

# Marriage and Divorce as a Matter of Social Justice in Malachi 2:10-16

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## Introduction

The Book of Malachi can be dated to the Persian period, probably the fifth century BCE. Israel experiences a time of insecurity and of reconstitution. The political independence was lost, the country reduced to an area only a little bigger as its capital city.<sup>1)</sup> Yet, the temple has been rebuilt. The community of returnees from the Exile and those who stayed in the country now had to be rebuilt as well.

The specific problems taken up in Malachi 2:10-16 can be summarized under intermarriage and divorce. The term intermarriage will be used in this article synonymously with mixed marriage. Both are related to marriage of partners of specially defined in- or out-groups. The Hebrew bible does not allow an insight on a broader level when it comes to marriage between members of miscellaneous social classes. When intermarriage becomes a subject of discussion in the Hebrew Bible it is connected to “forms of

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1) Cf. Israel Finkelstein, “Jerusalem in the Persian (and early Hellenistic) Period and the Wall of Nehemiah,” *JOT* 32 (2008), 501-520. The debated numbers lie between 500 and 1500 inhabitants for Jerusalem and between 15,000 to 20,000 inhabitants in the province Jehud (502, 507).

interethnic, intercultural or interreligious exogamy”<sup>2)</sup>. Connected to relevant cultural differences or different religious practices between groups “mixed marriage is becoming a moral and ‘defiling’ issue and part of a strongly regulated sexuality of the members of a certain society. ... ‘Cultural’ endogamy probably would come closest to what is meant by a majority of Hebrew Bible texts ”<sup>3)</sup> and what is claimed.

However, why such a look back into texts that are approximately 2400 years old? Intermarriage and divorce are the poster child of identity construction in postexilic times.<sup>4)</sup> Although there is no space to discuss this any further, it has to be kept in mind that questions of group identity building are as prevailing today as they were 2400 years ago. And questions of intermarriage are as much connected to the question of identity building as they were so many centuries ago.

These texts had and have an impact on Jewish and Christian understanding of intermarriage, regarding it as a problem or not. Within these texts we can see the roots of a matrilineal determination of the status of the offspring. Last but not least, the question of divorce, the possibility for divorce in general and for women in particular have been discussed through the centuries against the background of the biblical basis, that says: “For I hate divorce, says the Lord, the God of Israel” (Mal 2:16).<sup>5)</sup>

It is the aim of this article to have a look on the interrelatedness of prophetic predications on intermarriage and divorce on the one hand, and the political and socio-economical situation in Judah

2) Christian Frevel, “Introduction: The Discourse on Intermarriage in the Hebrew Bible,” *ibid.*, ed., *Mixed Marriages. Intermarriage and Group Identity in the Second Temple Period*, Library of Hebrew Bible/Old Testament Studies 547 (London: T&T Clark, 2011), 1-14, 6.

3) Frevel, “Introduction: The Discourse on Intermarriage in the Hebrew Bible,” 1-14, 7.

4) Frevel, “Introduction: The Discourse on Intermarriage in the Hebrew Bible,” 1-14, 3.

5) The English translation of the Hebrew text for this paper is the NRSV.

of the Persian period on the other. Exegetical work on the book of Malachi as well as the recognition of the findings from Elephantine will provide a picture of Judaism of the Persian Period being broader of what we know from the biblical traditions. Malachi has a strong opinion on intermarriage and divorce, for good reasons. Yet, there are other voices as well<sup>6</sup>).

## 1. Malachi 2:10-16

Before a specific passage is treated, two aspects should be mentioned that are very characteristic of the prophecy of the book of Malachi. First, the book consists of six paragraphs that are usually characterized as disputation speech.<sup>7</sup> A predication is taken up and an argument or accusation against it follows. Partially, the speech is directed against priests or Levites and partially, it is directed against the people. In our case, we have to deal with accusations against the people.<sup>8</sup> Second, predication and accusation are referred via quotes, but mainly via allusions back to Old Testament

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6) Regarding intermarriage at least the book of Ruth should have been mentioned. This article has been a contribution to a conference on “Social Justice” with colleagues from Brazil, South Korea and Germany at the Mission Academy in Hamburg in August 2015. Being one of several it had to be short. Dealing with 2500 years old texts and traditions contributing to a discussion of current issues, it was necessary to limit the biblical texts and traditions mentioned. This is the reason why the author decided not to speak also on Ruth which is a fine example of biblical literature how to deal with intermarriage. The book of Ruth is a counter-example to Ezra-Nehemiah or Malachi. Yet, the author decided to take up Elephantine because these sources give a good insight into socio economic questions related to intermarriage and divorce.

7) Cf. i.a. Rainer Kessler, *Maleachi*, Erich Zenger, ed., HThKAT (Stuttgart: Herder, 2011) 41-53.

8) Different Lena-Sofia Tiemeyer, “Giving a Voice to Malachi’s Interlocutors,” *SJOT*, 19 (2005), 173-192, 178f.

texts, especially from the Pentateuch.<sup>9)</sup> In short, the book of Malachi represents a specific kind of the Second Temple prophecy, a prophecy that understands the task of the divine messenger as speaking God's word along the lines of the Old Testament tradition, in accordance with the Torah.

The first disputation speech begins in Malachi 1:2 with the statement: "I have loved you, says the LORD. But you say, 'How have you loved us?'" -declaration and refutation. An emphatic rebuttal of the opponent's polemic follows.<sup>10)</sup> This means that the book opens with the declaration of God's love for his people and mentions the people's doubts. The second disputation speech begins as follows in Malachi 1:6\*: "A son honors his father, and servants their master. If then I am a father, where is the honour due to me? And if I am a master, where is the respect due to me? says the LORD of hosts to you, O priests, who despise my name."

God 'loves' and God 'expects honor' as a father does. This is the given framework for the third disputation speech that is of interest for us. It opens with the words (Mal 2:10): "Have we not all one father? Has not one God created us? Why then are we faithless to one another, profaning the covenant of our ancestors?"

The prophet uses images and language belonging to the semantic field of family relations. In our case the statement leaves the decision open to the reader, if the one father, mentioned here is the God of Israel or if it is Abraham, the first of the fathers of the people.<sup>11)</sup> Both readings are possible and make sense.

Again, it has to be stressed: the introductions to the disputation

9) Cf. Karl William Weyde, *Prophecy and Teaching. Prophetic Authority, Form Problems, and the Use of Traditions in the Book of Malachi*, BZAW 288 (Berlin: Walter de Gruyter, 2000).

10) Cf. Andrew E. Hill, *Malachi. A New Translation with Introduction and Commentary*, AncB, 25D (New York: Doubleday, 1998), 145.

11) Others deem Jacob to be the one father. Cf. Alexander von Bulmerincq, *Der Prophet Maleachi*, Bd. 2, Teil 3 (Tartu: Dorpat, 1931), 243f.

speeches, especially the introduction to the third speech, frame the following arguments while placing God, messenger and opponents, priests or people in a very specific kind of relation-a family.

All accusations made are so severe because family ties are harmed.

Malachi 2:10-16 in an abbreviated version goes as follows:

Introduction:

10 “Have we not all one father? Has not one God created us? Why then are we faithless to one another, profaning the covenant of our ancestors?”

Part I: Intermarriage

11 “Judah ... has married the daughter of a foreign god. 12 May the LORD cut off from the tents of Jacob anyone who does this...”

Part II: Divorce

14 “... the LORD was a witness between you and the wife of your youth, to whom you have been faithless, though she is your companion and your wife by covenant. 15 Did not one God make her? ... So look to yourselves, and do not let anyone be faithless to the wife of his youth. 16 For I hate divorce, says the LORD, the God of Israel,<sup>12)</sup> and covering one’s garment with violence, says the LORD of hosts. So take heed to yourselves and do not be faithless.”

The opening statement connects God, forefathers and the people. God is one, the one father of the people and he is their creator. Out of this connection, the people have to act faithfully, which means in accordance with the covenant of the ancestors<sup>13)</sup>.

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12) This translation is one of several that are possible for the MT. Even more variants are possible, taking the versions into account, eg. the Septuagint. For an overview cf. Hill, *Malachi*, 249-251; Markus Zehnder, “A Fresh Look at Malachi II 13-16,” *V/T*, 53 (2, 2003), 224-259, 251-258.

13) Cf. Deut 4:31; for more information Hill, *Malachi*, 227f.

If we identify the one father with Abraham, which is possible, the family ties inside the one people point to the importance of genealogy.<sup>14)</sup> The one people stem from the one father, Abraham.<sup>15)</sup>

Out of these specific relations marriage with daughters of a foreign god is prohibited. At first, it is the exclusive relation between God and his people, which is at stake because the Israelites might be attracted or even forced to the service of foreign gods -the gods of their spouses. They practice a religious otherness that endangers Israel's faith.<sup>16)</sup> The law takes up this problem (cf. Deut 7:3; Exod 34:15-16) as well as historical narratives do. A well known example is the narrative on king Ahab and queen Jezebel. The king of Israel marries a Phoenician princess who worships Baal (cf. 1 Kgs 16:31-33). Malachi calls this faithlessness. According to him, the severe consequences of mixed marriages are a dysfunctional cult-and therefore-the necessary expulsion of those concerned from the community. The Book of Ezra, in addition, states that mixed marriages are the most severe sin in the history of Israel and the cause of all its misfortunes and troubles (Ezra 9:6-15).<sup>17)</sup>

Malachi's disputation speech continues taking up another problem, Israelite men divorcing their Jewish wives. God himself has been witness to their marriages, here, uniquely called covenant.<sup>18)</sup>

14) Cf. Isa 51:2 "Look to Abraham your father and to Sarah who bore you; for he was but one when I called him, but I blessed him and made him many."

15) It is not necessarily Abraham, but could also be Jacob, who is mentioned sometimes in Malachi in difference to Abraham, who is not mentioned by name.

16) Frevel, "Introduction: The Discourse on Intermarriage in the Hebrew Bible," 1-14, 9.

17) Cf. Sara Japhet, "The Expulsion of the Foreign Women (Ezra 9-10)," Friedrich Hartenstein and Michael Pietsch, ed., *"Sieben Augen auf einem Stein" (Sach 3,9) Studien zur Literatur des Zweiten Tempels. FS Ina Willi-Plein* (Neukirchen-Vluyn: Neukirchner Verlag, 2007), 141-161; 142-144.

18) Gordon Paul Hugenberger, *Marriage as a Covenant. A Study of Biblical Law and Ethics Governing Marriage Developed from the Perspective of Malachi*, V.T.S., 52 (Leiden/New York/Köln: E.J. Brill, 1994).

Israelite men shall stick to their wives of their youth. The God of Israel hates divorce.

According to the OT law, divorce was possible (Deut 24:1-4) for men.<sup>19)</sup> Why then does it become a problem according to Malachi? Does Malachi have a different kind of idea of marriage, calling it a covenant? In research, mixed marriages and divorcing Jewish women are understood as connected. Some scholars even come up with the argument that foreign women were rich and therefore Judean men divorced the wives of their youth in order to marry them—regarding foreign women economically the better choice.<sup>20)</sup> This sounds odd and we have no hints for an increasing number of divorces in Judah in Persian times that could have caused such a prophetic reaction.

It seems necessary to treat intermarriages and the question of divorce according to Malachi separately at first.<sup>21)</sup> Therefore, a question shall be repeated: why is divorce a problem? Malachi's formulation is interesting. It is the old relation, the first love that stands in question. The prophet Isaiah uses the picture of husband and forsaken wife in order to describe the relation of God and his city. In Isaiah 54, he is her creator, her husband who calls her 'like the wife of a man's youth and first love'.<sup>22)</sup> Now the

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19) See as well Lev 21:7,14; 22:13; Num 30:10; Deut 21:14; 22:19, 29.

20) Some suggest that the male Israelites wanted the divorce in order to marry rich foreign women, perhaps connected to the Persian authority; cf. Alwin Renker, *Die Tora bei Maleachi*, Freiburger Theologische Studien (Freiburg u.a.: Herder 1979), 86-90; Hill, *Malachi*, 75; Thomas Hieke, *Kult und Ethos*, SBS 208 (Stuttgart: Verlag Katholisches Bibelwerk, 2006), 49.

21) That Ezra forced his compatriots to divorce foreign women should not be interspersed with Malachi's argument regarding divorce. While Malachi argues against intermarriages in general, Ezra promotes a different kind of consequence.

22) Cf. Isa 54:5-6; Prov 5:18 the concept is also relevant for Hos 2 just the relation is the opposite, when Israel, the wife of the youth betrays her husband Yhwh. Cf. David L. Petersen, *Zechariah 9-14 & Malachi*, Old Testament Library (London: SCM Press Ltd, 1995), 203. He reads the passage in this way, that this time it is the male Israel who leave Yhwh, his wife. This sounds not far fetched

same concept is in use just with different actors and accusations. How can the men of Judah leave their wives, their first love and those who connect them to the covenant, if God did not do so?<sup>23)</sup> It might be that real divorces stand in the background, but the main focus is on required faithfulness of Judah's men towards their own people.<sup>24)</sup> Verse 10 speaks in figurative speech about family ties and the faithlessness of brother against brother. Verses 14-15 use the imagery of marriage and divorce in order to strengthen this one request—a unity among the people that begins in the smallest kernel of a community. The goal should be a godly progeny<sup>25)</sup>, a people that lives in the covenant and that lives the exclusive relation with God.<sup>26)</sup>

On the surface, vv. 14-16 might speak about divorce. But the subtext calls the people to act faithful like brother towards sister, staying in the covenant and not profaning it; respecting the smallest unit in Israel's society in order to keep the exclusive unity with

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but does not fit pretty well with Yhwh's role as witness.

- 23) Cf. Arndt Meinhold, *Maleachi*, BK.AT 14/8 (Neukirchen-Vluyn: Neukirchner Verlag, 2006), 216.
- 24) Cf. Hieke, *Kult und Ethos*, 50. A. S. van der Woude, "Malachi's Struggle for a Pure Community," in Jan Willem van Henten et al., ed., *Tradition and Re-Interpretation in Jewish and Early Christian Literature. Essays in Honour of Jürgen C.H. Lebram* (Leiden: Brill, 1986), 65-71, 66 points out that Mal 2:10-16 does not deal with divorce at all. It is the men's interest in foreign women that leads to the subordination of the Jewish wife, which is discussed here (*ibid.*, 69). Therefore he does not see any contradiction between Mal 2:10-16 and Deut 24:1 (*ibid.*, 71; cf. also Weyde, *Prophecy and Teaching*, 273-275). Others do not claim that there could be a contradiction, on the contrary, they stress that Mal 2:14-16 cares even more for the wife than Deut 24:1 (cf. Meinhold, *Maleachi*, 231). Arguing for "real" divorces in the background is i.a. also Zehnder, "A Fresh Look at Malachi II 13-16," 224-259, esp. 228.
- 25) Cf. the negative consequences of mixed marriages according to Ezra 9:1-2.
- 26) Cf. Petersen, *Zechariah 9-14 & Malachi*, 205; Ina Willi-Plein, "Problems of Intermarriage in Postexilic Times," Moshe Bar-Asher et al., eds., *Shai le-Sara Japhet. Studies in the Bible, its Exegesis and its Language* (Jerusalem: The Bialik Institute, 2007), 177-189, 178; 182-183.

God. In this respect, the questions of intermarriage and divorce are two sides of the same coin, the obligation of the Judean to be faithful to his people and to God.<sup>27)</sup>

## 2. Identity Building

In the introduction, it was said that Israel in Persian times finds itself in a situation of insecurity and the necessity for reconstitution. As a very small community inside the vast Persian empire Israel needed reassurance who she was. This situation constitutes the background for Malachi's prophecy. And he answers with a specific family concept and with a new idea of a covenant.

### 2.1. Family

Instead of speaking about a king, a dynasty and a nation Malachi, and others, e.g., Isaiah, speaks about a family and family relations. This is the situation when the relations to the forefathers, when genealogy becomes vital to Israel. Every single member has to be loyal to the own family otherwise the family cannot survive.

Calling the God of Israel "father" of his people is, when it comes to OT literature, a relatively young development.<sup>28)</sup> Malachi uses this form of addressing God in order to strengthen the ex-

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27) Wilhelm Rudolph, *Haggai, Sacharja 1-8, Sacharja 9-14, Maleachi*, KAT 13,4 (Gütersloh: Gütersloher Verlagshaus-Haus Mohn, 1976), 271; Beth Glazier-McDonald, *Malachi. The Divine Messenger*, SBLDS (Atlanta/Georgia: Scholars Press, 1987), 113; *ibid.*, "Intermarriage, Divorce, and the BAT-'ĒL NĒKĀR: Insights into Mal 2:10-16", *JBL* 106 (1987), 603-611. 607.

28) Reinhard Feldmeier and Hermann Spieckermann, *God of the Living* (Waco/Texas: Baylor University Press, 2011), 51-65.

clusive relation between God and people. The idea of a people as family on the one hand contradicts divorce - as well as God's function as witness to the unity of marriage does. The idea of God as father for his people on the other hand contradicts intermarriage.

## 2.2. Covenant

God's relation with Israel is also visible in the use of the term 'covenant.' Malachi uses 'covenant.'<sup>29)</sup> always as a 'compositum,' and all of them 'hapax legomena.' Our passage contains two of them: 'covenant of our ancestors' in v. 10 and 'wife by covenant' in v. 14. While detailed studies have been devoted to the question of whether marriage can be understood as 'covenant,' as a category that opens up the borders of civil law and makes it a religious category<sup>30)</sup>, another aspect seems to me at least as important. In both cases - 'covenant of our ancestors and wife by covenant' - it is clear that whatever a person does, it has consequences for all involved in the covenant. God, people and individual are in a triangular relation.<sup>31)</sup> The expression "wife by covenant" links what happens in marriage or divorce to God and people.<sup>32)</sup> The

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29) Cf. Mal 2:4.8 (covenant with Levi); 2:5 (covenant of peace; a characteristic of the covenant with Levi); 2:10 (covenant of our ancestors),14 (wife by covenant); 3:1 (angel of the covenant).

30) Hugenberg, *Marriage as a Covenant*.

31) Theodor Lescow, *Das Buch Maleachi. Texttheorie - Auslegung - Kanontheorie. Mit einem Exkurs über Jeremia 8,8-9* (Arbeiten zur Theologie; Stuttgart: Calwer Verlag, 1993), 31-32 stresses that it has been the decisive achievement of dtn and dtr theology to define the relation between God and Israel as covenant.

32) Lescow, *Das Buch Maleachi* points to Gen 31:43-50; Ruth 4:9-12 and Ezek 16:8 in order to characterize the covenant that connects the Israelite with his wife as an oath of faithfulness and protection (Lescow, *Das Buch Maleachi*, 39-40, 100). Again it is Van der Woude who points to the possibility that the text

‘covenant of our ancestors’ adds the aspect of Israel’s, and only Israel’s, history with God, beginning with God’s election, blessing and covenant with the forefathers.<sup>33)</sup> It enlarges the time frame of family relations. Israel has to see it’s past and future.<sup>34)</sup>

### 3. Social Implications/consequences

From a theological point of view, it might be understandable why Malachi stands for such a rigid policy concerning intermarriage and divorce. From a sociological point of view, this policy means harm for those involved. To expel people from the community means to make a religious and social life impossible for them. Women with no Jewish background have no social standing at all. The social status for children of mixed marriages is unsolved (cf. the situation of Hagar being expelled from the extended family of Abraham)<sup>35)</sup>. Taking also Ezra’s position into account the situation seems to be even more severe. He claims divorce for intermarriages. Families brake up, children lose their family ties. Their social status is completely unresolved. Divorcing Jewish wives points to another problem, the one-sided possibility for divorce.

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does not speak about a connubial contract, but uses the expression ”wife by covenant” for ”a woman who was a member of the covenant community to which also her husband belonged” (Van der Woude, “Malachi’s Struggle for a Pure Community,” 68).

33) Cf. God’s covenant with the forefathers in Deut 4:30-31; 29:24-25; Jer 34:13-14 all pointing to the sinaitic covenant (cf. Petersen, *Zechariah 9-14 & Malachi*, 197; Rainer Kessler, *Maleachi*, ed. Erich Zenger, HThK.AT (Stuttgart: Herder, 2011), 192-193. Cf. as well Gen 15:18; 17; Exod 2:24; Lev 26:42; 2 Kgs 13:23 or with the people like Ex 19:5; 24:7-8; Deut 7:12; 8:18; Judg 2:20; Jer 11:3-4 and more. Van Seters stresses the connection with Abraham and patriarchal promises important in post-exilic times (John van Seters, *Abraham in History and Tradition* (New Haven: Yale University, 1975), 277.

34) Cf. Lescow, *Das Buch Maleachi*, 39; Kessler, *Maleachi*, 192-193.

35) Cf. Japhet, “The Expulsion of the Foreign Women (Ezra 9-10),“ 141-161.

All legal rights are on the part of men.<sup>36)</sup> Malachi as well as Ezra present at least parts of the theological debate on mixed marriages and divorce, collected in the Old Testament. Yet, there is more to know about Jews in the Persian Period.

### 3.1. Elephantine documents as background

In Persian times, Jews settled on a Nile-island called Elephantine, close to the city Syene, a little north of the first Nile cataract. A Jewish garrison was stationed there under Persian command. This Jewish settlement is very interesting for Old Testament studies mainly because of three reasons: a Jewish temple was there, which means that there was a temple beside the temple in Jerusalem<sup>37)</sup>; many documents have been found, contracts, letters (even an exchange between Elephantine and Jerusalem), that give an insight into Jewish life in Persian times and beyond. Yet, what is lacking are the biblical texts. Knowledge of biblical material cannot be traced.<sup>38)</sup>

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36) For an overview cf. Bruce Wells, "Divorce. Ancient Near East and Hebrew Bible/Old Testament," *EBR* 6 (2013), 989-992. Ancient Near Eastern codices like the Laws of Hammurabi (138) or the Laws of Ešunna (59) discuss divorce as well. Cf. i.a. Eckart Otto, *Theologische Ethik des Alten Testaments*, *Theologische Wissenschaft* 3:2 (Stuttgart: Kohlhammer, 1994), 54-57.

37) Cf. Gard Granerød, "The former and the future temple of YHWH in Elephantine: a traditio-historical case study of ancient Near Eastern antiquarianism," *ZAW* 127 (2015), 63-77.

38) We know that Jews were living on Elephantine, speaking Aramaic but using Hebrew names. They called themselves Jews. Still, they lived a kind of Judaism rather different from what we know from the biblical sources. They had their own temple (being contradictory to Deut 12). Nevertheless, they were in contact with Jerusalem, asking for the allowance to rebuild the temple in the late 5<sup>th</sup> century. Famous are the Passover letters, giving instructions how to celebrate Passover. These letters as well as other findings give an insight into Jewish religious life without connecting it directly to biblical literature. Partially Jewish

For this context documents of wifehood from Elephantine are of importance because some are contemporaneous writings to the Books of Ezra, Nehemiah or the Book of Malachi, giving an insight into intermarriage and divorce policy that differs a lot from the witness of the Old Testament. The marriage of “a servitor of YHH the God who is in Elephantine the fortress” with a maidservant<sup>39)</sup> is as well documented as the possibility for women to divorce their men.<sup>40)</sup>

The community of Elephantine did not follow the restrictions the Old Testament claims regarding intermarriage. Excavations show that also the housing conditions encourage intercultural contacts including marriage.<sup>41)</sup> In addition, divorce is possible for men as well as women. Already the marriage contracts reflect the possibility of divorce from both sides. An independent certificate of divorce as Deuteronomy 24:1-4 mentions it, was not necessary.

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living contradicts the Torah, partially, e.g. when it comes to the Sabbath, Elephantine Jews seem to follow older traditions, not knowing the weekly Sabbath, as written in the Decalogue. All in all, this is of interest for our context because in Elephantine we find a kind of Jewish life in Persian times differing from what we know from the biblical traditions, yet probably not being influenced by biblical literature. c.f. Reinhard G. Kratz, *Historisches und Biblisches Israel* (Tübingen: Mohr Siebeck 2013), 186-203.

39) Cf. TAD B3.3 (=Kraeling no. 2) Document of Wifehood. For the discussion see at first Sebastian Grätz, “The Question of ‘Mixed Marriages’ (Intermarriage): The Extra-Biblical Evidence,” Christian Frevel, ed., *Mixed Marriages. Intermarriage and Group Identity in the Second Temple Period* (London: T&T Clark, 2011), 192-204, 194f.

40) In the case of the woman Mibtahiah the Document of Wifehood (TAD B2.6 (=Cowley 15) Document of Wifehood) makes clear that the husband was not allowed to alienate his property without her consent, could not bequeath it to a previous wife or children and nobody could send Mibtahiah from his house after his death. In case of violation of the contract high penalties have to be paid. Cf. Bezael Porten et al., *The Elephantine Papyri in English. Three Millennia fo Cross-Cultural Continuity and Change, Second Revised Edition* (Leiden: Koninklijke Brill NV, 2011), 178.

41) Grätz, “The Question of ‘Mixed Marriages’ (Intermarriage),” 192-204, 196f.

The letters of Elephantine make rather clear that the biblical picture of intermarriage, divorce or law of succession presents only a very specific perspective as part of a wider picture of Jewish practice in Persian times. And it tells us that not only pure religious but also economic reasons might lay behind a rigid practice that prohibits intermarriage and promulgates endogamous marriages, as Ezra does.<sup>42)</sup> If it holds true for Judah as well what was the practice on Elephantine (and the position brought up by Ezra is the exception) it would mean that also women could accept an inheritance. Consequently family property might be “lost” to foreigners - an argument against intermarriage and divorce.<sup>43)</sup>

### 3.2. Excursus: Alternative Perspectives in Old Testament Narratives and Beyond

Prohibition of intermarriage and, as Ezra claims, the divorce of mixed marriages is not the only answer of Old Testament traditions to the problem. Some narratives try to “make the story fit” the claims against mixed marriages. Others present alternative solutions.

Especially because genealogy and the connection of Israel with the forefathers is of such an importance for Malachi the stories around Abraham and Sara and other ancestors are of interest. The

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42) Cf. Rainer Kessler, *Sozialgeschichte des alten Israel. Eine Einführung*, 2nd ed. (Darmstadt: Wiss. Buchgesellschaft, 2008), 143.

43) L. Smith-Christopher, “The Mixed Marriage Crisis in Ezra 9-10 and Nehemiah 13: A study of the Sociology of the Post-Exilic Judean Community in the Persian Period,” T.C. Eshkenazi/K.H. Richards, *Second Temple Studies. 2. Temple and Community in the Persian Period*, JSOTSup 175 (Sheffield: JSOT Press, 1994), 243-265; Harold C. Washington, “The Strange Woman of Proverbs 1-9 and Post-Exilic Judean Society,” T. C. Eshkenazi and K. H. Richards, *Second Temple Studies. 2. Temple and Community in the Persian Period*, JSOTSup 175 (Sheffield: JSOT Press, 1994), 217-242.

fact that Abraham calls his wife sister (Gen 12:13), which caused trouble for biblical writers and exegete under the perspective of incest, becomes more understandable while reading these text with the refusal of intermarriage in mind. When it comes to the marriages of Isaac and Jacob, the tendency to avoid mixed marriages becomes even clearer. They marry their paternal cousins.<sup>44)</sup>

Another case is the story about the rape of Dinah. A diachronic reading points to the struggle inside the Judean society for or against mixed marriages. Marriage after rape, in accordance with Deuteronomy 22:28-29, was accepted because the rapist was an insider. The “solution” to circumcise Shechem, in order to make the rapist an insider, which would allow him to marry and be judged in accordance with the group’s rules, as it is discussed in Gen 34, was finally not acceptable.

The whole story on Dinah’s rape can be read as a Midrash making explicit what has been left open to discuss in the Deuteronomic law, the question, whether the mentioned cases can be applied to intercultural or interreligious marriages of Israelite daughters on condition of the conversion.<sup>45)</sup> The answer for the biblical authors writing the final version of the Dinah-story is “no”. No restitution is possible for Dinah, no compensation can be given because interethnic contacts are concerned.<sup>46)</sup>

## Summary

Marriage and divorce as a matter of social justice or better injustice? The biblical tradition shows a wide range of practices,

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44) Cf. Grätz, “The Question of ‘Mixed Marriages’ (Intermarriage),” 192-204, 192.

45) Christian Frevel, “Intermarriage in the Book of Jubilees”, *ibid.*, ed., *Mixed Marriages. Intermarriage and Group Identity in the Second Temple Period*, Library of Hebrew Bible/Old Testament Studies 547 (London: T&T Clark, 2011), 220-250, 231-233.

46) Frevel, “Intermarriage in the Book of Jubilees,” 220-250, 234.

various laws that shall regulate the question of divorce, usually on behalf of men. Yet, the situation becomes difficult in postexilic times. Malachi promotes a strict marriage policy that prohibits mixed marriages. They are understood as unclean, disturbing the service of God. The idea of God's people as family ties the people together, creates a specific kind of identity and makes questions of genealogy even more important.

The picture Malachi offers is only a part of marriage and divorce policy among Jews during the Persian Period. Mixed marriages were possible as well as divorce from both sides, husband and wife. It is the struggle for identity building, as we find in the Book of Malachi, which shaped the prophet's discourse on mixed marriages and divorce. Against this background, Malachi is speaking on behalf of Israel as family. Still, in making ethical decisions based on biblical traditions, we have to be aware of the struggle Malachi was in, finding a key for identity building in Persian times, as a prophet and interpreter of the Torah.

**<Key words>**

Marriage, Divorce, Intermarriage, Social Justice, Malachi 2:10-16, the Persian period, Socio-economical situation

**<주제어>**

결혼, 이혼, 혼혈 결혼, 사회 정의, 말라기 2:10-16, 페르시아 시대, 사회경제적 상황

\* 접수일 2016년 2월 17일, 수정일 2016년 3월 16일, 게재 확정일 2016년 4월 4일

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<초록>

## 사회 정의의 문제로서 결혼과 이혼:

말라기 2:10-16을 중심으로

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말라기는 엄격한 결혼 정책을 장려하고 혼혈 결혼을 금지하고 있다. 혼혈 결혼은 부정하고 하나님을 섬기는데 부적절한 것으로 이해한다. 가족으로서 하나님의 백성이란 사상은 사람들을 하나로 묶고, 독특한 정체성을 창조하며, 족보 문제를 더욱 중요한 것으로 만든다.

이 논문은 한 편으로는 혼혈 결혼에 대한 예언적 단언과 또 다른 한 편으로는 페르시아 시대의 정치-사회-경제 상황의 상관성을 살펴 보려고 한다. 결론적으로 말라기는 혼혈 결혼과 이혼에 대하여 강한 견해를 피력하였다. 거기에는 상당히 합당한 이유가 있었다. 그렇지만, 페르시아 시대의 유대 교에는 다른 목소리들도 있었다.

<Abstract>

## **Marriage and Divorce as a Matter of Social Justice in Malachi 2:10-16**

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Malachi promotes a strict marriage policy that prohibits mixed marriages. They are understood as unclean, disturbing the service of God. The idea of God's people as family ties the people together, creates a specific kind of identity and makes questions of genealogy even more important.

It is the aim of this article to have a look on the interrelatedness of prophetic predications on intermarriage and divorce on the one hand and the political and socio-economical situation in Judah of the Persian period on the other hand. It shows that Malachi has a strong opinion on intermarriage and divorce, for good reasons. Yet, there are other voices in Persian times Judaism.

