσκῳ γυναῖκα ἄλλην ἐπ[α]γ[α]γέσθαι ἀλλὰ Ἀπολλωνίαν μηδὲ παλλακὴν μηδὲ π[αιδ]ικόν ἔχειν μηδ[ὲ] τεκνο]ποιεῖσθαι ἐξ ἄλλης γυναικὸς ζώσης Ἀπ[ο]λλωνίας.

²⁴ GR35 'I for my part conducted myself blamelessly in all respects. But Sarapion, having squandered my dowry as he pleased, continually ill-treated and insulted me, using violence towards me, and depriving me of the necessities of life; (ἐνδεῇ καθίστας) finally he deserted me (ἐνκατέλιπέ με) leaving me in a state of destitution'.

²⁵ Rupprecht, 'Marriage Contract Regulations', pp. 70f.

²⁶ From δέω, of which δέοντα is the present participle.

²⁷ Precisely the same wording is found in GM-179g, GM-173, GM-150.

This reading would be totally contrary to everything we know about Greek and Egyptian marriages. All the marriage, divorce and related legal papyri suggest that remarriage was not only normal but expected. The sentence presumably means '... while Apollonia lives (and continues to be his wife)'. There was no need to state the fact that this only applied while she was his wife because this was implied.

This is somewhat similar to the prohibition in the Damascus Document which forbids 'taking two wives during their [masc.] lives' (CD 4:21). This has previously been interpreted as prohibition either against remarriage during the lifetime of the husband or, by emending 'their' to be feminine, against remarriage during the lifetime of a former wife.²⁸ Ginzberg pointed out, as far back as 1978 that the reference to 'wives' implied that this rule only applied while the first woman was still a 'wife'. This was therefore a prohibition against polygamy, and not against divorce or remarriage.²⁹ Since then, many fragments have turned up which confirm that the Qumran community accepted divorce and remarriage, so Ginzberg's insight is now becoming widely accepted.³⁰

A similar problem arises in v. 39 which might be interpreted as implying that divorce was impossible, or that remarriage was not allowed after a divorce until the death of the former spouse.

A wife is bound (δέδεσται) for so long time as her husband lives; but if the husband should fall asleep, she is free (ἐλευθέρα) to be married to whom she wishes.

²⁸ See especially Solomon Schechter, *Documents of Jewish Sectaries* (Cambridge: CUP, 1910, reprinted New York: Ktav Publishing House, 1970) ad loc.; P. Winter, 'Sadoquite Fragments'; Jerome Murphy-O'Connor, 'An Essene Missionary Document? CD II, 14-VI, 1', *RB* 77 (1970) 201-229, p. 220, and 'Remarques sur l'exposé du Prof. Y. Yadin', *RB* 79 (1972) 99-100; P.R. Davies, *Behind the Essenes: History and Ideology in the Dead Sea Scrolls* (Scholars Press, Atlanta 1987), pp. 73-85; James R. Mueller, 'The Temple Scroll and the Gospel Divorce Texts', *Revue de Qumran* 38 (1980) 247-56; Augustine Stock, 'Matthean Divorce Texts', *Biblical Theology Bulletin* 8 (1978) 24-33, pp. 27f.; R.H. Charles, *Fragments of a Zadokite Work* (Oxford, 1912), pp. 791, 796; G.F. Moore, 'The Covenanters of Damascus: A Hitherto Unknown Jewish Sect', *HTR* 4 (1911) 330-77, p. 344; John Kampen, 'A Fresh Look at the Masculine Plural Suffix in CD iv, 21', *Revue de Qumran* 16 (1993) 91-97.

²⁹ Louis Ginzberg, *An Unknown Jewish Sect* (New York, Jewish Theological Seminary of America, 1978), pp. 19f.

³⁰ See D. Instone Brewer, 'Nomological Exegesis in Qumran "Divorce" Texts', *Revue de Qumran* 18 (1998) 561-79; Adriel Schremer, 'Qumran Polemic on Marital Law: CD 4:20-5:11 and Its Social Background' in *The Damascus Document: A Centennial of Discovery*, ed. J.M. Baumgarten et al., pp. 147-60; Tom Holmén, 'Divorce in CD 4:20-5:2 and in 11Q 57:17-18: Some Remarks on the Pertinence of the Question', *Revue de Qumran* 71 (1998) 397-408. It is possible that 11Q Temple 57:15-19 also needs to be re-evaluated in the light of this.

In a very similar sentence in Romans 7:2, it is clearer that this applies only while the woman is married, because she is specifically called a ‘married woman’:

For a married woman (ὑπανδρος γυνή) is bound (δέδεσται) by law to a living husband; but if the husband should die, she is discharged (κατήργηται) from the law of the husband.

It is assumed by many commentators that Paul is teaching that remarriage is not allowed till the death of one partner, or that the only way to end a marriage is by death. This conclusion is difficult to substantiate on the basis of these verses alone, especially as remarriage was an implicit right in the contemporary culture. This papyrus shows that divorce and remarriage were such well established rights, that they were left as unspoken implications even in a carefully written legal document. Jews, too, assumed that divorce guaranteed the right to remarriage. They even argued for the right of a widow to remarry on the basis of the rights of a divorcee to remarry,³¹ which suggests that the right of the divorcee to remarry was far more obvious than the right of a widow to remarry. If Paul had meant to overturn such deeply entrenched views, he would need to state his case less ambiguously. No native Greek reader would have concluded that remarriage was impossible before the death of their former spouse, either from the wording of this papyrus or from the similar wording in these two verses by Paul, unless it was clear from the context.

In the context of 1 Corinthians 7 Paul is emphasising, yet again, that a woman (or a man) should not cause the break up of the marriage bond. A modern writer would say: ‘You may not break up your marriage, which is “till death do us part”’. But neither Paul nor the modern writer would imply by this that a divorce cannot happen. The other partner may break up the marriage by adulterous behaviour or, in the Graeco-Roman context, a partner may simply implement a divorce unilaterally. Paul wishes the Christians to know that they themselves should not cause the marriage bond to be broken, either by walking out on the marriage or by behaving in a way that will cause a divorce. However, as he acknowledged in v. 15, a Christian can find themselves in a situation where a divorce is forced upon them. At this point, Paul says that the Christian is ‘no longer bound’ (δεδούλωται). His use of δουλόω, with its connotations of slavery, is probably linked with his use of ἐλεύθερος in v. 27, which is also often used with

³¹ See the argument of R. Ashi in bKidd.13b.

regard to freeing slaves. This will be considered in greater detail in a follow-on paper.³²

Divorce Deed, 13 BC, Alexandria, Egypt (GD-13 = BGU.1103):³³

To the Protarchus, from W with her guardian WB and from H. W and H agree that they have separated from each other (κεχωρίσ[θ]αι ἀπ' ἀλλήλων), severing their union which they had formed on the basis of an agreement made at [time and place]. W acknowledges that she has received from H by hand from his house the material which he received for dowry and [list of *parapherna*]. The agreement of marriage shall henceforth be null (ἄκυρον) and neither W nor another person acting for her shall take proceedings against H for restitution of the dowry, nor shall either party take proceedings against the other about cohabitation or any other matter whatsoever up to the present day, and hereafter it shall be allowable (ἐξεῖναι) both for W to marry another man and for H to marry another woman without either of them being answerable (ἀνυπευθύνους). In addition to the agreement being valid, the one who transgresses it shall moreover be liable both to damages and to the prescribed fine. [Date].

This document was lodged at a public office to prove that the financial commitments had been settled and that both parties were legally free to remarry. This document was not necessary for the ending of a marriage nor for a remarriage to take place, but it was a prudent way to avoid future litigation in case one partner (usually the woman) should claim that there was an outstanding debt. This was a public acknowledgement by both parties that the previous marriage contract (if there was one) was 'discharged' (ἐλύθη from λύω).³⁴

Paul uses λύω twice in v. 27 to refer to someone 'discharged' or 'free' from a contract of marriage or betrothal.³⁵ The form λύσιν which he uses first is commonly employed to describe discharge from a variety of financial and other contracts.³⁶

The legal permission to remarry was a traditional element of the divorce deed. It was not strictly necessary, because divorce by itself gave an individual the legal right to remarry. Nevertheless, this type of statement is often found in Greek divorce documents.³⁷ The use of

³² '1 Corinthians 7 in the light of the Jewish Greek and Aramaic Marriage and Divorce Papyri', *TynB* 52.2 (2001).

³³ Translation based on Hunt, *Select Papyri* I, pp. 22-25.

³⁴ See GM201, a marriage contract which starts with a reference to a previous marriage which is a 'discharged contract' (συγγραφὴ ἐλύθη).

³⁵ 'Are you bound to a wife? Do not seek to be free (λύσιν). Are you freed (λέλυσαι) from a wife? Do not seek marriage.'

³⁶ See James Hope Moulton, George Milligan, *The Vocabulary of the Greek Testament: Illustrated from the Papyri and Other Non-literary Sources* (London: Hodder and Stoughton, 1930), ad loc.

³⁷ For example JD-13, GD150, GD200, GD204, GD254, GD304, GD305.

this type of phrase was probably influenced by much older usage in Demotic papyri.³⁸ This type of phrase was also found in every Jewish divorce certificate, which is quoted by Paul in v. 39, as discussed in a follow-on paper.³⁹

III. Latin Marriage Papyri

Only four Latin marriage contracts have survived and no divorce deeds. A Latin divorce deed was called a *repudium*, and although none have survived in Latin, the word *ῥεπουδιον* occurs in a few Greek contracts.⁴⁰ We may perhaps assume that Greek and Latin divorce deeds were very similar, as well as rare, and the language they were written in was unimportant. The marriage contracts are all fragmentary, but one is fairly complete.

*Marriage Contract, AD 175, Philadelphia, Egypt (LM175 = ChLA.IV.249):*⁴¹

WF gave his daughter W, a virgin, in marriage, according to the *Lex Julia* which was passed to govern marriage for the sake of producing children. H took her to wife and spoke to her about a dowry and she owes everything which follows in writing as the aforesaid dowry: [list] *parapherna*, [list]. Likewise H also said that he had taken possession of two of her father's fields ...

This contract is assumed to be typical, though it is difficult to decide with so few fragments. It is very similar to Greek contracts except for its reference to the *Lex Julia*. Augustus introduced the *Lex Julia* in order to encourage marriage, allow for the punishment of adultery and introduce some restrictions for divorce, with the total aim to increase the number of children born to citizens. His effort largely failed to

³⁸ E.g. DD-493 = *P.Berlin* 3076; DD-489 = *P.Berlin* 3079, and others dating back to 548 BC—see Pieter Willem Pestman, *Marriage and Matrimonial Property in Ancient Egypt: A Contribution to Establishing the Legal Position of the Woman* (Papyrologica Lugduno-Batava v. 9; Leiden: Brill, 1961) p. 74. It can perhaps be traced back through Neo-Babylonian contracts to the Middle Assyrian law code of 1400 BC—see my ‘Deuteronomy 24:1-4 and the Origin of the Jewish Divorce Certificate’, *JJS* 49 (1998) 230-43.

³⁹ ‘1 Corinthians 7 in the light of the Jewish Greek and Aramaic Marriage and Divorce Papyri’, forthcoming in *TynB* 52.2 (2001).

⁴⁰ These are all late 5th or 6th century (GD400 = *P.Oxy.L*.3581, GD546 = *P.Cair.Mas*.II.67154, GD550 = *P.Oxy.I*.129, GD568 = *P.Cair.Mas*.II.67153, GD569 = *Chr.M*.297, GD573 = *P.Cair.Mas*.I.67121, JD586 = *P.Herm*.29). It is likely that the term *repudium* was only used in later divorce deeds.

⁴¹ Translated for me by Dr Gerald Bray.

reduce adultery or divorce, which relied on private citizens bringing actions against offenders, but the financial rewards for having children were more popular.

Paul's advice in 1 Corinthians 7 that Christians should remain single was probably also related to childbirth. Augustus was able to assume that most people who got married and stayed married were likely to have children. Birth control strategies existed, but they did not work very well. Paul's advice against marriage is not to avoid sexual activity (as later ascetics taught), because he tells those who are 'burning' with desire to get married in order to avoid fornication (1 Cor. 7:9, 37). The reason he gives for avoiding marriage is 'the present distress', which was probably the recent famines.⁴² This is confirmed by his explanation that he does not wish them to have 'worldly troubles' (v. 28) and his other references to current problems (vv. 29-31),⁴³ as well as the later reference to weakness and deaths among the congregation (11:30). All this appears to be spoken with a conviction that the end is near, but he is referring to present troubles and not future ones.

Conclusions

The Graeco-Roman marriage and divorce papyri have been found to share vocabulary and assumptions about social structures with 1 Corinthians 7. It is therefore likely that Paul is addressing the needs of believers from Gentile origins, and these papyri will help us to understand aspects of this chapter. The assumption which lies behind

⁴² Bruce Winter has suggested that the distress may be due to the grain shortages and attendant social unrest during the 40's and 50's, for which evidence is found in Eusebius, Pliny, Suetonius and non-literary sources—'Secular and Christian Responses to Corinthian Famines', *TynB* 40.1 (1989) 86-106, pp. 86f. enlarged on in *After Paul Left Corinth: The Influence of Secular Ethics and Social Change* (Grand Rapids: Eerdmans, 2001) pp. 220-25.

⁴³ This is similar to 6 Ezra 16:40-46 which also advises against having children: 'Hear my words, O my people; prepare for battle, and in the midst of the calamities be like strangers on the earth. Let the one who sells be like one who will flee; let the one who buys be like the one who will loose; let the one who does business be like one who will not make a profit; and let the one who builds a house be like one who will not live in it; let the one who sows be like one who will not reap; so also the one who prunes the vines be like one who will not gather the grapes; those who marry, like those who will have no children; and them that do not marry, like those that are widowed. Because of this those who labour, labour in vain; for strangers shall gather their fruits, and plunder their goods, and overthrow their houses, and take their children captive; for in captivity and famine they will produce their children' (NRSV).

vv. 10-15 is that a divorce can be initiated and completed simply by a return of the dowry and separation of the couple, and that both partners are then free to remarry. Paul does not deny the reality of these legal rights, but he tells believers to avoid this divorce-by-separation, as far as it lies in their power to prevent it. His emphasis throughout is that marriage is a binding commitment, and should not be treated lightly, as it was in Graeco-Roman law. His unusual use of ἀφίημι and δουλόω fit in with this emphasis. Paul's advice against marriage was not based on an ascetic tendency, but on the practical difficulties of feeding a family during the famines.

The right to remarry was so entrenched in Graeco-Roman law that even legal documents do not bother to mention it. In this passage Paul does not forbid divorce or remarriage though, as will be seen in a follow-on paper on Jewish Greek and Aramaic papyri, he only allowed divorce on certain biblical grounds.

Appendix of Words Used for 'Divorce'

In the papyri which I collected for this study, I found a huge variety of words used for divorce or separation. They are listed here with the meanings which they usually bear outside the context of divorce:

ἀπαλλαγή (deliverance, release, relief from), ἀπαλλάσσω (set free, deliver from), ἀπέρχομαι (go away, depart from), ἀπέχω (keep off or away from), ἀπογίγνομαι (be away from, have no part in), ἀποζυγή (deed of divorce), ἀποζεύγνυμαι (be parted from), ἀπολείπω (leave over or behind), ἀπολύω (loose from, set free, release), ἀποπέμπω (send off or away from, dispatch, dismiss), ἀποπλέκω (separate), ἀποπλοκή (chemical separation), ἀποπομπή (sending away), ἀποσπάω (tear or drag away from), ἀποστασίον (tear or drag away from), ἀποστέλλω (send off or away from, banish), ἀποσχάζω (slit open so as to let something escape), ἀποσχοινίζω (separate by a cord), ἀποχωρίζω (separate from), ἀφίημι (send forth, discharge, let go, loose, set free), ἀφίστημι (put away, remove), ἀφαιρέω (take away from), διαζεύγνυμαι (Pass. be disjoined, separated, parted), διαίρεσις (divisibility), διάλυσις (separating, parting, dissolution), διαλυτικός (able to sever, destructive), διαλύω (loose one from another, part asunder), διαπέμπω (send off in different directions), διαστέλλω (put asunder, expand, separate), διαστολή (drawing asunder, dilatation), διέσις (sending through, discharge), ἐκβάλλω (throw or cast out, reject), ἐκκλείω (shut out from), ἐκπέμπω (send out or forth from), ἐξαιρέω (take out), ἐξαλλοτριόω (divert, alienate, estrange), ἐξαποστέλλω (dispatch, send away, dismiss), ἔξειμι (go out, come out), ἐξέρχομαι (go or come out of), ἐξίημι (send out, let one go out), ἐξίστημι (displace: hence, change, alter utterly, get rid of), ἐξοδεύω (depart), ἐξοδος (going out), ἐξωθέω (thrust out, force out), καταλείπω (leave behind), λυτός (that may be untied, dissolved), λύω (loosen, unbind, unfasten), περίλυσις (cancellation), συναίρω (take up together, gather, annul jointly), χωρίζω (separate, divide), χωρισμός (separation).

Other terms which are used in this way in literary sources include:

ἄφεσις (letting go, release), διαζύγιον (divorce), διαίσιον (notice of divorce), διακοπή (gash, cleft, deepseated wound, divorce), διακρίνω (separate one from another), διάστασις (parting, separation, divorce), διαχωρίζω (separate), ἐγκαταλείπω (leave behind, abandon), ἐκβολή (throwing out), ἐκπομπή (sending out or forth), ἔξεσις (dismissal, divorce), κοπή (cutting, breaking up), λύσις (loosing, setting free, releasing, ransoming), παραιτέομαι (intercede with, appeal to, deprecate, decline).