

BOOK REVIEWS

MARRIAGE AS A COVENANT: A STUDY OF BIBLICAL LAW & ETHICS GOVERNING MARRIAGE, DEVELOPED FROM THE PERSPECTIVE OF MALACHI

by GORDON PAUL HUGENBERGER

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A review by Thomas Glyn Watkin

Both the Church of England and the Church in Wales are currently engaged in reviewing their respective disciplines with regard to marriage and divorce. Canon law regarding divorce and remarriage is founded ultimately on Scripture, in this case in part upon words attributed to Christ himself in the Gospel narratives. The reconsideration of existing discipline faces therefore the daunting problem of how to deal with the Scriptural basis of the current rules. Unlike norms which are founded upon previous canons of the Church, Scriptural rules partake of the nature of divine law and are not therefore susceptible to change by any human agency. Whereas canons can be repealed or amended, Scripture can at best only be reinterpreted. Churches within the Anglican Communion do not as a rule indulge in the canonical promulgation of doctrinal statements purporting to reinterpret passages of Holy Scripture. The result is that doctrinal development of this nature tends to take place by implication. The notion of exercising a teaching authority akin to the Roman *magisterium* is foreign – if not anathema – to the Anglican mind.

Professor Hugenberger's book is therefore a timely publication, for it seeks to elucidate the nature of marriage in the Old Testament, upon which Our Lord's teaching was based. The author is Associate Professor of Old Testament at Gordon-Conwell Theological Seminary in Massachusetts and a pastor in a congregational church in that state. His book is based upon a doctoral thesis, as is obvious from its presentation and style which would have benefited from a greater effort at recasting. In it, he sets out to explore marriage as a covenant, the Hebrew *berith*. He fully recognizes the difficulties in his path, as there are disputes about what constituted a covenant relationship in the Old Testament as well as about whether marriage was such a relationship. For Hugenberger, marriage was a covenant in the sense of a chosen, as opposed to a natural, relationship involving obligations and undertaken under oath. The oath was fundamental and separated the *berith* from other types of contractual obligation.

The focus of Hugenberger's attention is Malachi, chapter two, verses 10-16. He holds that Malachi dates roughly from the same period as the ministries of Ezra and Nehemiah in the mid-fifth century B.C. He considers the writings of the prophet to be heir to 'a substantial body of received scripture including the Pentateuch'. He also believes that Jesus' teaching on marriage in

St. Matthew's gospel (chapter 19, vv. 4-9) parallels that of Malachi 2.14. Hence the importance of Hugenberger's topic for those reconsidering the canon law of marriage in the context of the divine law to be found in the Bible.

Hugenberger does not accept that when Malachi speaks of marriage in this passage, the prophet is speaking metaphorically. He believes a literal marriage covenant is discussed. He carefully examines and refutes contrary arguments. The text he believes is a condemnation of unjustified divorce, which in itself breaks the marriage covenant. Divorce for aversion is wrong - but it appears to follow that some forms of divorce may be justified. Unfortunately, Hugenberger is not concerned with what justifies divorce, but rather with proving that marriage is a covenant. Accordingly, the modern canonist is left with this bare, tantalising conclusion - but nevertheless one which is of considerable significance in the context of current developments.

Hugenberger also dismisses, following a scrupulous examination of the existing theories and the evidence, claims that marriages in ancient Israel were polygamous, and could not therefore have been based on covenant. Monogamy, he concludes, was the usual practice with few exceptions, particularly in the post-Exilic period. Moreover, he believes Malachi echoes the primal marriage covenant between Adam and Eve, where their bonding as one flesh transcends in significance their sexual union, and is ratified by Adam's declaration that Eve is bone of his bone and flesh of flesh. Thus marriage creates a unity between unrelated persons - the very purpose of covenant, which purpose Hugenberger argues was not confined to the bonding of the divine and the human or to interstate accords.

Where however is the oath which Hugenberger admits is essential to a covenant relationship? The author rejects the widely-held view that such oaths had to be verbal or self-maledictory. Instead, he postulates that such oaths could be found in oath-signs, such as shared meals, hand shakes and calls upon God to witness an act. Such oaths, he finds, did attend the making of marriage covenants, in the form of *verba solemnia* and consummation itself as a sign of the union. Hugenberger notes how God was called upon to witness the marriage covenant, so that its breach is an offence against Him as well as against the partner, a point again worthy of note by the reforming canonist given that ecclesiastical marriages take place in the sight of God as well as of the congregation. Hugenberger finally rejects the view that Old Testament marriage was not a covenant in that the duty of fidelity was not reciprocal and bound only the wife. He argues that this was not so, and that being reciprocal the relationship could be and was covenantal.

Your reviewer read this book primarily to discover its use to a modern canonist seeking guidance on the scriptural basis of modern marriage discipline. He found a work of immense interest not only to canon lawyers but also to those with an interest in Biblical history, legal history and comparative law in the ancient world. He is convinced that such studies provide essential guides for those intending to navigate carefully and safely around the coasts of the divine law, lest they be shipwrecked through allowing themselves to be carried along too readily on the currents of modernity.