God's law on Marriage and Divorce

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John Milton has been described in this century as both the ‘most liberal expositor of the divorce texts’, and ‘the first protagonist in Christendom’ to argue for divorce by mutual consent. During his own day he was accused of advocating ‘divorce at pleasure’. So, at a time when church, government and wider society are rightly concerned about actively supporting the institution of marriage, how are Milton’s views relevant to today? This article runs a double risk of not only appearing to legitimise the dramatic rise in the prevalence of divorce, but also of seeming to use the views of Milton the anti-royalist to decide the understandably tortuous question of whether our future King should be allowed to re-marry in church.

Neither of these perceived dangers should deflect us from considering whether Milton does have something to say to us across the centuries. In view of Milton’s position within our cultural heritage it is regrettable how little is known about his thinking. The modern debate has overlooked his important contribution to this debate. The church reports, Putting Asunder and Marriage, Divorce and the Church would appear to be alone in making glancing references to Milton’s writings.

Milton’s arguments are remarkable neither for their apparent originality nor for the fact that they were aired over 350 years ago. Indeed, a number of writers have argued that Milton only brought to a logical conclusion what others had been saying previously in a more fragmentary way. What is remarkable about his views is that they arise from the deepest considerations of the nature of God and the nature of God’s law. Many of those who have argued for leniency on this issue in this century have based their arguments largely upon the need to recognise marital breakdown because of the reality of human sin and failure. Milton however, based his views first and foremost upon the nature of marriage as God instituted it. When he was accused of resting his case upon the Old Testament divorce legislation in Deuteronomy, Milton rightly countered: ‘I rely more on the institution than on that’.

Disillusioned

The man who published four ‘divorce tracts’ also wrote Paradise Lost. Here there is arguably the most powerful evocation of marital bliss and also a poignant depiction of reconciliation between Adam and Eve after a serious breakdown in their relationship. Milton demonstrates how it is possible to simultaneously have a high view of marriage and also to allow for the legitimacy of divorce in certain, limited circumstances, consistent with the purpose for which God had framed his laws of marriage. The ground upon which Milton took his stand was more theological than pragmatic. However, a quick survey of his life reveals that he was open to the charge of special pleading, due to his own unhappy marriage.

Born in 1608 and brought up within a Puritan household, Milton studied at Christ’s College, Cambridge from 1625 to 1632. During this time he became...
increasingly disillusioned with the established church, turned his back on taking holy orders, and embarked instead upon a different vocation of becoming a ‘poet-priest’, engaging in private study for six years. After a tour of Europe, he returned to Britain in 1639, at a time of growing conflict between King Charles 1 and Parliament, when Archbishop Laud was attempting to reassert the authority of the bishops over the church. Milton initially identified with the Presbyterian wing of the Puritan Parliamentarians, and vigorously entered the public debate on church government, writing five tracts on the issue. (Later, he was to work closely with Oliver Cromwell as ‘Secretary for Foreign Tongues’).

But, in the spring of 1643 his mind was obviously on other matters. He took a break from his writing and from London and travelled to the countryside near Oxford. He returned a few weeks later with a young bride, Mary Powell. After a short time, Mary became homesick and it seems she requested to return to her family for a while. However, she stayed away longer than had been arranged and did not come back to London, despite Milton sending a number of messages, entreatling her to return.

**Biblical Principles**

Her reluctance to return to her husband may have been as much to do with the political situation as anything else. She left London at a time when many royalists were fleeing the capital in anticipation of civil war. King Charles chose to set up court in Oxford, so the road between London and Oxford became virtually impassable. But there may have been more to Mary’s continued absence than this. The Powell family were staunchly royalist, and at a time when the King’s cause seemed to be in the ascendant, they probably did not want to be associated with someone who seemed likely to be executed as a traitor.

Seventeenth century canon law effectively prohibited any divorce. Even with a case of proven adultery, the ecclesiastical courts could only declare a separation and the innocent party was still not allowed to re-marry. Consequently, Milton found himself facing the very real prospect that he and his wife would never be re-united, while knowing that he could not re-marry, even though he was ostensibly the party who had been wronged.

This was the immediate background in which Milton wrote his tracts on marriage and divorce. He published his first tract anonymously. *The Doctrine and Discipline of Divorce* appeared in July 1643, just a month after the Westminster Assembly had been convened. Milton clearly saw his campaign to reform existing canon law on marriage and divorce as entirely consistent with the whole programme of reform through which Parliament was seeking to establish a Commonwealth founded on biblical principles. Indeed, the second edition of his pamphlet, published in February 1644, appeared with his name and was prefaced by an address which appealed directly to Parliament and the Westminster Assembly.

**Legitimate**

In 1644 he went on to publish *The Judgement of Martin Bucer*. This was a translation of a work by the sixteenth century reformer and theologian, whom Milton had gleefully discovered had taken a similar approach to the issue. The following year he published his most mature reflections in *Tetrachordon* and also *Colasterion*, which was a withering attack upon an anonymous pamphlet.
denouncing his views. Milton also restated his views in his work of systematic theology, *De Doctrina Christiana*, which he completed later in life. The following description of his argument aims to summarise all that he wrote on the subject, with particular emphasis upon *Tetrachordon*.

Milton argued for the priority of Genesis 2:18 over the traditional focus of 2:23,24. On this basis he asserted that companionship with a compatible partner was uppermost in God's mind in creating Eve for Adam. Both Platonism and Puritan teaching reinforced his thinking that mental union came before sexual union in marriage, both in order of importance and in the natural sequence of events. This immediately questioned traditional church teaching which held that the most important reasons for marriage were firstly procreation, secondly the avoidance of promiscuity and only thirdly companionship. To Milton, marriage was only effected by a joining of compatible minds: ‘... it is not the joyning of another body will remove loneliness but the uniting of another compliable mind” ⁵. So, his logic drew him to conclude that becoming ‘one flesh’ was only one of the effects of marriage, not its cause.

Consequently, Milton asserted that there were not only other breaches of the marriage covenant than adultery, but that some were more serious than this. He argued, for instance, that God had been more consistently angry throughout the Old Testament at his people being misled into idolatory through inter-marriage, while the practice of divorce was not similarly condemned by the prophets. Indeed, divorce was encouraged wherever seducement into idolatory was apparent (Ezra 9, for example). Milton felt that it was clear, from both Israel’s history and from the way Deuteronomy 24:1 had been framed, that there were other legitimate causes of divorce than adultery.

**Incompatibility**

But arguably his strongest point concerned the very nature of God’s law of marriage and the purpose of the law as a whole. As ever, Milton wanted to return to first causes and focus upon what was most fundamental. He perceived that God’s positive will for marriage was essentially a loving relationship based upon a compatible pairing. Consequently, incompatibility was the greatest threat to marriage as God intended, before any other factors. Therefore, his argument went, where there was no love in a marriage due to incompatibility that marriage was not only not fulfilling the purpose for which God ordained it, but that it never could fulfil that purpose. Consequently, any church or civil law which sought to enforce marriage where it did not exist as God intended was contrary to God’s will. In this situation, Milton asserted, it would be best to recognise genuine grounds for divorce with the possibility of re-marriage.

Milton then went on crucially to draw a parallel between sabbath law and marriage law. According to the teaching of Jesus, there were situations in which sabbath law could be overruled.⁶ God’s law was introduced for the purpose of human good and therefore, whenever the interpretation of a law became contrary to human good, then the higher law of charity overruled the stricter interpretation of the law. Milton put it most succinctly when he wrote that ‘no ordinance human or from heav’n can binde against the good of man’ ⁷. He asserted that just as the sabbath was made for humanity not humanity for the sabbath, so marriage was made for humanity not humanity for marriage.
Marriage was a means to an end not an end in itself. He wrote, ‘... as oft as the good of man is concern’d (God) not only permits, but commands to break the Sabbath. ... therefore to injoyn the indissoluble keeping of marriage found unfit against the good of man... is to make an Idol of marriage, to advance it above the worship of God and the good of man...’

Companionship

Milton had rightly identified that there was a fundamental principle of human good which was superior to the written law because it rested upon the greatest law of all which Milton called the ‘law of charity’: God’s nature of love towards creation demonstrated ultimately in Christ.

However, it was the words of Jesus about divorce which themselves presented Milton’s greatest challenge. He set about refuting the traditional interpretation of Jesus’ teaching in a number of ways. Firstly, he argued that Jesus was not abrogating the Mosaic law of divorce, because he came to fulfill the law, not destroy it. And, conversely, if Jesus was making some kind of legislative pronouncement forbidding any divorce, perhaps with the exception of some form of sexual unfaithfulness, then that would mean God’s law had wrongly allowed divorce to his people for centuries. Secondly, Milton argued that, if companionship was God’s primary purpose in marriage, claiming that Jesus was saying adultery was the only legitimate cause of divorce was logically impossible, because that would mean that sexual union was the most important aspect of marriage. Thirdly, he pointed out that it would be against the whole tenor of the gospel to be stricter than the law. Fourthly, Milton appealed to the context of the divorce controversy...
mentioned explicitly in Matthew 19. Milton saw that Jesus' words were a direct response to the Pharisees' question about being able to divorce 'for each and every reason'. Given this context, it is possible to see Jesus' words, not as an absolute pronouncement against divorce, but as a rebuke to the Pharisees' licentious interpretation of the Mosaic legislation and as a strong condemnation of divorce when the difference between the partners is reconcilable.

**Travesty**

By his own implicit admission, Milton had been inexperienced in the affairs of the heart. It appeared that he had been mistaken in his choice of life partner and the differences seemed irreconcilable. However, Mary returned to him in 1645 and he responded by taking her and her family into his home. The breach was seemingly healed before the Westminster Confession, published in 1647, ruled that desertion was a legitimate cause of divorce and that remarriage should be allowed to the innocent party.

Milton's argument is sometimes weak in its exegesis of scripture and is even weaker over practical considerations. But, whatever else can be said about the case he made, Milton was certainly right to question whether God's law was intended to punish someone potentially for life because of a mistake. Equally he was right to assert that condemning people in their weakness and sinfulness presented a travesty of the gospel of Jesus.

It is questionable how far Milton's arguments justify many modern divorces. Milton's main focus seems to have been upon those in a scenario similar to his own, where a natural incompatibility was not discovered before marriage. Of course, his approach is open to abuse, which he acknowledged. But, he argued that it was better to have a situation where a genuine freedom was abused by some, than to have a situation, contrary to the law and the gospel, where everyone was in bondage to the law and even legitimate cases of divorce were prohibited. True marriage involved 'unfained love and peace' not 'forc't cohabitation'.

The Church of England's present policy of generally preventing re-marriage in church risks a greater danger than appearing to condone divorce. This greater danger is more than the pragmatic consideration of alienating thousands of people from the church. It is the more profound danger of misrepresenting God's nature expressed in the gospel of Christ.

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3. *Complete Prose Works*, vol II (Yale University Press, 1959) p744
4. CPW,II,327
6. CPW, II, p588
7. CPW,II,p276
8. CPW,II, p254

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*Canon Chasuble:* 'The precept as well as the Practice of the Primitive Church was distinctly against matrimony.

*Miss Prism:* That is obviously the reason why the Primitive Church has not lasted up to the present day.'