Divorce as Punitive Expulsion:
Toward a Model of Marital Dissolution in Old Testament Covenant Ethics

By

Michael R. Durso

A Project Submitted to
the Faculty of Covenant Theological Seminary
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Abstract

A conceptual tension persists in biblical interpretation: covenantal frameworks signal permanence and stability yet observed covenant dynamics in the Old Testament include exclusion, expulsion, and divorce. Because theological accounts of marriage and divorce frequently appeal to analogy with the divine covenant, insufficient attention to the structural features of covenantal relationships has led to ongoing ambiguity regarding the possibility and nature of marital dissolution.

This study argues that the Old Testament conceptualizes divorce as punitive expulsion, analogous to being “cut off” from one’s people or land (*karet* penalty), and that dissolution of the marital bond occurs *ipso facto* through covenant vacancy following expulsion. It further contends that insufficient distinction between corporate and individual dimensions of covenant membership has obscured a crucial structural asymmetry between the divine covenant and marriage: a divine covenant comprises multiple individuals nested within a corporate structure whereas the marriage covenant itself is constituted by two individuals.

Methodologically, the study employs abduction (inference to the best explanation), proposing a conceptual framework that accounts for the full range of biblical data rather than privileging either marriage texts or divorce texts in isolation. The analysis integrates exegetical and lexical analysis, biblical-theological synthesis, metaphor theory, and engagement with ancient Near Eastern parallels regarding expulsion formulas and divorce practices. This study advances a novel conceptual framework for understanding divorce by integrating punitive expulsion and the corporate–individual structure of covenant participation as primary interpretive categories. To date, these categories have not been explicitly applied to the interpretation of divorce in biblical studies.

The investigation yields five principal findings. First, punitive expulsion functions as the covenant's self-maledictory oath-curse mechanism, responding to violations which constitute forfeiture of status or place. Second, covenant-breaking language denotes violation rather than dissolution, though such violations may trigger punitive action. Third, punitive expulsion functions simultaneously as judgment on the individual and as a mechanism for purifying and preserving the corporate community—the concept of remnant—which is disanalogous with marriage. Fourth, because marriage is individually constitutive, lacking a corporate structure, expulsion in the marital covenant results in dissolution by vacancy. Fifth, this model provides a unified account of legal, narrative, and prophetic data potentially resolving longstanding ambiguities in prior scholarship.

These findings dismantle paradigms of absolute marital indissolubility by exposing the irreconcilable structural asymmetry between the divine covenant—which persists through its corporate dimension despite individual excision—and marriage, which possesses no such corporate safeguard and therefore dissolves *ipso facto* through vacancy upon expulsion. This study therefore presents a cohesive, biblically grounded framework for marital dissolution within Old Testament covenant ethics, one that unifies disparate textual data, informs New Testament interpretation, and carries significant ethical implications for the church's understanding of marriage as a covenantal institution oriented toward social ethics and justice.

For my wife Kristin, a consistent source of inspiration, and without whom this project would not have begun.

וַיִּשְׁרוּ

To see the law as the answer to divorce and the way to strengthen marriage is probably to take the weakest tool that we have and make it the only tool.

— Barbara Dafoe Whitehead

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Preface

I divorced in 2017–2019, contrary to my own theology at the time, which defined a marriage covenant, absolutely and without nuance or exception, as an unconditional commitment. Before the wedding I was told, "Go into marriage with your eyes wide open. Then once you're married, close one eye." But defining marriage as "unconditional" meant closing both eyes. If the covenant is unconditional, then who am I to have expectations, contentions, or complaints? And if Gary Thomas is correct, and the goal of marriage is not to make us happy but to make us holy,[1] then perhaps I should be grateful for the trauma. After years of therapy and graduate training in biblical exegesis and theology, I realize that while this is not the only problem in those years, I previously held a very defective theology of covenant, and a more biblical one—one that sees complaints and contentions in response to spousal shortcomings as necessarily part of the covenant and not contrary to it[2]—could have saved me years of grief.

The work of David Instone-Brewer was recommended to me in 2018 as I was wrestling with divorce in Scripture. I thank God for Dr. IB for the degree to which his research contributed to my own sanity even if I disagree with him at points. As I began my own research into this topic, building on some of his contributions, I began to grow uncomfortable with the degree to which the answers to the biblical questions were

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[1] Gary Thomas, *Sacred Marriage: What If God Designed Marriage to Make Us Holy More than to Make Us Happy?* (Grand Rapids: Zondervan, 2015).

[2] As a student also of mental health counseling concerned primarily with marital issues, I understand ideal confrontations in marriage as bids for intimacy. As God's covenant discipline demonstrates his commitment to his covenant partner and to seeing the covenant fulfills its intended purpose, so conflict in marriage should work to perpetuate and strengthen it.

dependent on extra-biblical historical-cultural study. This is, of course, a vital study hermeneutically, but I began to wonder, could an approach where the argument is made entirely from the Bible with minimal appeal to extrabiblical material make a stronger case, especially for lay Christians looking for answers? As a counselor and friend to normal people, I would rather begin an answer with "In the prophets…" over "In the ancient Near East."

When I began my studies at Covenant Theological Seminary in 2022, I knew early on I wanted to write a thesis on divorce dealing with the Sermon on the Mount (Matt. 5:31–32). But in my reading of divorce scholarship interacting with the Old Testament, I noticed a tension in how God's covenant with Israel was discussed in relation to exile. On one hand, Israel's exile was explained by covenantal conditionality—the covenant includes penalties for breach, some permanent. On the other hand, Judah's post-exilic restoration was explained by covenantal permanence—God does not revoke his covenant. Both explanations invoke covenant logic, yet they pull in opposite directions: the first implies Yahweh could and did dissolve the bond with the northern kingdom; the second insists he would not and did not with Judah. Scholars who affirm both positions rarely pause to ask what this means for the covenant's structural dynamics or for the question of what such dynamics mean regarding the possibility or nature of marital covenant dissolution. These paradoxical interpretations triggered a cascade of questions for me:

Why is the word "break" so often used to describe divorce *in response to* covenant breaking? Would that mean then that covenant dissolution is equivalent to covenant breach? When Jesus grounds the Mosaic concession in "hardness of heart," why is this so often interpreted as the unforgiving posture of the injured spouse rather than the covenantal defiance of the offending party, when throughout Scripture hardness of heart consistently denotes resistance to God's authority and refusal of obedience? Does the "heart of flesh" to replace the stony heart primarily denote ability to forgive or ability to love God and keep his covenant? Additionally, why is it so rarely acknowledged that "Moses permitted" does not make the concession opposed to Torah, since "Moses" is often metonymous for Torah in the Gospels (Matt. 8:3; 23:1; Mk. 1:43; 7:9; Lk. 16:28, 31)? Why is Yahweh described as availing himself of divorce as though exercising a discretionary freedom-right when "divorce" in the prophets functions metaphorically to describe a judicial and punitive act against Israel?

When indissolubilists appeal to God's unwavering covenant fidelity to Judah as normative for human marriage, why is the permanent "cutting off" and destruction of the northern kingdom—explicitly called "divorce" (Jer. 3:8) and accompanied by images of public adulteress shaming and Samaria's death at the hands her "lovers" (Hos. 2; Ezek. 16; 23)—not likewise treated as normative for marriage? Why is the distinction between Israel and Judah so frequently flattened, such that promises of restoration are cited generically as applying to "Israel" rather than Judah?[3]

If a one-flesh union is indissoluble by nature, how is it that an illicit one-flesh union is not (1 Cor. 6)? If marital violations dissolve the bond itself, how is divorce

[3] As will be mentioned but not deeply discussed in this thesis, I view the apostasy of the northern kingdom (1 Kgs. 12) as the people's own drawing of a "dotted line," which God made a "solid line" 208 years later (722) in the exile and destruction of the northern kingdom, confirming their apostasy. The prophetic call of repentance to "Israel" is a call for individuals of the northern tribes to return to Judah (Hosea and Amos make this fairly explicit), the remnant of whom will be preserved and saved in fulfillment of the Abrahamic covenant. To save "Israel" is to ensure the survival of an Abrahamic and Sinaitic covenant people by divine preservation of a (primarily) Judahite remnant despite the apostasy of a majority of the people.

nevertheless optional? And if reconciliation follows infidelity, would not a theory of dissolution-by-violation imply that reconciliation constitutes a new marriage rather than the restoration of the old? Finally, if marriage is structurally analogous to the divine covenant, how do we account for the fact that individuals are excised to purge and preserve the corporate structure, whereas marriage is irreducibly dyadic? God does not revoke his covenant, and his covenant purposes cannot be thwarted; yet if a covenant partner is expelled for "high-handed sins," (Num. 15:30–31), who remains as a covenant partner on their "side" of the dyad? Does that not mean the covenant necessarily has dissolved?

This list is not intended to overwhelm by volume or nit-pick, because these are not peripheral curiosities but recurring instabilities that surface wherever the divine-mundane marital analogy is pressed beyond the limits of the metaphor, or the metaphor is reversed in direction (see Chapter 4). My thesis is inadequate to fully resolve all the problems, but hopefully it functions as one step in the right direction.

Marriage, Divorce, and Social Ethics

There is a broader motivation in this project related to social ethics and justice. Andrew Cherlin's *The Marriage Go-Round* observes that the United States has significantly higher divorce rates than other similar countries despite "higher" marriage values.[4] What is it we believe about marriage and romantic relationships that contributes to the demise of so many? The "soulmate" marriage model that Cherlin and other researchers like Paul Amato identify treats marriage—and thus divorce—as therapeutic

[4] Andrew J. Cherlin, *The Marriage-Go-Round: The State of Marriage and the Family in America Today* (New York: Vintage Books, 2009).

and self-expressive.[5] Barbara Dafoe Whitehead likewise identified that marital norm changes in the 1970s–1990s entailed a shift in which parental happiness ranked above child wellbeing in the divorce-remarriage calculus.[6] The consequent social fallout has been catastrophic.

But this fallout is not that of an increasing divorce rate, which is merely symptomatic, but the fallout of relational betrayal of all kinds.[7] David Clyde Jones reminds us that Christian social ethics is rooted in the fifth commandment, which connects societal stability to familial stability.[8] Relational betrayal has societal repercussions because hurt people take their hurt into the world with them. Responding to "the divorce problem" by directly countering divorce is inadequate since divorce itself is not the problem, and merely focusing therapeutically on the internal relations of marriage for the stability and enjoyment of couples falls short of locating the marriage as an outward-facing agent of society. Should not marriage itself have a "love your neighbor as yourself" shape to it, facing outward toward others rather than inward toward personal satisfaction?

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[5] Paul R. Amato, *Alone Together: How Marriage in America Is Changing* (Cambridge, MA: Harvard University Press, 2009).

[6] Barbara Dafoe Whitehead, "Dan Quayle Was Right," *The Atlantic Monthly*, April 1993; *The Divorce Culture*, (New York: Alfred A. Knopf, 1997).

[7] Relational betrayal within families encompasses a broad range of conduct including marital infidelity, abandonment, domestic abuse (physical, emotional, psychological, sexual, and financial), coercive control, parental neglect and abuse, parentification of children, the use of children as instruments of spousal conflict (or divorce conflict), exploitation of elderly parents, and institutional failures to protect vulnerable family members from known abusers.

[8] David Clyde Jones, *Biblical Christian Ethics* (Grand Rapids: Baker Books, 1994), 153.

It is from this personal and scholarly wrestling with covenant, justice, and relational fidelity and betrayal that this thesis emerges, seeking to explore how Scripture addresses divorce in ways that are faithful both to God's covenant and to the well-being of society.

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Several individuals significantly influenced the development of this project. I wish first to thank Dr. Brian Aucker, my thesis supervisor, not only for his encyclopedic expertise in Hebrew Bible narrative, but also his encouragement and confidence that the ideas in this study are worthy of pursuit. Also, deep thanks go to Professor of Counseling Dr. Dan Zink; many conversations and emails over the last four years have deeply shaped my understanding of relationships and their impact on society, which forms an important aspect of the backdrop to this thesis.

Others whose questions and observations helped shape this study include Dr. Dan Doriani and my pastor Trey Herweck, the first person I heard connect divorce conceptually with excommunication. Numerous others are included in these thanks, although I am unable to name them all individually. I am deeply grateful to all of you for your help and encouragement.

Unless otherwise noted, all translations from Hebrew, Aramaic, and Greek are my own.

Biblical citations follow English versification; Hebrew (*BHS*) versification is provided in brackets where it differs.

Abbreviations

AC	Arnold Choi. *A Guide to Biblical Hebrew Syntax*, 2nd ed.
ANE	Ancient Near East
ANET	Pritchard, *Ancient Near Eastern Texts Relating to the Old Testament*, 3rd ed. with Supplement
BBR	*Bulletin for Biblical Research*
BDB	Brown, Driver, and Briggs, *Enhanced Brown-Driver-Briggs Hebrew and English Lexicon*
BHS	*Biblia Hebraica Stuttgartensia*, 2nd Edition
BZ	*Biblische Zeitschrift*
CAD	*The Assyrian Dictionary of the Oriental Institute of the University of Chicago*
CCC	Catechism of the Catholic Church, 2nd ed.
CH	Code of Hammurabi
CIC	*Codex iuris canonici,* Code of Canon Law
DCH	*The Dictionary of Classical Hebrew*
DSS	Dead Sea Scrolls
ESV	English Standard Version
EVV	English Versions
GGBB	Wallace, *Greek Grammar Beyond the Basics: An Exegetical Syntax of the New Testament*
HALOT	*The Hebrew and Aramaic Lexicon of the Old Testament*
ICC	The International Critical Commentary on the Holy Scriptures of the Old and New Testaments
IEJ	*Israel Exploration Journal*
JAOS	*Journal of the American Oriental Society*
JETS	*Journal of the Evangelical Theological Society*

JJS	*Journal of Jewish Studies*
JM	Joüon and Muraoka, *A Grammar of Biblical Hebrew*
JMT	*Journal of Moral Theology*
JNES	*Journal of Near Eastern Studies*
JTC	The JPS Torah Commentary
JSOT	*Journal for the Study of the Old Testament*
JSOTS	Journal for the Study of the Old Testament Supplement
LE	Laws of Eshnunna
LH	Hittite Laws
LI	Laws of Lipit-Ishtar
LQ	*Lutheran Quarterly*
LUN	Laws of Ur-Nammu
LXX	LXX, Rahlfs
m. Giṭ.	Mishnah Tractate Giṭṭin
m. Ketub.	Mishnah Tractate Ketubbot
MAL	Middle Assyrian Laws
MM	Moulton and Milligan, *Vocabulary of the Greek New Testament*
MT	Masoretic Text, as found in *BHS*
NAC	The New American Commentary [now Christian Standard Commentary]
NRSV	New Revised Standard Version
NICNT	New International Commentary on the New Testament
NICOT	New International Commentary on the Old Testament
NIDOTTE	*New International Dictionary of Old Testament Theology and Exegesis*
NTS	*New Testament Studies*

ODCC	*Oxford Dictionary of the Christian Church*
OED	*Oxford English Dictionary*
OT	Old Testament
PMBH	Blau, *Phonology and Morphology of Biblical Hebrew: An Introduction*
PCA	Presbyterian Church in America
RCC	Roman Catholic Church
RSV	Revised Standard Version
SBL	Society of Biblical Literature
SJT	*Scottish Journal of Theology*
SWJT[1]	*Southwest Journal of Theology*
TAD	Porten and Yardeni, *Textbook of Aramaic Documents from Ancient Egypt*, Texts and Studies for Students
TDOT	*Theological Dictionary of the Old Testament*
TCL	*Textes cuneiformes, Musée du Louvre (Paris, 1910–)*
TrinJ	*Trinity Journal*
TWOT	*Theological Wordbook of the Old Testament*
t. Yebam.	Tosefta Yebamott
TynBul	*Tyndale Bulletin*
v.	verse
VT	*Vetus Testamentum*
vv.	verses
ZAR	*Zeitschrift für altorientalische und biblische Rechtsgeschichte*

[1] *SJT* is the standard abbreviation for both *Scottish Journal of Theology* and *Southwest Journal of Theology*; *SWJT* is an adapted abbreviation for clarity.

ZECNT	Zondervan Exegetical Commentary on the New Testament
ZECOT	Zondervan Exegetical Commentary on the Old Testament

Chapter 1

Introduction

Despite centuries of debate, a consensus has not been reached on the nature and permanence of the marital bond. Roman Catholics and some Protestants view the bond as metaphysical, indissoluble, and only ended by death or annulment.[1] Other Protestants view the bond as moral and covenantal, terminable by infidelity or divorce.[2] This thesis argues, by a study of divorce in the Hebrew Bible, that the bond is moral-covenantal rather than metaphysical, and that divorce does not dissolve the marital bond but formally and juridically confirms a forfeiture of marital standing resulting from unrepentant, enacted repudiation of the marital covenant.[3] More specifically, this study seeks to demonstrate that the Old Testament presents divorce as punitive expulsion or excommunication. This, it is argued, provides the basis for a moral logic of divorce which may account for both marriage and divorce pericopes in the biblical text more adequately than previous explanations.

Punitive expulsion, known in Jewish tradition as the *karet* penalty, refers to offenses in the Torah for which the violator's being "cut off" (כרת) from his or her

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[1] Marcel Boivin, "On Dissolving Indissolubility," *The New Blackfriars* 56, no. 66 (1975): 493–99. In Roman Catholic theology, marriage is indissoluble by virtue of being a sacrament. Some Catholics, however, such as Boivin, caution against overstating indissolubility considering the Church claims power to dissolve certain marriages, namely those between unbaptized spouses when one becomes baptized ("Pauline privilege"), between baptized Christians in an unconsummated marriage, or to annul a union never properly established. More accurately, Boivin suggests that in Roman Catholic theology, "*marriage is dissoluble,* with the provisio that in some cases it is not" (emphasis original).

[2] Disagreements persist whether marital covenant violations, or divorce itself, breaks the bond; this thesis argues for a third option.

[3] This concept of forfeiture of place or standing is discussed in Chapter 2.

people[4] is the specified penalty.[5] This thesis seeks to understand how the Old Testament's presentation of punitive expulsion and the dual individual and corporate aspects of Yahweh's temporal covenants with Israel illuminate the moral conditions in which marital covenants may be considered dissoluble or indissoluble. This study proposes (1) that the Hebrew Bible exhibits a juridical analogy between divorce and punitive expulsion, and (2) where marital covenantal misconduct warrants punitive expulsion, in the absence of a preservable remnant, the covenant is dissolved following expulsion. Unlike covenantal communities in which individuals are nested within a corporate structure, the marital bond is individually constitutive—the spouses are its only parties, and together they constitute the covenant entirely. Vacancy is therefore the condition produced when one spouse is permanently removed from the union of life shared by the two parties, whether by death, punitive expulsion, or desertion, such that the bond is dissolved *ipso facto*. In other words, by the fact of vacancy in one "side" of the dyad, a covenant necessarily does not continue. This proposal stems from the observation that the metaphorical "marriage" between Yahweh and Israel survived through exile via divine preservation of the Judahite remnant, a situation which cannot be replicated in mundane marriage.

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[4] E.g., Exod. 12:15, 19; Lev. 20:35; 26:33–40; Num. 15:30–31, Mal. 2:11–12.

[5] G. Thomas Hobson, "'Cut Off From (One's) People': Punitive Expulsion in the Torah"" (PhD. diss., Concordia Seminary, 2010); "Punitive Expulsion in the Ancient Near East," *ZAR* 17 (2011): 15–32; Gerhard Von Rad, *Old Testament Theology*, trans. D. M. G. Stalker, Vol. 1 (New York: Harper, 1962), 264, n. 182; Jacob Milgrom, *Leviticus 17-22: A New Translation with Introduction and Commentary* (New Haven, CT, Yale University Press; Bloomsbury Publishing, 2021), 1730-1739. According to Hobson, Von Rad appears to be the first modern theologian to refer to this as "excommunication of the offender." This penalty may refer to either destruction (the traditional Jewish interpretation) or removal. Hobson appears to resolve the tension between destruction and excommunication views by suggesting that removal should be considered the primary sense, yet destruction can be the means of removal. See discussion in Chapter 2.

The ethics of post-divorce remarriage is complex—permissibility simply means morality is contingent on other factors—and it may often be wisest to remain single following divorce. Nonetheless, remarriage following a biblically legitimate divorce should in theory be permitted by the church.[6] Moreover, biblical wisdom literature reflects the logic of punitive expulsion which may be applied to marriage considering the use of the marriage metaphor to express Israel's covenant with Yahweh. Proverbs 2:21–22,[7] after mention of the adulteress who violates her marriage covenant (2:16–17),[8] says:

> "For the upright will inhabit the land
> and the blameless will remain in it,
> But the wicked will be cut off from the land,
> and the treacherous will be torn away from it."

1.1 Survey of Scholarship on the Nature of the Marital Bond

Modern indissolubility arguments often present indissolubility historically as part of a unified patristic consensus, typically following the work of Henri Crouzel.[9] Recent historical work challenges this narrative, revealing earlier diversity and later

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[6] In general, I agree with the position adopted at the Church of England's 2002 General Synod, permitting remarriage after divorce in "exceptional circumstances," which is left undefined and at the discretion of the minister, overturning the Church of England's longstanding opposition to post-divorce remarriage since its founding in the 1530's. See "Marriage in Church After Divorce: Advice to Clergy," https://www.facultyoffice.org.uk/wp-content/uploads/2013/12/Divorce-HoB-Advice.pdf.

[7] See also Psalm 37, where "cutting off" occurs five times (and twice in Ps. 109). This is especially significant if the Psalter is taken to guide corporate worship of the covenant community. See C. John Collins, "Introduction to the Psalms," in *Psalms—Song of Solomon*, Vol. 5, ed. Iain M. Duguid, James M. Hamilton Jr., and Jay Sklar, ESV Expository Commentary (Wheaton, IL: Crossway, 2022), 21–51.

[8] One of the key texts in identifying marriage as a covenant. See Gordon Hugenberger, *Marriage as a Covenant: Biblical Law and Ethics as Developed from Malachi*, Biblical Studies Library (Grand Rapids, MI: Baker Books, 1998), 299-302.

[9] Henri Crouzel, *L'église Primitive Face Au Divorce: Du Premier Au Cinquième Siècle*, Theologie Historique 13 (Paris: Beauchesne, 1971), cited frequently but not dealt with directly here. For an English summary, see Henri Crouzel, "Remarriage After Divorce in the Primitive Church: A Propos of a Recent Book," *Irish Theological Quarterly*, no. 1 (1971): 21–41.

consolidation, complicating appeals to a normative consensus. Indissolubility became the standard Christian teaching from at least the time of Augustine,[10] particularly in the Roman Catholic Church in which Augustinian indissolubility became canon law.[11] This view entails that marriage constitutes a sacramental bond only broken by death, assuming a consummated marriage without impediments.

Wenham and Heth argued that the majority view since the Reformation—that marriage is dissoluble and thus remarriage permissible in certain situations—rejects the overwhelming consensus of the early church in favor of the 16th century "Erasmian view."[12] The validity of such a sweeping patristic consensus has recently been challenged, notably, by Roman Catholic historian David G. Hunter.[13] Not only did Augustine later express doubts regarding his own view,[14] but also, contrary to previous

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[10] *De bono coniugali* (*On the Good of Marriage*) and *De sancta virginitate* (*Only Holy Virginity*), both in 401 CE, *De bono viduitatis* (*On the Good of Widowhood*), *De adulterinis coniugiis* (*Adulterous Marriages*) and *de continentia* (*On Continence*) all from approximately 418-420. In *Adulterous Marriages* 2.4–5 Augustine grounds marital indissolubility in its sacramental ontology. Just as the sacrament of baptism cannot be undone even by a mortal sin, although a divorce may be justified, a "bond of chastity" (*vinculum pudoris*) remains.

[11] Council of Trent, Session XXIV (1563). See also, Council of Carthage (401), which labels divorce impermissible.

[12] Gordon J. Wenham and William E. Heth, *Jesus and Divorce* (Eugene, OR: Wipf & Stock Publishers, 2002); Wenham, "May Divorced Christians Remarry?," *Churchman*, no. 95 (1981): 150–61; Heth, "Another Look at the Erasmian View of Divorce and Remarriage," *JETS* 25, no. 2 (1982): 263–72; Heth, "Divorce and Remarriage: The Search for an Evangelical Hermeneutic," *TrinJ* 16 (1995): 63–100.

[13] David G. Hunter, "Augustine's Doubts on Divorce: Reconsiderations on Remarriage," *Augustinian Studies* 48, no. 1 (2017): 161–82; "Did the Early Church Absolutely Forbid Remarriage After Divorce?," *Vergentis* 6 (July 2018): 45–64; "Historical Theology and the Problem of Divorce and Remarriage Today," *JMT* 10, no. 2 (2021): 34–59.

[14] Augustine, *On Faith and Works*, trans. Gregory J. Lombardo (New York: Newman, 1988), Chap. 19, quoted in David Clyde Jones, *Biblical Christian Ethics* (Grand Rapids: Baker Books, 1994), 187. Augustine further critiqued his previous writings in *Retractiones* 2.57, as noted in Goulven Madec, *Introduction aux "Révisions" et à la lecture des œuvres de saint Augustin*, Collection des Études Augustiniennes, Série Antiquité, 150 (Paris: Institut d'Études Augustiniennes, 1996), 72, quoted in David G. Hunter, "Historical Theology and the Problem of Divorce and Remarriage Today," *JMT* 10, no. 2 (2021): 45: "I wrote two books on adulterous marriages, following the scriptures as closely as possible,

claims, Hunter argues that Ambrosiaster (writing in 380 CE) was not an idiosyncratic, isolated voice for marital dissolubility, but may have represented the more prominent view in the pre-Augustinian period. Hunter cites Lactantius[15] and early writings of Tertullian,[16] demonstrating the existence—albeit limited—of early patristic approval of remarriage following divorce for adultery.[17] The ubiquitous conclusion—both then and now—that these texts govern divorce for "adultery," however, calls for scrutiny since it remains almost certainly the case that neither λόγου πορνείας ("a matter of fornication") in Matt. 5:32 nor ערות דבר ("a matter of uncleanness") in Deut. 24:1 means "adultery."[18]

Hunter concludes that apart from the *Shepherd of Hermas* in the second century, "there is no text from the first four centuries that clearly and unequivocally prohibited a man from remarrying after divorcing his first wife for adultery."[19] While numerous early

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with the intention of solving a very difficult problem… I do not think that I concluded this matter…An intelligent reader will be able to judge it."

[15] 240–320 CE. Lactantius sanctioned a man's remarriage after he divorced for adultery (*Institutiones Diuinae 6.23*) and believed the marital "pact" (*foedus*) was dissolved by infidelity (*Epitome* of *Institutiones,* 61), cited in Hunter, "Early Church," 60-61.

[16] 160–225 CE. Hunter, "Early Church," 60. Although a staunch opponent of remarriage in later writings (c.f. *To His Wife*, 1.7), in Tertullian's earlier works (esp. the letter *Ad uxorem*) he likened post-divorce remarriage to the marriage of a widow, permitting remarriage to a Christian (cf. 1 Cor. 7:39).

[17] Herman Bavinck, *Reformed Ethics. Volume 3: Christian Life in Society* (Grand Rapids: Baker Academic, 2025), 175, 191-192, attributes this early acceptance of divorce with permission of the innocent party to remarry to Roman legal and cultural influence. Although, Bavinck also lists exceptional Medieval allowances for remarriage by Popes Zachary I and Gregory III.

[18] Regarding Deut. 24, this is reasoned from two facts: (1) adultery is punishable by stoning (Lev. 20:10; Deut. 22:22–24), and (2) in its only other occurrence, eleven verses prior (Deut. 23:14), ערות דבר refers to human excrement in the camp of Israel, a source of offense to Yahweh. ערות always refers to something unclean or shameful, and for these reasons, it does not mean "adultery." See Jeffrey H. Tigay, *Deuteronomy: The Traditional Hebrew Text with the New JPS Translation*, JTC (Philadelphia: Jewish Publication Society, 1996), 220–221. This calls into question the frequent label of "adultery" stated as the sole ground for divorce allowed by Jesus.

[19] Hunter, "Early Church," 59.

patristic works, such as Origen's *Stromata*,**[20]** do state that remarriage during the lifetime of the original spouse is adulterous, they do not differentiate between legitimate and illegitimate divorce. In contrast, the Councils of Arles (314),**[21]** Elvira (300–309),**[22]** Vannes (465) and Agde (506) did recognize such a distinction and made various allowances for remarriage following divorce for adultery.**[23]** By way of metaphor, the indissolubility view often treats marital doctrine in the early Church as a solid, unbroken wall. Hunter's research presents the "wall" as a mosaic of different practices and beliefs. The solid "stone" of absolute indissolubility was a later facade added by Augustine and medieval canonists, one even Augustine doubted.

1.1.1 Modern Old Testament Arguments for Indissolubility of the Marriage Bond

The first half of the 20th century saw many scholarly publications on marriage in general and marriage in the Old Testament in particular.[24] In the latter half of the century studies on divorce and remarriage burgeoned in the modern West, which was experiencing a legal and psychological revolution resulting in seismic changes in family norms and rates of divorce and remarriage.[25] While the increase in divorce rates in the

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[20] Clement of Alexandria, *The Stromata,* 2.23.

[21] Canon 11 directed that innocent spouses should be "counseled" against remarriage rather than forbidding it.

[22] Canon 9 imposes the restriction of communion on women who had remarried following divorce for adultery. As Hunter, "Early Church," 62, notes, the lack of a parallel restriction for men supports Ambrosiaster's (and Lactantius') position that an injured husband can remarry.

[23] Hunter, "Early Church," 61–64.

[24] Hugenberger, *Marriage as a Covenant,* 1, provides a helpful survey of such studies.

[25] For overviews on late 20th century cultural changes in marriage, divorce, and remarriage, see Andrew J. Cherlin, "The Deinstitutionalization of American Marriage," *Journal of Marriage and Family* 66, no. 4

1970s–1980s[26] statistically reports the use frequency of the novel legal mechanism of no-fault divorce, and is not necessarily a measure of marital breakdown,[27] these cultural shifts prompted increased pastoral concern and renewed scholarly focus on divorce and remarriage.[28]

In the 1970s Catholic scholars McCarthy,[29] Palmer,[30] and Ambrozic,[31] advanced ontological arguments for marital indissolubility, emphasizing marriage as a covenantal

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(2004): 848–61; Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage* (New York: Penguin Group, 2006); John Witte Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition*, 2nd ed. (Louisville, KY: Westminster John Knox Press, 2012); and Barbara Dafoe Whitehead, *The Divorce Culture*, (New York: Alfred A. Knopf, 1997).

[26] Use of the term "*rates* of divorce," as opposed to "the rate of divorce," recognizes that the practice of divorce, at least in the US, is highly stratified by socioeconomic status and education level. Kim McErlean, "The Growth of Education Differentials in Marital Dissolution in the United States," *Demographic Research* 45 (September 2021): 841–56; U.S. Census Bureau, "Historical Marital Status Tables," Census.Gov, 2019, https://www.census.gov/data/tables/time-series/demo/families/marital.html.

[27] Numerous scholars have noted that prior to the establishment of the no-fault divorce in America (first signed into law in 1969 in California by Gov. Ronald Reagan), just as many marriages were deeply troubled but, due to the expense and hassle of legal divorce, remained legally, albeit miserably, intact. Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage* (East Rutherford, NJ: Penguin Publishing Group, 2006), rightly observes that it seems every generation is looking back to a previous "golden era" of marriage, although one cannot be found.

[28] While divorce related scholarship in biblical studies have waned in the US and Europe, in contrast, Africa—and to a lesser extent, Asia and South America—has seen a recent proliferation of marriage and divorce studies, although predominantly aimed at pastoral and sociological issues, such as domestic violence and levirate marriage, which is still practiced in some African countries (see bibliography, "Marriage and Divorce Studies Outside the US and Europe").

[29] Dennis J. McCarthy, "Berît in Old Testament History and Theology," *Biblica* 53, no. 1 (1972): 110–21; Dennis J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament*, Rev. ed., (Rome: Biblical Institute Press, 1978).

[30] Paul F. Palmer, "Christian Marriage: Contract or Covenant?," *Theological Studies* 33, no. 4 (December 1972): 617–65. While Palmer viewed marriage as a covenant from the perspective of biblical prophetic ideals, he disagreed that it ever had such a function under Mosaic Law. "In a society where polygamy and divorce were sanctioned by Mosaic law, where the wife was regarded as the property of the husband and adultery a violation of the rights of the Hebrew male, where fecundity was still the overriding concern, it would be unreal to speak of Jewish marriage as a covenant either of love or of fidelity" (621).

[31] Aloysius M. Ambrozic, "Indissolubility of Marriage in the New Testament: Law or Ideal?," *Studia Canonica* 6, no. 2 (1972): 269–88.

kinship bond, with God as its guarantor. Laney echoed these, contributing the first book-length Evangelical defense of the "no divorce, no remarriage" position in 1981.[32] Ambrozic[33] reasons from Genesis 1 and 2 that the one-flesh union is "indivisible," with "flesh" (בשׂר) meaning "the entire person, and thus, far beyond the mere sexual union."[34] Consequently, marriage reaches its "final destruction" through divorce and remarriage,[35] with πορνεία in the Matthean exceptive clause taken to refer to incest or otherwise unlawful marriage,[36] and divorce only permitted by Moses due to hardness of heart (Matt. 19:8), a permission Jesus is thought to have abrogated.[37]

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[32] J. Carl Laney, *The Divorce Myth* (Minneapolis, MN: Bethany House Publishers, 1981). Laney takes the strongest possible position against divorce, identifying Hosea as directly instructive for marriage. Laney's is a pastoral, popular level work, often recognized as lacking in argumentation and scholarly rigor, but it is also noted as influential.

[33] Ambrozic is heavily reliant on Dom Jacques Dupont, *Mariage et divorce dans l'évangile: Mathieu 19, 3–12 et parallèles* (Bruges: Desclée de Brouwer, 1959). Dupont is cited frequently in the literature, although is not directly interacted with in this thesis.

[34] Ambrozic, "Indissolubility," 273.

[35] Ambrozic, "Indissolubility," 280.

[36] Ambrozic, "Indissolubility," 274–78. This view is credited to Heinrich Baltensweiler, *Die Ehe im Neuen Testament: Exegetische Untersuchungen über Ehe, Ehelosigkeit und Ehescheidung* (Zurich, Stuttgart: Zwingli Verlag, 1967), 60–4. Evangelical proponents of this view include J. Carl Laney, *The Divorce Myth;* Charlies C. Ryrie, "Biblical Teaching on Divorce and Remarriage," *Grace Theological Journal* 3, no. 2 (1982): 177–92; and Ben Witherington III, "Matthew 5.32 and 19.9—Exception or Exceptional Situation?" *NTS* 31 (1985): 571–76.

[37] Jesus' appeal to "Moses," however, cannot mean a provision in tension with the law; "Moses" in the Gospels often functions as metonymy for the Torah (Matt. 8:3; 23:1; Mk. 1:43; 7:9; Lk. 16:28, 31). Thus, this "allowance" should be considered Torah in its fullest sense. Additionally, it may be exegetically unwarranted to presume that "hardness of heart" refers to unforgiveness toward an erring spouse, since Israel's "hardness of heart" regularly denotes covenantal unfaithfulness and a failure to trust in Yahweh. BDAG, 930, defines σκληροκαρδία as "an unyielding frame of mind, *hardness of heart, coldness, obstinacy, stubbornness*" (emphasis original). The word (and its adjective) appears in the LXX in Deut. 10:16; 30:6; Jer. 4:4; Sir. 16:10 in connection with circumcision of the heart which relinquishes obstinacy before God. The Mosaic concession of divorce was permitted because the Israelites were stubborn in relation to God. It is not evident, therefore, that Jesus was identifying the petitioner for divorce as the heart-hardened party rather than the covenant violator. William David Davies and Dale C. Allison, *A Critical and Exegetical Commentary on the Gospel According to Saint Matthew,* ICC, (Edinburgh: T & T Clark, 1988), 3:14, point out that the tension intended in the Gospel account (Matt. 19) is not between Moses and Torah, but between human fallenness, which generates exceptional situations, and divine creational intent, to which reborn

McCarthy and others frame marital covenants in terms of ancient Near Eastern fictive kinship, taking "bone of my bones and flesh of my flesh" (עצם מעצמי ובשׂר מבשׂרי)[38] as kinship language.[39] According to Wenham, the married couple "become as related to each other as brother and sister are."[40] In the ANE, kinship was a fundamental societal concept and, as social groups expanded beyond the father's house (בת אב), fictive kinships (treaty, adoption, etc.) developed to provide social stability, through oath-taking, of groups including non-blood relations.[41] Thus, according to Cross, "fictive kinship became kinship of the flesh or blood."[42] Whether the ANE conceptualization of fictive kinship as real kinship was one of ideals or of ontology, however, remains to be determined.[43]

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followers of Jesus must conform. Ideals, however, must still be understood in relation to the reality of exceptional situations, lest one absolutize the ideal and thereby commit the fallacy of *secundum quid.*

[38] עצם ובשׂר ("bone and flesh") as an idiom for kinship occurs six other times in the OT: Gen. 29:14; Judg. 9:2; 2 Sam. 5:1, 19:12–13; 1 Chron. 11:1.

[39] Cf. Frank Moore Cross, *From Epic to Canon: History and Literature in Ancient Israel* (Baltimore, MD: Johns Hopkins University Press, 2000), 7-8; Chisholm, "בָּשָׂר," *NIDOTTE,* 1:778. בשׂר in Lev. 18:6 certainly implies the notion that marriage establishes a kind of kinship since the prohibition of intercourse with relatives-in-law (vv. 15–16) falls under the general prohibition of intercourse with one's בשׂר in v. 6.

[40] Wenham, *Genesis 1–15*, 70-71.

[41] According to Delbert R. Hillers, *Covenant: The History of a Biblical Idea*, Seminars in the History of Ideas (Baltimore: Johns Hopkins Press, 1977), 24–8, this essentially explains the origin of oaths in ANE society, a way of "concluding alliances" which appealed to the deity for accountability and enforcement in lieu of blood relation. "The city depended for its life on the mutual fulfilling of contracts, and so it was ready to force men to keep their word, and it was perfectly able to impose its collective will on an individual citizen" (27). Thus, it is reasonable to view a covenant as a kind of bilateral oath or oath-curse.

[42] Cross, *Epic to Canon,* 7.

[43] Some evidence from the ANE raises questions regarding whether this conceptualization of kinship was absolute, rather than idealistic, and whether it enjoyed uniformity across the ANE. Adoption and possibly even sonship could apparently be annulled via verbal formula or legal breech. LUN §§4–6 attests to sonship and estate forfeiture via verbal formula; a Mari Adoption Contract, Old Babylonian Period, allows parents to annul an adoption via verbal formula (*TCL* 29; *ANET*, 545); CH §185 says an adopted son is non-reclaimable, yet §§186-190 records three cases in which the adopted son may be returned: the boy seeks and finds his father, the father fails to teach the boy his trade, or the father "has not counted [the boy]

Heth,[44] perhaps the most cited defender of the no-remarriage position prior to 2002,[45] also rooted marital indissolubility in an ontological kinship in which the couple is "joined by God" (Matt. 19:6; Mk. 10:8b–9),[46] ensuring perpetuity of the marital bond even in divorce[47] for adultery.[48] A challenge, however, to the "remaining bond" proposal is the difficulty of accounting for why the illicit "one-flesh" union (σάρκα μίαν) in 1 Cor. 6:16 is not likewise indissoluble, despite being "joined" (κολλάω, the LXX rendering of

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among his sons" (*ANET*, 175). See also, Isaac Mendelsohn, *Slavery in the Ancient Near East: A Comparative Study of Slavery in Babylonia, Assyria, Syria, and Palestine, from the Middle of the Third Millennium to the End of the First Millennium* (New York: Oxford University Press, 1949), 78–82.

[44] William A. Heth, "Another Look at the Erasmian View of Divorce and Remarriage," *JETS* 25, no. 2 (1982): 263–72; "The Meaning of Divorce in Matthew 19:3–9," *Churchman* 98, no. 2 (1984): 136–52; "The Changing Basis for Permitting Remarriage after Divorce for Adultery: The Influence of R. H. Charles," *Trinity Journal* 11NS (1990): 143–59; "Divorce and Remarriage: The Search for an Evangelical Hermeneutic," *Trinity Journal* 16 (1995): 63–100.

[45] In 2002, Heth reversed his position, accepting the dissolubility of marital covenants and the validity of remarriage following a valid divorce. See Heth, "Jesus on Divorce: How My Mind Has Changed," *The Southern Baptist Journal of Theology* 6, no. 1 (2002): 4–29. Throughout this thesis, Heth will be cited in support of opposing views: his earlier "divorce, but no remarriage" view prior to 2002, and his "remarriage for adultery and abandonment" view thereafter. Citations representing his pre-2002 views will be marked with "(E)."

[46] Heth (E), "Divorce and Remarriage," 83.

[47] Heth (E), "Another Look," 269. Heth suggested in the case of Deut. 24:1–4 that the bond remained despite the second husband's death. It remains to be explained, however, why the bond persists in death when Heth acknowledges that "Only the death of one of the spouses gives permissible grounds for the other to marry again" (264).

[48] Heth (E), "The Meaning of Divorce," 144. Here Heth appears to ground the "one-flesh" union in procreation as a result of sexual relations (as does Laney, 22). If this were the case, however, it raises the question whether a couple is actually one-flesh prior to bearing children, or ever in the case of infertility.

דבק in Gen. 2:24) with a prostitute just as the married couple is "joined" (דבק).[49] Few would suggest that reconciliation following infidelity would be immoral or unlawful.[50]

1.1.2 Old Testament Covenantal Arguments for Indissolubility

If marriage is to be understood as a covenant,[51] the character of covenants in which God participates is often taken as normatively instructive for the marital bond. Within an indissolubility framework grounded in the divine-mundane marital metaphor in the prophets, it is typically reasoned that divinely administered covenant perpetuity entails covenant non-dissolution. That is, God as guarantor ensures the covenant's survival despite covenant infidelity. In this view, the covenant is construed as incapable of being terminated. This is understood to reflect the nature of covenants as opposed to contracts.[52]

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[49] Paul's direct appeal to Gen. 2:24 to make his point is striking: 1 Cor. 6:16: "Do you not know that the one who joins (κολλάω) with a prostitute becomes one body? For it is written, 'the two will become one flesh'" (ἔσονται … οἱ δύο εἰς σάρκα μίαν). Gen. 2:24 (LXX): "Therefore, a man will leave his father and his mother and be joined (κολλάω) to his wife, and the two will become one flesh" (ἔσονται οἱ δύο εἰς σάρκα μίαν). Wenham and Heth, *Jesus and Divorce,* 97–101, highlight that דבק/ κολλάω is covenant language in Gen. 2:24, signaling the permanent, God-joined kinship bond that renders marriage indissoluble. Yet when Paul employs the same verb (κολλάω) in 1 Cor. 6:16 to describe the illicit "one flesh" union, they treat it as primarily rhetorical, lacking covenant status or indissolubility. The parallel deployment of κολλάω in 1 Cor. 6:16 shows the verb to be a red herring in the indissolubility argument. When stripped of the covenant context Wenham and Heth supply independently, it carries none of the permanent binding force attributed to it in the marital case, confirming that the covenant framework, not the lexeme, is doing the argumentative work.

[50] Wenham and Heth, *Jesus and Divorce,* 97–101, and others, deny the permanence of the illicit one-flesh union because the union entails no other element of life unification beyond the sexual encounter. While it is true that sexual union is not equal with "one-flesh," the logic of Paul's statement 1 Cor. 6:16 is that "one-flesh" is a result of the sexual union.

[51] Hugenberger, *Marriage as Covenant*, is the now-classic study on the covenantal identification of marriage in the OT.

[52] The covenant-contract distinction is of major importance in this issue but will not be discussed at any length until Chapter 4, which argues these concepts are more overlapping than distinct.

Jones and Tarwater[53] argue for absolute indissolubility on the basis that (1) marriage is a covenant, (2) "God is a participant in nuptials,"[54] and (3) covenants in which God participates are unbreakable and irrevocable.[55] Yahweh declares to Israel that he will remember (זכר)[56] the covenant,[57] will never forget it (שׁכח),[58] and will not break it (הפר,[59] *hiphil* of פרר),[60] therefore the covenant form itself is taken as demonstrably irrevocable. In Lev. 26 Israel comes under divine threat of exile should they "break" (הפר, v. 15) the Sinaitic covenant,[61] but in v. 44 Yahweh declares, "Yet, even then…I will not reject (מסא)[62] them, and I will not abhor (געל)[63] them so as to exterminate them

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[53] David W. Jones and John K. Tarwater, "Are Biblical Covenants Dissoluble? Toward a Theology of Marriage," *Southwestern Journal of Theology* 47, no. 1 (Fall 2004): 1–11; John K. Tarwater, *Marriage as Covenant: Considering God's Design at Creation and the Contemporary Moral Consequences* (Lanham, MD: University Press of America, 2006).

[54] While this point functions as a major premise ("assuming God is a participant in nuptials," 3), Jones and Tarwater, 11, acknowledge that it remains to be proven. In neither this article nor Tarwater's published dissertation, *Marriage as Covenant*, do the authors provide additional support beyond citing Gen. 2:23–24 and Matt. 19:6 in parentheses.

[55] Jones and Tarwater, "Are Biblical Covenants Dissoluble?," 3.

[56] Gen. 9:15–16; Lev. 26:42, 45; Ezek. 16:60; Ps. 105:8; 111:5.

[57] Generic "covenant" is used here to reflect the lack of specificity in these and similar arguments.

[58] Deut. 4:31; Jer. 50:5; Ps. 106:45.

[59] The root פרר is primarily attested in *hiphil* (46 of 53 occurrences); it appears in *hophal* three times, and only once in *qal*, *hithpael*, *polel*, and *pilpel*.

[60] Lev. 26:44; Judg. 2:1.

[61] Jacob Milgrom, *Leviticus 23-27: A New Translation with Introduction and Commentary*, The Anchor Bible, (New York: Doubleday, 2001), 2305.

[62] *DCH*, s.v., "מאס," "reject, spurn, despise," "feel loathing, contempt, revulsion." Cf. 1 Sam. 8:7; Kgs. Isa. 5:24; Jer. 33:24, 26; Hos. 4:6.

[63] *DCH*, s.v., "געל," "abhor, reject." Cf. Lev. 26:11, 15, 30, 43.

and annul (הפר)[64] my covenant with them; for I am Yahweh their God."[65] Thus, Palmer notes that, unlike contracts, "Covenants are not broken; they are violated when there is a breach of faith."[66] This view of covenant perpetuity identifies a point of ambiguity among scholars as to what it means to "break" a covenant: "violate" or "annul?" At least twelve OT texts record the people "breaking" (הפר) the covenant,[67] which suggests the claim that covenants cannot be *broken* is only coherent if understood to mean that *covenants cannot be annulled or violated such that they are destroyed.*[68]

This divine-mundane marital analogy, it is argued, grounds the application of divine covenant dynamics to marriage, the "antitype" of the divine.[69] Thus, Laney sought

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[64] The logic of the passage is that the Lord will not מסא and געל the people or הפר the covenant even if the people מסא and געל the Lord and הפר the covenant (v. 15).

[65] Note the *qatal* "future" verbs (prophetic perfect), indicating the certainty of what is promised (JM §112g): לא־מאסתים ולא־געלתים להפר בריתי אתם. Considering the semantic overlap between מסא and געל, the rendering of the two *qatal* verbs could be reversed so that infinitive clauses of extermination and covenant annulment result immediately from "rejection," but most translations follow the order taken here.

[66] Palmer, "Christian Marriage," 619. Palmer makes a primarily etymological argument for this point, locating the essence of covenant in the Latin *foedus*, rooted in fidelity (*fides*), distinct from *contractus*, which he claims by etymology to mean to hire for service. Given the etymological contrast, Palmer defines "breach of faith" as the betrayal of mutual trust and fidelity. Etymology, however, does not determine the meaning of words, and ultimately the hypothesis fails to convince because he says that only in a contract—and not a covenant—do we find the dynamic of breaking by failing to live up to agreed-upon terms. Yet this is precisely the dynamic present within the biblical covenants which contain terms/stipulations, hence God's repeated statements that the people have "broken" the covenant by failing to obey it.

[67] Gen. 17:14; Lev. 26:15; Deut. 31:16, 20; Isa. 24:5; 33:8; Jer. 31:32; 33:20; Ezek. 16:59; 17:16, 18; 44:7.

[68] The same ambiguity exists regarding the word "inviolable." *OED* provides two meanings: "Not to be violated," and "cannot be violated." Commonly, however, "inviolable" is used as a synonym for "unbreakable." Tarwater, *Marriage as a Covenant*, 108, says that "because God establishes the covenant … the relationship is inviolable." But neither definition of "inviolable" fits Tarwater's usage as meaning "unbreakable." In contrast, Scot McKnight, *Sermon on the Mount*, The Story of God Bible Commentary, ed. Tremper Longman III and Scot McKnight (Grand Rapids: Zondervan, 2013), 97, 101, 103, labels marriage "inviolable," yet fully recognizes that it can be broken and dissolved.

[69] William A. Heth (E), "Divorce, But No Remarriage," in *Divorce and Remarriage: Four Christian Views*, ed. H. Wayne House, with J. Carl Laney, Thomas R. Edgar, and Larry Richards (Downers Grove, IL: InterVarsity Press, 1989), 18. So also, Wenham and Heth (E), *Jesus and Divorce,* 125.

to apply the divine directive behind Hosea's reconciliation with Gomer directly to marital ethics.[70] Mundane marriage as the "antitype" of Yahweh's covenant has recently been disputed as reversing the direction of the metaphor.[71] That Jeremiah and Ezekiel portray Yahweh as married to "two sisters," Israel and Judah, underscores why such analogical limitations must be acknowledged. "With respect to what?" must feature in how we interrogate biblical metaphors.

In conclusion, the indissolubilist view maintains that marriage establishes a permanent "one-flesh" bond, analogous to blood kinship, which persists despite covenant violation until the death of a spouse. However, this position struggles to account for four issues: (1) Yahweh's divorce of the northern kingdom yet temporal punishment and restoration for Judah,[72] demonstrating corporate covenant survival despite an excised contingent; (2) the implications of direct marital application of Yahweh's covenant actions with Israel, which include polygamy and sexual violence against an adulterous

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[70] Laney, 134. "*God's will for divorced or separated couples is always reconciliation*. Under no circumstances—no matter how gross—would it be God's will for divorce to take place," (emphasis his). This view is challenged by Deut. 21:14 in which a divorce is commanded (discussed in Chapter 2), and Ezra 9–10 in which the directive of annulment (or divorce) of intermarriages resulted from consultation with the Lord.

[71] Numerous scholars now contend that such a view "reverse cross-maps" from the target domain or "tenor" (Sinaitic covenant) to the root domain or "vehicle" (mundane marriage); cf. R. Abma, *Bonds of Love: Methodic Studies of Prophetic Texts with Marriage Imagery (Isaiah 50: 1-3 and 54 :1-10, Hosea 1-3, Jeremiah 2-3)*, Studia Semitica Neerlandica 40 (Assen: Van Gorcum, 1999); Gerlinde Baumann, *Love and Violence: Marriage as Metaphor for the Relationship between YHWH and Israel in the Prophetic Books* (Collegeville, MN: Liturgical Press, 2003); Colin Hamer, *Marital Imagery in the Bible: An Exploration of Genesis 2:24 and Its Significance for the Understanding of New Testament Divorce and Remarriage Teaching* (London: Apostolos Publishing, 2015); Mason D. Lancaster, *Hosea's God: A Metaphorical Theology*, Ancient Israel and Its Literature 48 (Atlanta: SBL Press, 2023); Nelly Stienstra, *YHWH Is the Husband of His People: Analysis of a Biblical Metaphor with Special Reference to Translation* (Kampen: Kok Pharos Publishing House, 1993).

[72] The distinction between Israel and Judah is often collapsed in indissolubilist's treatments of these prophetic texts.

wife; (3) how an illicit one-flesh union is not indissoluble; and (4) the textual presentation of marital dissolution as real. These tensions demonstrate the need to distinguish between corporate covenants that endure through a remnant and individual marriages that may be considered dissolved via punitive expulsion, since the indissolubilist is forced to posit the continuation of a metaphysical bond even when one party has been formally removed from the covenant community.

1.1.2.1 Modern Arguments for Dissolubility of the Marriage Bond

Since the Reformation,[73] Protestant scholars have most often viewed the marital bond as lifelong yet potentially dissoluble in some situations, although disagreements persist as to what constitutes biblical grounds for dissolution. The most traditional and least controversial position, what Wenham and Heth called the "Erasmian position,"[74] considers statements of Jesus and Paul (Matt. 5:32; 19:9; 1 Cor. 7:6-18) as exhaustively presenting all biblical conditions and exceptions for divorce and remarriage:[75] πορνεία in

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[73] Robert M. Kingdon, *Adultery and Divorce in Calvin's Genevag*, Harvard Historical Studies 118 (Cambridge, MA: Harvard University Press, 1995); Martin Luther, "On the Estate of Marriage, 1522." Calvin and Luther both held that remarriage following a legitimate divorce is permissible. Cranmer would add to that cases of abuse, drafting the *Reformatio Legum Ecclesiasticarum* to make this recommendation to Parliament, but was prevented by political conflict. See Amelia Schwarze, "The *Reformatio Legum Ecclesiasticarum*: Cranmer's Provisions for Divorce and Remarriage for Abuse Victims and Its Impact on the Experience of Australian Victims," *Lucas: An Evangelical History Review* 2, no. 14 (December 2019): 83–104.

[74] As others have noted, this label biases the discussion by implying, contrary to the historical evidence cited above, that virtually no one prior to the medieval period held this view.

[75] C. John Collins, *Reading Genesis Well: Navigating History, Poetry, Science, and Truth in Genesis 1-11* (Grand Rapids: Zondervan, 2018), 70, discusses the tendency, when dealing with exceptions in divorce texts, of committing the fallacy of *secundum quid*, or ignoring qualifications. "Observations of billiard balls will never tell you how likely it is that someone might intervene, and the normal statement of the law leaves this out entirely (and properly so)."

the Matthean exceptive clause,[76] and desertion of a non-Christian spouse.[77] A growing number of Protestants suggest grounds for divorce may be broader, particularly if NT divorce pericopes are conceptually rooted in covenant principles of the OT.[78] David C. Jones, for example, recommended the PCA emend the Westminster Confession of Faith (25.6) to replace "wilful desertion" with "repudiation[79] of the marriage covenant," intending to identify abuse as such "repudiation."[80] The marital bond, Jones argued, "is moral, not metaphysical."[81] Against the notion that marital indissolubility is grounded in

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[76] As well as the difficult relationship between *λόγου πορνείας* in Matt. 5:32 and ערות דבר in Deut. 24:1. Πορνεία is variously understood as sexual sin, adultery, or illegitimate marriage (polygamy, incest, or intermarriages prohibited by the Torah). This complex linguistic issue is beyond the scope of this study, but see discussions in *NIDNTTE*, s.v. "πορνεία;" Craig L. Blomberg, *Matthew*, The New American Commentary, ed. David S. Dockery (Nashville, TN: Broadman Press, 1992), 110–11; Davies and Allison, *Matthew*, 1:528–31.

[77] The classic defense of this view is John Murray, *Divorce* (Phillipsburg, NJ: P & R Publishing, 1987); others include Heth, "Jesus on Divorce," Jay E. Adams, *Marriage, Divorce and Remarriage in the Bible*, The Jay Adams Library (Grand Rapids: Ministry Resources Library, 1986).

[78] Wayne Grudem, "Grounds for Divorce: Why I Now Believe There Are More Than Two, An Argument for Including Abuse in the Phrase 'In Such Cases' in 1 Corinthians 7:15," Evangelical Theological Society, November 21, 2019, https://www.waynegrudem.com/grounds-for-divorce-why-i-now-believe-there-are-more-than-two; Wayne A. Grudem, *What the Bible Says about Divorce and Remarriage* (Wheaton, IL: Crossway, 2021); Joe M. Sprinkle, "Old Testament Perspectives on Divorce and Remarriage," *JETS* 40, no. 4 (1997): 546–547. After reviewing OT texts, Sprinkle addresses the NT texts employing the same ethical reasoning employed in the present study: "Only two of these things (sexual immorality and abandonment) are (arguably) explicit grounds for divorce in the NT. *If the covenant principle is behind these applications, however, we might be justified in concluding that the two examples in the NT are not intended to be exhaustive but that other grounds are likewise applicable under the new covenant*" (emphasis added). For a defense of abuse as grounds for divorce, see Barbara Roberts, *Not under Bondage: Biblical Divorce for Abuse, Adultery and Desertion* (Ballarat, VIC: Maschil Press, 2008).

[79] "Repudiation" is historically significant in this regard, meaning wholly reject or disown. The Latin *repudiō* meant to "reject formally" or divorce, (*Oxford Latin Dictionary*, s.v. *repudiō*), and a Roman divorce was called a *repudium,* but Jones' usage differs from the Roman usage in locating the "mechanism" of dissolution in the violation against a spouse, with or without the formality, contrary to WCF which identifies divorce as "dissolving the bond of marriage."

[80] David Clyde Jones, "The Westminster Confession on Divorce and Remarriage," *Covenant Seminary Review* 16 (Spring 1990): 27–8.

[81] David Clyde Jones, *Biblical Christian Ethics* (Grand Rapids: Baker Books, 1994), 204. Also, David Atkinson, *To Have and to Hold: The Marriage Covenant and the Discipline of Divorce* (Grand Rapids: Eerdmans, 1981), 91.

creational ordination,[82] it has been argued that the marital institution, not a particular marriage, constitutes the creational ordinance.[83]

That the marital bond is moral rather than metaphysical stems in part from the traditional Jewish legal framework in which the marriage contract entailed rights, obligations, and penalties for breech such as divorce, fines, or dowry forfeiture.[84] While Deut. 24:1–4 is central to understanding the divorce certificate, David Instone-Brewer contributes renewed attention to the fact that Exod. 21:10–11 (law of אמה manumission)[85] is central to the Jewish understanding of marital obligation.[86] In particular, this text serves as the ground for material, emotional, and sexual provision as marital obligations—and thus grounds for divorce for failure to provide—in rabbinic

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[82] D. A. Carson, "Matthew," in *The Expositor's Bible Commentary. Vol. 8: Matthew, Mark, Luke*, ed. Frank Ely Gaebelein (London: Pickering & Inglis, 1984), 412.

[83] Craig L. Blomberg, "Marriage, Divorce, Remarriage, And Celibacy: An Exegesis of Matthew 19:3-12," *The Trinity Journal* 11 (1990): 168. This aligns with Hamer, *Marital Imagery in the Bible,* in which the primal couple's literal one-flesh bond can never be replicated by mundane marriage.

[84] David Werner Amram, *The Jewish Law of Divorce* (1896; Wentworth Press, 2019), 56-57. The contractual nature of marriage from the Jewish standpoint: "By virtue of the position the woman assumed in the husband's household, she obtained certain rights from him. He having taken her into his *manus*, the law imposed upon him certain obligations towards her."

[85] In biblical Hebrew, the term אמה primarily designates a non-free female, often appearing alongside עבד (male servant) in legal contexts. While frequently used to describe female servants (e.g., Gen. 30:3; Exod. 2:5; 20:10, 17; 1 Sam. 1:11), אמה often carries connotations of marriage or childbearing, as seen, for example, in the references to Hagar (Gen. 20:17). Unlike שִׁפחה, which highlights a woman's status as a servant, אמה emphasizes her gender and associated vulnerability, whether married or marriageable (Schultz, "אָמָה," *NIDOTTE,* 1:420).

[86] David Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context* (Chicago: Wm. B. Eerdmans Publishing Co, 2002).

literature.[87] Consequently, the sending away of Hagar may be considered divorce,[88] or at least divorce-adjacent,[89] considering Sarah's giving Hagar to Abraham as an אמה and Hagar becoming Abraham's wife (אשׁה; cf. Gen. 16:3–4), consistent with the ANE fertility practice of concubinage.[90]

Sprinkle suggests the dissolubility of marriage stems precisely from its covenantal nature, as distinct from the ontological kinship view.[91] He argues that the nature of covenants provides for nullification for persistent failure to uphold covenant obligations.[92] Kinship and covenantal views are not mutually exclusive, however. Noting the ANE connection between marriage and kinship, Hugenberger clarifies, contrary to Cross and Wenham, that such a bond is not indissoluble. Hugenberger's (now nearly

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[87] E.g., m. Ketub. 5:6, 8; 7:1; j. Ketub. 5:7; b. Ketub. 61b. This three-fold maintenance clause appears verbatim in a number of ancient Jewish and Samaritan marriage contracts; see collections in Mordecai Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*, The Ketubba Traditions of Eretz Israel & The Ketubba Texts (Jerusalem: Daf-Chen Press, 1980) and J. Bowman, trans., *Samaritan Documents Relating to Their History, Religion and Life*, Pittsburgh Original Texts and Translation 2 (Pittsburgh: Pickwick, 1977), 310, 314, showing that the maintenance clause was employed verbatim from ancient Jewish to 18th–19th century Samaritan *ketubah's*, indicating an unbroken ancient tradition.

[88] גרשׁ האמה הזאת, "expel/divorce this אמה," Gen. 21:10; גרשׁ also means "divorce" in Lev. 21:7, 14; 22:13; Num. 30:9; Ezek. 44:22.

[89] In Gen. 21:12, God tells Abraham to listen to Sarah's voice (שמע בקלה) about expelling Hagar, an ironic echo of Abraham listening to Sarah's voice earlier in 16:2 (וישמע ... לקול שׂרי) when she suggested taking Hagar as a second wife. Gordon J. Wenham, "The Gap Between Law and Ethics in the Bible," *JJS* 48 (1997): 17–29, demonstrates that Genesis 16 contains intentional echoes of Genesis 3, including Adam listening to his wife's voice in v. 17 (שמעת לקול אשתך), equating the sin of the latter with the former. The expulsion, therefore, is approved by God, but is a consequence of a prior act which was not.

[90] David L. Baker, "Concubines and Conjugal Rights: ענה in Exodus 21:10 and Deuteronomy 21:14," *ZAR* 13, no. 1 (2007): 87–101.

[91] Joe M. Sprinkle, "Old Testament Perspectives on Divorce and Remarriage," *JETS* 40, no. 4 (1997): 529–50.

[92] Sprinkle, "Old Testament Perspectives," 546. Although, Sprinkle's use here of the language of upholding one's "end of the bargain" is perhaps objectionable on the ground that covenant dynamics are not based on contingent reciprocity.

standard) definition of covenant, therefore, is "an elected, as opposed to natural, relationship of obligation under oath."[93] From this basis, Heth now agrees marriage "is not an indissoluble union, just one that should preeminently not be dissolved."[94]

While the dissolubility arguments, both Protestant and Jewish, are better able to account for the conditional, obligational nature of covenants, and the fact that Scripture presents marital dissolution as real,[95] a tension emerges between divorce as the liberation of an injured spouse, and divorce as the removal of the covenant-breaker. Three biblical patterns require attention in this regard. First, Israel's exile is metaphorically characterized as divorce (Hos. 1–3; Isa. 50:1; Jer. 3:8). Second, the Hebrew verbs for divorce (שׁלח and גרשׁ,[96] both meaning "send away" or "expel") lexically encode divorce as expulsion. Third, divorce in the Hebrew Bible is never depicted as the liberation of an

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[93] Hugenberger, 11.

[94] Heth, "Jesus on Divorce," 19.

[95] This is based on three primary observations. First, in Lev. 21:7, high priests are prohibited from marrying divorcées, implying divorcées were otherwise free to remarry, which should not be the case if marital dissolution was impossible. Second, in Deut. 24:1–4, only the restoration of the first marriage is prohibited, not the wife's remarriage in v. 3. Third, the OT never suggests clearly that a marital bond persists beyond divorce. See discussion in §5.1.2.

[96] שׁלח refers to divorce eight times (Gen. 21:14; Deut. 21:14; 22:19, 29; 24:1, 3; Jer. 3:1; Mal. 2:16), גרשׁ five times (Lev. 21:7, 14; 22:13; Num. 30:9; Ezek. 44:22), and the noun כריתות four times (Deut. 24:1, 3; Isa. 50:1; Jer. 3:8). שׁלח and גרשׁ are both used to refer to God's expulsion of Adam, Eve, and Cain from the garden (Gen. 2:23; 2:24; 4:14 [גרשׁ]); גרשׁ is also used to refer to expulsion of Canaanites (Exod. 23:29, 30; 33:2, 22; 34:11; Deut. 33:27; Josh. 24:12; Judg. 2:3; 6:9; 1 Chron. 17:21; Ps. 78:55; 80:8 [9]); for Judah driven from Canaan by Moab (1 Chron. 20:11); for Egyptians driven from Egypt (Exod. 6:1; Ezek. 31:11); and once for the northern kingdom's exile (Hos. 9:15). As will be discussed in §2.2.1.1, the noun כריתות is derived from the verb כרת and thus may provide a lexical warrant for connecting divorce with "cutting off" or expulsion. Although J. J. Finkelstein, "Cutting the *sissiktu* in Divorce Proceedings," *Die Welt des Orients*, 8 (1976): 236-240, suggests כריתות as a term for divorce may reflect the Mesopotamian practice of cutting a garment hem from an adulterous wife in divorce; this is also discussed in §2.2.1.1.

injured spouse. Taken together, these patterns suggest punitive expulsion as the most consistent conceptualization for divorce in the OT.

1.2 Importance of the Present Study

Those who suggest the marital bond is indissoluble and remains despite adultery or divorce helpfully identify (1) the covenantal nature of marriage and that the marital covenant forms a kind of kinship bond, (2) that the divorce process does not dissolve a marriage union and it cannot simply be nullified by withdrawing consent, and (3) that the covenant between Yahweh and Israel did not ultimately end in dissolution despite Israel's apostasy, or that dissolution preceded reconciliation in the case of Judah. Those who suggest the marital bond is dissoluble in certain situations helpfully identify (1) marriage as a covenant entails obligations and penalties for breech, (2) that marriage constituting a kind of kinship does not make it ontologically indissoluble, (3) the prophetic divine-mundane marital metaphor primarily informs Israel's understanding of her covenant violations against Yahweh rather than informing marital practices in light of the divine covenant, (4) the exceptional situations named by Jesus and Paul are not exhaustive teachings on divorce and remarriage (and that exceptions are real exceptions), (5) that Yahweh's pursuit of divorce in response to Israel's apostasy reflects a culturally and legally normative practice, and (6) that "until death" language reflects an ideal and does not logically prohibit remarriage after a valid divorce.

However, there remain unanswered questions and tensions. The divine-mundane marriage metaphor is valid, but the metaphor must be correctly oriented (that is, cross-mapped from mundane marriage to divine marriage and not vice-versa)[97] and interpreted *mutatis mutandis*. Profound ontological and structural differences between them challenge the inference that a divine covenant's irrevocable permanence establishes the absolute indissolubility of the marital covenant. A central asymmetry, inadequately accounted for in contemporary scholarship, is the relationship between punitive expulsion and divorce, and the structural difference between corporate and individual covenants. Interpreting *mutatis mutandis* entails comparing God as united with a singular collective—from which unfaithful individuals may be excised—with two covenanted individuals.

Scholarship on divorce has often not carefully distinguished between Israel and Judah, particularly relating to the marital imagery,[98] leading to polarization between reading these texts as implying either a formal dissolution of the marital covenant or a temporal separation without termination. Collapsing Israel and Judah obscures a legally significant distinction within the prophetic corpus between Yahweh's treatment of the two kingdoms. More seriously, distinguishing the two kingdoms is the only means whereby God's declarations of exile and annihilation juxtaposed with hope of restoration are coherent. After eight chapters of Amos' description of judgment and exile of Israel, Amos 9:11 says "I will raise up the fallen booth of David," and "I will restore the fortunes of my people Israel," (v. 14). The "booth of David" is the hope for the

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[97] The focus of Hamer, *Marital Imagery in the Bible.*

[98] Scholars specializing in the prophets rarely make this error; this conflation of Judah and Israel is typically cross-disciplinary.

apostatized northern tribes. This declaration is coherent only if the corporate covenant structure is maintained.

Divine judgment can remove individuals from the covenant community—as seen in Israel's exile, Judah's temporary return, and the final destruction of Jerusalem in 70 CE following the Messiah's rejection—while preserving a faithful remnant as Yahweh's covenant people (Num. 15:30–31; Matt. 3:9–10; John 15:2, 5–6; Rom. 11). Remnant preservation prevents covenantal "vacancy" and therefore forestalls *ipso facto* dissolution at the corporate level.[99] Corporate-remnant logic does not apply to marriage. In such cases, punitive expulsion necessarily produces vacancy and thus marital dissolution. Our reading of the divine-mundane marriage metaphor must respect this asymmetry, thereby accounting coherently for why covenants cannot be dissolved merely by will, why the divorce process itself does not dissolve the marital bond,[100] and why Scripture nevertheless presents marital dissolution as a real legal outcome (Deut. 24:1–4; Ezra 9–10; 1 Cor. 7:15).

Finally, while it is often recognized that Israel as a covenanted entity exists on both a corporate and individual level, such a framework, to my knowledge, has not previously been applied to the prophetic marital imagery or to the issue of divorce. It

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[99] Gerhard F. Hasel, *The Remnant: The History and Theology of the Remnant Idea from Genesis to Isaiah* (Berrien Springs, MI: Andrews University Press, 1972), 375, concludes that the remnant idea is two-fold: "(1) Through the survival of a remnant of human entities the continuity of existence and the preservation of life of these entities is guaranteed; and (2) the life and existence of human entities ceases when no remnant survives."

[100] This appears to be part of Paul's point in 1 Cor. 7. By saying the believing spouse should not separate from the unbeliever, he counters the notion that one may be divorced by withdrawing consent, the Roman legal standard. Here Paul echoes Jesus' teaching that one simply cannot issue a certificate of divorce and be divorced. A legal procedure does not dissolve the marriage, be it the Jewish certificate or the Roman withdrawal.

would appear that all the puzzle pieces already exist in contemporary Evangelical theology, but a few border pieces remain in the box. Perhaps this is why some elements of the picture still conflict. This study aims to place at least one of those pieces.

1.3 Methodology

The arguments above for the indissolubility of the marital bond typically begin by first considering the most explicit texts concerning marriage and the covenant concept (Gen. 2:24; Matt. 19:4–6; Eph. 5:31–32), then interpreting passages that address divorce in light of those conclusions. None of these texts, however, can (or was intended to) provide a full explication of marriage's ontology, permanence, conditionality, obligations, or purpose. Each contributes important insight, but together they yield less than a comprehensive definition or description. The same may be said of the divorce pericopes, which are likewise occasional, context-bound, and limited in scope. It must therefore be acknowledged—and this point is unlikely to be controversial—that Scripture does not present systematic or exhaustive treatises on marriage and divorce, but rather a small handful of context-specific disclosures that require integrative interpretation.

In Protestant hermeneutics, the principle of the analogy of Scripture (*analogia scripturae*), holds that a doctrine must be based on all relevant texts. "The obscure passage yield(s) to a clear passage."[101] Accordingly, it is doubtful that Gen. 2:24, Matt. 19:4–6, and Eph. 5:31–32 are sufficiently self-explanatory to establish a comprehensive doctrine of marriage without the contributions of the various divorce pericopes, whether

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[101] Bernard L. Ramm, *Protestant Biblical Interpretation: A Textbook of Hermeneutics*, Rev. ed., (Grand Rapids: Baker Books, 1987), 55.

literal (e.g., Deut. 24:1–4; Matt. 5:31–32; 19:9) or metaphorical (e.g., Hos. 2; Ezek. 16).[102] While explicit marriage texts appear to settle the issue, Lewis' warning is appropriate: "We turn to the helps only when the hard passages are manifestly hard. But there are treacherous passages which will not send us to the notes. They look easy and aren't."[103]

In contrast to the deductive approach, and motivated by fidelity to the analogy of Scripture, the present study will employ abduction—inference to the best explanation—in which a hypothesis is provisionally adopted to assess its explanatory power across diverse phenomena in response to a surprising fact.[104] The surprising fact in this case is the paradoxical observation that (1) the Bible seems to deny that covenants can be dissolved at will, by a legal process, or by marital breach, (2) the Bible identifies marriage as a covenant, and yet (3) the Bible appears to present marital dissolution in some cases as real (e.g., Deut. 24:1–4; Ezra 9–10; 1 Cor. 7:15). Wenham and Heth frame their argument against both "dissolution divorce"—the claim that the marital bond is dissolved by a breach such as adultery—and the efficacy of legal process to dissolve a marital union. I happily concede both points. It does not follow, however, that dissolution is therefore impossible; the Hebrew Bible's portrayal of dissolution as genuine instead

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[102] Keener, *Remarriage After Divorce,* 51. Similar to this thesis, Keener expresses a need for an approach that "reads the smaller number of texts (that merely assume exceptions) in light of the larger number (that state them)" rather than reading "the larger number of texts in light of the smaller number. That is, should we explain Jesus' generalized and terse statements as general principles and hyperbole (demonstrably common in his teaching), or as exceptionless rules that make nonsense of the normal meaning of the exceptions?"

[103] C. S. Lewis, *The Discarded Image* (Cambridge: Cambridge University Press, 1964), vii.

[104] Charles Sanders Pierce, *Collected Papers of Charles Sanders Pierce*, ed. Charles Hartshorne, Paul Weiss, and Arthur W. Burks, (Cambridge, MA: Harvard University Press, 1931–1958), §§1:66-67.

compels the search for a model capable of explaining the above paradox. I suggest that divorce as punitive expulsion and marital dissolution by resulting vacancy is the resolution.

For an example of abductive reasoning as suggested in this study, in Genesis 2:24, does the man "cleaving" (דבק) to his wife and the two becoming "one flesh" indicate an indissoluble bond,[105] such that the first marriage in Deuteronomy 24:1–4 is never dissolved and therefore the woman's remarriage constitutes adultery?[106] Or, abductively, does the observation that dissolution occurs—evidenced by the prohibition only of restoring the first marriage but not of entering a second[107]—qualify or condition our understanding of "one flesh" in Gen. 2:24?[108]

Use of the abductive methodology entails the tentative adoption of a particular covenantal model intended to account for both the traditionally foundational marriage texts and the various passages (literal and metaphorical) that address marital rupture, divorce, and restoration. The hypothesis adopted is that (1) divorce is best explained as a

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[105] Laney, 21. Laney describes דבק as "being glued," which may conflate literal and metaphorical senses considering the verb is used almost exclusively metaphorically, and *only* metaphorically of relationships (Brooke, "דָּבַק" *NIDOTTE*, 1:911); the same verb also describes a person's grip on a sword (2 Sam. 23:10), a belt on a man's waist (Jer. 13:11), and Ruth's loyalty to Naomi (Ruth 1:14).

[106] P. C. Craigie, *Deuteronomy*, NICOT (Grand Rapids: Eerdmans, 1976), 304–5. Craigie's view is representative of this interpretation, which attributes the wife's "becoming defiled" to an adulterous second marriage. This view is critiqued in §2.3.1, "Uncertainty of the Meaning of ערות דבר in Deuteronomy 24:1."

[107] Deut. 21:10–14 must also be entered into the discussion. In the instance of a man taking a wife from among captives, if he ceases to delight in her is commanded to divorce the woman due to his humiliation of her.

[108] Yaron, "The Restoration of Marriage," proposed an alternative explanation, furthered by Wenham, "The Restoration of Marriage Reconsidered," that the second marriage is legally permissible and the rationale for prohibiting the restoration of the first marriage relates to laws against incest for the purpose of eliminating tension in a "triangle." A challenge with this view is holding permissibility of the second marriage together with Wenham's view of absolute marital indissolubility. An explanation which accounts for both the prohibition in v. 4 with the permissibility of the second marriage is preferrable.

kind of punitive expulsion, and (2) punitive expulsion in the absence of a preservable remnant results *ipso facto* in dissolution of the marital bond.

1.4 Overview of the Study

Following the introduction, literature review, and identification of the research gap, Chapter 2 establishes the juridical analogy between punitive expulsion and divorce. It examines punitive expulsion in the Hebrew Bible and ancient Near East, arguing that this framework best captures the biblical conceptualization of divorce for the following reasons:

1. Divorce does not procedurally dissolve a marital bond but responds formally to covenant forfeiture signaled by enacted repudiation of the covenant, reflected in the Hebrew verbs for divorce, שׁלח and גרשׁ ("dismiss," "expel").
2. The noun for divorce, כריתות,[109] derived from כרת ("cut" or "sever"), may link divorce lexically to the *karet* penalty.
3. The punishment of exile, presented metaphorically in the prophets as divorce, entailed physical expulsion from the land.

Chapter 3 examines narratives underrepresented in scholarship on divorce. The OT contains numerous cases in which divinely granted promises or enduring arrangements are either (1) reversed or terminated or (2) not universally applicable to all participants. After establishing the theological foundation of banishment as a biblical-theological theme, the chapter turns to narratives demonstrating corporate stability despite individual expulsion. For example, in Joshua 7, Israel's inheritance is threatened when Achan takes from the "devoted things" (חרם); he and his family are destroyed,

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[109] Spelled defectively (כְּרִיתֻת) except in Isa. 50:1; cf. Deut. 24:1, 3; Jer. 3:8.

preventing Israel's complete destruction. Similarly, although Aaron's line is granted a perpetual priesthood (חקת עולם; Exod. 27:21; 1 Sam. 2:28, 30), Eli's household (Ithamar's line) is cut off (גדע כרת) for priestly failure. Likewise, enslaved Israel, Yahweh's "firstborn son" (Exod. 4:22), is redeemed corporately, yet households that neglect the Passover incur divine judgment. These cases underscore the distinction between corporate and individual covenant membership, reiterated in the NT by Jesus and John the Baptist (Matt. 3:9–10; John 15:2, 5–6) in connection with punitive expulsion, a category not previously applied to divorce.

Chapter 4 explores asymmetries between the divine covenant and marriage, identifying relevant conceptual and analogical limits. It begins by examining the definition of "covenant," especially the covenant–contract distinction, often overstated; the two are more closely related than commonly acknowledged. Apart from their distinction as documentary forms,[110] attempts to separate covenant and contract frequently betray logical and linguistic assumptions and limitations not accounted for. Regardless of whether covenant and contract are fully discrete, punitive expulsion remains the mechanism by which a serious offender is removed from the community (and marriage), irrespective of how that community or bond is defined.

The chapter then examines continuity and discontinuity between divine covenant and marriage. Drawing on Colin Hamer's study of metaphor theory in relation to Gen.

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[110] Raymond Westbrook, *Old Babylonian Marriage Law*, Archiv Für Orientforschung, ed. Hunger Hirsch, vol. 23 (Horn, Austria: Ferdinand Berger & Söhne, 1988), 58, argues that marriage is a legal status and distinct from a written contract. The distinction between "contract" and "legal status" is that whereas a contract is "a set of rights and obligations" between persons with respect to what is written in the contract, a legal status is "a set of rights and obligations" with respect to legal norms. Hugenberger, *Marriage as a Covenant*, 191-2, likewise distinguishes between the marriage itself and documentary witness, which would often be drawn up after children are born.

2:23–24, it clarifies the proper orientation of the divine–mundane marital metaphor.[111] It also addresses the dangers of overextension and reversal, which can yield problematic conclusions (e.g., legitimizing polygamy or sexualized violence against an adulterous spouse). The profound asymmetry between marriage and the divine covenant therefore delimits the metaphor's rhetorical and theological scope.

Chapter 5 proposes a Punitive–Vacancy–Dissolution Model for marital dissolution within covenant ethics, comprising five elements: (1) the nature of the marital bond, (2) its dissolubility, (3) the meaning and purpose of divorce, (4) the mechanism of dissolution, and (5) legitimate conditions for divorce. The model is advanced as the most coherent account of OT marriage and divorce texts, followed by preliminary engagement with relevant NT passages and guiding questions for further interaction.

The chapter concludes with ethical implications. Rather than focusing narrowly on the technical permissibility of divorce and remarriage, ethical reflection should foreground the gravity of covenant violation—especially in a cultural context that lacks categories such as sanctity, degradation, and treachery.[112] Because the fifth commandment grounds social stability in familial stability, marital conduct, divorce, and remarriage are matters of social ethics and justice, not merely individual morality. Scripture does not treat divorce as more serious than adultery or abuse—if anything, the inverse is true—and the church should reflect this priority.

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[111] Hamer, *Marital Imagery in the Bible.*

[112] Jonathan Haidt, *The Righteous Mind: Why Good People Are Divided by Politics and Religion*, (New York: Pantheon Books, 2012).

A persistent tendency among indissolubilists is to treat Jesus' general prohibition of divorce (with an explicit exception) as overriding the obligational dynamic of covenants, effectively reducing the marital covenant to an unconditional promise, absolute and without exception or nuance. This study argues that allowing theological ideals to eclipse divinely permitted concessions inverts the metaphor, confusing the sign for the thing signified. If Jesus intensifies the significance of marriage (rather than merely restating the Law's ethical ideal), this should heighten the importance of (1) forgiveness for the repentant spouse and (2) the seriousness of covenant obligations and violations—not merely divorce avoidance—at least until hardness of heart no longer poses a threat to shalom. If marriage is a social good, then marital conduct, divorce, remarriage, and parenting belong properly to the domain of social ethics and justice, not merely personal morality.

Chapter 2

Punitive Expulsion as a Juridical Analogy to Divorce

The Hebrew Bible's[1] conceptualization of divorce has received little focused attention. By "conceptualization of divorce," I mean the moral-legal accounting of its operation, its intended purpose, and which spouse is the primary recipient of its action. In the relevant literature, divorce is typically understood either as liberative,[2] focused on the wronged spouse and releasing them from intolerable conditions,[3] and occasionally disciplinary,[4] focused on the offending spouse as a legal response to marital breach. This distinction, however, has not been adequately addressed.

A central gap in scholarship concerns how to reconcile two features of covenantal marriage: the bond is not terminable at will nor by breach,[5] and yet its dissolution is

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[1] This study employs "Hebrew Bible" when referring to the text in its literary-historical context, and "Old Testament" when engaging its canonical role and function in Christian theology.

[2] E.g., John Murray, *Divorce* (Phillipsburg: P & R Publishing, 1987), 27, who suggested Jesus "instituted divorce as a means of relief for the husband in the case of adultery on the part of the wife." Additionally, recent books such as Gretchen Baskerville, *The Life-Saving Divorce: Hope for People Leaving Destructive Relationships* (Torrance, CA: Life-Saving Press, 2020), providing Christian guidance, explicitly frame divorce in this way. The purpose in this study is not to deny that leaving an abuser can be necessary, but merely to clarify the biblical depiction of divorce in a way that more thoroughly acknowledges its connection to justice.

[3] E.g., regarding Deut. 22:19 in which the husband falsely accuses the bride of זנה, C. F. Keil, "The Fifth Book of Moses (Deuteronomy)," trans. James Martin, in *Commentary on the Old Testament*, by C. F. Keil and F. Delitzsch, (Edinburgh: T & T Clark, 1866), 1:946, says "they were to deprive the man of the right of divorce *from his wife*" (emphasis added). Similar language is typical and construes divorce as a freedom-right which, in this case, likely misses the point of the text: the false accuser, due to the damage he has caused the girl and her family, loses the ability to expel the wife for future wrongdoing.

[4] William F. Luck, *Divorce and Remarriage: Recovering the Biblical View* (San Francisco: Harper & Row, 1987), 82–4, distinguishes between "disciplinary" and "treacherous" divorce (referring to legitimate and illegitimate).

[5] As mentioned in Chapter 1, Wenham and Heth, *Jesus and Divorce,* framed their argument as against "dissolution divorce," the notion that the marital bond is dissolved by a breach like adultery, and against the efficacy of a legal process to dissolve a marital union. I concede both observations. It does not follow,

clearly attested. Existing treatments diverge widely: some deny that the bond can be dissolved, others view marriage as dissolved procedurally by formal divorce, and still others regard covenant-breaking itself as dissolutive. None adequately accounts for all three features. This problem persists in part because divorce has not been examined in light of punitive expulsion or the corporate–individual distinction, which together clarify how corporate covenant membership may be forfeited without immediate corporate dissolution. The proposed solution is a comprehensive account of divorce as a juridical response to covenant rupture resulting in dissolution by expulsion.

The chapter is organized in two parts. The first begins with a general discussion of punitive expulsion in the ancient Near East and the Hebrew Bible, followed by a discussion of the correspondence between punitive expulsion and divorce: the semantic overlap of expulsion and divorce terminology and the prophetic framing of Yahweh's expulsion of the northern kingdom as divorce. For these reasons it is concluded that the punitive expulsion framework best explains the biblical notion of divorce.[6]

The second part addresses three potential objections to a punitive expulsion framework for divorce: (1) uncertainty regarding the meaning of ערות דבר in Deut. 24:1; (2) biblical examples of divorce which are not clear cases of punitive expulsion,

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however, that dissolution is impossible. The OT's depiction of dissolution as genuine impels the search for an explanatory hypothesis.

[6] Although differing from this proposal which understands dissolution as related to vacancy following expulsion, perhaps the clearest statement of divorce understood as expulsion besides this thesis is from Reuven Yaron, "On Divorce in Old Testament Times," *Revue Internationale Des Droits de l'antiquité* 3, no. 4 (1957): 117: "Several stages of development can be observed in Biblical divorce. At first it was essentially informal, and consisted primarily in the removal of the wife from the house of her husband. Later it became formal, and expulsion in disregard of form did not dissolve the marriage." By "did not dissolve," Yaron refers to divorce later (meaning in Deuteronomy) requiring the bill of divorce to be valid; the focus of this thesis is theological and conceptual rather than on the legal procedure in its development and practice.

including termination of intermarriages in Ezra 9–10, desertion, which is not observed in the OT but upheld as a legitimate occasion for divorce in the NT; and (3) the husband's permission to terminate a marriage to a captive wife at will in Deut. 21:10–14.

2.1 Punitive Expulsion in the Ancient Near East and the Bible

For numerous offenses in the Torah the offender is to be "cut off" (כרת) from his people or from the land. Recently, Hobson has shown many examples of such banishment occurring in the ancient Near East, similar but not directly parallel to the biblical data.[7] The following will examine a few examples of punitive expulsion in the ancient Near East followed by the biblical data.

2.1.1 Punitive Expulsion in the Ancient Near East

Punitive expulsion occurs infrequently in ANE legal texts. In law collections, CH §154 alone explicitly names banishment of an offender as a penalty, in this case for incest:

> "If a seignior has had intercourse with his daughter, they shall make that seignior leave the city."[8]

Here expulsion occurs due to the heinousness of a crime not deserving of death. In addition, while laws from ancient Egypt have not survived, legal documents such as lawsuits shed light on legal norms. In one example, the Inscription of Mes (18th Dynasty,

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[7] G. Thomas Hobson, "'Cut Off From (One's) People': Punitive Expulsion in the Torah," (Ph.D. Dissertation, Concordia Seminary, 2010); "Punitive Expulsion in the Ancient Near East," *ZAR* 17 (2011): 15–32.

[8] *ANET*, 172.

c.a. 1539–1292)[9] details a property lawsuit involving tomb robbery. The penalty for perjury agreed upon by witnesses in the case was mutilation and banishment.[10]

Expulsion of the offender is not limited to legal corpora; in the "Myth of Enlil and Ninlil," a third millennium Sumerian text, when the god Enlil rapes and impregnates the young female Ninlil, a divine council banishes Enlil from Nippur, declaring, "This sex-criminal Enlil will leave the town!"[11] Hobson notes that the Sumerian word uzug$_4$, here translated "sex-criminal," and its Akkadian cognate found in similar texts, "convey a meaning that ostensibly stands behind both the punitive expulsion in CH §154 and the Torah's practice of *kareth*."[12] Punitive expulsion, then, functions as a response to intolerable offenses where execution is not warranted, or as an alternative to execution, and is evidenced across diverse ANE societies and eras.[13]

2.1.1.1 Divorce in the Ancient Near East was Expulsion

Although marriage in the ANE was considered a status and not a contract,[14] it nevertheless functioned "contractually" in that both husbands and wives had legal rights

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[9] According to chronology by Erik Hornung, *History of Ancient Egypt,* (Ithaca, NY: Cornell University Press, 1999).

[10] Raymond Westbrook, ed., *A History of Ancient Near Eastern Law*, vol. 1, Handbook of Oriental Studies. Section One, The Near and Middle East, Handbuch Der Orientalistik 72 (Leiden: Brill, 2003), 346.

[11] "Myth of Enlil and Ninlil," Line 59, translation by Thorkild Jacobson, *Sumerian Mythology: A Review Article*, *JNES* 5, no. 2 (1946): 133.

[12] Hobson, "Punitive Expulsion," 4–5; see also, "Cut off From (One's) People," Chap. 3.

[13] For a catalogue of ANE examples, see Hobson, "Punitive Expulsion."

[14] Raymond Westbrook, *Old Babylonian Marriage Law,* 58. As stated above, the distinction between "contract" and "legal status" is that whereas a contract is "a set of rights and obligations" between persons with respect to what is written in the contract, a legal status is "a set of rights and obligations" with respect to legal norms.

to dissolve the marriage,[15] while penalties for breach or groundless divorce often varied depending on contract stipulations.[16] Relevant to our topic, practices of divorce across the ancient Near East, with some exceptions,[17] reflect a conceptualization of divorce as expulsion. As in biblical law, ANE laws present adultery as a capital crime,[18] although the husband typically had wide discretion regarding pardon and penalty.[19] Thus, divorce in practice did include occasions of adultery in addition to lesser offenses.[20]

Westbrook notes that in the Demotic papyri, the word used generally for divorce, *ḫ3ʿ*, meant "expulsion" or "repudiation."[21] LE §59 states that a man who divorces his wife (assumed without justification), if they have children, is to be expelled from their house. In an Akkadian document from Ugarit (c.a. 1245–1215), King Piddu divorced his wife by banishing her to another city.[22] In line with the theme of "cutting off" within divorce is the ancient Mesopotamian practice of "cutting off the hem" of a wife as a symbolic act in

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[15] There were important restrictions on unilateral divorce. CH §148 states that a man cannot divorce his wife if he marries another woman when the first has a chronic illness; he must support her all her life.

[16] Westbrook, *History*, 1:48. "While contractual terms could not directly abrogate rights of the husband or wife under the rules of the status of marriage, they could affect them indirectly, by imposing penalties on their exercise, for example, on divorce."

[17] E.g., desertion in CH §137; although it is argued later that desertion still fits within a punitive expulsion framework on the grounds that expulsion is precluded when the offender vacates or offends by vacating. Desertion may be considered self-expulsion.

[18] LE §§28–29; LH §§195, 197; cf. Lev. 20:10; Deut. 22:22–24.

[19] Westbrook, *History,* 1:417. Westbrook does not list the ANE evidence for husband's discretion, but it can be found in CH §129; MAL §§14–16; and LH §§197–8.

[20] This appears to be the case within the biblical context as well since there are no extant records of execution for adultery, arguably with the (metaphorical) exception of the northern kingdom of Israel (Ezek. 16:40).

[21] Westbrook, *History,* 2:836–837.

[22] Ras Shamra 1957.1, lines 6–13, cited in Hobson, "Cut off from (One's) People," 83–84.

divorce. It has often been suggested that the Hebrew noun for divorce, כריתות (derived from כרת), may be an artifact of this practice.[23] It is entirely possible, however, that the act may have symbolized the cutting off or expulsion of the spouse.[24]

Not every divorce is described as expulsion, however. CH §137 requires the man who divorces the wife who bore him children—we would call this desertion—return her dowry and give her a plot of land.[25] A similar practice is found in Deut. 21:10–14, further discussed below, in which an Israelite man who takes a wife among captives who is no longer pleased with her is commanded to divorce her (ושלחתה) because he has humiliated (ענה) her. Thus, the husband takes the penalty for breach upon himself, liberating the wife to go wherever she wishes. Expulsion is unnecessary in the conditions of desertion or repudiation by the husband in a culture where only the man has legal right to initiate divorce; she is the one who must depart, although the departure is not expulsion.

The above exceptions notwithstanding, divorce for a cause of wrongdoing, not by mutual agreement, and for a cause less than adultery (unless the husband decreased the penalty), is understood as expulsion. Divorce as expulsion is therefore part of the conceptual world of the Bible and the ANE, providing conceptual background to

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[23] J. J. Finkelstein, "Cutting the Sissiktu in Divorce Proceedings," *Die Welt Des Orients* 8 (1976): 236–40; Tigay, *Deuteronomy,* 221–222. Additionally, Ruth 3:9 may likewise refer to a corollary (betrothal) of this practice.

[24] David L. Lieber, "Divorce," in *Encyclopaedia Judaica*, 2nd ed, 5:710; Westbrook, *History*, 1:388: "This act may have symbolized divorce in addition to or instead of the formula ["You are not my wife; I am not your husband"], or it may have referred to some collateral issue, such as marital property." Forfeiture of property may also be a synecdoche for expulsion; it is difficult to imagine forfeiture of marital property where the forfeiter does not vacate.

[25] This reflects precisely the purpose of the dowry; betrothal was legally accomplished between families by the payment of the *mohar* or "bridal gift" from the groom's parents to the bride's, and often the payment of the dowry to the groom. Both the *mohar* (a measure of damages) and the dowry financially secured a wronged spouse in the case of breech of betrothal or groundless divorce. See Westbrook, *History*, 1:46.

Yahweh's choice of death for Israel and some of Judah (the lawful response to adultery and whoredom[26]) and temporal punishment (purgation) for a remnant, as was the prerogative of the injured husband.[27]

2.1.2 The Hebrew Bible

In Jewish tradition, punitive expulsion is known as *karet* (כָּרֵת), understood differently as either destruction or expulsion. Hobson's work helps establish the biblical concept of *karet*, and Sklar's demonstrates that *karet* can be committed individually and corporately, a discussion which serves foundationally for understanding exile as punitive expulsion.

The verb כרת most basically means "cut" or "sever," but its semantic range is complicated by both physical and metaphorical usage, and because the word functions destructively or constructively depending on its object.[28] To כרת a tree is a physical act (Deut. 20:20), but to כרת a covenant[29] means to establish, or "cut," a new covenant.[30]

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[26] Deut. 22:21 commands stoning a woman for לזנות בית אביה, "whoring in her father's house."

[27] Admittedly the metaphor is mixed, even within passages. E.g., Ezek. 16 displays a blend of temporal judgments (vv. 37–38, 54) and execution (v. 40) for the whoredom of Judah.

[28] For a detailed lexical study of the word, see G. Thomas Hobson, "KARATH as Punitive Expulsion," in *Greeks, Jews, and Christians: Historical, Religious and Philological Studies in Honor of Jesús Peláez Del Rosal*, ed. Lautaro Roig Lanzillotta and Israel Munoz Gallarte, Estudios de Filología Neotestamentaria 10 (Córdoba: Ediciones El Almendro, 2013), 67–89.

[29] The phrase כרת ברית occurs 146 times.

[30] Various verbs of introduction for a ברית are exhibited throughout the OT. The standard verb for establishing a new covenant is כרת, "cut" (146x) whereas הקים (*hiphil* of קום), the second most common verb of covenant introduction (34x), means to uphold or remain faithful to an existing covenant. For example, in Gen. 9 God is likely not "cutting" a new covenant but appears to be upholding (הקים) and emphasizing his creational covenant with Adam. In Jeremiah 31:31, Yahweh says וכרתי...ברית חדשה, "I will cut…a new covenant," indicating the establishment of a new covenant "with the house of Israel and the house of Judah." But in Ezekiel 16:62, he says והקימותי אני את־בריתי אתך, "I will uphold ("establish" in

"Cutting" as a self-maledictory oath-sign in covenant making is attested in Hebrew, Aramaic, Phoenician,[31] and Akkadian.[32] The word's usage for establishment and removal with regard to covenants is fitting when considering the covenant form as indicating a self-maledictory oath-sign.[33]

Twenty-eight times in the Torah, with the highest concentration in Leviticus, certain offenses call for the offender to be "cut off" (כרת).[34] Hasel explains:

> "It is certain that the final goal of the sentence was the premature death of the offender...In the majority of offenses, 'cutting off' means a 'cutting out' which leads to 'banishment' or 'excommunication' from the cultic community and the covenant people...the cultic community or the clan can 'cut off' the offender (to the extent that the offense is known) from life in God's presence through exclusion. The one so cut off is then left to God as the ultimate agent of final punishment."[35]

Contrary to Jewish tradition, which has long defined *karet* as an extermination curse,[36] Hobson demonstrates that most instances of *karet* involve expulsion, although a few

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most EVV) my covenant with you," indicating continued covenantal fidelity toward Judah, although they must go into exile. This distinction between כרת ברית and הקים ברית (or more rarely, צוה [4x], נתן [3x], and שׂים [1x]) appears stable from Genesis to Qumran.

[31] E.g., a Phoenician inscription dated to the seventh century BCE contains the line, "Aššur has established (*krt*) an everlasting covenant with us." See Ziony Zevit, "A Phoenician Inscription and Biblical Covenant Theology," *IEJ* 27 (1977): 110–18.

[32] Hugenberger, 198. Additionally, a cuneiform text from Qatna shows a self-maledictory covenant sign which involved separation rather than cutting.

[33] See discussion of circumcision in Chapter 3.

[34] Gen. 17:14; Exod. 12:15, 19; 30:33; 30:38; 31:14; Lev. 7:20, 21, 25, 27: 17:4, 9, 10, 14; 18:29; 19:8; 20:3, 5, 6, 17, 18; 22:3; 23:29; Num. 9:13; 15:30–31; 19:123; 19:20.

[35] G. Hasel, "כָּרַת," *TDOT,* 7:339–52.

[36] D. Wold, "The Meaning of the Biblical Penalty 'Kareth,'" Berkeley 1978; J. Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary*, AYB 3, New York 1991, 457–60; According to Richard Steiner, *Disembodied Souls: The Nefesh in Israel and Kindred Spirits in the Ancient Near East, with an Appendix on the Katumuwa Inscription*, Ancient Near East Monographs, 11 (Atlanta, GA: SBL Press, 2015), 126, the expression "and that person will be cut off from his people" (ונכרתה הנפש ההוא מעמיה) is the antonym of "and he will be gathered to his people" (ויאסף אלעמיו). That is, being cut off from

instances involve execution: violating the sabbath (Exod. 31:14; Num. 15:32–36), sacrificing to Molech (Lev. 20:1–5),[37] certain sexual sins (Lev. 18:29, Lev. 20), and some instances of defiant, or "high-handed," sins (Num. 15:32–36). A complication arises in that this last category often includes banishment or spatial restriction as an alternative to extermination.[38]

Numbers 15:30–31 addresses sinning ביד רמה, "with a raised hand," which is *karet* worthy. The person committing a "high-handed" sin has "blasphemed Yahweh" (את־יהוה הוא מגדף, v. 30) and "despised the word of Yahweh" (כי דבר־יהוה בזה, v. 31), signaling defiance or rebellion. This person[39] is to be cut off (תכרת) and "his iniquity will be upon him" (ההוא עונה בה), indicating this sin comes with no opportunity for atonement, analogous with the law of חרם ("devotion to destruction").

Sklar has helpfully mapped three categories of sins in the Torah in relation to the possibility of atonement: *unintentional* sins, *intentional* (but not necessarily high-handed)

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one's people is the opposite of being "gathered" to one's people, an expression of death versus life in ANE conceptualization. For a protestant defense of this view, see Wenham, *Leviticus,* 242, 285–86.

[37] Wenham, *Leviticus,* 285, observes that execution for sacrificing to Molech is contrasted with *karet* in Lev. 20:2–5 in that while *karet* is not execution by human agency, it entails direct lethal punishment by Yahweh. Although, since Israel and Judah are also "cut off" (1 Kgs. 9:7; Hos. 8:4; Jer. 44:7, 11; Ezek. 14:13) by Yahweh, using Assyria and Babylon as instruments of punishment, the distinction between direct and mediated divine punishments is unclear.

[38] Hobson, "'Cut Off From (One's) People,'" 180–81. The emphasis of *karet* on expulsion becomes much clearer with the ANE comparisons above.

[39] While this penalty always refers to individuals, it is clear in the narrative examples that "high-handed" sins can be committed corporately.

sins, and *high-handed* sins; only the first two categories may be remedied by sacrificial atonement.[40] Sklar explains:

> "The person who sins with a high hand is doing so defiantly as one who has completely rejected the covenant Lord himself. In short, it is the defiant sin of an apostate that is in view, sin for which no sacrificial atonement is possible."[41]
>
> "They have not simply rejected the King of heaven, but raised their hands in rebellion against him, and can now expect the punishment that kings execute on rebels, namely, removal from the kingdom."[42]

As Sklar notes, there remains the possibility of pardon in the event of mediatory intercession.[43] This is observed in seven narrative accounts in Exodus and Numbers in which the collective people of Israel fully reject Yahweh, yet Moses' intercession is restorative and the Lord does not fully execute *karet*,[44] although some individuals come under *karet* as an execution curse before the sin is pardoned.[45]

In addition to physical expulsion, *karet* may include exclusion or spatial restriction since such rebellious sins essentially forfeit place or status.[46] The preceding narrative, in which Israel refuses to enter Canaan (Num. 13–14), may have prompted the

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[40] Num. 15:20–29; Lev. 5:1, 20–26; See Jay Sklar, "Sin and Atonement: Lessons from the Pentateuch," *BBR* 22, no. 4 (2012): 467–91.

[41] Sklar, "Sin and Atonement," 476.

[42] Sklar, "Sin and Atonement," 487.

[43] Sklar, "Sin and Atonement," 485–490.

[44] Exod. 32:1–34:28 (see discussion of this text in Chapter 3); Num. 11:1–3; 14:1–35; 16:1–17:5 [16:1–40]; 17:6–15 [16:41–40]; 21:4–9; 25:1–13.

[45] E.g., Num. 16:41–50 and possibly Exod. 32:25–28.

[46] Likewise, T. Desmond Alexander, *Exodus*, Apollos Old Testament Commentary 2 (London: Apollos, 2017), 226, when considering the *karet* warning in Exod. 12:15, 19, suggests those who refuse participation "exclude themselves from being members of the 'holy nation.'"

warnings in 15:22–36.[47] This suggests refusal to enter the land constituted a high-handed sin, prompting Yahweh's confirmatory refusal of admittance. Additionally, Moses' subsequent sin at Meribah (Num. 20:1–13), striking the rock with a "raised hand" (וירם משה את־ידו) in defiance of Yahweh's command, was answered with the same divine penalty of refused admittance.[48] These thematic and lexical repetitions confirm the likelihood that expulsion or banishment can include spatial exclusion since the one committing this sin effectively forfeits their place or position. Expulsion and spatial restriction is thus the same penalty enacted differently depending on whether the offence occurs inside or outside the restricted space.

2.2 The Correspondence Between Punitive Expulsion and Divorce

Having observed punitive expulsion as a legal concept in the ANE in both realms of criminal justice and divorce and having observed how the same dual theme is expanded in the Hebrew Bible to include execution, banishment, or exclusion, we can now consider argument for why punitive expulsion is well suited as a framework to conceptualize divorce in the OT. Two primary correspondences between punitive expulsion and divorce support this proposal: (1) the semantic overlap between the vocabulary of punitive expulsion and divorce, and (2) divorce as a metaphor for God's exile of the northern kingdom.

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[47] Benjamin J. Noonan, "High-Handed Sin and the Promised Land: The Rhetorical Relationship between Law and Narrative in Numbers 15," *Journal for the Study of the Old Testament* 45, no. 1 (September 2020): 79–92.

[48] Noonan, "High-Handed Sin," 84-86.

2.2.1 Semantic Overlap Between Vocabulary of Punitive Expulsion and Divorce

The semantic field of banishment and exile is broad, represented by at least fifteen Hebrew verbs,[49] all of which are used to describe the exiles of Israel and Judah. Among these, two—שׁלח and גרשׁ—explicitly carry the meaning of divorce in the prophetic texts and are used expressly for divorce elsewhere (e.g., Deut. 24:1; Lev. 21:7). Two others—עזב and מאס—while not used elsewhere for divorce or spousal rejection, are employed metaphorically to convey that sense. While כרת ("cut," "cut off") is the standard term in the punitive expulsion formula, syntagmatically it only functions in this technical sense in Exodus–Numbers. The concept, however, continues with different verbs and syntagms.[50] The following will briefly list how these verbs are used in relation to exile and divorce.

Eleven verbs refer to Judah going into exile and subsequent purgation. Of these, כרת ("cut off") and שׁלח ("send away," "dismiss," "divorce," particularly in *piel*) both refer to the threat of exile for united Israel—both occur in 1 Kgs. 9:7 in Solomon's temple dedication prayer—as well as the exile of northern[51] and southern kingdoms.[52] Although גרשׁ nowhere refers to Israel's exile, it is used elsewhere for banishment

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[49] שׁלח, גרשׁ, בער, זנח, נדח, דחק, יצא, רחק, נטשׁ, גלה, גדע, מאס. A few others can also cover this semantic domain, but are not useful in this search due to infrequent occurrences that are not directly relevant: יגה (a variant spelling of הגה), נדה, דחק, ירשׁ (the niphal can refer to dispossession but not to rejection or banishment).

[50] Prov. 2:21–22, complete with the verb כרת, may be the clearest presentation of the principle of covenantal punitive expulsion outside the Pentateuch. This theme, theologically and lexically, is also prominent in Psalm 37 with five related occurrences of כרת.

[51] כרת in Hos. 8:4; שׁלח in Jer. 3:8.

[52] כרת in Jer. 44:7, 11, and שׁלח in Deut. 29:28 (exile predicted); 2 Chron. 7:20; Jer. 15:1; 24:5; 29:19; 52:3 (*hiphil*); Isa. 50:1.

including fourteen times regarding expulsion of the Canaanites,[53] a banishment to which the northern kingdom's exiled is later compared (2 Kgs. 17:11). מאס, "reject/spurn," is also employed to refer to exile for both Israel[54] and Judah.[55] Additionally, עזב, "forsake/abandon," is significant, appearing seven times in Isaiah[56] to describe Judah as forsaken by Yahweh, likened specifically to an abandoned or rejected spouse. *Ezēbu*, an Akkadian cognate of עזב means "divorce" in some ANE legal texts.[57] All of these verbs overlap directly or indirectly with divorce considering the prophetic divorce metaphor for the actions which they depict.

2.2.1.1 Biblical Vocabulary of Divorce

There are three Hebrew words for which we may use the gloss "divorce":[58] the verbs שׁלח and גרשׁ, and the noun כריתות.[59] שׁלח refers to divorce eight times,[60] גרשׁ five times,[61] and כריתות four times.[62] שׁלח and גרשׁ basically mean "send away," "dismiss," or

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[53] Exod. 23:28, 29, 30; 33:2, 22; 34:11; Deut. 33:27; Josh. 6:9; 24:12, 18; 1 Chron. 17:21; Ps. 78:55; 80:8 [9].

[54] 2 Kgs. 17:20; Hos. 4:6; 9:17.

[55] 2 Kgs. 23:27; Isa. 54:6; Jer. 7:29; Lam. 5:22.

[56] 27:10; 32:14; 49:14; 54:6, 7; 60:15; 62:4.

[57] E.g., MAL §37; for further citations see *CAD,* s.v. "ezēbu," 4:422.

[58] The classic study, although dated, is Reuven Yaron, "On Divorce in Old Testament Times," *Revue Internationale Des Droits de l'antiquité* 3, no. 4 (1957): 117–28.

[59] כריתות never occurs alone but always as *nomen rectum* of ספר; thus, it should not be used to identify a divorce of a different kind compared to שׁלח since its usage is restricted to type of document and is not a verb for divorce. See discussion in Hugenberger, 72, n. 125.

[60] Gen. 21:14; Deut. 21:14; 22:19, 29; Deut. 24:1, 3; Jer. 3:1; Mal. 2:16.

[61] Lev. 21:7, 14; 22:13; Num. 30:9; Ezek. 44:22.

[62] Deut. 24:1, 3; Isa. 50:1; Jer. 3:8.

“expel;” divorce is an extension of these meanings. גרשׁ occurs five times as a *qal* participle meaning “divorced.”[63] Its only other use related to divorce is Gen. 21:10 (a *piel* imperative) in which Sarai insists Hagar be put away. While not rendered “divorce” in EVV, it is nonetheless divorce adjacent. Hagar, in her transfer from Sarai to Abram, became his אמה or slave-wife[64] (and his אשׁה, “wife,” in Gen. 16:3)[65] for childbearing, a wife of secondary status in the ANE practice of concubinage.[66] Hagar’s expulsion (v. 14) is depicted with the verb שִׁלַּח, an expression that can function technically for divorce. Later Jewish tradition adds that Abram issued Hagar a formal bill of divorce (ספר כריתות).[67]

Regarding שׁלח, Hugenberger finds that “there is adequate evidence to establish the meaning ‘divorce’ within the semantic range of the Piel of שׁלח based on Deut. 22:19, 29; 24:1, 3, 4; and possibly [Deut.] 21:14; Gen. 21:14; Ezra 10:44;[68] Isa. 50:1; and Jer.

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[63] Lev. 21:7, 14; 22:13; Num. 30:9; and Ezek. 44:22.

[64] References to Hagar’s position within Abram’s house shifts from Sarai’s שׁפחה (16:1, 2, 3, 5, 6), primarily referring to slave as a status, to Abram’s אמה (21:10, 12), indicating a change from servant to concubine or slave-wife.

[65] ותקח שׂרי אשׁת־אברם את־הגר המצרית שׁפחתה ... ותתן אתה לאברם לו לאשׁה, “Sarai the wife of Abram took Hagar the Egyptian, her servant, and she gave her to Abram her husband as a wife.” Note the syntagm לקח אשׁה, “take a wife,” is the common idiom for marriage; also used of Hagar for her son Ishmael (Gen. 21:21).

[66] Baker, David L. “Concubines and Conjugal Rights: ענה in Exodus 21:10 and Deuteronomy 21:14.” *ZAR* 13, no. 1 (2007): 87–88. However, Umberto Cassuto, *A Commentary on the Book of Exodus*, trans. Israel Abrahams (Jerusalem: Magnes Press, 1997), 268, viewed the concubine as a full wife of equal status; this view is typical of Jewish interpretation, stemming from the rationale that if the slave-wife in Exod. 21:10–11 has claim to rights of marital provision, then so does a first wife.

[67] Yarmut Shimoni, Gen. section 95, cited in Instone-Brewer, *Divorce and Remarriage*, 23, n. 7.

[68] שׁלח is not in the MT of Ezra 10:44 but a potential emendation; it is possible וישׂימו may be dittography and intended to be וישׁלחום. The parallel in 1 Esdras 9:36 includes this potential reading: *καὶ ἀπέλυσαν* (*ἀπολύω*) *αὐτὰς σὺν τέκνοις*. NRSV adopts the emendation based on 1 Esdras.

3:1, 8."[69] To this I would add the *piel* infinitive construct in 1 Chron. 8:8. While proposing שִׁלַּח as a technical term for divorce overreaches, its function in referring to divorce is precisely due to the fact that divorce, with some exceptions, was an expulsion or dismissal and that divorce was not yet governed by a public legal system or court. In the ANE and in biblical contexts, divorce was a law-governed, household-level practice, and thus there was no normative, technical verb for divorce. Jewish divorce was definitionally a spousal act upon the marriage rather than something obtained by a court; later rabbinic courts merely ruled on the legitimacy of a spousal claim against the other.[70] Narrative examples never depict divorce as public justice or in relation to a court procedure or petition, which are later developments.[71]

Lastly, there exists little discussion of the noun כריתות compared to the related verbs in the semantic field. The verb כרת never refers directly to marriage or divorce in biblical Hebrew, although the derivative noun כריתות may provide a lexical warrant for connecting marriage and divorce to the verb כרת. Some have suggested that the noun is

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[69] Hugenberger, *Marriage as a Covenant,* 72.

[70] Amram, 54–55. David L. Lieber, "Divorce," in *Encyclopaedia Judaica*, Second Edition, 5:711.

[71] Yair Zakovitch, "The Woman's Rights in the Biblical Law of Divorce," in *The Jewish Law Annual: Volume 4*, ed. Bernard S. Jackson (Boston: Brill, 2023): 43, contends that lack of legal procedure (such as a divorce certificate) in narrative examples is because the Deuteronomic law of the ספר כריתות is a seventh century product of Josianic reform, citing Judges 14:19–15:2, which depicts divorce without legal procedure. Three points can be made in response. First, Daniel I. Block, *Judges, Ruth*, NAC, (Nashville, TN: Broadman & Holman Publishers, 1999), 57–61, argues that the theme of Judges is the "Canaanization of Israel," in which case it is perhaps more plausible that the lack of a divorce procedure in narratives reflects Israel's failure to conform to covenantal norms, rather than evidence that such norms had not yet been established. Second, Deut. 24 does not establish a divorce law or demand issuance of a divorce certificate at all; it presupposes the practice which originated in an unknown earlier time and process. Lastly, two surviving ANE divorce certificates (Kirkuk 33 and Meissner #91) indicate such procedures were known at least as early as the 15th century; see David Instone-Brewer, "Deuteronomy 24:1-4 and the Origin of the Jewish Divorce Certificate," *The Journal of Jewish Studies* 49, no. 2 (1998): 230–43.

derived from an older, non-Israelite divorce tradition, such as the Mesopotamian practice cited by Finkelstein.[72] In theory, if the noun for Israelite divorce had derived from the usual verbs, the noun might be שׁלחה or גרישה, possibly in a plural abstract form like כריתות.[73] כרת functioned as the verb for "cutting" a covenant, based on the cutting of animals as an enacted curse upon the covenant-maker; for Kline, "cutting a covenant" and "cutting a curse" are synonymous.[74] If marriage is a ברית ("covenant") in ancient Israel, כריתות—derived from כרת, a verb used for both covenant-cutting and expulsion from the covenant community—fits comfortably in semantic connection with divorce understood as expulsion or covenant curse.

2.2.2 Exilic Expulsion Framed as Divorce

Hosea 1–3, Isaiah 50:1, and Jeremiah 3:6–20[75] employ divorce as a metaphor for Yahweh's enactment of punitive expulsion in response to idolatry. What is underappreciated is the extent to which the prophetic material conceptualizes divorce as punitive. Those who characterize divorce as liberation of the injured spouse understand Yahweh as availing himself of legal rights granted by the Torah,[76] yet this differs from

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72 J. J. Finkelstein, "Cutting the Sissiktu in Divorce Proceedings," *Die Welt Des Orients* 8 (1976): 236–40. See discussion in §2.1.1.1.

73 The proposal would be more convincing if there were known ANE cognates. See Wakely, "כְּרִיתוּת," *NIDOTTE*, 7:218.

74 Meredith G. Kline, *By Oath Consigned: A Reinterpretation of the Covenant Signs of Circumcision and Baptism* (1968; Grand Rapids: Wipf and Stock, 1998), 42. See also McCarthy, 55ff.

75 While Isa. 54:4–8 is frequently included in this list, it is not certain that a wife deserted (עזב) is to be understood as a wife divorced.

76 Instone-Brewer, "Three Weddings and a Divorce," 3–16; Sprinkle, "Old Testament Perspectives," 546.

how the metaphor functions in the prophets' usage. While four passages employ betrothal imagery to depict future restoration,[77] the prophets almost exclusively deploy divorce imagery as related to punitive expulsion.[78]

Hosea is the first to develop this imagery, employing the verbal formula for marital termination in 2:2 [4]: לא אשתי ואנכי לא אישה, "She is not my wife, and I am not her husband."[79] Hugenberger demonstrates the likelihood that ANE and biblical marriage was established by *verba solemnia*,[80] mirrored in the negative use of verbal formula for divorce.[81] Since Hos. 2:2 [4] simply negates the marriage formula seen at Elephantine and elsewhere—"She is my wife and I am her husband"[82]—Hosea has long been thought

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[77] Hos. 2:2–23; Isa. 54:4–8; 62:4–5; Jer. 31:31–34.

[78] Jer. 31:32, a common proof-text for the Bible's basic presentation of Yahweh as the "husband" of Israel, presenting marriage as guiding metaphor for understanding the Yahweh-Israel covenant in general, is the subject of translation debate. Hugenberger, 309–311, offers a compelling argument for why ואנכי בעלתי בם, often rendered "though I was their husband" (ESV), should rather be rendered "though I was their lord."

[79] Derek Kidner, *The Message of Hosea: Love to the Loveless* (Downers Grove, IL: Inter-Varsity Press, 1984), 27, reads this as a question: "Is she not my wife and I her husband?" Although grammatically possible, this seems less likely given the common use of negative verbal formulas.

[80] Hugenberger, Chap. 3. This facet is one key to identifying marriage as a covenant. Jacob Milgrom, *Cult and Conscience: The Asham and the Priestly Doctrine of Repentance*, ed. Jacob Neusner, Studies in Judaism in Late Antiquity 18 (Leiden: Brill, 1976), 134, and Moshe Greenberg, *Ezekiel 1–20: A New Translation with Introduction and Commentary*, Vol. 22, The Anchor Bible (Garden City, N.Y: Doubleday, 1983), 278, disagreed that marriage is identified as a covenant on the basis that a covenant involves an "oath sign" or *verba solemnia* (Weinfeld, "בְּרִית", *TDOT*, 2:256), which they did not believe occurred in the Bible or ANE parallels. However, Hugenberger demonstrates, based on a broad list of biblical and extra-biblical examples, that "there can be little doubt that marriage in biblical times was, in fact, typically formed with the use of *verba solemnia,"* 139.

[81] "I will be your God, and you will be my people" may be conceptually parallel (Exod. 6:7; Lev. 26:12; Jer. 7:23; 11:4; 30:22; Ezek. 36:28). This formula is not limited to marriage; the same may be found, although reversed in pattern, in Ruth 1:16–17.

[82] Document of Wifehood, Nov. 2, 445 BCE: הוא אשתי ואני בעלה מן היום הזה ועד עולם, "She is my wife, and I am her husband from this day forward." *TAD*, 30–33. The same formula is also seen in the Epic of Gilgamesh, Tablet 6 (*ANET*, 83), and "Nergal and Erishkigal," Frag. A, Line 82 (Tel Amarna, *ANET*, 104): "Be thou my husband and I will be thy wife."

to reflect the ANE divorce formula,[83] although the Jewish expression underwent changes.[84]

The negative formula for divorce appears infrequently apart from Hosea. "She is not my wife" appears in a Neo-Babylonian marriage document. Roth observes:

> "The renunciation of marriage in No. 5 [*W ul aššatu šî*] is a direct negation of the statement made earlier in the document in connection with the formation of the marriage: *W alti H šî*, W is the wife of H.'"[85]

Additionally, Numbers Rabbah 2:15 paraphrases Hos. 2:2 [2:4] "I am divorcing her (*piel* participle of גרש) and have no pity on her children. She is not my wife, and I am not her husband,"[86] indicating the divorce formula reading was known to medieval interpreters. Additionally, a negative identification formula also could be used in the termination of adoption and even sonship in some ANE laws.[87]

Besides the verbal divorce formula in Hosea, the exile of the northern kingdom is portrayed as divorce in Jer. 3:1, 8 and Isa. 50:1, while Isa. 54:6 portrays Judah's

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[83] Mordechai A. Friedman, "Israel's Response in Hosea 2:17b: 'You Are My Husband,'" *JBL* 99, no. 2 (1980): 199.

[84] The formula developed into variations of "I release you." Richard J. H. Gottheil and William H. Worrell, eds., *Fragments from the Cairo Genizah in the Freer Collection*, University of Michigan Studies: Humanistic Series 13 (New York: The MacMillan Company, 1927), 58–59. A Cairo Genizah bill of divorce reads פטרית ושבקית ותרוכית, "I release you, and I send you forth, and I let you depart" (line 7, repeated in line 11).

[85] M. T. Roth, *Babylonian Marriage Agreements: 7th–3rd Centuries B.C.,* Alter Orient Und Altes Testament 222 (Verlag Butzon & Bercker, and Neukirchen-Vluyn; Kevelaer: Neukirchener Verlag, 1989), 13.

[86] The text from Num. Rab. 2:15 reads מגרשה אני ואיני חס על בניה לא היא אשתי ולא אני אשה.

[87] The formula, "_ is not my _," appears in termination of adoption (Mari Adoption Contract, Old Babylonian Period: *TCL* 29, No. 1, *ANET*, 545); CH §§185–190 says if a son states the negative formula with respect to his parents, he forfeits inheritance rights and may be sold as a slave (LUN §§4–6), indicating his renunciation of free status. With respect to the latter example, we may identify a conceptual parallel with marital desertion in that place and status are forfeited followed by departure. Mendelsohn, *Slavery in the Ancient Near East,* 81, suggests this formula for sons reflects the same dynamic present for slaves who essentially entered an adopted sonship to the buyer.

temporary separation as that of a rejected wife. In Jer. 3:8, in a warning to Judah, the prophet refers to the capture of Samaria in 722 BCE, during which Shalmaneser V "carried off" (גלה) the people to Assyria (2 Kgs. 17:6). The prophets interpret the actions of Shalmaneser as acts of Yahweh, who had warned that the people will go (גלה, Amos 7:11, 17) into exile. Because of their "adulteries" (נאפה), Yahweh declares in Jer. 3:8, "I sent her away (שלחתיה) and I gave her a certificate of divorce (שׂפר כריתות)."

The divorce language in Jer. 3:1 and Isa. 50:1 is more difficult. In these texts, especially Isa. 50:1, rhetorical questions imply that no such "divorce" ultimately occurs for Judah, even though the same language is employed. This tension is resolved by the preservation of a Davidic line within Judah and the return of a remnant from Babylon—features not paralleled in the case of Israel.

2.2.3 Conclusion: Divorce Should Be Understood as Punitive Expulsion

This chapter has argued that punitive expulsion provides the most coherent framework for understanding divorce in the Hebrew Bible. Surveying expulsion in the ancient Near East and Israel, this section showed that it functions as a juridical response to covenantal or moral breach, expressed in the Torah through the *karet* penalty, and that divorce similarly operates as a form of expulsion in contrast to liberation for the offended party. Semantic overlap between exile and divorce vocabulary, along with prophetic depictions of Israel's exile as divorce, further supports this correspondence.

Viewed through the lens of covenant logic, divorce does not itself create the breach but confirms forfeiture enacted in severe violation. This suggests that if legitimate divorce is inherently punitive, dissolution is possible because the bond itself is moral and covenantal rather than metaphysical.[88] When the offending party is expelled, the covenant dissolves *ipso facto* by vacancy, since the spouse is removed from the relational sphere morally governed by covenant obligations.[89] To draw a grammatical analogy, as with punitive expulsion, divorce's subject is the offended party, and its object is the offender.

2.3 Objections to Punitive Expulsion as a Primary Model for Divorce

This section addresses three challenges to the punitive expulsion framework for OT divorce: (1) the uncertainty surrounding ערות דבר in Deut. 24:1; (2) cases of divorce that do not appear to involve punitive expulsion, including desertion, which is affirmed in the NT but absent from the OT; and (3) the husband's apparent latitude to terminate marriage at will in Deut. 21:10–14. Each presents a scenario in which the framework appears to break down. Addressing these objections clarifies that, although some divorces follow a different pattern, expulsion remains the dominant model for legitimate divorce.

2.3.1 Uncertainty of the Meaning of ערות דבר in Deuteronomy 24:1

The construct ערות דבר, "nakedness of a thing," in Deut. 24:1, is notoriously difficult.[90] The uncertainty of its meaning complicates the punitive expulsion framework,

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[88] David C. Jones, *Biblical Christian Ethics,* 204; Atkinson, *To Have and to Hold,* 91.

[89] It should be remembered that this thesis is primarily concerned with the theological rationale behind divorce and not divorce as it may have been practiced culturally. For example, Yaron, "Divorce in Old Testament Times," 126–127, discusses how the Elephantine marriage papyri distinguish between a legal process resulting in the wife's departure and expulsion without legal process. This cultural practice may be irrelevant to how we can best account for divorce theologically.

[90] Studies include David Instone-Brewer, "Deuteronomy 24:1-4 and the Origin of the Jewish Divorce Certificate," *The Journal of Jewish Studies* 49, no. 2 (1998): 230–43; Joe M. Sprinkle, "Old Testament Perspectives on Divorce and Remarriage," *JETS* 40, no. 4 (1997): 529–50; John H. Walton, "The Place of

since this is the only text that explicitly legislates details of divorce.[91] The occasion for the divorce is uncertain and often taken, particularly in Jewish interpretations, as the husband's discretionary self-release from the marriage. Therefore, the uncertain meaning of the construct complicates the claim that divorce is inherently punitive since the text does not specify clearly the legal rationale.

In the text, the divorce is occasioned by the husband's discovery of ערות דבר in his wife. Should he divorce his wife, and she remarry, and the second marriage ends in divorce or the second husband's death, the first husband is prohibited from remarrying her "after she has become defiled." Many understand the woman as defiled by her remarriage, which constitutes adultery, although there are serious objections to this view.[92] Numerous other interpretations of this aspect have been offered. For example,

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the *Hutqaṭṭēl* Within the D-Stem Group and Its Implications in Deuteronomy 24:4," *Hebrew Studies* 32 (1990): 7–17; Gordon J. Wenham, "The Restoration of Marriage Reconsidered," *JJS* 30, no. 1 (1979): 36–40; R. Yaron, "The Restoration of Marriage," *JJS* 17 (1966): 1–11. Raymond Westbrook, "Prohibition of Restoration of Marriage in Deuteronomy 24.1-4," in *Studies in Bible 1986*, ed. S. Japhet, Scripta Hierosolymitana 31 (Jerusalem: Magnes, 1986), 387–405.

[91] Grudem, *What the Bible Says*, overstates: "The only Old Testament law concerning divorce is found in Deuteronomy 24." Exod. 21:10–11; Lev. 21:7, 14; Deut. 21:10–14; Deut. 22:19, 29 certainly concern divorce.

[92] Craigie, *Deuteronomy*, 234. Craigie's exegesis, which is representative of this view, is difficult to accept because adultery in the second marriage cannot explain the prohibition since it also applies if the second husband dies. If the source of "abomination" (תועבה) is an adulterous second marriage, we would not expect the text to only prohibit remarriage to the first having made no comment on the second. Craigie's rationale, that the information in the protasis is merely incidental and not part of the legislation—and thus does not deal at all with the divorce—seems inconsistent with the ordinary structure and function of casuistic passages in the Torah; See Gordon J. Wenham, "Legal Forms in the Book of the Covenant," *TynBul* 22, no. 1 (May 1971): 95–102. Information in a protasis is never merely incidental since the apodosis regulates the situation specified in the protasis. Moreover, the assumption that divorce entails marital dissolution is reflected in the Mishnaic divorce certificate language, "Lo, you are permitted to marry any man," appearing in m. Giṭ. 9:1 (cf. 9:3); trans. Jacob Neusner, *The Mishnah: A New Translation* (New Haven, CT: Yale University Press, 1988). Walton, "*Hutqaṭṭēl*," 13, observes that Craigie's view portrays the woman as the divorcer when it is she who has been divorced and sent away; the legislation restricts the actions of the first husband, not the wife. Jewish interpretations never characterized the second marriage in Deut. 24 as adulterous, which may mean those who do so are attempting to read Jesus' divorce sayings back into the Torah.

Walton takes this to refer to "menstrual irregularities that would render a woman unclean,"[93] but this remains unclear.

Deut. 24 does not provide a "law of divorce," or legislate its procedures. Thus, it is entirely possible that ערות דבר was never intended to explicate the judicial reason for this or any divorce. The only other occurrence of the construct (Deut. 23:14) refers to human excrement in the camp of Israel which may offend Yahweh. Thus, Tigay suggests it refers to nearly any act by a wife offensive to her husband.[94] This suggestion likely overreaches but is helpful nonetheless if we take into account that some kinds of divorces are condemned.

Hugenberger argues convincingly that the phrase כי־שׂנא שלח in Mal. 2:16 should be translated "for the one who hates and divorces," taking שׂנא ("hate")[95] to mean groundless repudiation.[96] Hugenberger follows Westbrook,[97] who argued that שׂנא is the motive for the second divorce in Deut. 24:3.[98] Whereas the first husband discovers

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[93] Walton, "*Hutqaṭṭēl*," 14.

[94] Tigay, *Deuteronomy,* 220–221.

[95] Westbrook, 402, explains that in numerous ANE texts, "'hate' is used to show that the action arose from a subjective motive and without objective grounds to justify it—and for this reason [the husband who "hates" his wife and divorces] is blameworthy."

[96] Hugenberger, Chap. 3, esp. §5, 76–81. While divorce in general should not be considered covenant breaking, in the case of divorce for aversion, the wrongful expulsion of an innocent spouse makes divorce and covenant breaking one in the same; for this reason, in Mal. 2:14 the divorce is called "dealing treacherously with your covenant wife." So also, Instone-Brewer, *Divorce and Remarriage,* 301. Additionally, William F. Luck, *Divorce and Remarriage: Recovering the Biblical View* (San Francisco: Harper & Row, 1987), 82–4, refers therefore to a distinction between "disciplinary" and "treacherous" divorce.

[97] Westbrook, "Prohibition of Restoration of Marriage in Deuteronomy 24.1-4," 399–403.

[98] Older studies, understanding the Elephantine papyri as determinative, tended to identify שׂנא as meaning "divorce," especially in Deut. 24:3; Jud. 15:2; Isa. 60:15; and possibly Prov. 30:23. See Yaron, "On Divorce in Old Testament Times," 117–19. Westbrook's "Prohibition of Restoration," 400–4, argument for שׂנא in this context as meaning unjustified repudiation is based on divorce clause in a Neo-Assyrian

"something objectionable," the second husband "hates" or "dislikes" her. In light of this distinction, even if Tigay's proposal is granted—that ערות דבר refers to any objectionable offense—it must be qualified by an implicit prohibition of unjustified divorce, which Mal. 2:15 characterizes as "treachery" (בגד). Therefore,ערות דבר may simply function as a "placeholder" referring to an unspecified but justifiable occasion for divorce.[99]

Whatever its precise meaning, the uncertainty of ערות דבר, does not undermine a punitive expulsion framework. Deut. 24 assumes known divorce practices[100] and only restricts one specific remarital scenario. Even in this most explicit legislative text, divorce functions as an act of dismissal whose legitimacy is assumed rather than explained.

2.3.2 Biblical Examples of Divorce Which are Not Punitive Expulsion

Some divorces in the Hebrew Bible do not appear to fit within a punitive expulsion framework. The following will address three: Ezra 9–10; divorce for desertion which is not found in the Old Testament but finds conceptual parallel in 1 Kings 12; and Deut. 21:10–14.

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marriage contract, which says "if H hates, divorces, he must pay;" translated in D. J. Wiseman, "The Nimrud Tablets, 1953," *Iraq* 16 (1954), 37–39, ND 2307, lines 49-50.

[99] Allison and Davies, *Matthew*, 1:531, explain the Matthean exceptive clause (Matt. 5:32) as reflecting this very idea: "It can be urged that the less specific *πορνεία* and not the more specific *μοιχεία* appears in the exceptive clause because the OT phrase upon which that clause is based (Deut. 24:1) is general, not specific (*ʿerwat dābār*)."

[100] David Instone-Brewer, "Deuteronomy 24:1-4 and the Origin of the Jewish Divorce Certificate," *The Journal of Jewish Studies* 49, no. 2 (1998): 230–43.

2.3.2.1 Termination of Unlawful Intermarriages in Ezra 9–10

The usual terminology for divorce does not feature in Ezra 9–10, nor is there implied wrongdoing on the part of the wives. Ezra 10:3 and 19 employ the *hiphil* הוציא (from יצא), here meaning “dismiss” or “send away.” שׁלח may occur in Ezra 10:44 depending on how the textual difficulty is resolved. Textual corruption leaves the verse impossible to fully clarify, but one possibility is that וישׂימו בנים, “and they placed children,” may be dittography where וישׁלחום was intended.[101] 1 Esdras 9:36 says *καὶ ἀπέλυσαν*[102] *αὐτὰς σὺν τέκνοις*, “And they dismissed/divorced them together with their children.”[103] The textual issue remains unclear. The verb used in this case, הוציא (Ezra 10:3, 19), also features in Exod. 21:11. There, the apodictic *weqatal*[104] ויצאה stipulates what follows if the previous clause’s conditions of provision for the אמה are not met: she goes out free without payment.[105] The verb here is *qal* rather than *hiphil*, implying free departure rather than expulsion.

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[101] While not entirely convincing, one can imagine a confusion of letters while copying נשׁים וישׁלחום, resulting in נשׁים וישׂימו.

[102] Ἀπολύω is the most frequent verb for divorce in the New Testament.

[103] NRSV follows the 1 Esdras parallel: “and they sent them away with their children,” also noted in the ESV margin note: “and they put them away with their children.” See also Frank C. Fensham, *The Books of Ezra and Nehemiah*, NICOT (Grand Rapids: Eerdmans, 1982), 144.

[104] Or apodosis waw; JM §176.

[105] Since this text almost certainly depicts a debt-servitude arrangement, this may imply cancelation of debt since a family forced into debt-servitude could not have afforded a dowry. For overviews of debt slavery in the ANE and the Bible, see Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East*, JSOTS 141 (Sheffield, UK: JSOT, 1993); David L. Baker, *Tight Fists or Open Hands? Wealth and Poverty in Old Testament Law* (Grand Rapids: Eerdmans, 2009); and Raymond Westbrook, “The Female Slave,” in *Gender and Law in the Hebrew Bible and the Ancient Near East*, ed. Victor H. Matthews, Bernard M. Levinson, and Tikva Frymer-Kensy, JSOTS 262 (Sheffield: Sheffield Press, 1998).

Some explain the situation in Ezra away by denying divine sanction.[106] There is no divine utterance, yet the command, "according to the law" (Ezra 10:3), was a product of Ezra's confession and sorrow, and was "according to the counsel of my Lord" (בעצם אדני).[107] The dismissal of wives was predicated on the unlawfulness of the marriages; consequently, absence of divorce vocabulary may identify these dismissals as annulments.[108]

2.3.2.2 Desertion is a Legitimate Occasion for Divorce in the NT, but Not Found in the OT

In the NT, Paul upholds desertion by a non-believing spouse as a legitimate cause for the believer to be "not bound"[109] to the marriage (1 Cor. 7:15).[110] Divorce for

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106 Laney, *The Divorce Myth,* 42.

107 W. Brian Aucker, "Ezra," in *Ezra–Job*, ESV Expository Commentary (Wheaton, IL: Crossway, 2020), 108.

108 Hugenberger, 96, offers a similar terminology argument for this reading. See also Wenham and Heth (E), *Jesus and Divorce,* 162–164. That the dismissal of foreign wives in Ezra may not constitute divorce does not contradict the dissolubility of the marital bond, which is established elsewhere. In this case it merely demonstrates that even if Ezra 10 depicts annulment rather than divorce, there is a fundamental difference between a normative divorce and annulment of an illegal marriage. However, it may also be a difference without much distinction.

109 BDAG, s.v. "δουλόω," 260, to become or make one a servant or slave. That is, he is "not obligated," to the previous instruction to not pursue divorce; this verb differs from δέω in v. 39, "a wife is bound to her husband as long as he lives," which implies legal obligation. David Instone-Brewer, "1 Corinthians 7 in the Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri," *Tyndale Bulletin* 52, no. 2 (November 2001), 240–241, finds a conceptual parallel between enslavement and marriage in the rabbinic interpretation of Exod. 21:10–11, which logically connects release of a wife with the release of a slave or servant.

110 Whereas the Christian convert married to an unconverted pagan is not spiritually defiled through the union and so must not pursue divorce, Paul instructs the Christian to accept the departure— χωριζέσθω, a permissive imperative or "imperative of resignation" (Wallace, *GGBB,* 485, 488–489)—of the non-believer who wishes to leave.

desertion is never depicted in the OT and seems contrary to divorce as punitive expulsion. The incongruity, however, is superficial.

Since marriage and divorce are employed as a metaphor relating to Israel's idolatry, desertion in marriage parallels covenantal apostasy. The severing of the northern kingdom from Judah under Jeroboam (1 Kings 12:1–24) provides an instructive analogy. When the newly crowned Rehoboam refuses wise council and threatens an onerous reign (v. 13–15), a contingent of northern tribes under Jeroboam, called "all Israel"[111] (v. 16), enact insurrection, crying out in v. 16:

> "What portion do we have in David?
> We have no inheritance in the son of Jesse!
> To your tents, O Israel!
> Now look to your House, O David!"

Rehoboam remained in leadership over Judah while the northern tribes crowned Jeroboam (v. 20). The ominous remark in v. 20b, "There were none following after the house of David except the tribe of Judah alone," is later echoed in the account of Israel's eventual exile: "Yahweh was exceedingly angry with Israel and he removed them from his presence; there were none remaining but the tribe of Judah alone" (2 Kgs. 17:18).[112]

In this act, the northern tribes reject their place within the Mosaic and Davidic covenants, an enacted repudiation of covenant and forfeiture of standing. Yahweh

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[111] That "all Israel" represents those from all tribes or only northern tribes is a matter of debate. See Walter Brueggemann, *I & II Kings*, Smyth & Helwys Bible Commentary (Macon, GA: Smyth & Helwys, 2000), 154; V. Fritz, *1 & 2 Kings: a Continental Commentary*, trans. A. Hagedorn, Continental Commentaries (Minneapolis, MN: Fortress Press, 2003), 141-143; but see Ian W. Provan, *1 and 2 Kings*, New International Biblical Commentary, (Peabody, MA: Hendrickson Publishers, 1995), 103, 105; and Simon DeVries, *1 Kings,* WBC 12 (Waco, TX: Word Books, 1985), 158. The latter two suggest "all Israel" is not limited to the North. Cf. NIV's "all the Israelites.

[112] Each verse ends שבט יהודה לבדו.

graciously allowed the northern tribes to continue in the land for two subsequent centuries. While some returned to Judah during this time,[113] destruction was brought to Samaria in 722, ending the northern tribes as a corporate entity. Consideration of the analogy clarifies that expulsion is precluded when the violating party vacates, or the vacating is the violation.[114]

2.3.3 The Husband's Command to Terminate Marriage to a Captive Wife in Deut. 21:10–14

The Israelite man who wishes to marry a woman among captives is to give her a month to grieve her family and acclimate before becoming married. If the man "no longer delights in her" (לא חפצת בה) he is to let her go where she pleases (ושלחתה לנפשה) and is forbidden to sell her as a slave because he has humiliated her (תחת אשר עניתה).

Baker suggests the woman is a concubine rather than a wife,[115] against Westbrook's view that the woman is made free through marriage, preventing a default to slave status upon divorce.[116] Baker is correct that the language of v. 13 can carry different meanings despite often signaling marriage and divorce— תבוא אליה ובעלתה והיתה לך לאשה, "you may go in to her and marry her and she will be your wife/woman," and שלח

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[113] 2 Chron. 11:13–17; 15:9; 30:1–1.

[114] Dissolution may follow desertion automatically, but a period often exists before finality is clear. As God delayed confirming the northern kingdom's apostasy for two centuries, a deserted spouse likewise has time to determine whether the desertion is final. In prophetic discourse, the northern tribes were treated collectively as Israel (with Judah) until exile confirmed their unfaithfulness as final.

[115] Baker, "Concubines and Conjugal Rights," 93–94.

[116] Raymond Westbrook, "The Female Slave," in *Gender and Law in the Hebrew Bible and the Ancient Near East*, ed. Victor H. Matthews, Bernard M. Levinson, and Tikva Frymer-Kensy, JSOTS 262 (Sheffield: Sheffield Press, 1998), 235.

ending the relationship. Additionally, אשה need not mean "wife," and שלח is also used of slave release. There are, however, no clear occurrences בעל referring to purchasing or ruling over a slave or concubine. All things considered, בעלתה most likely means "marry her." Additionally, the text is missing typical concubinage terms: אמה or פלגש.

The challenge here is the command to divorce the woman for no wrongdoing whatsoever. In fact, this seems analogous to divorce for aversion, which Westbrook and Hugenberger demonstrate is forbidden. The divorce, however, is occasioned by his wrongdoing, resulting in her freedom. Logistically it was infeasible for him to leave while she remained living with his family; therefore, she is the one who leaves, although she is not expelled. It is not inappropriate to question the issue of justice for the wronged wife. Two things should be kept in mind. First, one legal requirement of the Torah is not the entirety of the Torah on a given matter,[117] and second, the Torah provides the legal floor rather than the ethical ideal.[118] CH §137 required a man who divorces an innocent wife, who bore him children, to return her dowry and give her a plot of land. That this was a known legal standard—to provide for the wrongfully divorced wife—provides reason to suppose a similar practice may have been known to Israel. This text provides an unusual case in which the interpretive ambiguity, seen in the division between those who

[117] Sklar, *Leviticus*, 701, adds nuance to the discussion surrounding slaves and their treatment. Several ANE texts indicate there were numerous ways slaves could gain freedom (see Mendelsohn, *Slavery in the Ancient Near East,* 78–85), practices potentially also known in ancient Israel. Non-Israelite servants were also protected from harsh treatment and were guaranteed holidays and Sabbath. Additionally, note that in the case of foreign slaves who escaped, Israelites were to allow them unhindered settlement as a sojourner (Deut. 23:15–17), which is similar to the outcome for the wife in this text.

[118] Gordon J. Wenham, "The Gap Between Law and Ethics in the Bible," *Journal of Jewish Studies* 48 (1997): 17–29.

view this as marriage and divorce and those who view this as slave release, underscores the extent to which, in ancient Near Eastern and Israelite thought, divorce is expulsion.

2.4 Conclusion

The evidence from the Hebrew Bible and the ancient Near East supports understanding divorce primarily as a form of punitive expulsion rather than release for the injured spouse. Accordingly, divorce pursued for any other reason is treacherous (Mal. 2:14), and therefore equivalent with desertion. This framework aligns with the broader covenantal logic of the Hebrew Bible: severe covenantal violation—cultic, social, or marital—renders a covenant broken but not thereby dissolved.[119] Neither is the marital bond dissolved procedurally by formality.[120] It is a category error to attribute

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[119] William Gouge, *A Holy Vision for a Happy Marriage,* Vol. 2, *Building a Godly Home,* ed. Scott Brown and Joel Beeke, (Grand Rapids: Reformation Heritage Books, 2013), 39–40, originally published as *Of Domesticall Duties Eight Treatises* (London, 1622)*,* chair of the Westminster committee on divorce, similarly held that while adultery provides cause for divorce it does not itself dissolve the marriage. In contrast, R. L. Dabney, *The Practical Philosophy: Being the Philosophy of the Feelings, of the Will, and of the Conscience, with the Ascertainment of Particular Rights and Duties* (S. B. Ervin, 1897; repr., Harrisonburg, VA: Sprinkle Publications, 1984), 362, contended that "These crimes [ref. Matt. 19:8–9; 1 Cor. 7:15] do destroy the bond, and it is a principle of equity, that a contract destroyed by one party cannot longer bind the other." Dabney's view struggles to account for the optional nature of divorce since it is within the prerogative of the injured spouse to reconcile if the offender repents. In the event of reconciliation, it is difficult to suggest that there was a point, prior to reconciliation, at which the marriage had been dissolved and that reconciliation constitutes re-marriage.

[120] This seems to be precisely to Jesus' point in Matt. 5:31–32 in the context of the antitheses. One is not righteous by virtue of adhering to a procedural norm as if mere issue of a divorce certificate (Deut. 24:1) makes one rightly, lawfully divorced. Paul's statements in 1 Cor. 7, based on the dominical teaching, suggest divorce by withdrawing consent is illegitimate even though such divorce was normative in Roman law which understood the essence of marriage as *maritalis affectio*, the mental persuasion of the couple to be married (see Susan Treggiari, "Divorce Roman Style: How Easy and How Frequent Was It?," in *Marriage, Divorce and Children in Ancient Rome*, ed. Beryl Rawson [Oxford: Clarendon Press, 1991], 31–46). Thus, a formal legal procedure, which varies by location, is not the operative mechanism of dissolution.

efficacy to a legal process to dissolve a relationship constituted by moral-covenantal realities.[121]

More plausibly, a moral-covenantal bond is dissolved only by the moral actions of the covenant partners.[122] A broken covenant thus persists as a violated relationship subject to juridical response. Divorce, like other forms of banishment, does not create rupture but confirms the forfeiture of place or status signaled by that rupture. In this way, the covenant dissolves not through the act of divorce itself but *ipso facto* by vacancy, as the offending party is removed from the relational sphere governed by the covenant.[123] Therefore, when Palmer states, "Covenants are not broken; they are violated when there

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[121] Even sacramental accounts of marriage which treat the marital bond as metaphysical and indissoluble, deny that civil divorce has any effect on the bond itself (cf. *CCC* §§2382–2386; *CIC* can. 1141; *Syllabus of Errors* §67, Pius IX).

[122] Dabney, 344, 367–368, viewed marriage as "More Than a Civic Contract–a Religious Bond," on the basis that marriage brings together into partnership corresponding pairs designed by God for such partnership—he does not use the term "covenant" but "contract" (361). However, he denied marriage as a "civic contract" between equals (as in a business contract) on the basis that (1) the husband is the final authority, so if this is a contract it is not between full equals, and (2) violations of the marriage destroy the bond and not a suit brought forward by either party, as would logically, necessarily provide grounds for termination—granted by civic authority—if marriage were a civic contract between equals. The reality seems somewhere between. Divorce for less than severe violation of the marriage is illegitimate; but divorce is never essential or automatic. The more precise framing is that authority and submission govern the internal ordering of marriage, not its formal classification. Scripture regulates marital conduct irrespective of whether marriage is described as covenant or contract—Scripture makes no such clarification. Thus, the presence of asymmetrical authority does not by itself determine the nature of the bond or how the bond is classified.

[123] David C. Jones' contribution to the study of divorce ("The Westminster Confession on Divorce and Remarriage") is noteworthy: (1) he recognized that in the biblical world and surrounding culture divorce was not a civil enactment but a private renunciation; (2) he discussed the Westminster Confession's allowance of the injured spouse to "sue out a divorce," indicating a legal process may be pursued; (3) and he acknowledged marital violations provide a just cause for divorce while not dissolving the marriage itself, and acknowledges remarriage is permissible following divorce. What is left unresolved is the precise mechanism which affects dissolution: violations? The civil magistrate? The decision of the injured spouse? The pronouncement of the church? This thesis' proposal that *vacancy* is the mechanism of dissolution is an attempt to resolve this.

is a breach of faith,"[124] he is only partially correct, since this formulation fails to account for punitive expulsion and its resultant vacancy.

This framework accounts for features not adequately explained in previous treatments: (1) the persistence of covenantal language despite breach, as seen in Yahweh's refusal to break (פרר) the covenant when the people break it (פרר); the covenant persists even when the relational bond is compromised; (2) the availability of lesser penalties than maximal judgment—divorce is never inevitable or mandatory; and (3) the juxtaposition of these observations with the fact that the northern kingdom was fatally terminated in 722 BCE (2 Kgs. 17) and that marital dissolution is presented in the biblical texts as genuine. In the case of the Sinaitic covenant, its survival was not due to the nature of covenants per se, but due to the potential of punitive expulsion of Israel alongside a surviving remnant of Judah. This chapter demonstrates that divorce, in the proposed model, is neither a creative act dissolving marriage, nor a liberative exit for the offended or malcontent, but a formal confirmatory recognition that covenant membership has been forfeited. What remains to be shown is why marital expulsion, unlike punitive expulsion from a corporate covenant body, results necessarily in dissolution, a question that turns on the structural distinction between corporate and individual covenant membership, to which the following chapter turns.

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[124] Palmer, "Christian Marriage," 619.

Chapter 3

Corporate Preservation Despite Individual Banishment as the Mechanism of Covenant Perpetuity

Old Testament prophecies of warning and hope occasionally employ marriage as a metaphor for the Yahweh-Israel covenant. However, rhetorical, structural, linguistic, and biblical-theological limitations to the metaphor challenge the inference that a divine covenant's irrevocable permanence establishes the absolute indissolubility of the marital bond. A central limitation in the metaphor involves the distinction between a corporate covenant entity and individual participation within that entity, particularly in relation to the identity of covenant parties—the corporate entity or the individual participants—and what happens to the corporate structure when punitive expulsion is carried out. Previous studies have not explicitly sought to clarify divorce in light of this distinction.

The previous chapter argued that punitive expulsion provides the best conceptual framework to explain the mechanism of marital dissolution: (1) marital breach signals forfeiture of status in the marriage, breaking without dissolving the covenant, placing it in a violated state subject to punitive action; (2) the marriage bond is terminated *ipso facto* by vacancy following expulsion.

This chapter investigates the Old Testament's fundamental rationale for banishment in response to rebellion. How is it that Yahweh issues unqualified promises from which individuals are excised, and how do we reconcile the irrevocability of God's covenant with the ultimate fate of the northern kingdom? The chapter begins with a discussion of the biblical-theological foundation of banishment. This is followed by an excurses discussing עולם and the language of perpetuity, highlighting contingency within promises or covenants marked with “forever” (עולם) language. What follows discusses the individual-corporate distinction on which the central argument of this thesis rests, along with narrative examples which illustrate corporate stability despite individual expulsion as a pervasive OT theme.

This chapter demonstrates that the perpetuity of temporal covenants in Scripture depends on a corporate-individual distinction that allows a faithful remnant to preserve the covenant in the event of expulsion. Marital covenants, by contrast, lack such a mechanism; following partner vacancy, the bond cannot be sustained by the continuation of a remnant. Thus, this chapter clarifies why the irrevocable nature of God’s covenants does not establish an absolute analogy with human marriage, and why punitive expulsion in marriage necessarily terminates the relational bond. Instructive parallels between the divine covenant and marriage must be drawn *mutatis mutandis* and interpretations of divorce must account for the covenant’s own mechanisms of expulsion, contingency, and corporate stability. A model that cannot integrate these features is explanatorily insufficient.

3.1 Theological Foundations of Banishment

Theologically, the concept of expulsion or banishment sits at the foundation of biblical revelation alongside election,[1] sin, and redemption. Banishment is the corollary of a People of God. Biblical revelation in its canonical form opens with creation as

[1] Even those who reject a Reformed understanding of soteriological election and predestination acknowledge election—simply that God has chosen—as central to the whole biblical narrative. For example, Edwin Chr van Driel, “’To Be God to You and to Your Offspring After You,’” in *T&T Clark Handbook of Election*, ed. Edwin Chr van Driel (London, T&T Clark, 2024), 2, observes that, “One cannot read Scripture and not speak of election.”

context for understanding the banishment of Mankind and the calling of the Abrahamic people in relation to that banishment. In other words, creation provides context for the Exodus generation's understanding of the problem God is using them to remedy.

Typical of ANE temple cosmology, the Garden of Eden is presented not as paradise for Man (אדם), but Yahweh's dwelling where he is worshiped by Man (אדם).[2] As Morales suggests, the central creational goal is "for humanity to dwell with God," viewing the Garden as a microcosm of the cosmic temple. The creation account strategically mirrors the tabernacle and priestly implements introduced to Israel at Sinai (Exod. 31, 35).[3] But if tabernacle imagery was discernable to the original readers, it is because they were among the banished and thus in need of accommodation to enter God's presence. Accordingly, Genesis 1–2 describes the place from which Man (אדם) has been expelled.[4]

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[2] John H. Walton, *Ancient Near Eastern Thought and the Old Testament: Introducing the Conceptual World of the Hebrew Bible* (Grand Rapids, MI: Baker Academic, 2006), 124–5; see also 196–99. G. K. Beale, *The Temple and the Church's Mission: A Biblical Theology of the Dwelling Place of God*, NSBT 17 (Downers Grove, IL: Apollos, 2004), aptly identifies the temple imagery in creation as prefiguring the later Israelite temples, Jesus as the earthly Temple (John 2), and the final apocalyptic vision of the unification of God and humanity; however, such a presentation presupposes the readers' banishment from God's presence, necessitating temples and priestly mediation.

[3] L. Michael Morales, *Who Shall Ascend the Mountain of the Lord? A Biblical Theology of the Book of Leviticus*, NSBT 37 (Downers Grove, IL: Apollos, 2015), 39–74. See also, Wenham, *Genesis 1–15*, 22–3. For example, Morales notes the parallels between מאור, "lights," in the sky, in Gen. 1:14–17 and מאור, "lamps," in the tabernacle (Exod. 25:6; 27:20; 35:8, et al.) as distinct from the more general אור, "light," in Gen. 1:3. Additionally, the tabernacle construction is told within a series of seven divine speeches in Exod. 25–31. For other correspondences between the creation account and the cultic life of Israel, see John H. Sailhamer, *The Pentateuch as Narrative: A Biblical-Theological Commentary*, Library of Biblical Interpretation (Grand Rapids: Zondervan, 1995), 81–98.

[4] Gordon J. Wenham, "Sanctuary Symbolism in the Garden of Eden Story," in *I Studied Inscriptions from Before the Flood: Ancinet Near Eastsern, Literary and Linguistic Approaches to Genesis 1–11*, ed. Richard S. Hess and David Toshio Tsumura (Winona Lake, IN: Eisenbrauns, 1994), 339–404.

Fesko has demonstrated this programmatic function of the creation account relating to the elective purpose of Israel by identifying parallels between Gen. 2:16–17 and the covenantal logic of blessing and curse in Deut. 28–34:[5]

> "Genesis 1–11 and Deuteronomy 29–34 present a theologically pessimistic outlook on human beings in general and Israel more specifically. Like Israel, God places Adam in a favorable environment, which is contingent on obedience to law with death and exile as the threatened and fulfilled punishment."[6]

Just as Adam's sin resulted in the curse of death (Gen. 2:17; 3:14–19), carried out immediately as exile (Gen. 2:23–24), so Israel's covenant breach will result in curse (Deut. 28:15–68), escalating to exile (Deut. 28:36, 41, 64, 68)[7] and death (Deut. 28:45, 48, 53–57, 63).[8] Irrespective of whether a formal Covenant of Works existed, Adam's probationary residence is undeniably parallelled with Israel's in the promised land.

Excursus: עולם and the Language of Perpetuity

Several texts in this chapter include the word עולם in statements regarding the permanence or perpetuity of covenants or promises.[9] English translations often flatten contextual variance in meaning, rendering nearly every future-oriented occurrence as

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5 J. V. Fesko, *Adam and the Covenant of Works* (Fern, Ross-shire, Great Britain: Mentor, 2021), 183-198.

6 Fesko, *Adam and the Covenant of Works,* 195, citing Joseph Blenkinsopp, "P and J in Genesis 1:1–11:26: An Alternative Hypothesis," in *Fortunate the Eyes That See: Essays in Honor of David Noel Freedman in Celebration of His Seventieth Birthday*, ed. Astrid B. Beck et al. (Grand Rapids: Eerdmans, 1995), 1–15, esp. 4, 7.

7 Also Lev. 26 which represents the longest description of this process.

8 Fesko, *Adam and the Covenant of Works,* 193-94.

9 Hos. 2:19 [21]; Ezek. 16:60; Isa. 24:5; 55:3; Jer. 32:40.

"forever" or "everlasting."[10] Long[11] and Botta[12] offer helpful studies. Long finds that the most frequent usage pattern of עולם is modifying חק ("statute," 33 times),[13] ברית ("covenant," 17 times), and תל or חרבות ("ruins" or "tell," 9 times).[14]

Many occurrences of עולם cannot mean "forever" or "eternal,"[15] such as show bread arrangements (Lev. 24.8), referred to as ברית עולם, ("everlasting[?] covenant") or perpetual servitude, called עבד עולם ("a slave forever [?]") in Exod. 21:6.[16] A slave will

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[10] E.g., *The Hebrew-Aramaic Dictionary of the New American Standard Exhaustive Concordance* lists the following translations for עולם; note "everlasting" and "forever" are the most frequent renderings: "ages (1), all successive (1), always (1), ancient (13), ancient times (3), continual (1), days of old (1), eternal (2), eternity (3), ever (10), Everlasting (2), everlasting (110), forever (136), forever and ever (1), forever* (70), forevermore* (1), lasting (1), long (2), long ago (3), long past (1), long time (3), never* (17), old (11), permanent (10), permanently (1), perpetual (29), perpetually (1)."

[11] Brian Long, "Notes on the Biblical Use of עד־עולם," *Westminster Theological Journal* 41, no. 1 (1978): 54–67.

[12] Alejandro F Botta, "How Long Does an Eternal Covenant Last?," *The Bible Translator*, Technical Papers, 59, no. 3 (July 2008): 158–63.

[13] Relevant to Eli's relationship to the Aaronic priesthood, a הקת עולם, or "enduring statute/due" (Exod. 27:21; 1 Sam. 2:28, 30), a promise not revoked from Eli but which Eli forfeits, confirmed by Yahweh's removal of his line from the high priesthood.

[14] Long, "Notes," 55.

[15] H. Donner and W. Röllig, eds., *Kanaanaische Und Aramaische Inschriften*, vol. 1 (Wiesbaden: Otto Harrassowitz, 1966), 33. The Mesha Inscription contains an additional usage which is clearly hyperbolic: וישראל אכר אבד עלם, "Israel has utterly perished forever." K. Lawson Younger, *Ancient Conquest Accounts: A Study in Ancient near Eastern and Biblical History Writing*, JSOTS 98, (Sheffield, GB: JSOT Press, 1990), 227, identifies this as typical ANE conquest hyperbole, similar to the חרם/total annihilation summaries in Josh. 10:28–39, referring to cities which were still standing a few years later (Josh. 14:6–15). Thus, עולם may also be used as hyperbole in the biblical texts.

[16] עולם here may mean "in perpetuity" until his wife, a fellow slave, is released. Slaves, male and female alike, are released after 7 years of servitude (Deut. 15:12). The wife in Exod. 21:3-6 is distinct from the אמה in vv. 7–11 who is either betrothed or married to the master or his son, and because of her marital status, "will not leave as the עבד leaves." It is her marriage/betrothal that protects her from slave status. She is also distinct from the woman who was the slave's wife prior to servitude (v. 3). "He will go out alone" (21:4) may refer to the fact that the wife has not become free by her marriage to a fellow slave but remains until her debt is paid, or the seventh year, whichever comes first.

eventually die, so the meaning cannot be absolute, "unlimited time."[17] Long also notes the contextuality of עולם relating to promises and covenants:

> "…there are expressions which seem to clearly present a permanent, 'forever' promise, but which in other places are clearly dependent upon proper conduct and obedience. Promises regarding David,[18] regarding the Lord's presence and the possession of the land, are in several places shown to be permanent 'as long as' the people were faithful (1 Kings 2:4; 8:25; 9:4f; Chronicle parallels; Ps. 132:11f; cf. Num. 32:15) … עולם is dependent on the particular situation it is applied to for determining the parameters of time duration."[19]

Thus, the meaning of עולם is determined not merely by its own immediate context but also intertextual comparisons to antecedent descriptions even where the word itself does not appear.

In David's final charge to Solomon, he relates God's promise that there will be "no man of yours cut off (יכרת) from the throne," provided his descendants "walk before [Yahweh] faithfully" (1 Kgs. 2:4). As we will see in the 1 Samuel 2 example, promises and covenants need not be understood to apply equally to every individual member, but to the whole.

Relevant to marriage, Botta argues than עולם means "continuous, not a priori limited by time."[20] Contracts from Elephantine demonstrate this limitation of עולם. Numerous "wifehood" documents state some variation of "She is my wife and I am her

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[17] Long, "Notes," 56.

[18] 2 Sam. 23:4: כי ברית עולם שׂם לי "an everlasting covenant he established with me."

[19] Long, "Notes," 58-59.

[20] Botta, "Eternal Covenant," 159.

husband from this day עד־עולם,"[21] which predictably proceed to divorce clauses.[22]Additionally, in a "Withdrawal from Property" dated 440 BCE, the writer relinquishes property to another "from this day עד־עולם," then explicitly asserts in three ways withdrawal from any potential future claim.[23] The same occurs in numerous similar documents in the collection. Thus, whether a ברית עולם refers to a covenant as eternal and unchanging or merely not limited by time and potentially abrogable, context must determine. The word itself is insufficient to signal absolute immutability.

3.2 The Corporate-Individual Distinction: The Ground of the Remnant Concept

Entailed in the concept of banishment as a divine response to sin is the distinction between the corporate entity and the individual participant. In particular, the language of the Abrahamic and Sinaitic covenants make this distinction clear and further provide the framework for understanding the remnant concept.

3.2.1 Genesis 17: Circumcision and the Oath-Curse

When Yahweh cuts (כרת in v. 2; קום, "uphold," v. 7) the covenant with Abraham, the covenant and all it entails is to be for him and his offspring perpetually:

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[21] Long, 59, finds no discernible difference in meaning when comparing עולם and עד־עולם. "Both are used in parallel passages, in similar contexts serving adverbially." Some texts vary in meaning from others but there is no definite pattern.

[22] For numerous examples, see *TAD.*

[23] *TAD,* 38–39.

> "7 I will establish (קום)[24] my covenant between me and you and your offspring after you for generations as a covenant עולם,[25] to be God to you and to your offspring after you. 8 And I will give you and your offspring after you the land of your sojourn, all the land of Canaan as a possession עולם, and I will be God to them" (Gen. 17:7–8).

The covenant and possession of the land are עולם, meaning perpetually or not limited by time or in an unending way. Yahweh's solo pass through the pieces when the covenant is made signifies that He alone guarantees its fulfillment and perpetuity. The sign of this covenant is the circumcision of every male descendent (vv. 9–13), and every male descendent not circumcised will be "cut off (נכרתה) from his people."[26]

Kline suggests that the excised foreskin as the sign of the "cut" covenant signifies the "oath-curse" of the Israelite member being cut off.[27] The programmatic difference between the stipulations of Sinai and circumcision as a covenant sign aside,[28] the fundamental logic is the same: the non-participant in the corporate covenant is subject to covenant curse.[29] It would seem the reasons such lengths were taken by Yahweh in the

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[24] קום is used here to refer to Yahweh's upholding and continuing the covenant intergenerationally; the covenant is "cut" (כרת) in Gen. 15.

[25] Throughout this chapter, ambiguous occurrences of עולם are left untranslated.

[26] Gordon J. Wenham, *Genesis 16–50*, WBC (Dallas, TX: Word Books, 1994), 23, finds a similarity between the *karet* penalty for circumcision and magical functions of circumcision among other ANE peoples, suggesting this particular curse is "a warning that the sinner is liable to suffer a sudden mysterious death." The previous chapter, however, discussed Hobson's argument that *karet* usually involves expulsion and not death, which shows this to be unlikely. However, the fact that Adam's death curse resulted first in exile indicates again that the line between expulsion curses and death curses remains ambiguous. As well, Cain's curse of banishment (Gen. 4:10–16) is seemingly a merciful alternative to his death.

[27] Kline, *By Oath Consigned,* 42.

[28] Hillers, *Covenant,* 103–106.

[29] The exegetical difficulties of Exod. 4:24–26 aside—whether it is Moses' or his son's life threatened, or the meaning of חתן דמים ("bridegroom of blood")—covenant curse related to circumcision is the clear source of the threat. While differing on identifying the person threatened and other details, covenant curse

later monarchy to preserve the Mosaic covenant people are (1) in the Gen. 15 transaction Yahweh imposes the covenant curse upon himself should his Abrahamic vassal fail, and (2) the covenant of kingship given to David is apparently unilateral.[30] This further establishes the distinction between internal and external marking expressed in the imagery of "circumcised in heart" (Deut. 10:16–22), which later grounds John the Baptist's call to repentance from the heart (Matt. 3:9) and Jesus' "true vine" discourse (John 15:1–17). It is not enough to belong to a covenant outwardly; it must be embraced from the heart.

3.2.2 Individual Participation in the Sinai Covenant and God's Threat of a Mosaic Remnant

The Sinai event helps clarify the individual-corporate distinction as the grounding of the remnant concept, the mechanism by which the covenant people survive despite exile. Exodus 20:5–6 and 34:7 distinguish between Yahweh's חסד for those who love (אהב) him and keep his commandments while visiting iniquity (פקד עון) upon generations of those who hate (שׂנא) him. Operative in this distinction is the relationship between the corporate entity and individuals. The first observation to note is the second person singular verbs which begin each command of the Decalogue,[31] addressing the nation as a

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related to circumcision is clearly the center of the text in Cassuto, *Exodus,* 58–62; Hamilton, *Exodus,* 80–83; and Stuart, *Exodus,* 153–156.

[30] There are only two biblical texts which address establishing the Davidic covenant. In Ps. 89:3 [4] the covenant is "cut" (כרת), and in 2 Sam. 23:5 it is "set up" or "placed (שׂים); in the DSS, in 4Q504 (4:5) it is "established" or "upheld" (*hiphil* of קום); and in 4Q252 V, 4, the "covenant of kingship" was "given" (נתן) to David.

[31] Since Hebrew lacks a verb for "to have," the exception is the 3ms יהיה־לך beginning 20:3: "there will be to you (sg.)."

singular entity.[32] Sarna suggests all Israel at Sinai indicates collective covenant entrance while singular verbs indicate address to each individual,[33] although Sprinkle's point is well taken that those few instances in the Book of the Covenant (Exod. 20:22–23:33) where the pronouns switch to second person plural are likely addressing the Israelites individually in a more explicit, distributive sense, since the people are otherwise addressed as a singular collective.[34] Sprinkle's view seems to best explain the use of plural verbs and pronouns referring to Israelites who are nevertheless described with singular nouns—"treasure," "kingdom," and "nation"—in 19:4–6, thereby presenting Israel as a plurality addressed individually who together constitute a single corporate entity, as reflected also in the second person singular pronouns in 20:1–21.

19:4–6 reads:

> 4 You yourselves[35] saw (ראיתם אתם; pl.) what I did to the Egyptians. I carried you (אתכם; pl.) on eagles' wings and brought you (אתכם; pl) to myself. 5 And now, if you will certainly obey (תשמעו שמוע; pl.) my voice and keep (שמרתם; pl) my covenant, 6 then you will be (והייתם; pl) to me a treasure (sg.) from among all peoples, for all the earth is mine. And you will be (ואתם תהיו; pl.) a kingdom (ממלכת; sg.) of priests and a holy nation (גוי קדוש; sg.).

32 Cassuto, *Exodus*, 243.

33 Nahum M. Sarna, *Exodus: The Traditional Hebrew Text with the New JPS Translation*, 1st ed, The JPS Torah Commentary (Philadelphia: Jewish Publication Society, 1991), 109. Douglas K. Stuart, *Exodus*, NAC, Vol. 2 (Nashville, TN: Broadman & Holman, 2006), 443, finds the individual application stems from the "paradigmatic" nature of the Torah's laws and not the grammar of the text. For the paradigmatic function of Torah, see Christopher J. H. Wright, *Old Testament Ethics for the People of God* (Downers Grove, IL: IVP Academic, 2011).

34 Joe M. Sprinkle, *The Book of the Covenant: A Literary Approach*, JSOTS 174 (Sheffield, England: JSOT Press, 1994), 40, notes that pronouns switch to second person plural in Exodus 22:20–26, 22:28–30, 23:9, 23:13, 23:15. While second person singular forms may carry a distributive sense, the shift to second person plural forms more explicitly marks individual Israelites as addressees within the collective, thereby highlighting personal participation and responsibility.

35 The specific addressee of the Decalogue is unspecified, although the antecedent here is the "house (sg.) of Jacob" and "sons (pl.) of Israel."

The response in Exod. 19:8, "All the people (sg) answered (pl.) together and they said (pl.) 'Every word Yahweh spoke we will do (pl.),'" demonstrates the same degree of individual participation within a collective entity. The same occurs in the ratification ceremony (Exod. 24:1–8) which features all plural verbs and pronouns for Israel, as well as signaling corporate covenant entrance by the summoning of representatives up the mountain (24:1) and the twelve pillars alongside the altar (v. 4).[36] Additionally, a connection between the ברית and Israel as a collective can be identified based on the word קהל, "meeting" or "assembly;" Israel entered the covenant on "the day of the קהל. The day God formed the Covenant-Community."[37]

Hamilton's suggestion may be correct that שׂנא in 20:5 matches its occurrence in Mal. 1:2b–3a where it means "reject:" "Jacob I have loved but Esau I have rejected/hated."[38] In any case, to "hate" Yahweh is the opposite of covenant fidelity[39]—individual acts with corporate repercussions—hence the collective and generational פקד ("visit;" cf. Exod. 20:5; 34:7). In this way, Yahweh can describe himself as simultaneously forgiving yet ונקה לא ינקה, "will by no means acquit" (34:7). While true

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[36] Geerhardus Vos, *Biblical Theology: Old and New Testaments* (Eerdmans, 1948; repr., East Peoria, IL: Versa Press, 2014), 124.

[37] James Barr, *The Semantics of Biblical Language* (New York: Oxford University Press, 1961), 119. Deut. 10:4: ביום הקהל; Deut. 18:16: ביום הקהל; Deut. 4:10: הקהל־לי את־העם, "gather the people to me."

[38] Victor P. Hamilton, *Exodus: An Exegetical Commentary* (Grand Rapids: Baker Academic, 2011), 324.

[39] William L. Moran, "The Ancient Near Eastern Background of the Love of God in Deuteronomy," *Catholic Bible Quarterly* 25, no. 1 (1963): 77–87. Evidence from the ANE, including from Mari and the Amarna documents show "love" for king commonly understood in the ANE as meaning loyalty, keeping commandments, heeding his voice, and serving him. Moran, 77–78, also observes that at least within Deuteronomy, the primary image of the relationship between Yahweh and Israel is father-son, although it does not involve love (אהב) in the imagery; the husband-wife metaphor is absent from the covenant theme in Deuteronomy.

that Abraham's descendants were chosen and collectively redeemed prior to Sinai, conditionality is found in both the introduction to the covenant stipulations and within the stipulations themselves. The covenant is extended in grace while the benefits of the covenant—not to mention curses—are contingent on fidelity to the terms.

The relationship between the individual-corporate distinction and covenant survival by remnant becomes a tragic reality before the Sinai episode closes. In response to the golden calf debacle, Yahweh threatens to annihilate all except Moses and make a great nation of him. Yahweh's words in 32:7 indicate an ironic transition from naming himself as the God who brought Israel out of slavery to calling them "*your* people whom *you* brought up from the land of Egypt." This likely is a confirmatory response to the people's declaration, "These are *your* gods" in 32:4.[40] He then tells Moses what has happened below at the foot of the mountain and says:

> "And now, leave me alone, that my anger may kindle against them, and I may exterminate (*piel* of אכל) them, and that I may make you into great nation" (Exod. 32:10).

Moses intercedes, "standing in the breach" (עמד בפרץ, Ps. 106:23) to spare the people, and Yahweh relents from the threatened disaster (רעה, v. 14; cf. Jon. 3:10; 4:2). Many take this as a threat of complete covenant termination[41] or a nullification already

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[40] Brevard S. Childs, *The Book of Exodus: A Critical Theological Commentary*, The Old Testament Library (1974; Louisville, KY: Westminster John Knox Press, 2004), 567.

[41] Childs, 567; T. Desmond Alexander, *From Paradise to the Promised Land: An Introduction to the Pentateuch*, 4th ed. (Grand Rapids: Baker Academic, a division of Baker Publishing Group, 2022), 122, suggests that by breaking the covenant tablets, "Moses indicates that the covenant relationship between God and the Israelites is now ended."

enacted,[42] but it is better to understand this as a proposal to sustain Sinaitic Israel through Moses alone (or Moses and his family) as its sole representative. First, when God says he will make Moses into a great nation (ואעשׂה אותך לגוי גדול) he repeats the exact wording of Gen. 12:2 addressing Abraham, meaning God views Moses—should Moses "leave him alone"—as the potential recipient of the same promise. Second, the nation of Israel receives the Sinaitic covenant as a historical realization of the Abrahamic covenant. Exod. 6:7–8 is crucial; after recounting the covenant with Abraham (vv. 2–6), God directs Moses to tell Israel:

> 7 "I will take you to be my people, and I will be God to you, and you will know that I am Yahweh your God who brought you out from under the burdens of Egypt, 8 and I will bring you to the land which I promised[43] to Abraham, to Isaac, and to Jacob. I will give it as a possession to you; I am Yahweh."

Finally, this incident with Moses is paralleled in 1 Kings 19 when Elijah too climbs the mountain of God lamenting the people's apostasy. In both cases, the covenant survives the threat because a remnant will be preserved.[44] Israel's covenant with Yahweh at Sinai to inherit the land of Canaan is a realization of the covenant with Abraham. Thus, when Moses is told God will make a great nation out of him, it is more likely that he would be the sole representative of the Sinai covenant and not, as Hamilton puts it, "Moses being

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[42] Christopher J. H. Wright, *Exodus*, The Story of God Bible Commentary (Grand Rapids: Zondervan Academic, 2021), 551, states the language of "your people who you brought up" is "nothing short of an annulment of the covenant relationship."

[43] אשר נשׂאתי את־ידי "which I raised my hand," an idiom for swearing an oath.

[44] I owe this observation to my supervisor W. Brian Aucker. For discussion of the significance of 7000, see Iain W. Provan, V. Philips Long, and Tremper Longman, *A Biblical History of Israel*, 2nd ed., (Louisville, Kentucky: Westminster John Knox Press, 2015), 385 n. 24.

Abraham number two."[45] Against this interpretation, when Moses breaks the tablets and God re-makes the covenant, he uses the verb כרת (34:10), ordinarily used of forming a new covenant. However, in at least one instance (Deut. 29:12), כרת is employed in a covenant renewal, so the verb alone is not determinative.

This reading of Exodus 32 relates to the discussion in Chapter 2 of covenant breach signaling forfeiture. "These are your gods" (32:4) enacts repudiation and disavowal, a forfeiture of standing to which Yahweh responds in turn with the label "your people."[46] In any case, the individual and corporate elements of the covenant structure of Israel at Sinai shows that by the preservation of a remnant—echoing Noah in the flood and Judah in the exile—the corporate structure can survive even if only one remains. Moreover, the parallel with Jeroboam's establishment of golden calf worship following the apostasy in 1 Kings 12 is not incidental. Operative in both narratives is the continuation of the corporate entity while an apostatizing contingent is separated.

3.3 Corporate Stability Despite Individual Exclusion in Narrative Texts

The following is unique in scholarship regarding divorce. This section offers brief narrative case studies that illustrate the corporate–individual dynamic outlined above.

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[45] Hamilton, *Exodus,* 538. Some take this idea even further, suggesting it threatened to undo even the patriarchal covenant. Alan John Meenan, "An Interpretive Study of the Narrative of the Golden Calf (Exodus 32)" (PhD. Thesis, University of Edinburgh, 1980), 355, claimed that "The promise given to Abram (Gen. 12:2) was in danger of abrogation." Yahweh's passing through the pieces alone precludes this as even a remote possibility.

[46] John Calvin, *Commentaries on the Four Last Books of Moses Arranged in the Form of Harmony*, trans. Charles William Bingham (Edinburgh: Calvin Translation Society, 1852–55), 3:338. Calvin suggested this language implicated Moses in the sin of the people, but the desire to make a nation of Moses suggests otherwise.

The following considers Exodus 3–4, 12; 1 Sam. 2:27–33; and Joshua 7. Drawing from the work of David Firth concerning Israel's relation to the foreigner, these examples demonstrate in concrete terms how covenantal stability can coexist with individual exclusion.

3.3.1 Individual Participation in Collective Redemption in Exodus

Throughout the Exodus narrative God refers to the people of Israel as a collection of individuals (בני ישׂראל)[47] and as a singular collective entity (עמי); this is especially prominent in Exod. 3–4. In 3:7–8a God says:

> "7 I have surely seen the affliction of my people (sg.) who are in Egypt, and I have heard their (pl.) cry for help because of his (sg.) taskmasters, for I know his (sg.) sufferings. 8 I have come down to deliver him (sg.) from the hand of Egypt and to bring him (sg.) up from that land to a good and broad land."

Four masculine singular (and one plural) pronominal suffixes grammatically correspond to the singular antecedent עמי—an obscured detail in English translations—referring to the people as a singular עם who will enter Yahweh's covenant at Sinai (Exod. 24). Exod. 1:11–3:8 also exhibits a numerical structural symmetry: seven references to Israel's suffering (1:11, 1:12, 1:13, 1:14 [twice], 2:11, and 2:23a), culminating in their cry going up (עלה, 2:23b), are followed by seven references to Yahweh's acknowledgment of that suffering (four in 2:24 and three in 3:7), culminating in his declaration, "I have come down (ירד) to deliver him" (3:8). The pattern reinforces the narrative's movement from collective affliction to collective redemption.

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[47] Exod. 3:9, 10.

The collective-individual dynamic heightens in the Passover narrative. In 4:22–23, Moses is to tell Pharaoh, "Israel is my firstborn son.' … 'Release my son and let him serve me. If you refuse … I will kill your firstborn son.'" The outcome of the Passover confrontation is framed around two singular sons: Yahweh's firstborn, the עם of Israel, and the literal firstborn son of Pharaoh. The parallelism is deliberate; Pharaoh's treatment of Yahweh's "son" determines the fate of his own. Later, in the instructions for Passover in Exodus 12, Moses is to say to the congregation that on the tenth of the month,[48] "they shall take each man (ויקחו להם איש) a lamb for their father's house (בית אב), a lamb for a household" (12:3). Households lacking the blood on their doorpost are subject to destruction (v. 13). Furthermore, as an ongoing statute (חקת עולם), Israel is to participate in a Feast of Unleavened Bread.[49] Those who do not "will be cut off from Israel" (נכרתה הנפש ההוא מישׂראל) (12:15, 19). To summarize, Israel is corporately chosen for redemption, yet individuals are subject to the *karet* penalty—at least at the household level—for refusal to participate in the corporate, socio-cultic life of the people. In this we can identity a parallel between circumcision, Passover, and Unleavened Bread:

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[48] Cassuto, 137, notes that the tenth of the month coincides with the Day of Atonement and proclamation of the Jubilee year. Alexander, *Exodus,* 228–229, likewise, views the Passover sacrifice as a purifying consecration ritual.

[49] For critique of traditio-historical accounts of separate evolutionary origins for Passover and the Feast of Unleavened Bread originating with Wellhausen, see Alexander, *Exodus*, 216–222. In short, there is no direct evidence for either festival originating as agricultural festivals in ancient Palestine.

Table 1: Circumcision, Passover, Unleavened Bread: Individual Participation in the Corporate

Ritual/Sign	Function	Consequence	Participation Level
Circumcision	Marks individual participation in the corporate, socio-cultic life (covenant) of Israel	*Karet*: unmediated death curse; can be expressed as expulsion	Individual
Passover meal and blood	Purification ritual marking individual participation in the corporate redemption from Egypt	משחית (v. 13): unmediated death curse	Household
Feast of Unleavened Bread	Marks individual participation in the corporate life of the redeemed	*Karet*: unmediated death curse; can be expressed as expulsion	Individual

Passover and the Feast of Unleavened Bread reinforce the concept of remnant and covenant perpetuity: Yahweh preserves the continuity of the people even when some members fail, demonstrating communal identity and individual participation as inseparable. Partaking in Passover, like circumcision, signals inclusion and active participation in the covenant and frames punitive expulsion as both judgment on the individual and a means of preserving the corporate community.

3.3.2 The "Cutting Off" of the Household of Eli from the Priesthood

The Eli narrative in 1 Samuel illustrates a striking case of divine temporal judgment in which infidelity results in forfeiture of privileges while overarching divine promises remain intact. When the unnamed prophet confronts the high priest Eli about the corruption of his sons, the Lord appears to revoke an unqualified promise:

> "Therefore, thus says Yahweh God of Israel: I certainly said (inf. abs. + *qatal* of אמר) your house and your father's house would minister[50] before me עולם; but now, thus says Yahweh, far be it from me! For the one who honors me I will honor, and the one who despises me I will esteem lightly" (1 Sam. 2:30).

The result for Eli is that his strength and that of his father's house will be "cut off" (גדע, v. 31). Eli himself will *not* be "cut off" (כרת) but spared to see his sons' deaths (v. 33; 1 Sam. 4:10–18). God appears to revoke an unqualified promise. As we will see, however, by tolerating corruption, Eli has forfeited his place within a promise that remains otherwise valid. The identity of the recipients or members of this promise is a matter of some debate.

"Your father's house" in 1 Sam. 2:30 is identified as the family of Aaron in v. 27, but this may refer more specifically to the line of Ithamar for two important reasons. First, in Num. 25:10–13, Eleazar, the oldest of the two surviving sons of Aaron (Lev. 10), receives a "covenant of perpetual [high] priesthood" (ברית כהנת עולם; Num. 25:13), corresponding to 1 Sam. 2:30's "minister before me perpetually (עולם)."[51] Second, while the biblical narrative never accounts for the high priesthood granted to Ithamar's line (Eli's family), Yahweh's rejection of Eli results in Solomon's eventual ejection of Abiathar the Ithamarite and appointment of Zadok the Eleazarite to the high priesthood (1 Kgs. 2:26, 35), fulfilling both the revocation in 1 Sam. 2 and the perpetual priesthood of Eleazar. Accordingly, McKay suggests 1 Sam. 2:30 refers to an (elsewhere unrecorded)

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[50] The *hitpael* of הלך connotes exercise of authority or sovereignty (cf. Gen. 3:8; 13:17; Job. 22:14). For discussion, see Eugene Merrill, s.v., "הָלַךְ," *NIDOTTE*, 1:1034. That this was to be exercised in the presence (לפני) of Yahweh underscores the intolerability of the corruption.

[51] This language differs from Aaron being given the high priesthood as an "enduring statute" or "perpetual due" (חקת עולם, Exod. 27:21).

promise given to the line of Ithamar.[52] Consequently, "your house and your father's house" likely refers to the family of Eli specifically as descendants of Ithamar.[53]

What occurs precisely to Eli's family in 1 Sam. 2:30? Eleazar's "covenant of perpetual priesthood" is unharmed—in fact, the repudiation of Eli facilitates its later fulfillment. The perpetual due of high-priesthood given to the Aaronic line in general is untouched—the office continues within Aaron's house, whether by Ithamar or Eleazar. Nor is this the revocation of a promise—אמור אמרתי, "I certainly said," is not an oath or covenant formula[54]—but a judicial confirmation that Eli's house has, by corruption which undermines the nature and purpose of the priesthood, forfeited priestly participation. McKay's explanation is helpful:

> "'But now' the status of Eli and his line is no longer tenable. The Lord has not reneged on his promise, but the house of Eli has failed to live up to the obligations the promise imposed on them. God's declaration that 'those who honor me I will honor' confirms that divine blessing is extended to God's loyal subjects, while those who disregard the King's directions are precluded from enjoying his favor."[55]

Proponents of marital indissolubility remind us that God does not revoke or break his promises or covenants. But answering the dissolubility question entails more than merely

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[52] John L. McKay, "1–2 Samuel," in *ESV Expository Commentary*, Vol. 3, ed. Iain M. Duguid, James M. Hamilton, and Jay Skylar (Wheaton, IL: Crossway, 2018), 17–490, 62.

[53] C. F. Keil, "The Books of Samuel," in *Commentary on the Old Testament*, by C. F. Keil and F. Delitzsch, trans. James Martin (Edinburgh, 1866), 2:389, rejects the notion that 1 Sam. 2:28 refers to high priesthood on account of the description of general priestly duties in v. 28 that are not restricted to duties of the high priest. In contrast, McKay, "1–2 Samuel," 61, views the ephod mentioned in v. 28 to refer to the unique high-priestly ephod (Exod. 28:4–14; 39:2–7).

[54] The infinitive construct + a finite form of אמר also occurs in Exod. 21:5; Judg. 15:2; 1 Sam. 20:21; Jer. 23:17 (the word order is reversed here); and Ezek. 28:9. The collocation signals plain or certain speech which is strong but less forceful than a binding declaration.

[55] McKay, "1–2 Samuel," 62.

drawing a straight line from what God will not do to what therefore cannot be done in marriage. Assuming the divine covenant in some way informs marriage, such reasoning overlooks how God predictably responds to obstinate rebellion throughout the biblical record. Eli's family was indeed rejected from the priesthood, yet such repudiation was no more the revocation of a promise than "cutting off" an uncircumcised Israelite abrogates the Abrahamic covenant, or than the "cutting off" of the non-participant in Passover is Passover's cancelation. The recipient of divine promise who "does evil" in God's sight forfeits the good which he is promised (Jer. 18:7–10; Jonah 2:8).[56]

3.3.3 Joshua 7: ḤEREM and the Reversal of Israel and Canaan

Joshua 7 provides a vivid example of the logic first seen in the Abrahamic and Sinaitic covenants. Here the corporate entity is maintained despite individual exclusion when the execution of Achan and his household ensures continued survival of Israel. In this episode, the subject of extermination from the land threatens a reversal from the Canaanites to the Israelites. While the event with Achan is the most poignant instance of Joshua's חרם motif,[57] Israel's reversal with foreigners is a key theme beginning early in the book.

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[56] Here Yahweh affirms that human repentance will lead him to "relent (נחם) from the disaster (רעה)" while wickedness will lead him to "relent from the good." This follows the same logic as in Jonah 3:9–10 and 4:2 where God threatens רעה in response to Nineveh's רעה, but then relents (נחם) from the רעה which he had threatened. The promise is not revoked; God does not change. Rather, his posture toward the individual or nation changes depending on their response to him. For discussion of the literary-theological function of these keywords in Jonah, see C. John Collins, "From Literary Analysis to Theological Exposition: The Book of Jonah," *Journal of Translation and Textlinguistics* 7, no. 1 (1995): 28–44.

[57] There is no one straightforward meaning of חרם. Most basically it entails the irrevocable consecration of an object or person to Yahweh, whether by offering or by destruction. Lev. 27:28 says such a thing is "most holy" (קדשׁ־קדשׁים) to Yahweh, either in permanent service at the tabernacle or a situation in which the community devotes a group or person to Yahweh, particularly in warfare (Num. 21:2; Josh. 6:17; 1 Sam.

Firth notes that by the end of Chapter 1 the Canaanites are presented as "other," a people to be defeated, yet Rahab the Canaanite prostitute (זונה) exhibits the ideal faith of Caleb and Joshua,[58] a major turn of irony considering the Israelites had sinned by "prostituting" (זנה) with foreign women in Shittim (Num. 25:1–5), where they were still dwelling in Joshua 2:1.[59] The ambiguities of Rahab's narrative[60] raise questions about who is part of Israel and how Israel relates to the foreigner.[61]

The role-reversal of Israel and Canaan is most visible in the contrastive parallel between Rahab and Achan. "She was the Canaanite who becomes (in some way) Israelite, but he is the Israelite who becomes a Canaanite."[62] According to the law of חרם in warfare, if Israel is not purged of evil, the land will be purged of Israel—despite

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15:3). See Joshua Berman, "The Making of the Sin of Achan," *Biblical Interpretation* 22 (2014): 115–31; Joel S. Kaminsky, "Joshua 7: A Reassessment of Israelite Conceptions of Corporate Punishment," in *The Pitcher Is Broken: Memorial Essays for Gösta W. Ahlström*, ed. Steven W. Holloway and Lowell K. Handy, JSOTS 190 (Sheffield: Sheffield Academic Press, 1995), 315–346; J. P. Lilley, "Understanding the Ḥerem," *Tyndale Bulletin* 44, no. 1 (1993): 169–77; Lohfink, "חָרַם," *TDOT* 5:180–99; Jackie A. Naudé, "חָרַם," *NIDOTTE* 2:276–77; K. Lawson Younger Jr., *Ancient Conquest Accounts,* 227–28.

[58] This is observed in Rahab's confession of faith that Yahweh had given Israel the land and that the fear of God had fallen on the inhabitants, even giving mention of the Reed Sea crossing as part of the Exodus and Sinai events (2:9–10). Cf. Num. 14:7–9.

[59] David G. Firth, *Including the Stranger: Foreigners in the Former Prophets*, New Studies in Biblical Theology 50 (Downers Grove, IL: IVP Academic, 2019), 18–24.

[60] Among them the question of whether the spies' oath constituted a covenant which they were forbidden to make with Canaanites and whether Rahab tricked the spies or not. Whether one agrees with his perspective or not, K. M. Campbell discusses the covenant question in "Rahab's Covenant: A Short Note on Joshua ii 9–21," *VT* 22, no. 2 (1972): 243–44. Although, even if this was a covenant, one made with an individual may be different from the kind imagined in the prohibition, especially if that individual exhibits Israelite faith. Laws expressed in prohibitions rarely express exceptional circumstances in which they may not apply.

[61] Firth, *The Stranger*, 22.

[62] Firth, *The Stranger*, 24.

Achan's three-generation Judahite pedigree[63]—because Yahweh will not allow the land to be defiled (Lev. 18:25–28). Jericho is to be "devoted to destruction" (חרם), and the silver and gold reserved for Yahweh's treasury (6:17, 19). The warning in v. 18 clarifies the חרם logic:

> "Keep yourselves from the devoted things (חרם) lest, when you devote to destruction[64] (חרם), you[65] take some of the devoted things (חרם), you will make the camp of Israel as a devoted thing (חרם) and bring trouble[66] upon it."

In Lev. 27:28–29, "devoted things" are not subject to the law of redemption, but belong to Yahweh, which explains why Achan's sin, when he took some of the devoted things, was non-redeemable and beyond atonement.[67] Taking חרם makes one חרם, and such a change in status is irreversible. Such a transformation is also a tragedy within the narrative and with respect to the covenant; Yahweh was to "drive out" the inhabitants of the land (Exod. 23:20–33), and the inhabitants of the land given over to Israel were to be

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[63] Interestingly, Achan's identification to Joshua via his genealogy is how the reader is introduced to Achan as a three-generation member of the tribe of Judah; he is as thoroughly Israelite as they come (7:16–18). Firth, 24–25, sees this is as the former prophets' equivalent of Paul's "Hebrew of Hebrews" (Phil. 3:5).

[64] Because חרם and חמד have such orthographic similarity, LXX has ἐνθυμηθέντες, "covet," translating a theoretical תחמדו rather than MT's תחרימו, if accurate (cf. NRSV, NASB).

[65] The force of פן before תחרימו extends to the following verb to form a subordinate conditional clause (JM §168h); cf. Deut. 4:19 and Ps. 28:1 for similar constructions.

[66] עכר, "trouble," hence Hosea's "Valley of Achor." עכר rather than עכן may have been Achan's name since (1) his name is Αχαρ in LXX and עכר in 1 Chron. 2:7, and (2) authors of the former prophets tended to alter names for their own literary purposes, and thus, Firth, *Including the Stranger,* 25, suggests it may be because עכן has the same consonants as כנען (Canaan).

[67] J.P. Lilley, "Understanding the *HEREM,*" *TB* 44 no. 1 (1993): 169–177. "[*Herem*] means uncompromising consecration without possibility of recall or redemption. It was not applied to idolatrous objects, but to things which could have been taken as plunder or people who could have been enslaved. It was not the normal procedure of war, although the verb could be used in a secondary sense to denote overwhelming destruction of the enemy. The application of *herem* did not make a war "holy"; But it did introduce a special theological dimension which forbade taking booty, or prisoners, or both, according to the instructions given in the particular case."

devoted to complete destruction (החרם תחרים, Deut. 7:2). Now Israel threatens to be the one devoted to destruction.

In Josh. 7:15 Yahweh declares that the one with the devoted things will be burned, "him and all he has" (אתו ואת־כל־אשר־לו), indicating Achan's household. The rationale for the extermination of the household is a matter of considerable debate;[68] whatever the exact rationale, Yahweh calls this a transgression (עבר) of the covenant (7:11, 15) and, based on Exod. 20:5, Achan and family qualify as "those who hate [Yahweh]," as opposed to those who love him and keep his commandments. In addition, the fact that Yahweh will not be with Israel while this sin exists in the camp—enemies can now stand against them! (7:12–13, cf. Num. 14:45; Judg. 2:14)—means the sin of Achan operates at a programmatic level for Israel, threatening to undo their very status and role in the land of Canaan. Finally, all Israel has become חרם—"they turn before their enemies because they have become[69] חרם (7:12)—therefore, incredibly, allowing purgation of the חרם (Achan's family) rather than insisting on the destruction of all Israel is a tremendous mercy.

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[68] The corporate personality theory suggests ancient, pre-logical, Israel viewed the household as an organic unity where the group shared the individual's guilt. Against this notion, the "contagion" or taboo theory appeals to the "contagious" or transferable nature of ritual uncleanness and sacrilege, suggesting this particular instance endangered the entire community. Social contagion theory views the infectious nature of Achan's sin as the explanation. Additionally, some view the family as collectively culpable by participation or awareness. For various views, see Berman, 115–31; Joel S. Kaminsky, 315–346; Damian O. Odo and Dirk J. Human, "Exploring Joshua 7:1–5 through the Lens of Social Contagion Liability," *Verbum et Ecclesia* 45, no. 1 (2024), https://doi.org/10.4102/ve.v45i1.3197; Marten H. Woudstra, *The Book of Joshua*, New International Commentary on the Old Testament (Grand Rapids: Eerdmans, 1981), 130.

[69] היה with ל of product (AC §4.1.10.e.2) indicates transformation into חרם.

3.3.3.1 Joshua 7 and Punitive Expulsion

The relationship between חרם and the Israel-Canaan reversal in Joshua 2 and 7 is not straightforward. But as we saw with the *karet* penalty in Chapter 2, expulsion and extermination curses overlap more than they differ. חרם is not expulsion, but expulsion may be a secondary result. The making of the camp חרם by touching חרם means Israel is non-redeemable and subject to total annihilation. Expulsion from the land does not stem immediately from חרם, but Joshua understands this as a potential result of חרם due to the wrath of God (Josh. 7:1, 26): if Israel cannot stand before their enemies, they will eventually be expelled by the Canaanites (7:8–9). The collective punishment of Joshua 7 is often considered unparalleled in the Hebrew Bible, although the reversal of the object of mercy with the object of judgment has a strong parallel in the exiles of Israel and Judah, likely the reason for prophetic references to the "Valley of Achor" (7:26; 15:7; cf. Hos. 2:15; Isa. 65:10).

The relationship between Israel and foreigners in Joshua 1–7 and potential role reversal reaches a high point in the book of Kings as the success and failure of the nation is continuously determined by engagements with foreigners (Josh. 24:14–15; Judg. 2:11–23; 1 Sam. 15; 2 Sam. 8:1–18; 1 Kgs. 4–11). Ruth the Moabitess becomes an Israelite in much the same way as Rahab (Ruth 1–4; Joshua 2; 6:17, 25); Israel rejects Samuel's leadership, demanding to be like the foreign nations (1 Sam. 8:1–22); Saul loses the kingship for failing to devote a foreign king to destruction (1 Sam. 15:1–35); the downward spiral of Solomon's kingship begins with his marriage to foreign wives (1 Kgs. 11:1–13); the northern tribes essentially make themselves foreign by rejecting David and Jerusalem (1 Kgs. 12:1–24); the Aramean commander is sent for healing to the

Israelite prophet and professes Israelite faith (2 Kgs. 5:1–19); the "foreignness" of the northern tribes is confirmed in permanent exile, and Judah, while exiled to Babylon, is restored back to its Israelite status in the promised land by the decree of a foreign king (2 Kgs. 17:1–23; 2 Kgs. 24–25; Ezra 1:1–4; 2:1–70; Neh. 1–2); and foreign wives married by returned exiles are sent away as a matter of religious and ritual protection for the people. Firth's summary of this theme is poignant:

> "…an Israel that ceases to remain faithful to Yahweh can lose its status. So, just as foreigners who commit themselves to Yahweh can become part of Israel, so also Israelites who abandon Yahweh lose their status as his people."[70]

In sum, Joshua 7 illustrates the programmatic logic of punitive expulsion: Israel's corporate integrity is preserved even as individuals who transgress—Achan and his household, whose exclusion mirrors the inclusion of Rahab and her household—are removed. Inclusion or exclusion depends on fidelity, not ancestry, prior status, or the nature of covenants. This conditional membership pattern establishes a conceptual framework for understanding later episodes of reversal, exile, and restoration: permanence of covenantal structures does not guarantee the permanence of individual membership.[71]

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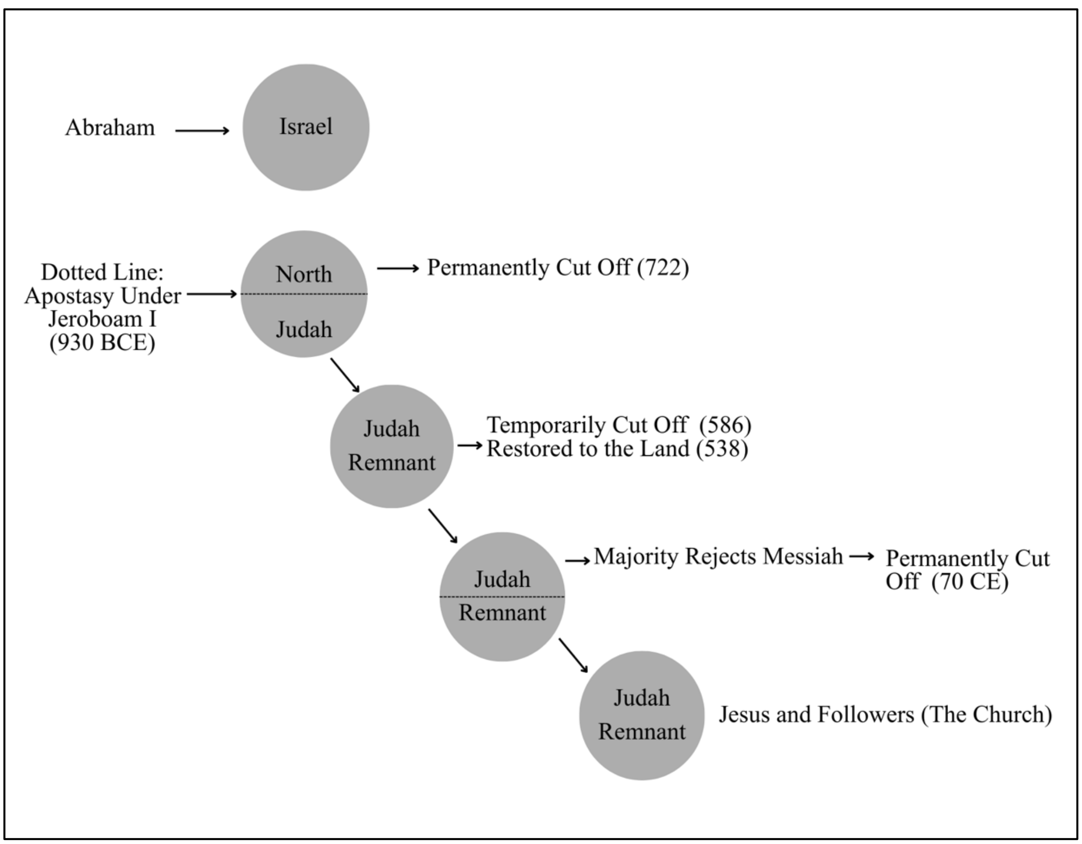
[70] Firth, *Including the Stranger,* 177.

[71] Some readers may anticipate soteriological implications following this statement; for clarification, see §4.3.2, "Consequenes of Reversing or Over-Extending the Metaphors, and §5.2.1.2, "Key Questions Relating to Pauline Texts."

3.3.4 Making Sense of the Exile and Two Kingdoms

The exile must be read with attention to the distinct trajectories of the two kingdoms. After the northern tribes rejected the Davidic and Mosaic covenants, Yahweh permitted them to remain in the land for two centuries. Their eventual demise in 722 confirmed the apostasy begun in 930, terminating the northern kingdom as a political entity. The following figure visually depicts the biblical-theological pattern of apostasy and remnant preservation from the foundation of Israel as a covenant nation to the rejection of the Messiah and establishment of the Church:

Figure 1: Apostasy–Remnant-Preservation Pattern



Prophetic promises of restoration often appear to flatten this north-south distinction as though both kingdoms, to include the apostate northern majority, are "all

Israel" sharing a single corporate fate.[72] Texts like the vision of the two sticks in Ezek. 37:15–28 seem to invite this move. Yet the vision's mechanics reinforce the remnant logic. A northern remnant, while not a separate political entity, will be preserved (1 Kgs. 19:18; Amos 9:8–10),[73] and returning Judahites are aware "all Israel"—the twelve-tribe covenant entity established at Sinai—will be restored (Ezra 6:17). But "all Israel" is reunited, not by a corporate political entity of Israel being restored as Judah was, but by regathering individuals after exile and destruction (Ezek. 37:21). The northern kingdom as a political entity is not restored like Judah; surviving individuals are re-incorporated into the Davidic kingdom (v. 24).[74] The record of this event in 2 Kings 17 communicated to exiles of Judah both the ongoing relevance of the Mosaic Covenant and an implicit warning that such events may occur again.[75]

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[72] Scholars often miss the distinction. E.g., René Gehring, "The Biblical 'One Flesh' Theology of Marriage as Constituted in Genesis 2:24: An Exegetical Study of This Human-Divine Covenant, Its New Testament Echoes, and Its Reception History Throughout Scripture" (PhD Thesis, Avondale University, 2011), 216–217, interprets Yahweh's divorce of the northern kingdom (Jer. 3:8) as "an important act among efforts to finally win her back," in light of Jeremiah's promises of restoration to Judah. Further, he reads the violent death of Samaria at the hand of "her lovers" in Ezek. 23:10 as punishment God considers but does not carry out because "he prefers temporal separation—thus clinging to the hope of finally seeing her repent and return to him." In this interpretation, the historical distinction between the two sisters/kingdoms and their fates are conflated. Similarly, Kidner, *The Message of Hosea,* 27, reads היא לא אשתי ואנכי לא אישה, "She is not my wife, and I am not her husband" in Hos. 2:2 as a question ("Is she not my wife and am I not her husband?") indicating that final divorce is unthinkable to Yahweh. Kidner, 27, n. 1, further suggests Isa. 50:1 reflects the same question of the unthinkable, calling the divorce of the north a temporary separation, despite Hos. 1:6b-7a's sharp distinction between no mercy or forgiveness for Israel but mercy and salvation for Judah, and that Isa. 50:1 addresses Judah.

[73] Paul's quotation of 1 Kgs. 19:18 (Rom. 11:4) connects himself as a Benjaminite to the 7000 who did not bend the knee to Baal, evidence that God has not rejected his people. This may suggest the remnant in 1 Kgs. 19:18 refers to purged Judah and not to a corporate northern remnant. The prophets are not as clear as we would like them to be on this.

[74] Some had been returning to Judah in small numbers all along; cf. 2 Chron 11:13–17; 15:9; 30:1–11.

[75] For an excellent overview of this theme across the book Kings, see Nathan Lovell, *The Book of Kings and Exilic Identity: 1 and 2 Kings as a Work of Political Historiography* (New York: Bloomsbury Academic, 2021).

This ironic reversal—corporate excision preserving Judah and individual re-inclusion after Israel's demise—underscores the structural asymmetry between individual and corporate covenant dynamics. While the Yahweh–Israel covenant can excise a rebellious contingent to purge and preserve the corporate structure, marriage lacks such capacity. Divorce functions not as corporate reconfiguration but as punitive expulsion within an irreducibly dyadic structure. As discussed in Chapter 4, this asymmetry limits prophetic marriage and divorce imagery; one-to-one comparison produces absurdities.

3.4 Conclusion

This chapter has shown that the continuity of divine covenants depends on a corporate-individual distinction: the covenant survives collectively even when individuals are expelled for unfaithfulness. Narrative examples—from circumcision and Passover to Eli's family and Achan—illustrate how punitive measures remove individuals without nullifying the covenant itself. Marital covenants, by contrast, lack a corporate remnant mechanism: when a spouse is expelled for serious breach, the marital bond dissolves by vacancy. Therefore, analogies drawn from divine covenant permanence cannot automatically establish the indissolubility of marriage. Further, this chapter demonstrated that the very mechanism by which we can account for the dissolution of a marital bond is integrally linked with the divine mercy by which a remnant of fallen humanity (as in the flood with Noah, then Abraham) and fallen Israel (as in the exile with Judah) ensures the preservation of the human race represented by a people of God.[76]

[76] In the classic study on remnant theology, Gerhard F. Hasel, *The Remnant: The History and Theology of the Remnant Idea from Genesis to Isaiah* (Berrien Springs, MI: Andrews University Press, 1972), 375, says that the concept "expresses a twofold idea: (1) Through the survival of a remnant of human entities the

continuity of existence and the preservation of life of these entities is guaranteed; and (2) the life and existence of human entities ceases when no remnant survives."

Chapter 4

Challenges and Limitations Relating to Marriage as a Metaphor for the Divine Covenant

At the heart of the prophetic marital metaphor lies a prior conceptual question: "whether the marriage-idea is at all to be equated to the berith-idea."[1] For many scholars, pastors, and readers, it is a foregone conclusion that marriage is a covenant and therefore informed by and patterned after the Yahweh-Israel covenant. This chapter explores the analogy and disanalogy between the divine covenant with Israel and the marital covenant, highlighting some of the linguistic and logical limitations of this analogy.

We begin by discussing the complications in understanding the word ברית, summarizing arguments by Hugenberger for the traditional understanding of marriage as covenantal, then proceed to discussion of the covenant-contract distinction. Here it is argued that the popularization of this distinction in the 1970s by James Torrance was an overreaction to (1) early modern Reformed theologians using the word "contract" in reference to biblical covenants, and (2) the positing of conditions within biblical covenants. The result was the reduction of "covenant" to an unconditional promise. While "contract" in the modern sense does not adequately gloss the word ברית—due primarily to connotations rather than denotations—biblical covenants and marriage can be accurately described as "contractual," properly qualified.[2] That said, it may be that the

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[1] Vos, *Biblical Theology,* 278.

[2] I.e., the mere presence of the term "contract" does not signal contingent reciprocity (*quid pro quo*) but simply means there are conditions to remain in good standing. Thus, Andreas J. Köstenberger and David W. Jones, *Marriage and the Family*, Biblical Essentials (Wheaton, IL: Crossway, 2012), 44: "… it should

covenant-contract dichotomy is a red herring, and not just because many also define ברית as "obligation," but also because the practical point remains either way: punitive expulsion—clearly evident in the biblical text—removes a rebellious offender from a community or relationship, by whichever framework that community or relationship is defined. In any case, we must avoid reductive or Anglocentric approaches to "covenant," or one that conflates word and concept.

The last section of this chapter will evaluate the marital imagery in the prophets in light of metaphor theory. Here it is concluded that the marital-punitive metaphors primarily inform Israel's understanding of their sin and rebellion against Yahweh by appeal to familiar household images. This conclusion is partly informed by metaphor theory, but also partly necessitated by the theological and ethical complications of reversing the metaphor, which includes potential biblical warrant for polygamy in light of Yahweh's "marriage" to two "sisters" (Israel and Judah), and for sexual violence against an adulterous wife, depicted primarily in Hosea 2:2–23 [4–25] and Ezek. 16:25–43; 23. The discussion in this chapter situates the marital metaphor and the covenant concept within their proper semantic and conceptual bounds, showing both the explanatory value of the metaphor and risks of overextension or reversal.

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be recognized that the biblical notion of marriage as a covenant at the very least incorporates contractual features."

4.1 Marriage as a ברית

As stated above, for many it is a settled issue that the marriage covenant is necessarily patterned after the divine covenant between Yahweh and Israel. Atkinson's view is representative:

> "Indeed the fundamental biblical description of marriage is given in covenantal terms, and the interchange of analogies by which human marriage is used to describe God's covenant relationship with his people, and by which God's relationship with his people, or Christ's with his Church, is used to provide a pattern for human marriage, can be traced through both Old and New Testaments."[3]

Atkinson identifies a mutual, bidirectional analogy between covenant and marriage, which is defensible[4] so long as the metaphorical does not become ontological: "marital imagery describes the covenant; therefore, marriage is a covenant." To this point, Milgrom rightly noted that in texts expressing covenant in marital terms, "the term *bryt* … is a literary usage and carries no legal force."[5] Since metaphorical use alone cannot establish marriage as a covenant, Hugenberger cites biblical and extra-biblical examples showing that marriages typically included oath-signs (*verba solemnia*),[6] as is standardly recognized for covenants in scholarship.[7] This fact may stand behind the expression

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[3] Atkinson, *To Have and to Hold,* 71.

[4] The bidirectional nature, or "interaction theory" of metaphors is discussed below.

[5] Milgrom, *Cult and Conscience,* 134. Regarding Ezek. 16:8, Greenburg, *Ezekiel 1–20*, 278, argues that since the law of adultery only applied to the husband and not the wife, God's taking an oath and entering a covenant (ואבוא בברית אתך) mixes the metaphor with the historical referent of the Abrahamic and Sinaitic covenants. Hugenburger, 307, suggests this is unlikely due to the consistency with which the author maintains this aspect of the metaphor throughout the chapter, suggesting the marriage–covenant connection is likely intended by the author.

[6] Hugenberger, Chap. 7. Hugenberger contends that sexual consummation often functioned as the oath sign in ancient Israel.

[7] Weinfeld, *TDOT*, s.v. "בְּרִית b^e*rît*, 2:255.

“covenant and oath” appearing in Hebrew,[8] Akkadian, and Phoenician.[9] Note that in Deut. 29:12 [11], Israel enters Yahweh’s covenant (ברית יהוה), and Yahweh “cuts” (כרת) an “oath” (אלה) with them.[10] That כרת takes both ברית and אלה as objects in the same context suggests a semantic parallel.

Typical covenant vocabulary is never employed with respect to marriage. Whereas a covenant is “cut” (כרת), “upheld/established” (הקים), or “given” (נתן),[11] the typical marital idiom is “taking” (לקח) a wife.[12] The possible exception, discussed in Chapter 3, is the divorce certificate, ספר כריתות, if we grant that כריתות is derived from כרת and refers to divorce as “cutting” or “severance.”[13] Covenant and marriage having distinct sets of vocabulary cautions against a too-quick assumption that marriage is a covenant, or supposing they are both “covenants” in precisely the same way without distinction.

The clearest texts which likely identify marriage as a covenant are Proverbs 2:17 and Malachi 2:14. In Prov. 2:17, the “covenant of her God” (ברית אלהיה) which the “strange/foreign” woman (נכריה) forgets is sometimes taken to refer to violation of the

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[8] Gen. 26:28; Deut. 29:12, 14, 19 [11, 13, 18]; Ezek. 16:59; 17:18.

[9] Weinfeld, *TDOT*, 2:256; “Covenant Terminology in the Ancient Near East and Its Influence on the West,” *JAOS* 93, no. 2 (1973): 190–99.

[10] Weinfeld, *TDOT*, 2:256. Thus, NIV renders both nouns “covenant.” The ESV smooths the two into one, rendering בברית ... ואלתו into “the sworn covenant,” which obscures the parallel which is preserved in NASB.

[11] See Yaron, *On Divorce in Old Testament Times*.

[12] The idiom occurs 33 times in the OT.

[13] Westbrook, *History*, 1:388; Hugenberger, 72, n. 125.

Sinaitic covenant's seventh commandment rather than a marriage covenant.[14] Hugenberger offers six linguistic and contextual reasons the covenant here should be understood as marriage.[15] Similar arguments—that the ברית refers to the Sinaitic covenant—are proposed regarding marriage in Malachi 2:14, although it too has traditionally been interpreted as referring to marriage as a covenant; Hugenberger's defense of this view is thorough and compelling.[16] But identifying marriage as a covenant does not settle the issue of what "covenant" means or how to understand the function of marital covenant imagery in prophetic texts. To this first issue we turn next.

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[14] Derek Kidner, *Proverbs: An Introduction and Commentary*, TOTC (Nottingham, England : Downers Grove, IL: Inter-Varsity Press, 2008), 60. Kidner remarks that this phrase differs from that in Mal. 2:14 which more clearly indicates a reference to the marriage covenant.

[15] Hugenberger, *Marriage as a Covenant,* 299-302. (1) The meaning of אלוף ("companion"): contextual and lexical evidence supports reading the word as "trusted companion" or "confidant" (a husband), rather than "teacher" (often proposed) or a reference to God directly; (2) Endearing epithet and parallel phrases: "Companion of her youth" parallels other texts referring to a husband (e.g., Jer. 3:4; Prov. 5:18; Mal. 2:15), fitting naturally with the marital context rather than a theological covenant; (3) Inter-human covenants as "covenants of God:" Biblical examples (Ezek. 17:16–20; Jer. 34:18; 1 Sam. 20:8) show that human covenants invoking God's name can be described as "God's covenant," validating the marital reference despite the phrasing "covenant of *her* God;" (4) Feminine suffix on אלהיה: the suffix suggests an individual or relational reference ("her God" or "her covenant"), which aligns better with marriage than the corporate Sinaitic covenant; (5) Genre and thematic expectations of Proverbs: Proverbs rarely engages in historical or theological exposition; this singular mention of a "covenant" in Proverbs is best explained as referring to marriage in a wisdom context; (6) Correspondence with Mal. 2:14–16: Vocabulary and thematic parallels (e.g., "companion of her youth," "faithless to the wife of your youth") reinforce the interpretation of the Prov. 2:17 covenant as marital.

[16] Hugenberger, 27–30, offers five supporting arguments: (1) Non-univocal use of "covenant" in Malachi: other covenants in the book (e.g., 2:4–5, 8) are not Yahweh's covenant with Israel, so 2:14 can refer to a different covenant; (2) Yahweh as witness between husband and wife: the phrasing "witness between you and the wife of your youth" parallels other idioms (Gen. 31:50, 44, 48f.), where the covenant exists directly between the two parties, supporting a marital reading; (3) Apposition with חברתך ("your companion"): the term "companion" often refers to covenant partners, implying the covenant is between the husband and wife rather than a broader theological entity; (4) the infidelity idiom בגד + ב: the phrase "against whom you have been faithless" is used in Scripture to describe breaches of interpersonal covenants, here indicating marital unfaithfulness; (5) Parallel nominal syntagms with person-based covenants: other biblical examples (e.g., לנצורי בריתו [Ps. 25:10], בעלי ברית-אברהם [Gen. 14:13], אנשי בריתך [Obad. 7]) show that covenants suffixed or constructed with a person as regens exist between that person and another. The structure of אשת בריתך (Mal. 2:14b) mirrors these patterns, indicating the covenant is between husband and wife.

4.2 Challenges in Understanding "Covenant"

A full study of the word ברית is beyond the scope of this thesis,[17] but some remarks are necessary. The word is variously construed as an obligation or law, a promise or oath, an agreement or pact, or a relationship governed by one of the above.[18] What is generally discredited is the notion that a ברית is simply a relationship,[19] given occurrences where the word cannot refer to relationship, such as Josiah's ברית marking commitment to follow the Torah (2 Kgs 23:3), Sabbath keeping (Exod. 31:16), or show bread arrangements in the tabernacle (Lev. 24.8).[20] A more widely accepted notion is that covenant involves obligations under divine sanction.[21] Essentialist or single-feature definitions are insufficient.

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[17] For an in-depth analysis, see Hugenberger, *Marriage as a Covenant*, Chap. 6, 178–215.

[18] Three linguistic tendencies stand out as challenges to the study of the covenant concept. (1) The tendency to collapse all OT uses of ברית into a univocal concept, (2) fully dichotomizing covenant and contract, and, related to the first two, (3) a tendency to conflate word and concept, treating translations of the word, such as "covenant," as technical terms in receptor languages. Related to the third, based on informal discussions with non-native English-speakers (e.g., international students and immigrants), a similar tendency seems to appear in several languages, with the seeming exception of Chinese and Japanese, which lack dedicated words that can suffice for the concept of ברית and instead combine a term for "holy" with one for "contract."

[19] E.g., Atkinson, *To Have and to Hold,* 71, suggests "all human relationships can be expressed in covenantal terms."

[20] These texts often support the notion that ברית is primarily an obligation or imposition rather than a two-party alliance or relationship. See Weinfeld, *TDOT*, 2:255; Milgrom, *Leviticus 23–27*, 2100. Some scholars, e.g., Paul R. Williamson, *Sealed with an Oath: Covenant in God's Unfolding Purpose*, NSBT 23 (Nottingham: Apollos, 2007), 102, and Sklar, *Leviticus*, 646–47, 666, take these verses to refer to a covenant "sign." This may be correct, but may also risk "unwarranted restriction of the semantic field" since the word "sign" (אות) does not appear in these passages as it does in Gen. 9:12, 17; and 17:11. See D. A. Carson, *Exegetical Fallacies*, 2. ed., (Grand Rapids: Baker Books, 2003), 57–61.

[21] Kline, *By Oath Consigned*, 16: "Every divine-human covenant in Scripture involves a sanction-sealed commitment to maintain a particular relationship or follow a stipulated course of action. In general, then, a covenant may be defined as a relationship under sanctions." Hugenberger, 171: "The predominant sense of בְּרִית in Biblical Hebrew is an elected, as opposed to natural, relationship of obligation established under divine sanction."

4.2.1 The Covenant-Contract Dichotomy

The most common challenge in modern studies of covenant is the tendency to dichotomize "covenant" and "contract" into fully discrete concepts, with the occasional, misguided attempt to neatly map both words onto διαθήκη and συνθήκη.[22] James Torrance popularized this dichotomy in the 1970s,[23] arguing that "conditions" are inherently "contractual" and opposed to the nature of grace, and thus opposed to the nature of covenants.[24] This contention lies at the heart of Torrance's contrary-to-grace critique of federal theology, in which he claimed that early modern Reformed theologians misunderstood "covenant," evidenced by their liberal use of contract language.[25] Fesko thoroughly dismantles this argument, demonstrating that in the early modern period the terms "covenant" and "contract" were synonymous,[26] and even where the word "contract" was used, its usage aligns with contemporary promissory notions of

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[22] Contrary to Jones and Tarwater, "Are Biblical Covenants Dissoluble?," 11, who report 34 combined occurrences of διαθήκη and συνθήκη in the NT, συνθήκη does not appear at all in the NT or LXX, so if this is a distinction to be followed strictly, it is not one observable in Scripture. Similarly, Torrance, 54–55, claimed that a bilateral covenant, like the one between David and Jonathan, is a συνθήκη, whereas when a unilateral covenant, such as one initiated by Yahweh, is depicted, "The word is always *diatheke*." Note, however, that the LXX calls the bilateral covenant between David and Jonathan a διαθήκη in 1 Sam. 20:8.

[23] James B. Torrance, "Covenant or Contract? A Study of the Theological Background of Worship in Seventeenth-Century Scotland," *Scottish Journal of Theology 23*(1), (1970): 51–76.

[24] Bavinck, *Reformed Ethics: Volume 3*, 173, 184, takes similar, but more historically nuanced, issue with contract terminology in marital theology, one which shows the connection to federal theology is unnecessary. However, in other places he holds the two together as a single concept; cf. *The Wonderful Works of God*, trans. Henry Zylstra (Glenside, PA: Westminster Seminary Press, 2019), 253, where he refers to fallen Adam's relationship to Satan as both "covenantal" and a "contract" in the same paragraph.

[25] For examples, see Guy M. Richard, "The Covenant of Redemption," in *Covenant Theology: Biblical, Theological, and Historical Perspectives*, ed. Guy Prentiss Waters (Wheaton: Crossway, 2020), n.p.

[26] Fesko, *Adam and the Covenant of Works,* 62. Early modern theologians referred to God's ברית as "covenant, contract, compact, alliance, or bargain," all of which were used interchangeably, often using two or three in a single sentence.

"covenant."[27] He demonstrates that the term "contract" has simply changed since the early modern period, exposing Torrance's critique as unfounded.[28]

At the heart of the controversy is the idea that a covenant is to be defined as "a promise binding two people or two parties to love one another *unconditionally*."[29] In contrast, "A contract is a *legal* relationship in which two people or two parties bind themselves together on mutual *conditions* to effect some future result. … It takes the form, 'If…if…then…', as in the business world."[30] Such an approach substitutes theological concepts for lexical definitions. But more importantly, it fails to account for the immense degree to which the blessings and curses of biblical covenants rest in contingency (Lev. 26; Deut. 4:25–31; 11:16–28; 27:11–26; 28–30).[31] As Chapter 3 noted, the grace of the covenant which Israel receives is framed against the reality of banishment; and banishment—not merely temporal discipline—is a perpetual possibility for the rebellious and apostate. The people of Israel always risk being "cut off."

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[27] Fesko, *Adam and the Covenant of Works*, 55–76.

[28] Fesko, *Adam and the Covenant of Works,* 67–72.

[29] Torrance, "Covenant or Contract?," 54, emphasis his.

[30] Torrance, "Covenant or Contract?,", emphasis his. A popular example of this position can be found in Timothy Keller, *Preaching: Communicating Faith in an Age of Skepticism,* (New York, Penguin Books: 2015), 104: Keller defines a covenant as "more intimate and loving than a mere contract; more binding and accountable than a mere relationship." In *The Meaning of Marriage,* (New York, Penguin Books: 2011), 88, Keller distinguishes a covenant from "a merely legal, business relationship," which seems aligned with Torrance's view of "contract." Yet "Love," he says, "needs a framework of binding obligation," the very rationale that some would argue undermines a strict covenant-contract dichotomy. That Keller's definition seems to combine elements of both ideas into a single definition suggests the two may not be so distinct.

[31] This is true for the members of the Abrahamic covenant who are subject to *karet* if uncircumcised (Gen. 17:9–13); additionally, Israel having a Davidic king on the throne is conditioned on fidelity (1 Kgs. 2:4), which explains the division of the kingdoms as a result of Solomon's downfall.

Historical-legal attempts at a covenant-contract distinction have generally been more successful. Tucker attempted to identify contract forms in the Hebrew Bible as distinct from covenant forms.[32] While helpfully noting that covenants appeal to the deity as guarantor while contracts appeal to human authority, his examples of contracts are, more accurately, receipts since they govern no relationship or ongoing agreement and merely record past transactions.[33] Westbrook and Hugenberger offer the most compelling covenant-contract distinction by noting the difference between the relationship itself and a documentary witness specifying terms related to marital property or children.[34] In the end, any sharp categorical distinction between covenant and contract proves elusive.

4.2.1.1 Covenant Contingency and Punitive Expulsion

An additional challenge with the covenant-contract dichotomy is highlighted by a central proposal of this thesis, that divorce is primarily to be understood as punitive expulsion. Critics of "contractual" or "conditional" elements within the covenant idea tend to conceptualize divorce—or corrective actions taken in response to spousal failure—as liberative or self-serving.[35] By contrast, divorce as punitive expulsion is a

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[32] Gene M. Tucker, "Covenant Forms and Contract Forms," *VT* 15 (1965): 487–503.

[33] What Tucker called "contract" forms can be found in Gen. 23:9–18; Ruth 4:9–11; 2 Sam. 24:18–25 (1 Chron. 21:18–27); and Jer. 32:10–12.

[34] Westbrook, *History*, 1:48; *Old Babylonian Marriage Law,* 58; Hugenberger, 191–2.

[35] At a pastoral level, the "covenant is more than a mere contract" message, which still regularly issues from pulpits, may be speaking past, and thus no longer in dialogue with, cultural messages at large regarding marriage as a vehicle of self-expression and development. It may be that distinguishing covenant from contract is culturally anachronistic at this point since the pastor is pushing back against a contractual view of marriage that Western culture has largely abandoned in favor of something else entirely. Legally marriage is still considered a private contract, although one that bears little similarity with any normal

framework which locates marital obligations squarely in the realm of social ethics—not personal freedoms and benefits—with each spouse bound to their oath to the other in noncontingent reciprocity; yet the inherently contingent nature of such an oath places a curse on the spouse who would violate it,[36] and "in such cases," to use Paul's wording, their unrepentant violation signals forfeiture of standing subject to punitive action.

Finally, while "contract" in modern usage is an inadequate gloss for ברית, it is beyond dispute that biblical covenants entail promises, obligations, and penalties. A covenant is irreducible to mere conditionality or unconditionality; it is graciously given and received, yet its blessings and curses remain fully contingent on fidelity. The key distinction between the divine covenant, whose continuity is guaranteed by God himself (Gen. 15:17–18), and a marriage covenant, is that, as the previous chapter demonstrated, covenant membership in Israel functioned at both corporate and individual levels. Punitive expulsion, which undergirds the rationale for divorce, also serves the preservation of the covenant community by removing persistent covenant violators, as seen in the preservation of Judah following the expulsion of the northern kingdom.

4.3 Marital-Punitive Metaphors in Prophetic Discourse

Throughout this thesis, and in much of the literature on covenant metaphors in the prophets, reference is made to "marital imagery," a term which describes the rhetoric of the prophets wherein the covenant between Yahweh and Israel is addressed in marital

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contracts since it can be dissolved at will for no specified reason and without penalty in all but a few countries of the world.

[36] This view makes good sense of Kline's "oath-curse" symbolized in the sign of circumcision.

terms. It is doubtful, however, that “marital imagery” adequately describes these metaphors. This doubt arises in part from the observation that marital imagery is never employed in Scripture earlier than Hosea and is almost exclusively used in the context of covenant enforcement in response to apostasy. The doubt also arises because the metaphorical domains are, precisely speaking, not “divine covenant” and “marriage” (Sinaitic covenant = marriage) but rather:

1. Israel and the “wife of whoredom”: Israel = deviant wife.[37]
2. Temporal covenant discipline and public shaming: foreign oppression = ANE adulteress exposure.
3. Covenant expulsion and divorce: exile = divorce.

Accordingly, a more accurate term than “marital imagery” or “marital metaphor” may be “marital-punitive metaphor” since they primarily describe Yahweh’s response to Israel’s apostasy rather than characterize the covenant relationship generally. That the covenant itself is to be understood in marital terms seems at best an inferred metaphor and not the primary content intended by the prophets. Post-exilic restoration of Judah is admittedly expressed as betrothal (Hos. 2:2–23; Isa. 54:4–8; 62:4–5; Jer. 31:31–34), but this must be understood in the context of the metaphor mappings above as antecedent to the betrothal metaphor.

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[37] Some suggest זנה invariably denotes prostitution (e.g., Stuart, *Exodus*, 725, n. 199), although the semantic range of זנה likely cannot be reduced to this narrow sense, instead referring to a broader spectrum of sexual deviance, evidenced by God calling Canaanite worship זנה (Exod. 34:15–16). This is likely the reason Israel is accused in Hosea of זנה for participating in Canaanite worship. See Bauman, *Love and Violence*, 43–6.

Misconstruing the domains or function of a metaphor risks weakening its rhetorical force and may lead to overextension or reversal of its ethical application. In this regard, it is especially important to understand the prophetic metaphors as speech-acts calling for response and not merely communicating informational content. Additionally, it must be recognized that the metaphor “Yahweh as Husband” appears alongside many others, several of which are more frequent numerically: Yahweh as farmer, Yahweh as parent, and Yahweh as predatory animal.[38]

Theorists describe metaphor as more than similitude or analogy, but “understanding and experiencing one kind of thing in terms of another.”[39] Metaphor is understood as a process wherein attributes or information from a source domain (tenor) is transferred to a target domain (vehicle). In the metaphor “life is a journey,” “journey” is the source domain (vehicle) which transports projected attributes to the target domain (tenor) “life,” which creates a newfound way of experiencing the concept of “life” in terms of the more familiar “journey.” While modern theorists, beginning with Max Black, observe metaphoric interaction in which domains are necessarily mutually informing,[40] cross-mapping is formally unidirectional.

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[38] Mason D. Lancaster, *Hosea’s God: A Metaphorical Theology*, Ancient Israel and Its Literature, no. 48 (Atlanta: SBL Press, 2023), 203–205. Lancaster identifies 103 metaphors for God in Hosea, farmer being the most frequent. God is depicted as farmer 17 times, parent 16 times, predatory animal 11 times, and husband 10 times. See also Brittany Kim, *“Lengthen Your Tent-Cords”: The Metaphorical World of Israel’s Household in the Book of Isaiah*, Siphrut 23 (University Park, PA: Eisenbrauns, 2018), 4, who says of the various female metaphors for Jerusalem in Isaiah, "Isiah uses the daughter metaphor to portray an unbreakable relationship between Zion and YHWH, which transcends the rift of exile (see 49:14–15, 52:2, 62:11), while the wife metaphor presents the possibility of a complete relational rupture in its discussion of divorce (50:1, though see the marital reconciliation in 54:4–10)."

[39] George Lakoff and Mark Johnson, *Metaphors We Live By* (Chicago: University of Chicago, 1980), 5.

[40] Max Black, *Models and Metaphors; Studies in Language and Philosophy* (1962; Ithaca, NY: Cornell University Press, 1972).

Regarding marital imagery, Hamer demonstrates that throughout the Old and New Testaments, traditional interpretations have often reverse cross-mapped target to source, expressing ordinary marriage in terms patterned after Yahweh's covenant with Israel.[41] Hamer's work primarily focuses on the "one-flesh" union of marriages in comparison with the primal "marriage" between Adam and Eve, challenging the longstanding notion that the primal marriage (the literal, miraculous union in Gen. 2:23) is directly paradigmatic in informing the nature and ontology of marriage. Such a reading fails to account for the uniqueness of the primal couple's relationship. As Hamer shows, Gen. 2:24, not v. 23, provides the etiological, metaphorical paradigm for volitional human marriages. Hamer suggests that the following differences between Gen. 2:23 and 2:24 prevent a 1:1 mapping between them:[42]

Genesis 2:23	**Genesis 2:24**
1. A miraculous man and woman	1. A naturally born man and woman
2. Remain as they are	2. Become what they were not
3. In a literal one-flesh union	3. In a metaphorical one-flesh union
4. Without need of a covenant	4. By a volitional, conditional covenant

While scholars are correct that "flesh and blood" in Gen. 2:23 is ANE kinship language, no marriage can be one-flesh in the way the primal couple was.[43] Therefore, the one-flesh union in mundane marriage is figurative, not representing a literal or metaphysical

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[41] Colin Hamer, *Marital Imagery in the Bible: An Exploration of Genesis 2:24 and Its Significance for the Understanding of New Testament Divorce and Remarriage Teaching* (London: Apostolos Publishing Ltd., 2015). In particularly, see cross-mapping charts in Appendix A, 273–278.

[42] Hamer, *Marital Imagery*, 265. Lists are reproduced exactly.

[43] Gen. 2:23 is, therefore, not the "first marriage ceremony," as in Keller, *The Meaning of Marriage*, 86. The primal couple's literal, biological oneness was not joined by marriage.

reality.[44] As noted previously, this is no more clearly apparent than in the one-flesh union between a man and a prostitute in 1 Cor. 6:15–16. Construing "one-flesh" as denoting a permanent, indissoluble union cannot account for the illicit union as not likewise indissoluble.

4.3.1 Metaphors for Yahweh and Israel Relating to Sin and Judgment

Despite longstanding claims that marital imagery[45] is central to Israel's covenant identity,[46] it seems unlikely that without the prophetic corpus or the NT that such a marital framework would be detectible in relation to the Sinai event; rather, the prophetic metaphor "Israel as wife" likely emerges within a larger metaphorical structure of "household" given the centrality of the household in ANE culture.[47] Biblically this

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[44] For further discussion, see §5.1.1, n. 4.

[45] As Moran, "Love of God in Deuteronomy," observes, the father–son metaphor dominates in Deuteronomy while the husband–wife metaphor is entirely absent.

[46] Some have argued that the marital metaphor is established in Exod. 34:14 with use of the קנא ("be jealous") root. For example, Daniel I. Block, *Covenant: The Framework of God's Grand Plan of Redemption* (Baker Academic, 2021), 136, says, "In everyday life, *qannāʾ* identified the legitimate passion of a husband when an outside suitor challenged his relationship with his wife." This claim may reflect a selective reading of the word's usage. Of the 83 instances of the root in the OT, 11 (possibly 12) refer to a husband's jealousy: 10 in Num. 5, forming a cluster that inflates the apparent frequency; one in Prov. 6:34; and possibly one in Song 8:6 if the "Solomon as rival" reading is accepted. In contexts unrelated to the Lord's jealousy or zeal, or to human zeal for the Lord, the term occurs more frequently (17 times) to denote ordinary envy or jealousy (e.g., Job 5:2; Prov. 14:30, 27:4; Eccl. 4:4, 9:6). Further, R. Abma, *Bonds of Love: Methodic Studies of Prophetic Texts with Marriage Imagery (Isaiah 50: 1-3 and 54:1-10, Hosea 1-3, Jeremiah 2-3)*, Studia Semitica Neerlandica 40 (Assen: Van Gorcum, 1999), 3, observes that קנא in these contexts refer to Yahweh's anger or rage in the context of Israel's worship of other gods where Israel is not personified as female. "Jealousy" should then be considered a covenant idiom relating to the demand for exclusive worship and not properly a marital idiom.

[47] J. Andrew Dearman, "Yhwh's House: Gender Roles and Metaphors for Israel in Hosea," *Journal of Northwest Semitic Languages* 25 (1999): 106–7; Leo G. Perdue, "The Household, Old Testament Theology, and Contemporary Hermeneutics," in *Families in Ancient Israel*, ed. Leo G. Perdue et al., (Louisville, KY: Westminster John Knox, 1997), 225.

imagery does not occur earlier than eighth century prophecy and almost exclusively addresses Israel's idolatry and warns of judgment.[48]

Anthropomorphic metaphors for God introduce a theological complication. Classical doctrines of immutability and impassibility require that God is not conditioned or altered by creaturely action. Thus, when Yahweh is depicted as a husband disciplining the "wife of whoredom," the imagery should not be taken to imply affect change within God. Yet such inspired metaphors are not fictive. As Beeke and Smalley observe, while God does not change in his being or purposes, he "changes the course of his actions toward people when they sin or repent of sin."[49] Divine "repentance," therefore, signifies not internal change in God but a change in outcome for the human actor.[50]

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[48] Raymond C. Ortlund, *God's Unfaithful Wife: A Biblical Theology of Spiritual Adultery* (Downers Grove, IL: IVP Academic, 2016), 26–32, suggests זנה as an accusation against Israel, combined with jealousy language (see note 46), suggests the Israel-Yahweh covenant "is marital in nature."[48] He suggests זנה is used literally for fornication, "as well as figuratively for betrayal of one's union with God." Erlandsson (*TDOT,* s.v. "זָנָה *zānāh*," 4:101) also sees "apostasy" as a figurative meaning of זנה on the basis of the prophetic metaphor. Regarding Yahweh's characterization of Canaanite cultic practices as זנה (Exod. 34:15), Ortlund attributes this to the sexually perverse nature of their religious rituals and that this need not imply betrayal of a Canaan-Yahweh covenant. This interpretation, however, raises a conceptual tension. If זנה applied to Israel engaging in Canaanite religion necessarily signals relational (specifically marital) betrayal, it is unclear why the same term applied to the Canaanites—much earlier than it was applied to Israel—does not likewise imply relational betrayal. The metaphorical force of זנה referring to covenant apostasy is narratival and rhetorical, not lexical. Israel's "whoredom" signals covenant betrayal, but the verb itself does not denote apostasy. Ortlund, 26, appears to accept an inherent element of betrayal in the root זנה imported from the root זנח ("forsake," "betray"). Ortland calls this connection "etymologically eccentric but conceptually suggestive," indicating his awareness that such etymological relation is specious. Since III-ה verbs were originally III-י (or possibly III-ו) verbs (*PMBH* §4.3.8.6), there is no reason to accept a connection between the roots beyond orthographic similarity. Additionally, while זנה can include the sense of adultery, נאף, also used for Gomer and Israel (Hos. 4:2, 13, 14; 7:4), means only adultery. While the two are used in parallel in Hos. 4:13, 14, only זנה appears in the first three chapters where it appears to refer to prostitution or perhaps fornication.

[49] Joel R. Beeke and Paul M. Smalley, *Reformed Systematic Theology* (Wheaton, IL: Crossway, 2019), 1:715-16.

[50] Cf. Jonah 3:8–10.

So too, marital-punitive metaphors communicate less about the inner life of God than the corporate standing of the people. The people addressed by the prophet are experiencing the outcome of the "execution of purposes that God formed before the foundation of the world."[51] In other words, Yahweh as offended husband primarily depicts the people's wickedness rather than God's woundedness. Again, a metaphor presents the less familiar in terms of the more familiar; in this case, idolatry communicated in familial household terms facilitates a new experience of idolatry. However, contrary to those who treat the metaphor as simply one-directional,[52] metaphoric interaction occurs, although the "reverse effect" of the metaphor as informing human marriage is diminished by divine immutability and impassibility as theological constraints on the metaphor.

4.3.1.1 The Darker Marital-Punitive Metaphors

As stated above, the marital-punitive metaphor is not limited to Israel as deviant wife, but also includes foreign oppression as publicly shaming and execution of the adulteress (Hos. 2:3 [5]; Ezek. 16:39; 23:10) and exile as divorce (Hos. 2:2 [4]; Isa. 50:1; Jer. 3:1, 8). The public shaming metaphor introduces further complication as this practice is not sanctioned by the Torah. It reflects a known ANE practice of an adulterous wife's

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[51] Beeke and Smalley, *Reformed Systematic Theology,* 1:716.

[52] Nelly Stienstra, *YHWH Is the Husband of His People: Analysis of a Biblical Metaphor with Special Reference to Translation* (Kampen: Kok Pharos Publishing House, 1993). Stienstra views the metaphor as a simple analog of socio-cultural practices of Israelite marriage directly applied to Yahweh depicted as an ordinary husband. So too, Instone-Brewer, "Three Weddings and a Divorce," views the marital metaphor as depicting Yahweh's adherence to the Torah as a guide to his conduct within a marriage begun at Sinai.

public stripping, beating, or even being led around by a nose rope.[53] The extant examples, appear to be royally sanctioned rather than a husband's personal actions,[54] highlighting within the metaphor the identity of Yahweh as King enacting public justice.

Ezekiel 23 depicts Israel and Judah as sisters married to Yahweh: Oholah (Israel) and Oholibah (Judah). Oholah's affair with Assyria may depict Jehu's subservience to Shalmaneser III in 841 BCE[55] or Menahem's tribute to Tiglath-Pilesar III in 738.[56] Block suggests either may have entailed acknowledging Assyrian deities.[57] Both may be in view since exact historical reconstruction likely misses Ezekiel's purpose. Yahweh gives Oholah over to her lovers (Assyria) who abuse, rape, and murder her (v. 10), depicting the 722 destruction of Samaria. Judah (Oholibah) is thus warned of exile for failing to repent after witnessing her sister's demise. Jeremiah 3:6–8 parallels this account but frames actions against Israel with a different metaphor: divorce. In v. 8 Yahweh says, "I sent her away with a certificate of divorce" (ואתן את־ספר כריתתיה שׁלחתיה) before calling Judah to repent. Hosea makes an explicit distinction between Judah and Israel: "For I will have no more mercy for the house of Israel to forgive them, but I will have mercy on the

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[53] Samuel Greengus, "A Textbook Case of Adultery in Ancient Mesopotamia," *Hebrew Union College Annual, 1969–1970* 40/41 (1970–1969): 33-44. 33-44; Saul M. Olyan, "'In the Sight of Her Lovers': On the Interpretation of *Nablūt* in Hos 2,12," *BZ* 36, no. 2 (September 1992): 2589–0468; Westbrook, *History*, 1:75.

[54] Marten Stol, *Women in the Ancient Near East*, trans. Helen Richardson and Mervyn Richardson (Boston: De Gruyter, 2016), 249.

[55] For translation of the Black Obelisk of Shalmaneser III, see *ANET*, 280–281.

[56] 2 Kgs. 15:17–22. *ANET,* 283.

[57] Daniel I. Block, *The Book of Ezekial: Chapter 1–24* (Grand Rapids: Eerdmans, 1997), 740–741.

house of Judah and rescue them by Yahweh their God" (Hos. 1:6b–7a). Thus, unlike Israel, Judah will be restored and reconciled with Yahweh.

4.3.2 Consequences of Reversing or Over-Extending the Metaphors

These "darker" metaphors help illustrate the danger of over-extension or reversal of the marital metaphor. A methodology that sees marriage as the antitype to the divine "marriage," and consequently applies Hosea's call to reconciliation directly to marriage, must also articulate why other metaphorical features—such as Yahweh's polygamous marriage to two sisters or the public stripping and shaming of an adulterous wife—do not likewise inform marital norms. As Abma concluded regarding this imagery in Hosea:

> "The marriage imagery functions here in a context of confrontation. …in Hosea 1–3 the worship of the baals—and of Yhwh as Baal—is attacked and the nature of true commitment to Yhwh is defined with the help of the notion of the covenant as a unique and exclusive relationship."[58]

Metaphor expresses a less familiar concept in terms of a more familiar image. In this case, the less familiar is the people's covenant violation, prophetically communicated in more familiar household terms: marriage, betrayal, adultery, shame, execution, and divorce. In other words, the marital imagery is a prophetic, confrontational, speech-act which appeals to marriage's requirement of exclusive fidelity in order to call people to repentance.

Chapter 2 argued that divorce is best conceptualized as punitive expulsion of the offender and that the marital bond is dissolved as a result of vacancy following expulsion.

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[58] Abma, *Bonds of Love,* 262. Abma's study helps clarify that the demand for exclusive worship is the central idea in the marital covenant idiom.

Chapter 3 observed that covenant membership occurs at corporate and individual levels, and that punitive expulsion may remove unrepentant offenders from the community while the corporate body continues. Herein lies another significant complication of overextending the marital metaphors in the prophets. Familiar images of marriage, adultery, and divorce are employed to characterize the covenant people's sin in newfound ways. While we may identify marriage as a covenant subject to the same conceptual framework as the Yahweh-Israel covenant, the marriage between two individuals and the metaphorical "marriage" between Yahweh and Israel are not fully analogous. Therefore, if the metaphor informs marriage, it does so only within the bounds of shared characteristics. The divine covenant and marriage are both rooted in mutual love and commitment, exclusive fidelity, intended as permanent, and entail obligations and penalties for breach. Nevertheless, there are more differences than similarities. The following list enumerates the differences:

Divine Covenant	**Marriage**
1. Suzerainty treaty	1. Parity treaty[59]
2. Corporate structure with individual participants	2. Individual participants only
3. Trans-generational	3. Cannot survive death of one party

[59] Some will object on the grounds that ANE and biblical marriage is asymmetrical with the husband as "lord" of the wife and thus marriage is more akin to suzerainty. Choosing a specific form is probably overly granular, but suzerainty is inappropriate for marriage even in a complementarian framework. A suzerain could have multiple vassals while vassals were to be loyal to one suzerain, and as lord of the vassal the suzerain had far more power and control than most complementarian schemes allow. Additionally, authority and submission govern the internal ordering of marriage, not its formal classification. Thus, the presence of asymmetrical authority does not by itself determine the nature of the bond or how the bond is classified.

4. Includes severe physical judgments for infidelity with Yahweh as judge	4. Corporal punishment is reserved for authorities to administer, not spouses
5. Redemptive[60]	5. Non-redemptive
6. Election-based	6. Consent-based
7. Subordinate to and guaranteed by a prior covenant (Abrahamic)	7. No prior covenant in connection
8. Punitive expulsion purges a surviving corporate structure	8. Punitive expulsion dissolves the marital structure

While all items in this list are significant for our attention, most important for this study is the last item in the list, which is primarily a result of the second. No corporate structure comprised of individual participants means there is no mechanism of surviving the covenant structure once punitive expulsion is enacted; therefore, the marital bond is dissoluble as a result of vacancy.

A clear example of both over-extension and reversal of the marital metaphor is from Tarwater, who treats Yahweh's covenant actions as directly instructive for marriage and (selectively) conflates divided Israel and Judah into a single, monolithic entity:

> "When Israel failed to live faithfully according to the terms of her covenant with God, the Lord graciously responded 'Nevertheless I will remember my covenant with you in the days of your youth, and I will establish an everlasting covenant with you" (Ezek 16:59–60). Even when Israel played the role of the harlot and the terms of the covenant had been broken, God remained faithful to his covenant with Israel. The Lord's

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[60] The Sinaitic Covenant is "redemptive" in a redemptive-historical and typological sense. As an administration of the Abrahamic Covenant, it governs the people through whom God's promise of worldwide blessing is realized (Gen 12:3), provides sacrificial means of atonement within the covenant, and typologically anticipates the fuller redemption accomplished in the New Covenant. By contrast, marriage is "non-redemptive" in that it is not an instrument or administration of the history of redemption and does not mediate atonement or covenantal salvation. Nevertheless, it is not unrelated to redemption. As articulated in Eph. 5:22–33, marriage functions as a creational ordinance that typologically reflects and proclaims the redemptive relationship between Christ and the church.

> actions concerning covenant responsibility intimate that the obligations of a covenant, including marriage, are unconditional."[61]

And later:

> "…because God sets the terms of marriage and not man, marital responsibilities are independent of the other party's behavior and thus, obligations in marriage are moral and unconditional. For example, even after the terms and obligations of the marriage covenant were broken, Malachi insisted 'the wife of your youth' was still 'the wife of your marriage covenant' (Mal 2:14-15). Similarly, God remained bound by his covenant with Israel though she played the harlot (Ezek 16:60). The unwavering testimony of Scripture points toward the life-long nature of a covenant relationship. Marriage lasts until the covenanters are parted by death."[62]

While Tarwater rightly notes that covenant obligations are not contingent, his application of Ezekiel's statement to "Israel" misrepresents the historical reality: the northern tribes were permanently cut off, and Yahweh explicitly calls this divorce (Jer. 3:8).[63] It was Judah alone who received Ezekiel's message of covenant continuance. His appeal to Malachi compounds the problem, inaccurately implying Malachi chastises a husband for divorcing a wife who has broken the covenant, whereas the divorce in Malachi is condemned as a groundless divorce for "aversion."[64] Moreover, his framework is ethically inconsistent: if Yahweh's covenant actions are directly instructive for marriage,

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[61] Tarwater, *Marriage as Covenant*, 98. Note the subtle equivocation: the non-contingent nature of covenant obligation becomes the ground for indissolubility. "Covenant obligations are unconditional" becomes "the covenant is unconditional" becomes "the bond is indissoluble," which smuggles in the unsupported claim that obligations are perpetually binding regardless of breach or repudiation on the part of the other partner.

[62] Tarwater, *Marriage as Covenant,* 108.

[63] Tarwater, 78, acknowledges Yahweh issued Israel a certificate of divorce, even using this to argue for the covenantal nature of marriage, yet a recognition of Yahweh's divorce as such is commonly avoided by suggesting Yahweh's marriage is metaphorical and his divorce hyperbolic.

[64] Hugenberger, *Marriage as Covenant,* 76–81; Westbrook, "Prohibition," 399–403.

an injured husband—like Yahweh in response to Israel's unfaithfulness—ought to have the moral prerogative of divorce. Tarwater, however, reaches the opposite conclusion, selectively applying the metaphor in a way that undermines its internal logic. By flattening historical and corporate distinctions, his model evacuates the covenant framework of any explanatory power for Yahweh's divorce of the northern kingdom and provides inconsistent answers to the divorce question.

4.4 Conclusion

This chapter has argued that while marriage may rightly be described as covenantal, the identification of marriage with the Yahweh–Israel covenant cannot be assumed easily or without qualification. Linguistic analysis of ברית, historical reconsideration of the covenant–contract dichotomy, and attention to covenant contingency all caution against reducing covenant to an unconditional promise or reading later theological constructs back into the biblical text. More importantly, metaphor theory clarifies the direction and purpose of the prophetic marital-punitive imagery: it functions rhetorically to render Israel's covenant infidelity intelligible and morally repugnant, not to establish any specific understanding of the marital bond.

The disanalogies enumerated above demonstrate that the divine covenant and ordinary marriage operate within fundamentally different structural realities. The Yahweh–Israel covenant is suzerain, corporate, trans-generational, redemptive, and judicially enforced by God as king. Ordinary marriage is dyadic, parity-based, mortality-bound, and lacking a corporate mechanism capable of surviving punitive expulsion. These differences delimit the extent to which metaphorical transfer may legitimately occur between divine and marital covenants.

Chapter 5

A Model of Marital Dissolution in the Old Testament

Having conducted analyses of punitive expulsion and divorce, we may now consider the Punitive–Vacancy–Dissolution Model, comprising five elements: (1) the nature and status of the marital bond, (2) the dissolubility of the marital bond, (3) the essential meaning and purpose of divorce, (4) by what mechanism the marital bond is dissolved, and (5) in what circumstances the bond may be legitimately dissolved. This chapter proposes this model as the best explanation for all OT marriage and divorce texts, then discusses preliminary interaction of the model with related NT passages, followed by implications of the study. The majority Protestant view agrees with this thesis that the marital bond is dissoluble, and consequently remarriage following divorce should theoretically be permitted.[1] The contribution of this thesis is providing a robust conceptual rationale for this view rooted in the Old Testament (1) as Christian scripture, and (2) as providing the worldview by which the New Testament can be understood.

5.1 The Punitive–Vacancy–Dissolution Model

The model has two primary components. First, legitimate divorce is inherently punitive, as opposed to a self-beneficial freedom-right. Second, dissolution occurs by

[1] "Theoretically" is used here because permission does not make a thing "good" or "bad," but contingent on other factors. An unqualified statement that "remarriage is permissible" can be misleading.

covenant vacancy[2] following punitive expulsion, rather than by a legal process or as the necessary effect of violations. The Punitive–Vacancy–Dissolution Model attempts to convey these elements which necessarily follow from the previous analyses.

5.1.1 Nature of the Marital Bond: Moral-Covenantal, Not Metaphysical

In the previous chapter, attention was paid to Hamer's metaphorical analysis of Genesis 2:23–24.[3] In this analysis, Gen. 2:23 may be called The Model and 2:24 The Modeled. Gen. 2:23 presents Adam and Eve in a state of biological oneness which establishes the ideal of monogamous permanence. Gen. 2:24 depicts marriage as covenant-sanctioned legal oneness modeled after the physical oneness of the primal couple. "One-flesh" indicates marriage is modeled figuratively after the primal couple's physical oneness.[4] While the language of Gen. 2:24 is that of kinship, Chapter 2 of this thesis demonstrated that fictive kinship is not indivisibly permanent, nor was it considered so in the ANE. Abductively, punitive–vacancy dissolution offers the best

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[2] As defined in Chapter 1, the marital bond being constituted by the dyad, vacancy is the condition produced when one spouse is permanently removed from the union of life shared by the two parties, whether by death, punitive expulsion, or desertion, such that the bond is dissolved *ipso facto*.

[3] Colin Hamer, *Marital Imagery in the Bible: An Exploration of Genesis 2:24 and Its Significance for the Understanding of New Testament Divorce and Remarriage Teaching* (London: Apostolos Publishing Ltd., 2015). See discussion in Chapter 4.

[4] והיו לבשׂר אחד: even if employing a ל of product (AC §4.1.10.e.2), אחד does not mean "one" in a strict numerical sense, but unified, for the very next verse begins ויהיו שׁניהם, "and the two of them were." Robert Alter, *Genesis: Translation and Commentary* (New York: W. W. Norton & Company, 1997), 10, notes that "The narrative immediately unsettles the neatness of the etiological certainty, for the first couple are two, not one flesh." Note Paul's comment in 1 Cor. 6:17 that "Whoever is joined with the Lord becomes one spirit with Him," which surely does not produce a singular spirit indivisible by nature (as in Trinitarian indivisibility), but a union which, in the case of one joined with the Lord, is held fast by the Spirit.

explanation of both the ideal of permanence and the dissolution of marriages depicted as real in biblical texts.

The term "moral-covenantal" suggests that marriage is a covenant-sanctioned legal status of oneness governed by the ordinary covenantal process of self-maledictory oath-curse, thus entailing obligations and penalties for breach. The "moral" element is determined by the observation that all divorces depicted in the Hebrew Bible—to include passages where divorce is prohibited[5]—are punitive responses to moral failure. Divorce is never depicted as a self-beneficial freedom-right, but as expulsion.

Chapter 2 discussed the apparent counterexamples of Exodus 21:10–11 and Deuteronomy 21:10–14.[6] Exod. 21:10–11 and Deut. 21:10–14 present divorce—assuming the bond in Exod. 21 is marital or at least covenantal in some sense—as freedom for an innocent, non-free female. As such it appears to contradict the punitive expulsion theory. In the first passage, the female is an אמה, a secondary wife for childbearing as debt-servitude. In the second passage, the wife is taken among war captives belonging to peoples with whom intermarriage was not prohibited.[7] In both cases, freedom refers to relational, but more importantly, legal status, since their marriage and victimization grants them free citizenship.[8] In both instances, where punitive

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[5] Deut. 22:19, 29.

[6] Ezra 9–10 is omitted from this final synthesis due to the likelihood that the dissolution of unlawful marriages is likely annulment rather than divorce.

[7] Keil, "Deuteronomy," 1:942.

[8] Westbrook, "The Female Slave," 235.

expulsion would normally occur against the violator, the non-free woman is released since the covenant-curse is applied to the man.

In the more explicit texts depicting divorce (or its prohibition), the action is clearly punitive. The divorce in Deut. 24:1 is depicted as lawful. Despite lack of clarity as to what ערות דבר means, its association with shamefulness or uncleanness on the part of the wife sufficiently demonstrates the divorce was a punitive sending away (שׁלח), contrasted with the divorce for "aversion" by her second husband, a form of divorce condemned in Malachi 2.[9] While the rationale for prohibiting the first husband's remarriage to his former wife is unclear, that her initial remarriage is not prohibited implies its legitimacy.[10] Finally, the use of divorce imagery to depict the exile and destruction of the northern kingdom and the temporary expulsion of Judah (Isa. 50:1–3; 54:5–8; Jer. 3:8; Ezek. 16; 23; Hos. 1–3) clearly depicts the action as punitive expulsion for moral failure in violation of the covenant.

In two instances in the Torah, divorce is prohibited, and the prohibition is also based in moral failure. In Deut. 22:19, a husband wrongfully accusing his bride of זנה is prohibited from ever divorcing her. Likewise in 22:29, a man who sexually assaults a woman is compelled to become the husband of his victim—that is, made responsible for her care and provision as an act of restitution—and prohibited from ever divorcing her.

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[9] Discussed in Chapter 2. See Hugenberger, Chap. 3, esp. §5, 76–81; Westbrook, "Prohibition of Restoration of Marriage in Deuteronomy 24.1–4," 399–403.

[10] So also, Grudem, *What the Bible Says About Divorce and Remarriage.*

Since the husband in 22:19 has issued a socially catastrophic false accusation,[11] he forfeits the ability to bring accusations of wrongdoing to send her away in the future. Bilateral marital provision, assumed as the legal foundation of Exod. 21:10–11, effectively becomes his sole responsibility. Maimonides and Abravanel suggested that the three penalties correspond to the three parts of the crime, prohibiting what the husband attempted to achieve by fraud.[12] If accurate, this further implies not only that divorce for aversion is unlawful, but that divorce as a freedom-right is condemned as well.

These marriage and divorce texts demonstrate that the bond of marriage is moral-covenantal, rather than metaphysical. To summarize the characteristics of marriage and divorce within this model thus far:

1. Marriage is a covenant-sanctioned legal oneness modeled after the primal couple's physical oneness, meaning the bond is moral-covenantal rather than metaphysical.
2. Marriage as a covenant is based on a self-maledictory oath-curse which entails moral obligations and penalties for breach.
3. Divorce is inherently punitive and responds to moral failures, and where divorce is prohibited, it is prohibited due to moral failure of one of the parties.

5.1.2 The Marital Bond is Dissoluble

A majority of Protestant interpreters are agreed on this point. Since the marital bond is not metaphysical—not permanent kinship or sacrament—but is rather moral-covenantal, then for certain moral reasons it may be dissolved. Abductively, Punitive–

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[11] His actions constitute violation of the ninth commandment (Exod. 20:16).

[12] Tigay, *Deuteronomy,* 205. See also Hugenberger, *Marriage as a Covenant,* 260.

Vacancy dissolution provides the best explanation for the various texts depicting divorce in that it can be recognized that the Bible treats marital dissolution as real dissolution.

An exhaustive catalog of biblical depictions of divorce is unnecessary, but a few examples are demonstrative. First, the prohibition against priests marrying divorcées (Lev. 21:7, 14) presupposes that divorcées were otherwise free to remarry, which in turn indicates that divorce entailed a genuine marital dissolution. If divorce is inherently punitive, it stands to reason these were lawful divorces for moral failure—although the text makes no comment—which may explain why priests should avoid such marriage partners.[13] Second, as mentioned elsewhere, the initial post-divorce remarriage in Deut. 24:2 is not prohibited, only the subsequent remarriage to the first husband. As discussed in Chapter 2, any attempt to explain the prohibition on the grounds that the first remarriage is illegitimate because the original marriage was not dissolved begs the question. Third, in texts such as Exod. 21:10–11, Deut. 21:14, and Ezra 9–10, there is no indication in the text that following the divorce a marital bond persisted. Given the biblical remarriages which are apparently permitted, dissoluble marriage is the best explanation for divorce as presented in the OT.

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[13] Philo, *The Special Laws*, 1:21.8, suggested this limitation was to remove any entanglements or hostilities related to the divorced woman if her husband was still living, hence no such prohibition for the widow. Wenham, *Leviticus*, 291, thinks the pollution for the priest related to the divorcée may have more to do with reputation or appearance than her personal moral character, even imagining she may have been innocent. In the case she was divorced without grounds—that is, divorced illegitimately—that may be the case. However, if normative, lawful divorce is punitive, if אשה גרושה מאישה, "a woman expelled/divorced from her husband," refers to normative divorce practice, it would ordinarily imply wrongdoing on her part. Sklar, *Leviticus*, 587 n. 22, notes the implication that the wronged party in some cases was permitted to remarry, although it may also be reasonable to infer that the guilty party would be permitted to remarry as well, unless we assume most divorcées were innocent and wrongfully divorced. In any case, Amram, *The Jewish Law of Divorce,* 103–104, observes that the law of the priest's daughter in Lev. 22:13 demonstrates that a divorced status did not entail general social ostracism and ritual impurity such as would explain the prohibition of marriage to a priest. If a priest's daughter is married to a non-priest she may not partake of the religious status of her father, but if she is divorced she may.

5.1.3 Divorce is Inherently Punitive and Not a Freedom-Right

In lived human experience, divorce is most helpfully understood as a process rather than a discrete event, one that may continue long after the court has finalized the legal proceedings. In common parlance, the term "divorce" frequently functions as a synecdoche for the entire sequence of events from the breakdown of the marital relationship to legal finalization. This creates a need for terminological precision, lest we equivocate between divorce and its precipitating relational failure.[14] Care must therefore be taken not to import the occasioning relational breach into what we mean by "divorce," and avoid the error of treating a symptom as the problem. Therefore, for the purposes of this study, divorce is defined as the dissolution of the marital bond in response to severe, unrepentant covenant breach. While divorce in general may be defined simply as dissolution of the marital bond, the focus in this definition is what constitutes legitimate divorce according to the Old Testament.

As the above analyses have shown, legitimate divorce is never depicted biblically as a freedom-right, but as the punitive expulsion of a covenant breaker. This aspect of divorce seems to have gone almost completely unnoticed in divorce scholarship, yet is vital to a proper understanding of this issue. Approaching the biblical texts with the assumption that the party seeking divorce does so for self-liberation from the other[15] risks

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[14] E.g., Laney, in his introduction to *The Divorce Myth* relates the story of a friend whose father had an affair which led to divorce. The friend, unable to come to terms with it, committed suicide. This story serves to introduce a discussion about the evils of divorce itself without any mention of the relational, family betrayal the father (and others) perpetrated.

[15] For example, Gordon J. Wenham, "Divorce," in *New Dictionary of Christian Ethics & Pastoral Theology*, ed. David John Atkinson et al., (Downers Grove, IL: InterVarsity Press, 1995). In this Christian ethics entry on divorce, Wenham says "In society as a whole Christians need to press for legislation and taxation policies that encourage partners to *reconcile their differences rather than seek divorce*" (emphasis added). The sentiment is admirable, but addressing divorce as a matter of not reconciling differences

importing modern expectations about divorce into the ancient legal and covenantal framework. Legitimate divorce simply never occurs for such a purpose in the Hebrew Bible.[16] Divorce is inherently punitive, designed to penalize the violating party for a relational crime with massive social ramifications.

5.1.4 Dyadic-Covenantal Vacancy is the Mechanism of Dissolution

Disagreements persist as to whether the marital bond is dissolved procedurally by divorce as a legal mechanism, or by covenant violations themselves. *Ipso facto* dissolution by vacancy following expulsion provides the best explanation for the following observations:

1. Dissolution of the marital bond occurs.[17]
2. Divorce procedure cannot effect dissolution where no procedure is specified.
3. A covenant is not terminable by will (i.e., by mutual agreement or withdrawing consent).
4. Covenant violations establish the legitimacy of the occasion for divorce.
5. Divorce is optional and thus dissolution is not automatic.

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minimizes the reality and severity of betrayal which precipitates legitimate divorce. In addition, Wenham's comments may be asking too much of public policy. To quote Barbara Dafoe Whitehead, "To see the law as the answer to divorce and the way to strengthen marriage is probably to take the weakest tool that we have and make it the only tool." Kevin D. Miller, "Barbara Dafoe Whitehead," Christianity Today, 1997, https://www.christianitytoday.com/1997/11/barbara-dafoe-whitehead/.

[16] Murray, *Divorce,* 27, believed that Jesus "instituted divorce as a means of relief for the husband in the case of adultery on the part of the wife." His reasoning is based on the abrogation of the death penalty for adultery. However, if this is the case, the mercy of the Lord is experienced primarily by the wife, not the husband. The legal abrogation resulting in the husband's relief misidentifies who experiences the benefit of abrogation in the case of an adulterous marriage.

[17] Murray, *Divorce,* 15, 41, while suggesting that divorces in the Old Testament are never presented as divinely approved or morally legitimated, still concedes that "The divorce permitted or tolerated under the Mosaic economy had the effect of dissolving the marriage bond."

The first statement is dealt with in previous sub-sections. As for the second, Chapter 2 explains that Deuteronomy 24:1–4 is not a "Jewish law of divorce," does not stipulate divorce procedures, and does not clearly indicate grounds for divorce. Instone-Brewer has argued convincingly that the Deuteronomic divorce certificate functioned to protect a divorced wife's right to remarry.[18] It may have also restricted reclamation of a divorced wife which occurred in the ANE, although this practice seems to have been less common and was often restricted.[19] Since no divorce procedure is biblically specified, and since divorce was a household-level affair in ancient Israel, we must rule out procedural dissolution.

That a covenant is formed as a self-maledictory oath-curse requires the view that covenants are not revocable or terminable by will. Even termination by mutual agreement violates the nature of the covenant because it is formed on a bilateral oath, and an oath is not terminable by will or revocable (Num. 30:2ff). Should one spouse seek liberation from the other and pursue divorce to dissolve the bond, the act is identical with desertion. Relief for the injured spouse in cases of breach may occur, but divorce for express purpose of liberation—divorce for "aversion"—is illegitimate.

Because a covenant is not terminable by will, and its essence is moral obligation, the legitimacy of a divorce is determined by the nature of the violation. Divorce for

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[18] David Instone-Brewer, "Deuteronomy 24:1-4 and the Origin of the Jewish Divorce Certificate," *The Journal of Jewish Studies* 49, no. 2 (1998): 230–43.

[19] MAL §36 restricted reclaiming an abandoned wife who has remarried to within five years. CH §135 permits a man who was a prisoner of war whose wife married for survival to reclaim her upon his return. §136 prohibits a man who deserted his wife from reclaiming her.

"aversion" in Deuteronomy 24 and Malachi 2 is condemned because it falls short of responding punitively to a covenant violation, pursued instead in self-interest.

Finally, the view that covenant violations themselves dissolve the marital bond is inadequate, as it fails to account for the optional nature of divorce. While divorce may have been mandated in certain historical contexts,[20] it is not, as a rule, biblically required in response to covenant breach, perhaps with the exception of Ezra 9–10, although as stated previously, this case may be better understood as annulment.

The marital metaphor applied to the northern kingdom's apostasy further clarifies this point. Israel's unfaithfulness was not confirmed by God in metaphorical "divorce" for two centuries, during which time Yahweh continued to call the people to return to Judah. If marital covenants operate analogously to the Yahweh–Israel covenant, this prolonged period of forbearance suggests that the "divorce" of exile in 722 BCE was not an automatic consequence of violation, but a measure enacted by the injured covenant partner.

Accordingly, dissolution is neither effected by covenant violation itself nor by a formal legal mechanism, but by the action of the offended party. The most coherent explanation for the mechanism of divorce, therefore, is dyadic vacancy following expulsion. Once one party is removed, the covenant no longer persists. High-handed violations thus signify a forfeiture of status and place, which is then confirmed through punitive removal by the other party.

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[20] E.g., b. Yeb. 11b; b. Soṭah 25a; and under Roman law, *Lex Iulia de adulteriis coercendis* (18 BCE).

As argued in Chapter 4, the persistence of the corporate covenant entity is accounted for by the mechanism of the remnant, underscoring a structural asymmetry between the divine covenant and human marriage that has not been adequately addressed in prior scholarship.

5.1.5 Circumstances Allowing Dissolution: Enacted Repudiation

Of all aspects of marital dissolution in the Old Testament, this is the most difficult to determine. Since no catalogue of acceptable situations is provided—such a catalog may be very much beside the point—one must be inferred. Instone-Brewer understands the threefold maintenance clause[21] in Exod. 21:10—"food, clothing, and marital rights"[22]—as the basic list of marital obligations, the failure to provide either constituting grounds for divorce.[23] Adding faithfulness as the unstated core of the covenant, he summarizes marital obligation as "to supply food, clothing, and love, and be faithful."[24]

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[21] Shalom M. Paul, "Exod. 21:10 a Threefold Maintenance Clause," *Journal of Near Eastern Studies* 28 no. 1, (January 1969), 40-53; Umberto Cassuto, *Exodus*, 268-269; Baker, "Concubines and Conjugal Rights," 87-101; Etan Levine, "On Exodus 21, 10 'Onah and Biblical Marriage," *ZAR*, 5 (1999): 133-164. The meaning of the third term is uncertain; the Septuagint and most rabbinic interpretations view this as referring to conjugal rights, although some have argued it could be "oil," housing, or even cosmetics (which seems unlikely). Jewish interpreters have tended to interpret the "three things" as referring to the three scenarios, although most scholars favor the view that three things refer to the three provisions.

[22] ענה, here rendered "marital rights," is a *hapax legomenon* and its meaning is uncertain. Alexander, *Exodus*, 478, contends that "conjugal rights" is "the least likely option," although it remains the most popular choice among scholars. Additionally the "conjugal rights" view is reflected in the Mishnah and Talmud, serving as the basis of the Jewish tradition of viewing material and sexual neglect as grounds for divorce (m. Ketub. 4:8-9; 5:6-8; 7:1-3; j. Ketub. 5:7; b. Ketub. 61b; 64b).

[23] Instone-Brewer, *Divorce and Remarriage in the Bible,* 20–33. Note additionally, the Mishnah required men to divorce their wives for their own failures to uphold these obligations: m. Ketub. 5:8 and 7:1–3 says if a man deprives his wive of material benefit more than 30 days, prohibits her from tasting produce or from wearing jewelry, he is required to return her dowry and divorce her.

[24] Instone-Brewer, *Divorce and Remarriage,* 301.

Instone-Brewer's formulation is helpful categorically, although there may be a more fundamental conceptual structure underlying these obligations.[25]

If the covenantal declaration “I will be your God and you will be my people” can be understood as God's commitment to meet the needs of his people and the people's obligation to receive his provision and maintain loyalty, then marital obligation similarly resolves into two primary categories: the obligation to provide for a spouse, and the obligation to receive a spouse's provision.[26] The lack of specification regarding grounds for divorce may simply mean that grounds for divorce are actions which are diametrically opposed to the nature and purpose of the marital covenant. The following table outlines divorces which are clear enough to evaluate in this regard:

Table 2: Divorces in Old Testament Permitted or Prohibited/Condemned

Permitted Divorces		
Text	**Synopsis**	**Grounds for Divorce**
Deut. 24:1	Divorce for ערות דבר	Uncertain, but implies a shameful offense. Text assumes legitimacy.
Exod. 21:10–11	Failure to provide food, clothing, and marital rights. She is released without payment.	Failure of bilateral marital obligation.

[25] A potential intertextual echo may be found between the *hapax legomenon* ענה in Exod. 21:10 and the verb ענה in Deut. 21:14. Despite slightly different vocalization (וְעֹנָתָהּ versus עִנִּיתָהּ), and that one is nominal and the other a verb, the similarity of these words may be intended to indicate some degree of conceptual consonance as they both refer to the rationale behind why a non-free female is released from a marriage due to the failure of the male.

[26] In this framework, then, adultery is refusal to receive provision by seeking it elsewhere, while desertion is refusal to provide provision. By extension, abuse is an extreme form of failure to provide by instead causing direct harm.

Deut. 21:10–14	Resembles aversion divorce, but moral penalty falls on husband who “no longer delights” in the captive wife.	Humiliation of the captive wife.
Ezra 9–10	Dismissal of foreign wives. May be annulment.	Unlawful status of the marriage.
Jer. 3:8	Yahweh’s metaphorical divorce of the northern kingdom	Adultery used metaphorically to refer to worshiping false gods, living broadly in violation of the purpose and essence of the covenant with Yahweh
Hos. 2:2 [4]	Yahweh’s metaphorical divorce of the northern kingdom	Whoredom and adultery used metaphorically to refer to worshiping false gods.
Prohibited or Condemned Divorces		
Text	**Synopsis**	**Reason for Prohibition/Condemnation**
Mal. 2:13–16	Divorce for “aversion” (שׂנא)	Condemned as treachery and covenant violation.
Deut. 22:19	Husband falsely accusing his bride of whoredom prohibited from divorcing.	His moral failure forfeits divorce prerogative.
Deut. 22:29	Man who sexually assaults required to marry her and prohibited from divorcing.	His moral failure forfeits divorce prerogative.

While the Old Testament provides no catalog of divorce grounds, it does distinguish between proper and improper divorce—divorce for shameful misconduct versus divorce for aversion—and it suggests grounds for divorce refer to actions which undermine the purpose and essence of the marital covenant. In the OT, which may also prove true for the NT, the moral function of the violation—the act in relation to its effect—is emphasized, and “grounds for divorce” are simply not outlined. The same appears to be true regarding divorce itself; its moral purpose determines its legitimacy.

What emerges from the biblical cases is the principle that legitimate grounds are those in which the offending party's conduct functionally repudiates and forfeits the covenant, determined not by the act appearing in a list of acceptable grounds, but on the moral function of the behavior. Conduct of this kind, whatever specific form it takes, “violates the essence of the marriage covenant,”[27] and signals the forfeiture that punitive expulsion formally recognizes and confirms.[28]

To summarize the five elements of the Punitive–Vacancy–Dissolution Model:

1. The marital bond is moral-covenantal, designed as permanent but subject to effects of the fall.
2. Because the bond is moral-covenantal rather than metaphysical, it can be dissolved in response to extreme moral failures.
3. Legitimate divorce is inherently punitive in response to covenant violations, not a discretionary freedom-right to self-liberation.
4. The bond is dissolved by vacancy following punitive expulsion by the offended party.
5. Ground for divorce is unrepentant, enacted repudiation of the marital covenant.

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[27] Sprinkle, “Old Testament Perspectives,” 549. He then adds, 547, “Only two of these things (sexual immorality and abandonment) are (arguably) explicit grounds for divorce in the NT. *If the covenant principle is behind these applications, however, we might be justified in concluding that the two examples in the NT are not intended to be exhaustive but that other grounds are likewise applicable under the new covenant*” (emphasis added).

[28] This framework intends to prevent against a “slippery slope” critique. The lack of explicit grounds in a functional definition of divorce, to some, indicates a suggestion that any offensive behavior whatsoever is grounds for divorce. The model here suggests that it is only those actions which can be characterized as unrepentant functional repudiation, which is an undermining, rejection, and forfeiture of the covenant.

5.2 New Testament Connections

While deep integration of the proposed model with both Old and New Testaments must be relegated to further studies, the following section proposes that not only should New Testament texts be evaluated in light of the proposed Punitive–Vacancy–Dissolution model, but also that a similar abductive study focused on inference to the best explanation should be conducted regarding all relevant New Testament passages. The following preliminary interaction does not aim to provide a comprehensive NT treatment but to test the model's basic compatibility with the broader biblical witness and to surface issues that must be addressed if the model is to be applied coherently across both Testaments.

5.2.1 Abductive Approach to Divorce in the New Testament

Any evaluation of the model in the NT must ask whether the NT continues to operate with the OT's covenantal framework of membership that can be forfeited through high-handed, enacted repudiation. Relevant issues include how texts such as Matt 3:7–10, Matt 7:21–23, John 15:1–6, Rom 11:17–24, and 1 Cor 5:1–13 portray individual and corporate covenant participation, punitive expulsion, and the remnant principle. If these passages reflect the same underlying framework of moral-covenantal standing, then continuity with the model's first two elements (nature of the bond and its dissolubility) becomes the default expectation unless the NT explicitly abrogates them. Key questions would therefore concern whether the NT redefines the marital bond as metaphysically indissoluble or maintains a moral-covenantal understanding parallel to the OT.

5.2.1.1 Key Questions for the Teachings of Jesus

When turning to Jesus' divorce texts, an abductive reading guided by the model would raise the following issues:

- Does the language of "one flesh" and the "mystery" of marriage in relation to Christ and the church (Matt. 19:5–6; Eph. 5:31–32) support a moral-covenantal union consonant with that portrayed in the OT, or does it shift toward an indissoluble, metaphysical bond?

- How should "hardness of heart" (Matt 19:8) be understood in relation to the punitive character of divorce? Does it indicate that divorce remains a response to covenant violation borne from the fallen nature, consistent with OT prophetic imagery, or does it point to a new-creation ideal that renders punitive dissolution obsolete?

- Is divorce presented as an inherently punitive response to moral failure (vis. the πορνεία exception in Matt 5:32; 19:9), or is the moral injunction of Matt. 5:32 and 19:9 directed primarily at the spouse pursuing a divorce? Moreover, does πορνεία represent a paradigmatic instance of enacted repudiation, or a specific legal ground?[29]

- Does Jesus' statement that divorce (apart from πορνεία) causes the wife to commit adultery refer to divorce in general, or specifically to illegitimate divorce (i.e., divorce apart from enacted covenant repudiation)?[30]

- Overall, do the texts encourage inference to a broader principle (enacted repudiation of the covenant) rather than a narrow catalogue of grounds?

5.2.1.2 Key Questions Relating to Pauline Texts

Paul's instructions in 1 Cor. 7:10–16 raise several issues that bear directly on the model. This passage addresses a situation in which ascetic tendencies had led to an inappropriate pursuit of celibacy, which apparently included questions of whether divorce

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[29] Additionally, is it warranted to translate πορνεία as "sexual immorality," acknowledging that it does not technically denote "adultery," and yet still claim that the sole ground for divorce permitted by Jesus is "adultery"?

[30] Additionally, does Jesus' response to the Pharisees' question in Matthew 19 comprehensively address grounds for divorce, or, narrowly, the interpretation of ערות דבר in Deut. 24 and rabbinic casuistry?

may be legitimate in pursuit of celibacy. Paul identifies such a divorce as illegitimate.[31] Paul's overarching "remain as you are" principle (7:17, 24) emphasizes that marital status is not a measure of spiritual status. For pagan converts, continued marriage to an unconverted spouse is not spiritually defiling—in fact, the reverse is the case (v. 14)—thus, divorce for such reasons is illegitimate.[32] However, if the pagan spouse wishes to separate (χωρίζω),[33] they should be let go.[34] Put differently, if the unbeliever separates, this constitutes a valid divorce. As the Punitive–Vacancy–Dissolution Model suggests, this act is considered desertion, a situation in which expulsion is redundant because the covenant breaker has vacated.

Notably, Paul does not address remarriage at all.[35] The divorced couple who must either reconcile or remain unmarried, has divorced for ascetic, and thus illegitimate,

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[31] Interestingly, Cornes, *Divorce and Remarriage*, 279–280, acknowledges the context of asceticism, yet labels the divorce in 1 Cor. 7:10–11 as legitimate, which is difficult to reconcile with the ascetic issue. If celibacy and divorce in this case is motivated by asceticism, the divorce in question is illegitimate, hence the directive toward singleness or reconciliation. The indissolubilist often does not comment on the legitimacy of the divorce, but rather appeals to the passage as an example that represents all divorces. In this understanding, the directive to remain unmarried or reconcile serves to demonstrate the inability of the formal divorce procedure to dissolve the marital bond. The inability of the formal process to dissolve to the bond is, however, not evidence that it cannot be dissolved by any means.

[32] Paul Gardner, *1 Corinthians*, ZECNT, ed. Clinton E. Arnold (Grand Rapids: HarperCollins Christian Publishing, 2018), 288, 312. While it seems the majority audience of this teaching is Greco-Roman Christian converts, the Jews in the community would be well aware of the intermarriage dissolutions in Ezra and its connection with community identity and purity. Paul's instructions would prevent potential encouragements toward similar actions.

[33] Χωρίζω is one of the most common verbs for divorce found in Greco-Roman marriage and divorce papyri. Instone-Brewer, "Divorce Papyri," identifies a total of 65 Greek words variously used for "divorce" in the papyri.

[34] Χωριζέσθω, a permissive imperative or "imperative of resignation" (Wallace, *GGBB,* 485, 488–489).

[35] John Murray, *Divorce* (Phillipsburg: P&R Publishing, 1987), 56; Gordon D. Fee, *The First Epistle to the Corinthians*, The New International Commentary on the New Testament (Grand Rapids: Eerdmans, 2014), 335: "All of this is not to say that Paul *disallows* remarriage in such cases; he simply does not speak to it at all."

reasons. Therefore, Paul's teaching here says nothing explicitly about the permanence or dissolubility of the marital bond, but presumably holds to the principles of the OT and the teaching of Jesus. For Jews and Romans, remarriage was an assumed right—as it appears to be in the Old Testament assuming a legitimate divorce—thus it is unlikely Paul opposes remarriage.[36] So, when Paul says in the case of such desertion the believer is "not bound,"[37] we may surmise, based on no countering of remarriage whatsoever, that Paul considers such a divorce valid and the marital bond dissolved. What he does counter is the legitimacy of Christian marital dissolution by withdrawing consent.[38] Paul's teaching is fully consonant with the Punitive–Vacancy–Dissolution Model and Jesus' teaching that a divorce procedure does not establish its legitimacy. The procedure does not nullify a marriage oath, be it the Jewish certificate or the Roman withdrawal.

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[36] Wenham and Heth, *Jesus and Divorce*, 140–144, after criticizing "Erasmians" for appealing to "psychological and humanistic reasons for permitting remarriage," offer seven arguments against construing 1 Cor. 7:15 as permitting remarriage. Their case, however, is unpersuasive. The first two arguments rest not on exegesis but on marriage as a creation ordinance. The third claims that Paul's use of χωρίζω in v. 11 precludes remarriage and therefore must carry the same force in v. 15; yet v. 11 employs ἀφίημι, not χωρίζω, and it does not follow that divorce without remarriage must be intended in both places. The fourth appeals to the possibility of converting the unbelieving spouse, but this addresses Paul's rationale for maintaining the marriage (vv. 12–14), ultimately irrelevant to the remarriage question. The fifth rightly rejects etymological fallacies concerning δουλόω and δέω (see n. 37 below), points well taken. The sixth is an appeal to early church tradition rather than an argument. The seventh rests on an overly literal reading of v. 17 ("remain in the condition in which each was called") as an absolute rule, despite Paul's qualification in v. 21b, which indicates that the "remain as you are" principle is not an exceptionless rule but a principle which relativizes social and relational status as not determinative of spiritual status.

[37] Δουλόω. Fee, 334 n. 155, points out that Paul always uses this verb metaphorically; if he had meant "legally bound" he likely would have used the verb δέω, which appears in v. 27 ("are you bound to a wife?") and v. 39 when Paul says a wife is δέδεται ("is bound") to her husband as long as he lives, meaning legally and practically obligated in marriage. "Not bound," therefore means not obligated to follow the previous instruction to not pursue divorce.

[38] Interestingly, Paul seems to hold the non-believer to the Roman standard, *maritalis affectio*, while the believer is held to the Lord's standard. See Chapter 2, n. 118.

Additionally, the "bound until death" language in Rom. 7:1–3 and 1 Cor. 7:39 has often been taken to imply that the marital bond persists beyond divorce.[39] Preliminary issues here include whether this language, absent from the OT, is absolute and legally precise—if so, which law specifically?[40]—or simply states a general principle to make a theological point.[41] Logically, interpreting "until death" as absolute and without qualification may pose a false disjunction by assuming only two states—bound or freed by death—while excluding divorce as an additional releasing mechanism.[42] Since neither text relates to divorce—1 Cor. 7:39 refers to a widow's release from marriage through death with concomitant freedom to remarry, and Romans 7 employs that same widow's freedom as an analogy for union with Christ following "death" to the law[43]—does

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[39] Gordon J. Wenham, *Jesus, Divorce, and Remarriage: In Their Historical Setting*, 1st ed (Bellingham, WA: Faithlife Corporation, 2020), 99–100; Cornes, *Divorce and Remarriage,* 263; Laney, *The Divorce Myth,* 83–90.

[40] The clearest candidate appears to be prohibition of adultery (Exod. 20:14; Lev. 20:10) since no OT law stipulates marital binding until death. Paul's point is not about marriage but about when the law is binding: as long as one lives.

[41] Logically speaking, "until death" as a general principle need not preclude exceptions. In one first century BCE marriage contract, it is forbidden for the husband to have a concubine or boy as long as the wife lives. This was written in a culture where divorce was common and as simple as physically separating (Marriage Certificate, 92 BCE, Tebtunis, Egypt; P.Tebt. I.104, lines 19–20; cited in Instone-Brewer, *Divorce and Remarriage in the Bible,* 211.). That such acts were permitted as long as the wife lives would not have been considered binding following divorce, which would nullify the contract. This is the same issue found in the discussion in Chapter 3 of the word עולם, often meaning "not limited by time" rather than absolutely unending.

[42] Carson, *Exegetical Fallacies,* 90, calls this an improper appeal to the law of excluded middle.

[43] More specifically, Rom. 7:2–3 illustrates the general principle in v. 1: "the law binds a person as long as he lives." See Douglas J. Moo, *The Letter to the Romans*, 2nd ed., The New International Commentary on the New Testament (Grand Rapids: William B. Eerdmans Publishing Company, 2018), 439: "Probably, then, Paul does not intend us to find significance in the details of vv. 2–3. Verses 2–3 make a single point—death severs relationship to the law."

appealing to these verses to prove indissolubility risk reading them beyond their intended scope?

Key questions for the Pauline passages include:

- Does this departure constitute desertion that renders punitive expulsion redundant because the covenant-breaker has already vacated the covenant?
- Does the declaration that the believer "is not bound" reflect recognition of dyadic vacancy after self-expulsion, or does it function differently?
- How does Paul's prohibition of divorce for ascetic purposes correspond with Jesus' *πορνεία* exception? If the instruction to "remain unmarried or be reconciled" applies even when *πορνεία* is involved, would not this logic effectively prohibit the divorce itself rather than merely regulating its aftermath?[44]
- Since Paul does not address remarriage, does his silence imply that a valid dissolution leaves the believer free to remarry, consistent with OT assumptions, and Jewish and Greco-Roman norms?
- Does Paul's "Christ and the Church" mystery in Ephesians 5 contain, in the mind of Paul, a conceptual background of the prophetic marital-punitive metaphors?
- Overall, does Paul's teaching counter dissolution by withdrawal of consent while remaining consonant with the model's emphasis that a legal procedure does not nullify the marriage oath?

A further preliminary issue concerns the importing of soteriological categories into the marital discussion. Some interpreters appear to draw analogies between God's unbreakable covenant with Israel, the believer's security in Christ (elect and sealed by the Holy Spirit), and the permanence of marriage. This raises the question: Have soteriological concepts of eternal security and irreversible covenant membership been unintentionally transferred to the dyadic covenant of marriage which do not account for the structural asymmetry between marriage and the divine covenant? Perhaps the model's

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[44] Cf., John Murray, *Divorce* (Phillipsburg: P&R Publishing, 1987), 56.

emphasis on moral-covenantal (rather than metaphysical) bonding helps guard against categorical confusion.

These questions highlight the complexity of the NT material. While a thorough investigation lies beyond the present study, preliminary interaction suggests the model can be held in constructive dialogue with NT ethics without fundamental contradiction. Jesus appears to uphold the ideal of permanence while allowing for exception in the case of πορνεία, which may very well function paradigmatically and representatively—especially in light of Jesus' rhetorical purpose in reorienting the relationship between Torah and righteousness—and Paul's handling of desertion seems compatible with the vacancy mechanism after expulsion. Both emphasize the moral purpose of actions over a rigid catalogue of grounds, consistent with the OT pattern.

5.3 Ethical Implications of this Study

Historically, marriage has undergone a transformation from a social good[45] to an individual therapeutic resource in which personal happiness, development, and self-expression have become its primary purpose.[46] Divorce has followed the same trajectory, hence Barbara Dafoe Whitehead's term "expressive divorce.[47] What is utterly lost in this development is any notion of a punitive action which penalizes the marital offender—not just an irritating spouse—by expulsion. Any focus on justice in divorce is sidelined

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[45] Augustine, *On the Good of Marriage*.

[46] John Witte Jr., *From Sacrament to Contract, Second Edition: Marriage, Religion, and Law in the Western Tradition*, 2nd edition (Westminster John Knox Press, 2012).

[47] Barbara Dafoe Whitehead, "Dan Quayle Was Right," *The Atlantic Monthly*, April 1993, 47–83; *The Divorce Culture*, 45–106.

wherever divorce functions as self-beneficence. Even in cases of severe breach of covenant fidelity this remains the case, because while relief from painful circumstances may be necessary and stabilizing, it is not the same as justice. As stated earlier, the purpose of this study is not to deny the appropriateness and occasional necessity of "leaving" perpetrators of abuse but to clarify the biblical depiction of divorce which is rooted in justice.

The follower of Jesus may find the juxtaposition of marriage and justice difficult, particularly in contexts strongly foregrounding forgiveness and reconciliation. In such a context, the claim that certain covenantal violations warrant expulsion may appear foreign or even incompatible with Christian ethics. However, the biblical witness repeatedly holds together mercy and justice. The "Day of the Lord," for example, is portrayed simultaneously as judgment upon the wicked and the vindication of God's people. Judicial banishment or exclusion is therefore not an alien intrusion into biblical ethics, nor is it contrary to the command to love one's enemies; one does not nullify the other.

A phenomenon related to disconnecting marriage and justice is a categorical inconsistency wherein marriage is recognized as a social good and evaluated by social ethics, whereas marital misconduct, divorce, and remarriage are viewed through the lens of foundational or personal ethics. While a thorough historical analysis lies beyond the scope of this study, and similar tendencies may be observable in ancient and medieval Christian writings, the privatization of marriage and the consequent treatment of marital misconduct as a matter of personal morality rather than social ethics and justice is well documented in the modern era and represents a significant departure from the biblical framework recovered in this study.

The second implication of this study is adjusting the locus of moral critique from the fact of divorce itself, and the initiating spouse, to its moral purpose. Because divorce is inherently punitive and not liberative, divorce itself is amoral; its legitimacy is determined by its moral purpose.

Thirdly, this thesis challenges the traditional Protestant view of adultery and desertion as the sole grounds for divorce. This is an application of the locus of moral critique adjustment; if moral legitimacy of divorce is determined by the conduct enacting covenant repudiation, then the question of grounds should be evaluated by the same principle rather than by a narrow catalogue of sins.

Lastly, the essential ethical observation of this thesis is that marital misconduct, divorce, and remarriage are necessarily issues of social ethics and justice. Relational betrayal is not a private, personal sin, but a social crime with massive repercussions. As stated in Chapter 1, the Bible does not consider divorce more controversial or detrimental than adultery or abuse—by far the inverse is true—and neither should the church.

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