DIVORCE HALAKHAH IN PAUL AND THE JESUS TRADITION

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1. The Interest of the Topic

The survey of research on halakhah in the New Testament offered earlier in the present volume concluded that halakhic study is more generally thought applicable to the Jesus tradition than to Paul’s letters. This seems to relate to the entrenched idea that, as distinct from Jesus, Paul considered the Jewish law obsolete and something to be liberated from. Such a generalised reading of Paul proved inadequate, however, and we have instead advanced the requirement to read him halakhically specific, i.e., clearly distinguishing whether Jews or non-Jews are addressed and what specific commandments are involved. With this in mind, it would be interesting to study a halakhic topic that appears both in Paul and in the Jesus tradition.

If halakhic study is more obvious with respect to the Jesus tradition, the problem there is that halakhic issues are entangled with the complicated development of the synoptic tradition and consequently with the evolvement of the early Christian movement in its relationship with Judaism. The way to tackle this head-on would be to produce a reliable reconstruction of the development of the pertinent halakhah in the framework of first century Jewish and Christian history. As long as that has not been done, however, an alternative method would be to seek oblique access via halakhic questions which could have passed relatively untouched by the polemics between Jews and Christians, as has been done for purity laws by Thomas Kazen, *Jesus and Purity Halakhah*.

There is indeed one domain that meets both requirements: divorce law. It is a fascinating topic, not because of its contents which today as in the past always involve injustice, pain, and suffering, not in the last place for the children involved. The subject is fascinating because of its historical and literary ramifications. Let me sum up.
(1) Divorce law did not become a conflict area between Jews and Christians. In this exceptional domain, even gentile Christians from the start took a much stricter stance than most Jews and in fact rejected divorce altogether. If a widely shared interpretation is correct, this is because Christianity in this instance is the inheritor of a more rigorous Jewish tradition which did not make it in the Judaism that survived. Interestingly, third-fourth century rabbis state that “God did not give gentiles divorce.” This could reflect the intelligence that gentile Christians rejected divorce, especially since the alternative option among non-Jews is also mentioned that “the couple can divorce each other.” Obviously, neither for Jews nor for Christians was there a reason to start a dispute here. We can thus expect to be able to move more freely here than in other halakhic areas.

(2) There is a telling overlap here between Paul and the Jesus tradition. It is very interesting to reflect on the apparent fact that Paul explicitly cites a teaching of Jesus, a teaching moreover which fits exceptionally well in early Judaism and is strongly attested by extraneous sources. Not only the relation between Jesus and the Pharisees and Qumranites or Essenes, but also that between Paul the ex-Pharisee and Jesus is illuminated when we compare all those sources. Thus the topic offers an exceptional view on Paul’s place both in early Judaism and in nascent Christianity. It also sheds new light on the earlier stages of the synoptic tradition.

(3) As E.P. Sanders has formulated, the teaching on divorce is also “the most securely attested saying by Jesus,” since it is found quoted or reflected in Paul, in “Q,” in Mark, in Matthew, and in Luke. This comes down to saying that the divorce issue was of prime importance in early Christianity as well. A divergent opinion is attested in the so-called “exception clauses” in Matthew (5:32; 19:9) which shall have due attention below.

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1 I see no support in the sources for the tentative suggestion by Sigal, Halakhah, 117 that anti-Christian polemic helped the Hillelite divorce halakhah win out.

2 y. Qidd. 1:1 (58c): “Do they have (the possibility of) divorce? R. Yuda ben Pazi and R. Hanin in the name of R. Huna the Great from Sepphoris say: Either they do not have divorce or couple can divorce each other (אַשְּׁרָא לִבְּנוֹתָא אֲרַעְרֹשׁ וְאָרַעְרֹשׁ אֶלְּעָתָא). R. Yohanan from Sepphoris, R. Aha, and R. Shmuel bar Nahman say: ‘For hating send away, etc.’ till ‘the God of Israel’ (Mal 2:16)—in Israel have I instituted divorce, but I did not among the nations.” Cf. Gen. Rab. 18,5 (Theodor-Albeck, 166f.).

3 The pronouncement Luke 16:18 and parallels is attributed to Q, see below.