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Title: 'The Righteousness of Joseph: Interpreting Matt 1.18-25 in Light of Judean Legal Papyri'

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Abstract:

This article seeks to explain Matthew's description of Joseph as righteous (δίκαιος) by investigating Matt 1.18-25 within its ancient context, especially Judean practices of marriage and divorce as illuminated by Judean legal papyri from the Dead Sea region in the first and second centuries CE and from the Judean *politeuma* of Herakleopolis in the mid second century BCE. This examination will demonstrate the importance of these papyri for understanding the narrative in Matt 1.18-25 in its original social setting where honour was a dominant value, especially the extent to which it reveals Joseph to be an exemplar of Matthean righteousness.

Key Words: Joseph, marriage, divorce, legal papyri, righteousness, exemplar

INTRODUCTION

Central to the historical interpretation of biblical works is the recognition that texts derive meaning from the contexts in which they were composed. The more we know

about such contexts, the more plausible our interpretations are likely to be.[1] My aim here is to explain how a first century Christ-follower would have made sense of the narrative in Matt 1:18-25, especially its characterization of Joseph as δίκαιος (v. 19) in relation to his pregnant betrothed Mary. The area of ancient context most relevant to this task comprises Judean practices relating to marriage and divorce. To illuminate that context, I will invoke ancient Judean legal papyri, principally from the Dead Sea region but also from the Judean *politeuma* of Herakleopolis. Legal papyri illuminate the context in helpful ways since people normally employed a scribe in relation to matters of moment—for good or ill—that reveal significant aspects of the social system.[2] A recent 'archival ethnography' approach to analysing ancient legal papyri entails the scrutiny of archives of legal documents aided by anthropological ideas from comparable situations and an effort to imagine 'being there' when vital moments represented in those documents occurred, especially when the parties, witnesses and scribe gathered round to hear the document read aloud and to affix their signatures.[3]

While precedents exist for using Judean legal papyri to interpret New Testament texts,[4] this article appears to represent their first deployment in relation to Matt 1.18-

[1] J. H. Elliott, *Social-Scientific Criticism of the New Testament: An Introduction* (London: SPCK, 1995) 9–16.

[2] See P. F. Esler, *Babatha's Orchard: The Yadin Papyri and An Ancient Jewish Family Tale Retold* (Oxford: OUP, 2017), on the circumstances in Maoza in 99 CE underlying P. Yadin 1–4.

[3] *Ibid*., 1–27.

[4] See R. Bauckham, *Gospel Women: Studies of the Named Women in the Gospels* (Edinburgh: T & T Clark, 2002) 121–35; J. S. Kloppenborg, *The Tenants in the Vineyard: Ideology, Economics, and Agrarian Conflict in Jewish Palestine*, WUNT 195 (Tübingen: Mohr Siebeck, 2006); P. F. Esler, 'Reading Matthew by the Dead Sea: Matthew 8:5–13 in Light of P. Yadin 11', *HTS Theological*

25. No claims are made here for the historicity or otherwise of the narrative in Matt 1:18-25. My interest is how it would have been understood by the original audience of this Gospel, which I take to be a group (or groups) of Judean and non-Judean Christ-followers engaged in close table-fellowship (a practice legitimated by Matt 8.11). The argument below, however, does not depend on the precise composition of Matthew's audience; all that is needed is an awareness of Judean marriage practices by at least some of them. I will begin by summarising all the Dead Sea legal papyri relating to marriage and divorce:

A. Marriage Contracts

	Date	*Location*	*Language*
P. Murabba'at 20[5]	unknown	unknown	Aramaic
P. Murabba'at 21[6]	unknown	unknown	Aramaic
P. Murabba'at 116[7]	100-150 CE	unknown	Greek

Studies (2014)*;* D. Instone-Brewer, '1 Corinthians 7 in Light of the Graeco-Roman Marriage and Divorce Papyri,' *Tyndale Bulletin* 52 (2001) 101–116 and '1 Corinthians 7 in Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri', *Tyndale Bulletin* 52 (2001) 225–243. For a more general work, see S. H. Huebner, *Papyri and the Social World of the New Testament* (Cambridge: CUP, 2019).

[5] P. Benoit O. P., J. T. Milik and R. de Vaux, O. P., eds., with contributions from G. M. Crowfoot, E. Crowfoot and A. Grohmann, *Discoveries in the Judaean Desert II: Les Grottes de Murabba'at. Texte* (Oxford: The Clarendon Press, 1961) 109–114.

[6] *Ibid.*, 114–17.

[7] *Ibid*., 254–56.

P. Yadin 10[8]	*c.*125 CE	Maoza, Arabia	Aramaic
P. Yadin 18[9]	128 CE	Maoza, Arabia	Greek
XHev/Se 65[10]	131 CE	Maoza, Arabia	Greek

B. Cancelled Marriage Contract

XHev/Se 69[11]	130 CE	Aristoboulias, Judea	Greek

C. Divorce Document

P. Murabba'at 19[12]	71/72 CE?	Masada	Aramaic

D. Remarriage Contract

[8] Y. Yadin, J. C. Greenfield, A. Yardeni and B. A. Levine, eds., *The Documents from the Bar Kokhba Period in the Cave of Letters: Hebrew, Aramaic and Nabatean-Aramaic Papyri*. Judean Desert Studies (Jerusalem: Israel Exploration Society, Institute of Archaeology, Hebrew University and Shrine of the Book, Israel Museum, 2002) 118–141. Also see D. Hartman, *Archivio di Babatha.* Testi del Vicino Oriente antico (Brescia: Paideia, 2016) 153–155.

[9] N. Lewis, ed., with Y. Yadin and J.C. Greenfield, *The Documents from the Bar Kochba Period in the Cave of Letters: Greek Papyri. Aramaic and Nabatean Signatures and Subscriptions* (Jerusalem: Israel Exploration Society, The Hebrew University of Jerusalem and the Shrine of the Book, 1989) 76–82 (Greek text by Lewis) and 142–43.

[10] H. Cotton and A. Yardeni, *Discoveries in the Judaean Desert. Volume 27. Aramaic, Hebrew and Greek Documentary Texts from Nahal Hever and Other Sites: With an Appendix Containing Alleged Qumran Texts (The Seiyal Collection II)* (Oxford: The Clarendon Press, 1997) 224–237.

[11] *Ibid*., 250–274. Note Plates XLV–XLVI.

[12] Benoit, *Murabba'at,* 104–109.

P. Murabba'at 115[13]	124 CE	Bethbassi,	Greek

E. Uncertain (renunciation of a wife's claim, receipt for a divorce or a divorce by a woman?)

XHev/Se 13[14]	134/135 CE	unknown	Aramaic

XHev/Se 11 is a very fragmentary wedding contract that adds little if anything to the discussion.[15] We may now proceed to an analysis of Matt 1.18-25.

THE BETROTHAL OF JOSEPH AND MARY

Matt 1.18 states that 'The genesis of Jesus the Messiah was as follows. When his mother Mary was betrothed (μνηστευθείσης) to Joseph, but before they had come together, she was discovered to be with child by the Holy Spirit.' A three-staged process is in view here: first there was an 'engagement' or 'betrothal', referred to in Greek by the word μνηστεύειν, which (I will argue) entailed the execution of the marriage contract; then a period when the bride and bridegroom were apart (that is, they were not living together and not engaging in marital relations); and, thirdly, the moment when they came together, consisting of the movement of the bride from her

[13] Benoit, *Murabba'at*, 243–254.

[14] Cotton and Yardeni, *Discoveries*, 65–70.

[15] Cotton and Yardeni, *Discoveries*, 57–59.

father's house to the house of the groom, or of his father, and an accompanying wedding feast.

An ancient audience would have presupposed that Mary's betrothal involved at least two significant occasions. First came a discussion between the families of the potential bride and groom, all parties concerned being of Judean ethnicity, and then, later, after a marriage contract had been drafted, the occasion when it was signed by the groom, and also by the bride,[16] and witnessed.

The Initial Contact Between Joseph and Mary's Family

A critical feature of the first interaction was who would commence the negotiation. Although ancient Judean sources present an ideal where the father of the groom or the groom approached the bride's father (e. g. Josephus, *Contra Apionem* 2.200; Tobit 7.8-9; Jub 30.7; Deut 22.16), the reality was no doubt much messier.[17] If both fathers were alive, one of them would probably approach the other about a possible match. If his father was dead, the potential groom would probably contact the father of the potential bride, or any other senior male relative, or her mother if all such males were dead and she was in her mother's care (or any such a person might approach the potential groom). As Joseph is the only male from his family mentioned, and as it is he who will make the decision about divorcing Mary, he is the sole male in the frame for initiating marriage discussions. Since Mary and Joseph have not come together (and are not living in the same house: see the παραλαβεῖν in vv. 20 and 24), she must

[16] The brides signed P. Mur 21 and P. Yadin 10 (see fn. 24).

[17] M. L. Satlow, *Jewish Marriage in Antiquity* (Princeton, NJ: Princeton University Press, 2001) 112.

still be living with her family, although whether she is under the authority of her father or another relative is unspecified. The Matthean audience probably imagined Joseph approaching the relative responsible for making the vital decision as to whom Mary should marry. Adopting Michael Satlow's recent argument that ancient Judeans were often older when they married than is commonly assumed,[18] we should probably understand an ancient audience envisaging Joseph as in his late twenties and Mary in her mid to late teens at the time of the betrothal.

Such an audience would probably also have expected Joseph to seek and receive an assurance during the meeting that Mary was a virgin. That *sine qua non* settled, the negotiations would have moved to the matter of central importance, namely, the amount and nature of the dowry. During this period a dowry was a payment made by the family of the bride to the groom to be held in trust for the wife with repayment to her if he divorced or predeceased her, such a sum or other assets to be secured against all his property. A dowry made good social sense in the patrilineal culture of the time as a means of protecting the financial interests of daughters, since the property of a deceased person devolved on his or her sons.[19] The anthropological literature on dowries and bride-prices and how they differ suggests that dowries were more

[18] *Ibid*., 104–111. Tal Ilan argues to similar effect (*Jewish Women in Greco-Roman Palestine: An Inquiry into Image and Status*. Texts and Studies in Ancient Judaism, 44 (Tübingen: Mohr Siebeck, 1995) 65–69). Leonie Archer (*'Her Price is Beyond Rubies': The Jewish Woman in Graeco-Roman Palestine* [Sheffield: Sheffield Academic Press, 1990] 151–153) expresses an older view that women married when they reached the age of twelve and a half.

[19] Esler, *Babatha's Orchard*, 54, 90 (of the Nabateans but also applicable to Judeans).

common in situations of settled agricultural production.[20] In the Aramaic documents the dowry is called a *ketubba* (כתבה; as in P. Mur 21, line 10, and P. Yadin 10, line 5) or φερνή , used as a loan word from Greek, as with פרן in P. Yadin 18, line 78 (part of the Aramaic acknowledgment by the groom).

The older institution of bride-price, a payment made by a groom or his family to the father of the bride, called a *mohar* in Hebrew and Aramaic, is not mentioned in any of the Judean Dead Sea legal papyri.[21] Joseph would have needed to know how much Mary's family would entrust to him for Mary's benefit. The anthropology of dowries suggests that it is an institution that operates in social contexts where families come together in matrimony that are roughly similar in property and status.[22]

The fact that Mary was already betrothed (μνηστευθείσης; v. 18) to Joseph, and that he contemplated divorcing her, meant that they had entered into a wedding contract (a

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[20] See J. Goody, 'Bridewealth and Dowry in Africa and Eurasia', in J. Goody and S. J. Tambiah, *Bridewealth and Dowry*, Cambridge Studies in Social Anthropology (Cambridge: CUP, 1973) 1–58, and S. Anderson, 'The Economics of Dowry and Brideprice', *Journal of Economic Perspectives* 21 (2007) 151–74. Also see Esler, *Babatha's Orhard*, 90–92.

[21] Satlow, *Jewish Marriage*, 201. In P. Yadin 1 (Yadin, *Documents*, 173–200), written in Nabatean Aramaic, the word מהר appears (in line 18) but with reference to a wife's dowry, not a bride-price. The editors of P. Yadin 10 have מהר appearing as a possible option in line 5 (Aramaic text and translation; Yadin, *Documents*, 126–127), but after discussion they comment, correctly, in their note on this line: 'It is more likely, therefore, that the term *mōhar* does not occur in the present *ketubba*, after all' (133).

[22] Esler, *Babatha's Orchard*, 92, 101.

ketubba).[23] Accordingly, Joseph's discussion with Mary's relative must also have canvassed the form of that contract, in particular, whether it would be in Greek and aligned with Greek law, or in Aramaic and expressing Judean rather than Greek practices. Judean families from the Dead Sea region opted for either form, with the use of Greek (as in P. Yadin 18) probably facilitating the adjudication of any breaches in the governor's court in the Roman province of Arabia (which operated in Greek), although that did not prevent Babatha's wedding contract with her second husband being drafted in Aramaic. Since the dramatic setting of Matt 1.18-25 is Bethlehem in Judea, ruled over by Herod, a client king of the Judeans under the Romans, the Matthean audience would likely have assumed that the wedding contract was drafted in Aramaic and reflected the Aramaic legal tradition of Judea than in Greek and reflecting Greek law. This means the most relevant comparators are the three Aramaic wedding contracts: P. Mur 20 and 21 and P. Yadin 10. Using these as precedents, we can draft Mary's *ketubba*.

Mary's *Ketubba* and Its Execution

Here, then, is an imagined text for Mary's *ketubba*:

ב[ ] ל[ ] שנת תלתין ו[ ] לחורדוס מלכא מלך יהודאי

בבית לחם יהוסף בר יעקב מן בית לחם אמר למרים ברת[ ]

מן בית לחם אתי תהוא לי לאנתה כדין מושה ויהודאי

[23] 'Unwritten marriages' (ἄγραφοι γάμοι) were known, but they involved the man and woman living together, which was not the case with Joseph and Mary.

וזאננה לך ומכסך מן נכסי ובכתבתך אעלך

וקין לך עלי כסף זוזין [ ] מאה מה אנון צורין [ ]

והן אפטרנך אתבנך כסף כתבתיך עם כל עליך די עמי

ואם תשבתאי אפרקנך מן ביתי מן נכסי ואתיבנך לי לאנתה

וכתבתך קימא עלי כאש[...

והן לבית עלמא תהך מקדמי בניך מני ירתון כסף

כתביך וכול עליך די עמי והן בנן יהין לך מני

כנמסא הנן יהין יתבן ביתי ויהין מתזנון נכסי

עד לבעלין או הן אנה אהך לבית עלמא קדמך אנת תהוה

יתבה ומתזוה מן נכסי כל ימין ביתהון די בנינא בת די ארמלו די

לך עד למתותך וכול נכסי די איתי לי ודי אקנא אחראין

וערבין למרקה ולקימה כתבתא דך ובזמן די תאמרין לי

אחלף ולותך שטרא כדי חיא

יהוסף בר יעקב על נפשה

[ ] בר [ ] ספרא

מרים ברת [ ] על נפשה

[ ] בר [ ] שהד

[ ] בר [ ] שהד

[ ] בר [ ] שהד
[ ] בר [ ] שהד

1. On the [… (day of) …], year thirty and […] of Herod the King, king of the Judeans,
2. in Bethlehem. Joseph, son of Jacob, from Bethlehem said to

   Miryam, daughter of […]

3. from Bethlehem. You will be my wife according to the law of Moses
and the Judeans and I will feed you
4. and clothe you from my property and pursuant to your *ketubba* I will
bring you (into my house).
5. I am under obligation to you for silver (in the sum of) […] hundred *zuzin* which are equal to […]
Tyrian shekels
6. and if I divorce you I will restore to you the silver of your *ketubba*,
together with all of your property in my possession.
7. And if you are captured, I will redeem you from my house and from
my property and I will restore you as my wife,
8. and (the amount of) your *ketubba* will remain as an obligation on me
according to …..
9. And if you go to the house of eternity before me, your sons from me
will inherit the silver
10. of your dowry together with all of your property in my possession.
And if you have daughters with me
11. according to law they will live in my house and they will be
maintained from my property
12. until they are married. Or if I go to the house of eternity before you,
you will
13. dwell and you will be maintained all (of your) days in the house of
our children, the house of your widowhood
14. until you die. And all the property that I currently possess or that
I shall acquire
15. are securities and guarantees for paying and securing your dowry.
And at any time that you ask me
16. I will replace the document for you, as long as I still live.

17. Joseph, son of Jacob, on his own behalf.
18. …, son of ..., scribe.

19. Miryam, daughter of …, on her own behalf.

20. …, son of …., witness.

21. …, son of …., witness.

22. …, son of …., witness.

23. …, son of …., witness.

The act of executing the wedding document deserves close attention. Matthew's original audience would have been familiar with this process and for modern interpreters with an ethnographic interest it offers the best opportunity for 'being there.' Since a party or parties (and even witnesses) to a legal deed may have been illiterate, it was probably read out aloud before it was signed.[24] The Matthean audience, based on personal experience in many cases, would have envisage a group of people gathering for an important social occasion: the scribe (if, as usually happened, one was employed to draft the deed), Joseph and Mary, and between four and seven witnesses (probably some of their relatives or friends). Joseph would have signed, then the scribe, then Mary and lastly witnesses.[25]

Matthew's audience (among whom many of the men would have served as witnesses to wedding contracts themselves) would also have been familiar with the main features of the contract: its date and place of execution; Joseph's statement that he took Mary as his wife according to the law of Moses;[26] his undertaking to maintain

[24] See Esler, *Babatha's Orchard*, 20–22, 101, 109.

[25] See fn. 24.

[26] This differed from the practice in Greek marriage contracts whereby the bride's father or mother gave the bride to the groom, in the *ekdosis* provision: see U. Yiftach-Firanko, 'Judaean Marriage

her; his all-important obligation to protect her dowry and to restore it to her if her divorced her, with its amount in silver then becoming public knowledge; the moving promise to redeem her with his property if she were captured;[27] provisions relating to Mary's predeceasing Joseph and his predeceasing her; a statement that his present and future acquired property were security for her dowry;[28] and a promise to provide a copy of the *ketubba* if asked. Would the Matthean audience have understood this to be the first occasion on which Joseph and Mary met? Possibly, although there could have been chaperoned meetings between them earlier.

These details of the execution of the document mean that, in any local, especially village context, the fact that the wedding contract had been signed would quickly have become general knowledge. There would probably have been a keen interest in the nature and size of the dowry, since this indicated the wealth of the bride's family and, if (as is likely) the families were roughly equal in status and property, that of the groom's as well. If Joseph had been married previously, village gossip may well have extended to how Mary's family and its wealth, and Mary herself, compared to his first wife and her family. It is not clear if the dowry was entrusted to the husband at the time when the wedding contract was signed, or when the couple began to live together for, as we will now see, on occasion at least (including the case of Joseph and Mary) there was an interval of time between these two events.

Documents and the *Ekdosis* in the Greek Law of the Roman Period', *Law in the Documents of the Judaean Desert* (ed. R. Katzoff and D. M. Schaps; Leiden: E. J. Brill, 2005) 67-84.

[27] The Mishnah would later imply this clause if it was not expressed; see *m. Ket.* 4.8 where it is cited in Aramaic.

[28] The Mishnah also implied this clause if it was not expressed (*m. Ket*. 4.7; again, cited in Aramaic).

The Period Between Betrothal and Commencement of Cohabitation

Matthew 1.18-25 presupposes a temporal gap between the betrothal and Joseph taking Mary into his house. In Luke, too, Mary is engaged to Joseph (1.27) but has not yet had sexual relations with him, suggesting that she has not yet begun living with him, as confirmed in 1.34. Michael Satlow and Lynn Cohick describe such an arrangement as an 'inchoate marriage.[29] In some quarters (especially where the focus is on the Mishnaic and Talmudical picture), a period of time between betrothal and completion of a Judean marriage by the bride moving into the groom's house (or his father's) is regarded as commonplace. Thus Leonie Archer cites a considerable amount of Talmudical evidence for an elaborate betrothal ceremony and a twelve month betrothal period,[30] but it is unclear to what extent this later material reflects first or early second century CE realities. Nevertheless, the fact that some of the phrases used in the Judean legal papyri appear later in the Mishnah (and cited in Aramaic not Hebrew)[31] suggests a very conservative legal tradition that provides grounds for caution in distinguishing too sharply between the situation in the first and early second centuries and that of later centuries when the Mishnah and the Talmud were being compiled.

[29] Satlow, *Marriage*, 72 and L. H. Cohick, *Women in the World of the Earliest Christians: Illuminating Ancient Ways of Life* (Grand Rapids, Mi: Baker Academic, 2009) 64.

[30] Archer, *Jewish Woman*, 168–171.

[31] See fns. 28 and 29 for *m. Ket*. 4.7 and 8.

Yet Michael Satlow is skeptical of the evidence for a period between betrothal and completion of the marriage in the Second Temple period, even if this occurred in the biblical period.[32] He argues that

> during the entire Second Temple period, (most?) Jews neither customarily "betrothed" (in the biblical sense) nor did they even have a firm understanding of what such a betrothal would mean. Instead, they followed Greek practices, and understood the biblical institution of betrothal within their own Hellenistic contexts.[33]

He concedes, however that Matt 1.18-19 constitutes evidence that some Judeans in the first century CE, 'probably in rural Galilee, were practicing a form of inchoate marriage.'[34] His attempt to exclude Luke 1.26-38 from the evidence is, however, unsuccessful. Luke was probably writing for a mixed audience of Judeans and non-Judeans, not just for the latter.[35] Luke is not using the same material that was before Matthew; and the different details in the Lucan account are irrelevant to the point: in Luke we also have Mary engaged to Joseph yet without having had sex with him and that indicates a betrothal period. Further New Testament evidence for a period of time

[32] Satlow, *Marriage*, 69–73. He notes the three primary texts relied upon for this idea are the Aramaic version of Tobit 6.13; Philo, *Spec Leg* 3.72; and Matt 1.18–19.

[33] *Ibid*., 69.

[34] *Ibid*., 72.

[35] See P. F. Esler, *Community and Gospel in Luke-Acts: The Social and Political Motivations of Lucan Theology*. SNTS Monographs 57 (Cambridge: CUP, 1987) *passim*.

between the wedding contract and cohabitation occurs in 2 Cor 11.2 in the period of time Paul presupposes between the betrothal of the bride and her presentation.

Another objection to Satlow's position is that is incorrect to assert that Judeans followed Greek legal practices. Sometimes they did and sometimes they did not. The usual Roman approach to law in the provinces—to recognise other legal systems in Roman courts—was a policy of 'legal pluralism' as first explained by Ludwig Mitteis in 1891.[36] For example, after the replacement of the Kingdom of Nabatea with the Roman province of Arabia in 106 CE, legal documents from towns within the new province, like Maoza (from which some of the documents mentioned in this article originated), reflected a play of Roman, Greek, Nabatean and Judean law, as Giles Rowling has comprehensively shown.[37] Often the law followed was that of the language used (and Greek was useful if litigation in Roman courts operating in Greek was likely). That is exactly what we find with the Dead Sea legal papyri. Both P. Mur 20 and P. Yadin 10 (in Aramaic) are expressed to be in accordance with the law of Moses and P. Mur 21 might have had the same provision, only its lacunose early lines mean we will never know. On the other hand, in P. Yadin 18, even though everyone concerned was Judean, important provisions were expressed to be in accordance with Greek custom (line 51).

[36] See L. Mitteis, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs, mit Beiträgen zur kenntnis des griechischen Rechts und der spätrömischen Rechtsentwicklung* (Leipzig: Teubner, 1891). This work is not cited in Satlow, *Marriage*.

[37] G. I. O. Rowling, 'Law in Roman Arabia 106–132', a doctoral thesis accepted by Macquarie University, Sydney, 2019.

Perhaps the best solution is to recognise that sometimes there was a gap between betrothal and commencing co-habitation and sometimes not. The two events do seem, for example, to have occurred on the same day in relation to P. Mur 20, since the editors reasonably construed 'and forever' (ולעלם) at the start of line 4 as having been preceded in the lacunose previous verse by the words 'and I will feed you and clothe you from this day (מן יומא דנה)' in a formula known elsewhere.[38] Contrariwise, two of the Aramaic marriage contracts from the Dead Sea, P. Mur 21 and P. Yadin 10, lack such a clause suggesting the bride entered the house of the groom on the day the wedding contract was signed. Moreover, the stated obligation to restore the dowry on divorce (P. Mur 21, lines 9-10), or generally to be liable to the wife for it (P. Yadin 10, lines 6-9), can be construed as having a future operation, namely, from the day when the dowry is delivered. An interval between the wedding contract and the provision of the dowry is also implied in one of the Judean documents from Herakleopolis considered below (P. Polit. Iud. 4). The picture in the Matthean Gospel is consistent with these provisions (as in Mary's *ketubba* above), since the evangelist clearly expected his audience to recognise a Judean practice of an act of betrothal—expressed in the execution of a wedding contract—that was followed by a period before the couple began to live together.

The Honour and Shame Dimensions of Marriage

Such a temporal gap between betrothal and cohabitation bore directly on the honour and shame dimensions of Judean marriage. Interpreters now realise how central were

[38] Benoit, *Murabba'at*, 112.

honour and shame in the social dynamics of the ancient world, largely in consequence of Bruce Malina's pioneering application of Mediterranean ethnography to the New Testament.[39] Honour was a form of social credit rating that was applicable both to individuals and groups. It could be ascribed to one because of his or her family, or acquired in various forms of social interaction. Its opposite was shame (although how honour and shame were related varied depending on local context).[40] Ethnographers who worked in the Mediterranean region in the late twentieth century recognised that sexual relations between men and women represented a particularly fraught area for the intersection of honour and shame. Men strove to protect the honour of themselves and their family by shielding their women from any sexual contact other than within a marriage agreed between two families, especially by gender separation and ensuring their daughters were virgins when married.[41] Thus Maureen Giovannini observed,

[39] See B. J. Malina, *The New Testament World: Insights from Cultural Anthropology* (Atlanta, GA: John Knox Press, 1981; third edition 2001). Two decades later classicists began to argue a very similar case (e.g. C. A. Barton, *Roman Honor: The Fire in the Bones* (Berkeley: University of California Press, 2001); and J. E. Lendon, *Empire of Honour: The Art of Government in the Roman World* (Oxford: Oxford University Press, 2001)). Also see P. F. Esler, 'The Original Context of Old Testament Narrative', in *Sex, Wives, and Warriors: Reading Biblical Narrative With Its Ancient Audience* (Eugene, OR: Cascade Books, 2011) 35–76. On the continuing importance of this subject among social scientists, see C. Stewart, 'Honor and Shame', *The International Encyclopedia of the Social and Behavioural Sciences, Second Edition, Volume 11*, (ed. J. Wright; Amsterdam: Elsevier, 2015) 181-184.

[40] Esler, 'Original Context', 44.

[41] This view was espoused by a number of the contributors to D. D. Gilmore, ed., *Honor and Shame and the Unity of the Mediterranean* (Washington, DC: American Anthropological Association, 1987), including David Gilmore (3–4), Carol Delaney (35–36) and Maureen Giovannini (61–74).

‘Consistent with this pattern is male control over female sexuality since men are usually responsible for protecting the chastity of their female relatives.’[42]

Michael Satlow has drawn our attention to a significant body of evidence ‘that Jews in antiquity shared with their non-Jewish neighbours a value of honor and shame.’[43] A wedding was an occasion to maintain the respective honour of the two families. Certainly both sides would have sought to avoid any shame in arranging the match. A minimum condition for that was a rough equality of wealth and social status (as tends to be present in social contexts featuring a dowry as part of the marriage arrangements, as noted above). Another factor relevant to marriages in Judean society but not mentioned in Matthew was the type of ‘family stocks’ involved in the marriage: priestly, Levitic, Israelite, impaired priestly, proselyte, freedman, etc.[44]

But what if things went wrong? One instructive source is Sirach 42.9-11, which forms part of a body of instruction ‘on shame’ (αἰσχύνη) occupying 41.16-42.14 and demonstrates how a father’s honour was tied to his daughter’s behaviour:

> A daughter keeps her father secretly wakeful, and worry over her robs him of sleep; when she is young, lest she do not marry, or if married, lest she be hated; while a virgin, lest she be defiled or become pregnant in her father's house; or having a husband, lest she prove unfaithful, or, though married, lest

[42] Giovannini, M. J., ‘Female Chastity Codes in the Circum-Mediterranean: Comparative Perspectives’, in Gilmore, *Honor*, 61–74, at 61.

[43] Satlow, *Marriage*, 101–104, at 102.

[44] See Ilan, *Jewish Women*, 70–71.

> she be barren. Keep strict watch over a headstrong daughter, lest she make you a laughingstock (ἐπίχαρμα) to your enemies, a byword in the city and notorious among the people, and put you to shame (καταισχύνῃ σε) before the great multitude (RSV).

In addition, Sirach 26 describes the good wife and the bad, bringing out at one point that the husband's honour is at issue: 'A woman honouring (τιμῶσα) her own husband shall seem wise to everyone, but she who dishonours (ἀτιμάζουσα) him in her pride shall be known as impious by all' (26.26).

Satlow aptly sums up the situation in this way:

> Few events held more potential for the transfer of honor than a marriage. Conversely, for a father, especially of a bride, few events would have been as laden with anxiety as marriage. A good match must be found, a beneficial deal struck, and the children would have to be "brought on board": every juncture presented a possibility for shame and social disaster.[45]

We conclude this section of the argument, therefore, with the happy event of the betrothal of Joseph and Mary, which would usually continue during the period before the marriage was consummated. Yet there was always the concern that the wife would bring dishonour on her father and on the groom. In Mary's case such anxiety would soon crystallise.

[45] Satlow, *Marriage*, 104.

THE DISCOVERY OF MARY'S PREGNANCY AND ITS SOCIAL RAMIFICATIONS

We move now to the next phase of the story. Joseph and Mary are engaged but have not yet 'come together' (v. 18) and Joseph has not yet taken her into his house (v. 20). Into this culturally normal situation comes the lightning stroke: 'and Mary was found (εὑρέθη) to be pregnant through the Holy Spirit.' Many commentators show no interest in what εὑρέθη means here. While Francis Beare is at least interested, he denies the word any valence by claiming that 'As in French *se trouver*, no thought of "finding" is involved, and there is no need to ask who first learned of her situation.'[46] Certainly εὑρέθη can have this meaning, as it probably does, for example, in the (very exceptional) circumstances of Acts 8.40, or in Rev. 12.8. But in nearly half of the thirty New Testament instances of εὑρίσκειν in the aorist passive the notion of being found or discovered is present.[47] This is the meaning in Matt 1.18,[48] since if Mary was not discovered to be pregnant, how did Joseph learn that she was, as the narrative requires he did? In short, the word reflects the circumstance that one or more persons did, in fact, find out that Mary was pregnant. The Matthean audience would have

[46] F. W. Beare, *The Gospel According to Matthew.* Oxford: Basil Blackwell, 1981) 67. Raymond Brown (*Birth*, 124) similarly misinterprets εὑρέθη when he says, 'This need not have the sense of a secret discovered by a busybody. A weakened sense in which "found to be" simply means "was" is to some extent present in English as well as Greek: "He found himself in the country."'

[47] For example, Luke 9.36; 15.24, 32; 17.18; Acts 5.39; Rom. 10.20; 2 Cor. 5.3; 11.12; 12.20; Gal. 2.17; 2 Pet. 3.10, 14; Rev. 16.20; 20.15.

[48] As recognised in BDAG, Third Edition, 412.

assumed gossip carried across local social networks would soon have made this general knowledge.[49]

Matthew does not say how far Mary was advanced in the pregnancy, nor how the discovery was made. Nevertheless, any ancient audience would have wondered about how and when her pregnancy was discovered and, importantly, how far knowledge of that discovery then spread. Such an audience would probably have assumed that the women in the house where Mary lived first made this discovery because they were physically proximate to her and could see her without the voluminous clothing she wore when outside the house (to fetch water from a well, for example). Such women would have noticed the usual phenomena, such as lack of menstruation and the onset of morning sickness, even before her stomach had begun to swell around or after the first trimester of her pregnancy. As the months advanced, any appearance by Mary outside the house would have revealed her predicament. If her family tried to keep her inside, her sudden disappearance would itself have fueled speculation. What was known in Mary's house was probably soon shared throughout the village where she lived. Salacious gossip of this kind tends to spread, as Tamar discovered (Gen 38.24). Matthew's audience would have inferred that this information eventually reached Joseph. Since, from the number of people involved in the execution of the wedding contract, the villagers of Bethlehem would have known that Joseph and Mary were betrothed but were not yet living together, such an audience would probably also have

[49] For the mechanisms involved, see P. F. Esler, '"All That You Have Done Has Been Fully Told to Me:" The Power of Gossip and the Story of Ruth', *Journal of Biblical Literature* 137 (2018) 645-666.

assumed that someone other than Joseph was responsible. Certainly Joseph knew that he was not responsible.

An important issue relevant to this question is whether, by virtue of the statement Mary was pregnant 'out of (the) Holy Spirit' in v. 18,[50] Matthew meant that this information was available to the characters in the story, Joseph especially, or only to the audience of the Gospel. While various answers to the question exist,[51] the latter option is by far the more likely. Joseph could not have known of a miraculous conception by the Holy Spirit since that possibility is in conflict with the fairly unassailable evidence that the angel later tells Joseph that Mary had become pregnant 'out of (the) Holy Spirit' (v. 20), a statement which, as Jane Schaberg has observed, would be 'redundant, anticlimactic, and nonrevelatory' if he already knew.[52] Accordingly, an ancient audience would have assumed that Joseph believed Mary had committed adultery or (perhaps) been raped. Only if Joseph assumed that Mary had engaged in sexual activity with another man while betrothed to him can we adequately appreciate his response.

[50] The article does not appear in the Greek.

[51] See the discussion by M. J. Marohl, M., *Joseph's Dilemma: "Honor Killing" in the Birth Narrative of Matthew* (Eugene, Or: Cascade Books, 2008) 23–24.

[52] J. Schaberg, *The Illegitimacy of Jesus: A Feminist Theological Interpretation of the Infancy Narratives* (New York: Harper & Row, 1987) 44–45. Similarly, R. E. Brown, *The Birth of the Messiah: A Commentary on the Infancy Narratives in Matthew and Luke.* New updated edition (New York: Doubleday, 1993) 124.

Andrew Lincoln has recently argued that the Matthean audience would not have regarded a conception 'out of (ἐκ) the Holy Spirit' as miraculous, but just that her irregular pregnancy was part of the divine purpose in which the Spirit was at work.[53] While a discussion of this important suggestion is not possible here, since there were so many Greek myths concerning gods impregnating human women one might reasonably consider that an ancient reader would have viewed that phenomenon as the context for what is described here. Moreover, the blunt statement in 1.20, τὸ γὰρ ἐν αὐτῇ γεννηθὲν ἐκ πνευματός ἐστιν ἁγίου, points to direct action by the Holy Spirit without a human agent, especially when allied with the fact that ἐκ plus the passive of γεννάω refers to actual parenthood only five verses earlier (Matt 1.15).

Joseph's Response

The problem posed by her pregnancy to Mary and Joseph and their respective families was the major damage it would cause to everyone's honour, especially that of Joseph, Mary and Mary's father (if he was still alive). Matthew describes Joseph's response to the discovery that Mary was pregnant in a statement dense with cultural resonances (v. 19):

[53] A. Lincoln, *Born of a Virgin: Reconceiving Jesus in the Bible, Tradition and Theology* (London: SPCK, 2013) 73.

> Joseph, her husband, being a just (δίκαιος) man and (καί) not wishing to disgrace her publicly (δειγματίσαι),[54] decided (ἐβουλήθη) to divorce (ἀπολῦσαι) her secretly (λάθρᾳ).[55]

We come now to the all-important question of the righteousness of Joseph. Some commentators read the καί after δίκαιος adversatively: 'being a just man but not wanting …', or concessively: 'although a just man, he did not wish…' This approach drives a wedge between the righteousness of Joseph and his decision not to disgrace Mary: if he had been acting righteously, he would have not have thought to divorce her secretly. Thus Daniel Harrington argued that being δίκαιος meant obeying the law, in particular Deut 22.23-24, which prescribes that a betrothed virgin who lies with a man in the city and the man are to be stoned.[56] R. T. France, similarly, suggested that 'As a law-abiding man Joseph would be expected to repudiate his errant fiancée publicly in a trial for adultery.'[57] To similar effect is Raymond Brown.[58]

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[54] For this meaning of δειγματίσαι, see BDAG, Third Edition, 215.

[55] For the meaning of λάθρᾳ, see BDAG, Third Edition, 581. Although it is possible to read λάθρᾳ with ἐβουλήθη, producing 'he secretly decided to divorce her', that interpretation would break the connection between this clause and the preceding one, which suggests that a *secret divorce* was needed to spare Mary *public disgrace.*

[56] D. J. Harrington, S. J., *The Gospel of Matthew* (Collegeville, Mn: Liturgical Press, 1991) 34.

[57] R. T. France, *The Gospel of Matthew* (Grand Rapids, Michigan and Cambridge: William B. Eerdmans Publishing Company, 2007) 51.

[58] Brown, *Birth*, 125–28.

These critics convey the idea that by describing Joseph as δίκαιος Matthew characterised him as someone who normally acted strictly in accordance with the law of Moses. Yet this would align Joseph's righteousness with that of the scribes and Pharisees, whose righteousness the Matthean Jesus later tells his followers they must exceed to enter the Kingdom of Heaven (5.20). How likely is it that Matthew would thus represent Joseph as failing to embody the righteousness his own stepson would later advocate? A more likely hypothesis is that Joseph, the first person mentioned in this Gospel as righteous, acts towards Mary in a way that is prototypical of the righteousness that Jesus valorises (e.g. Matt 5.20; 6.33; 21.32; 25.37, 46). We will now test this hypothesis against the textual data, which involves interpreting καί in 1.19 in its usual meaning of 'and.' This task necessitates considering the full array courses of action open to Joseph that he rejects and then focusing on the one he adopts.

Davies and Allison claim that Joseph had only two options: accusing his betrothed before a public authority and asking for a trial in line with Deut 22:23–27 or drawing up a bill of divorce.[59] But they are mistaken in so limiting Joseph's choices. The options available to Joseph view of Mary's pregnancy fall into three categories:

(a) Public action against her, judicial or extra-judicial, that would have led to her being shamed or even killed. This can be construed as what a Judean who was

[59] W. D. Davies and D. C. Allison, *The Gospel According to Matthew: Volume 1: Introduction and Commentary on Matthew I–VII.* International Critical Commentaries (Edinburgh: T & T Clark, 1988) 204–205.

δίκαιος in the Torah-focused sense (suggested by Harrington, France and Brown) would have favoured;

(b) Private action against her, in the form of a secret divorce; and

(c) Taking no action against her at all; the option Joseph eventually chose.

Let us now consider these in turn.

Public Action, Judicial or Non-Judicial

As to category (a), the first possibility was, indeed, that Joseph could have commenced a suit against Mary pursuant to Deut 22.23-24. This is overwhelmingly the judicial avenue adverted to in the secondary literature. It could have resulted in Mary's death by stoning (Deut 22.24). If a successful result by the husband in such a case meant that he could retain some or all of the dowry given her unfaithfulness, a practice later evidenced in the Mishnah,[60] that would have been a powerful stimulus to commence the suit. But a second judicial option aimed directly at Mary was perhaps available under the procedure set out in Num 5.11-31, where a husband suspected his wife has been guilty of adultery (a fairly safe bet as far as Joseph was concerned), a procedure which Raymond Brown suggests was still effective in New Testament times.[61]

[60] See *m. Ket* 7.6; also C. S. Keener, *A Commentary on the Gospel of Matthew* (Grand Rapids, MI: Eerdmans, 1999) 93.

[61] See Brown (*Birth*, 128); but he does not cite evidence for this view.

But there was a third judicial possibility that is never mentioned. Joseph could have sued Mary's father, or the other male or female family member with whom he agreed the marriage either, depending on the timing, because she was not a virgin as was promised to him when they entered into the wedding contract, or because they failed to protect her against interference by another man after the betrothal. We probably err in imagining that an ancient Judean official vested with judicial power would only entertain a suit if there was some specific provision in the Torah that prohibited certain behaviour. Two cases that we know were brought to the archons of the Judean *politeuma* of Herakleopolis in the period 144-132 BCE help us to conceive of these wider possibilities.[62]

P. Polit. Iud. 4, dated to 134 BCE,[63] is a petition of one Philotas. He had become betrothed to Neikalia, the daughter of a certain Lysimachus (ἐμνηστευσάμην Νείκαλιαν Λυσιμάχου; lines 6–7). It is worth noting that μνηστεύειν is the same word used of the betrothal of Joseph and Mary in Matt 1.18. According to Philotas, Lysimachus swore that he would give Philotas his daughter and the dowry agreed for her (τὴν σταθεῖσαν ἐπ᾽αὐτῇ φερνήν; lines 8–9). This was a betrothal, like the situation in Matt 1.18–15, where there was to be a delay between the betrothal and the bride entering the groom's house, but also one in which payment of the dowry was to be deferred as well. But Lysimachus then married Neikalia off to someone else before

[62] See the edition of J. M. S. Cowey and Klaus Maresch, eds., *Urkunden des Politeuma der Juden von Herakleopolis (144/3 – 133/2 v. Chr.) (P. Polit. Iud.): Papyri aus den Sammlungen von Heidelberg, Köln, München und Wien* (Wiesbaden: Westdeutscher Verlag, 2001) 56–71.

[63] *Ibid*., 56–71, at 56.

Philotas had issued the customary bill of divorce (τὸ εἰθισμένον τοῦ ἀποστασίου; lines 22–23), customary, that is, under Judean law that probably derived from Deut 24:1–4,[64] although those provisions relate to divorce after a consummated marriage. The petition does not specify what remedy Philotas was seeking, but payment of the agreed dowry seems the most likely solution, or perhaps Philotas was acting simply to redeem his honour by receiving a ruling from the archons that Lysimachus was in the wrong.

A second Judean papyrus from Herakleopolis also relates to issues of marriage and dowry. In P. Polit. Iud. 3, probably datable to 140 BCE,[65] a certain Protomachus petitions the archons for a second time concerning Euphranor, who is either the father of the woman he proposed marrying or one of her other close male relatives. Euphranor had allegedly promised on oath that he would provide to Protomachus as dowry (φερνή; line 7), clearly for an unnamed potential bride, a section of a vineyard worth 3,000 drachmas, once Protomachus had drafted a wedding contract (specifically, a contract relating to co-habitation: συνοικισίου συγγραφή;[66] line 10). Although the text becomes fragmentary, it is clear that Protomachus fulfilled his part of the agreement but Euphranor did not. Furthermore, Protomachus had won the first round but Euphranor ignored the decision. This prompted Protomachus to petition the archons for a second time.

[64] *Ibid*., 69.

[65] *Ibid*., 46–55, at 46.

[66] The editors follow U. Yiftach in noting that a συνοικισίου συγγραφή is the second part of the certification of a Greek marriage, the first part being the συγγραφή ὁμολογίας (*Politeuma*, 53).

In the first cases the Judean archons were being invited to act under Judean law and in the second, perhaps, under Greek law. Nevertheless, both of them are similar in concerning actions by a groom probably aimed at obtaining a promised dowry. They bring home to us that other legal possibilities existed in Joseph's situation other than an action to have Mary dealt with as an adulteress. After all, if the petitioner in P. Polit. Iud. 4 could complain that his marriage was still ongoing and, presumably, that he was entitled to the contracted dowry, so too could Joseph. But any such action clearly held no appeal for Joseph. If he had not yet received the dowry, he had no intention of suing for it. If he had received it, handing it back to her father in line with a standard clause in a Judean deed of divorce (see below) was the most sensible course for him to avoid any notoriety; admittedly, perhaps, that course of action was likely to be problematic when the woman was pregnant to another man.

A fourth mode of public action was also open to Joseph that has not been taken with sufficient seriousness in scholarship except by Matthew Marohl.[67] This is that someone in Joseph's position could have fomented a mob to kill Mary. Honour killings were a feature of the ancient Mediterranean world and they still are in parts of the Middle East.[68] Such a death was what Judah had in mind for Tamar in Gen 38.24.[69] Judah concluded he had acted righteously although Tamar more so (δεδικαίωται Θάμαρ ἢ ἐγώ; 38.26 [LXX]). John 8.1-11 (leaving aside the interesting

[67] Marohl, *Joseph's Dilemma*.

[68] See Stewart, 'Honor and Shame', 182-183, who points to contemporary honour killings in the Near East and elsewhere and in immigrant communities in the West as a evidence of the persistence of honor as a prominent social value.

[69] P. F. Esler, 'Judah and Tamar (Genesis 38)', in *Sex, Wives, and Warriors*, 79-110, 103-106.

textual history of this pericope)[70] strongly suggests that the phenomenon existed in the New Testament period; in the pericope it is just an assumed feature of this social context used to make a point about Jesus.

But none of these options appealed to Joseph. He wanted to divorce her in a way that did not expose her to public disgrace or death. Instead, he decided to divorce her secretly.[71] That Matthew ties Joseph's being δίκαιος to his not wanting to shame Mary (μὴ θέλων αὐτὴν δειγματίσαι) offers an initial glimpse of what the fuller righteousness Matt 5.20 entails. For in this culture, one would have expected Joseph to be primarily concerned with his own honour, but here he regards Mary's as having priority. But what did divorce entail? And how did one achieve a secret divorce?

A Secret Divorce?

The ultimate source for the Judean law of divorce was Deut 24.1-4. We know what an Aramaic divorce looked like during this period from one of the documents found in Wadi Murabba'at. This is P. Mur 19, which is fairly well preserved and probably dated to 71/72 CE.[72] It is an intriguing coincidence that in this document the groom is

[70] See C. Keith,*The Pericope Adulterae, the Gospel of John, and the Literacy of Jesus*. New Testament Tools, Studies and Documents (Leiden: Brill, 2009).

[71] For early Church views on why Joseph wanted to divorce Mary secretly, see A. B. Calkins, 'The Justice of Joseph Revisited', in *Kecharitoméne: Mélanges René Laurentin* (ed. Augrain, C. and Koehler, T. A.; Paris: Desclée, 1990) 165–77.

[72] See Benoit, *Documents*,104–109, but also A. Yardeni, *Textbook of Aramaic, Hebrew and Nabataean Texts for the Judaean Desert and Related Material. A: The Documents. (In Hebrew)* (Jerusalem:

one Joseph and his wife is Miryam! When Matthew says Joseph wanted to divorce Mary secretly, it was by his delivery to her of a document like this. The Judeans among the original audience of this Gospel would have had a good idea of the provisions in such a bill of divorce and the non-Judeans an approximate idea. We can exercise the ethnographic imagination by imagining the type of thoughts such an audience would have attributed to Joseph when he is described as wishing to divorce her. This means attending to the details of the document.

Although the woman signed a wedding contract, this document suggests that she did not sign a bill of divorce. There are also three witnesses, not two as later became the specified number, at least in cases of adultery (*m. Sotah* 1.1). I will return to the witnesses below. Here is my translation of the upper text (which is virtually identical to the lower):

1. On the first day of Marheshwan, year six, in Masada
2. I divorce and repudiate you of my own free will this day, I,
3. Joseph, son of Naqsan, from …., living in Masada, you,

Hebrew University, Ben-Zion Dinur Center of Research in Jewish History, 2000), 131 and Yardeni, A., *Textbook of Aramaic, Hebrew and Nabataean Texts for the Judaean Desert and Related Material. B: Translation, Paleography, Concordance. (In Hebrew and English)* (Jerusalem: Hebrew University, Ben-Zion Dinur Center of Research in Jewish History, 2000), 57. Also see T. Ilan, 'Notes and Observations on a Newly Published Divorce Bill from the Judaean Desert', *Harvard Theological Review* 85 (1996) 195–202, at 196. The original editors thought that 'year 6' in the dating clause referred not to the years of the First Revolt but to year 6 of the province of Arabia (111/112 CE). The latter suggestion always suffered from the problems that Masada was not in Arabia and that it was hard to see why two Judeans would have moved there in the latter period.

4. Miryam, daughter of Jonathan, from Hanablata, living

5. at Masada, who was my wife up to this time, so that you

6. are permitted for your part to go and to become the wife of any man

7. (who is) Judean whom you desire. Here, now, for you from me are the document of repudiation

8. and the writ of divorce. Now I am giving back [the dow]ry, and all the ruined

9. and damaged goods and ……[I will reimb]urse to you as is my obligation (?)

10. and compensate fourfold. And on the day on which you ask me I will replace for you

11. the document as long as I am alive.

The document begins with the usual date and place of execution formula. Immediately afterwards comes the essential statement of divorce and repudiation that names the two parties and specifies their places of origin and current abode. It is a brutally brief statement and someone like Joseph, thinking about such a document and yet wanting to preserve Mary from public disgrace, would anticipate the impact it would nevertheless have on her. Next, somewhat softening the blow, comes the statement that Miryam is free to remarry, but only to a Judean.

The next provision is to the effect that the document embodies that act of divorce/repudiation. From the wife's viewpoint what follows is fundamentally important: the statement that the husband is returning her dowry, and any other (in this case, damaged) property of hers in his possession. The money represented by the

dowry would probably have been vital for her ongoing existence, especially if her parents were dead. The clause relating to the return of goods owned by the wife that she had been using during the marriage had no application to Matthew's Joseph, since they had not begun living under the same roof. Lastly, the Matthean Joseph would have recognized that he needed to be able to provide a copy of the bill of divorce to Mary whenever she requested it, since it provided proof of her legal capacity to marry someone else (if such a person could be found).

So much for the social reality of the divorce. But how could Joseph have divorced Mary secretly, as he wanted to do? The problems were numerous. It was well known in the village that he was betrothed to her. If he divorced her, P. Mur 19 suggests that there would be three witnesses to that act and the chances of them all keeping it a secret must have been small. Furthermore, Mary's family making her stay inside or sending her away would have not have been a solution, since either course of action would have provoked the suspicion that she was pregnant. Many commentators note the difficulty of a secret divorce in this social setting. How could you keep secret a document that was witnessed? And witnesses to the wedding document would wonder why the couple had not commenced living together. The latter consideration suggests that simply destroying the *ketubba* would not have sufficed and, in any event, would probably have been regarded as an illicit evasion of Deut 24.1. It turns out that the answer to the problem of a secret divorce is found in the next verse: to have no divorce at all!

The Righteousness of Joseph: No Action Against Mary

In v. 19 Matthew tells us that Joseph 'decided' to divorce Mary secretly. Here 'decided' translates ἐβουλήθη, a word meaning 'plan on a course of action, intend, plan, will',[73] but where its aorist form suggests that such planning or intending has crystallised into a decision or resolution. V. 20, on the other hand, throws the firmness of Joseph's decision into doubt:

> As he was giving thought to these things (ταῦτα δὲ αὐτοῦ ἐνθυμηθέντος), behold (ἰδού) an angel of the Lord appeared (ἐφάνη) to him in a dream saying: Joseph, son of David, do not be afraid (μὴ φοβηθῇς) to take into your house (παραλαβεῖν) Mary your wife.

Commentators and translators diverge on whether to translate the first clause 'When he had given thought' or 'While he was giving thought' 'to these things', the former conveying that Joseph had resolved the issue in his head and the latter that he had not but was still mulling it over. Representative of the former view are R. T. France ('When he had decided this', with the aorist tense suggesting 'that before the angel's intervention Joseph's mind was made up'),[74] and also the NIC ('But after he had considered this') and the NRSV ('But just when he had resolved to do this'). In favour of the latter option are Raymond Brown ('Now, as he was considering this, behold'),[75] and probably most versions, including the Vulgate (*Haec autem eo cogitante*), the RSV ('But as he was considering this') and Nestle-Aland (*Während er*

[73] BDAG 182.

[74] R. T. France, *The Gospel of Matthew* (Grand Rapids, MI: William B. Eerdmans, 2007) 52.

[75] Raymond E. Brown, S.S, *The Birth of the Messiah: A Commentary on the Infancy Narratives in Matthew and Luke* (London: Geoffrey Chapman, 1977), 128 –129.

noch darüber nachdachte). This latter view is preferable. This result does not flow from viewing the aorist here as used in an unusual way 'for expressing continued action',[76] since even though relative past time only became associated with the aorist participle to a certain degree, the residual flexibility (where the element of past time is absent) subsists almost entirely in cases such as in Matt 4.4 (ὁ δὲ ἀποκριθεὶς εἶπε) where the action of the participle 'is identical with that of an aorist finite verb',[77] and we do not have that here. Moreover, there are six instances in Matthew's Gospel where the time of the action of the participle and the main verb (in a past tense) preceded by ἰδού is simultaneous and the evangelist employs the present participle, not the aorist (9.10, 18, 32; 12.46; 17.5; 26.47), although on the last three occasions ἔτι is added to λαλοῦντος to emphasise the simultaneity.

The case for preferring the latter option rests rather on a combination of three factors. Firstly, some intervention in Joseph's thinking process, such as to introduce the need for an aorist, is required because he fell asleep, during which period the angel appeared to him in a dream. His consideration of the matter had been interrupted by sleep, not concluded before he fell asleep. Secondly, on the former view ταῦτα δὲ αὐτοῦ ἐνθυμηθέντος are redundant in that the words ἐβουλήθη ... αὐτήν could have been followed by καὶ ἰδοὺ ἄγγελος etc. without affecting the meaning. That is, ταῦτα δὲ αὐτοῦ ἐνθυμηθέντος cannot merely restate that Joseph had made a decision. Thirdly, and related to the second factor, ἐνθυμεῖσθαι refers to the process of pondering

[76] As proposed by Brown, *Birth*, 129. Although he also suggests the aorist could be ingressive (BDF para 331).

[77] BDF para 339.

something, of thinking it over, of processing 'information by thinking about it carefully,'[78] rather than to reaching a decision. This is the meaning of this word in its only other New Testament appearance, in Matt 9.4 (where Matthew introduces it as a stylistic redactional variation of διαλογίζεσθαι in Mark 2.8), a meaning also found in the LXX (Wis. 6.15; Sir. 16.20; Bar. 3.31; 4 Macc. 8.26).

But Joseph has already made his decision. Why has he not acted already to divorce Mary? What still remains upon which he might be ruminating? One possibility is that such reflection concerned how to achieve a secret divorce. Having decided on this route, was Joseph then puzzled by how it might be achieved (just as we are) and also anxious? While that idea is *prima facie* possible, what the angel first says to Joseph suggests another, more substantial basis for his ongoing reflection. The remarkable feature here is the statement μὴ φοβηθῇς (παραλαβεῖν Μαρίαν), where the prohibition with the aorist subjunctive probably conveys the meaning 'do not hold back out of fear (from taking Mary into your home).'[79] Davies and Allison seek to explain the statement μὴ φοβηθῇς as a standard feature of Old Testament theophanies.[80] But that is not what we have in Matt 1:20; the angel does not say this to negate the fear likely to be occasioned by his appearance. Nor is it likely that the angel is urging Joseph not to be afraid of doing something he had not previously contemplated. Joseph's previous decision to divorce Mary only makes sense in a context where the next step in the marriage would have been his taking her into his house. This step he must have consciously rejected in favour of divorce. Yet in v. 20 he has not yet divorced Mary

[78] BDAG 336.

[79] BDF para 336.

[80] Davies and Allison, *Matthew*, 208.

and we find him still mulling over the whole situation (ταῦτα, 'these things'). It is difficult to see how apprehension about bringing Mary home could not have featured prominently in his ruminations. The words of the angel respond precisely to this issue, by offering words of reassurance to abate the fear that Joseph currently has concerning bringing Mary into his house, that is, completing his marriage to her, in spite of the fact that she is carrying someone else's baby. The critical point is that for Joseph to be experiencing such a fear suggests that the action motivating it is a real possibility; that is to say, a large part of what Joseph is thinking about carefully is whether to take Mary into his house, rather than divorce her (secretly or otherwise). Why entertain fear about something that has no chance of occurring? Thus Joseph, this δίκαιος man, is actively contemplating taking his apparently unfaithful wife into his house prior to the angel's arrival.

Motivating such fear are the honour and shame dynamics of this culture. Assuming that word that Mary was pregnant and not by Joseph had spread through the village, he, as Mary's betrothed, her husband, would have been deeply shamed. For Joseph to take her into his house and maintain his marriage to her under such circumstances would compound that shame. The apprehension of such shame was a cause of fear. In Sirach 26, noted above, the discussion of good wives, and bad wives and daughters includes the following:

> Of three things my heart is afraid,
> and of a fourth I am frightened:
> The slander of a city, the gathering of a mob,
> and false accusation -- all these are worse than death (v.5; RSV).

The slander of a city, such as might be caused by a wayward wife or daughter, produces fear. Joseph overcomes this fear in following the divine messenger's direction, by taking Mary into his house (vv. 24-25). The full amplitude of the δικαιοσύνη of Joseph thus reveals itself: he disregards all possible routes available to him under Judean law and custom and instead runs the risk of extreme dishonour by taking his betrothed into his house even though she is pregnant yet not by him.

CONCLUSION

Interpreting Matt 1.18-25 with the aid of ancient Judean legal papyri, here especially the four Aramaic marriage and divorce documents from the Dead Sea area but aided by two papyri from the Judean *politeuma* of Herakleopolis, enhances our understanding of the context against which we read the text. It reveals the potential of archival ethnography conducted on legal documents to push the understanding of New Testament texts in fresh directions. In Joseph's case we discover a richer sense of what it meant for him to be δίκαιος, within the wider Matthean understanding of the new forms of δικαιοσύνη characteristic of the Christ-movement. Joseph emerges as not only representing this type of righteousness in an initial decision to divorce Mary secretly to prevent her incurring shame but even, more surprisingly, in contemplating an entirely different course by completing his marriage in spite of his belief that Mary was pregnant but not by him. And with the angel's reassurance, this is what he does. Thus, as the first person designated as δίκαιος in this Gospel, Joseph proves to be a prototype of righteousness for Matthew's version of the Christ-movement.