

The Reception of Biblical Texts and Their Normative Effect upon Marriage, Adultery, and Divorce from the Seventh to the Eleventh Century

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1. The Sinfulness of Man

In the following formula of endowment from the ninth century, the groom signed over the dowry, or matrimonial gift, to his bride so that they both could benefit from it:

The supreme and ineffable Father, whose being prevails over all and permeates even the atoms themselves and the void through the originality of his nature, ... this higher being through the character of all good inhering in him, ... and through his likewise eternal and consubstantial wisdom, opens a resplendent living space of heavenly transcendence to five double rows of spiritual hosts that are created for the praise and glory of his name. These angelic choirs of the most subtle nature are each assigned their own special service and are honored with testimonials in accord with the will of their Creator.... Truly, that choir that, because of the illustriousness it had received at its creation thanks to divine generosity, had assumed the name of Lucifer, puffed itself up in self-adulation by forgetting to look upon the exquisiteness of its Creator and to feel awe before his transcendence. Deprived of its luminous aspect and black with every sin, it immediately plummeted into the depths of hell.... So, as one reads, the remaining hosts of heaven—horror-stricken by the ruin and demise of the wicked because they feared to fall in a similar manner—turned away from the crossroad of freedom to the incomplete and simple keeping of the good so that in no way could they be touched by the inclination to sin. This is why it is said that the human race had its beginning in such a manner that it may progress through obedience to glory, which the haughty one [that is, Lucifer] had lost because of irreparable guilt. Here, however, it is not to be understood that the good arbiter of all creatures wanted to fashion the increase of the human race in such

a way that the men might licitiously abuse all the women they might desire, but rather that the fidelity of marriage be preserved between man and woman, since he had betrothed the first created [that is, Adam] not to several women but only to one; for he said through the same saint and wise man: “A man will leave his father and mother and bind himself to his wife, and they will be two in one flesh.” [Gen 2:24] Consequently, that one—who betroths a man to a virgin and decides that they should be two in one flesh—forbids the encroachment by a third person, man or woman, and fights against him or he, that is because of the discord that he [that is, the third person] has brought about between the two. This is supported by such explicit declarations from the New and Old Testament that it no longer needs to be corroborated through our arguments. (*Form. extr.* 1.13)¹

Various aspects here draw the attention of the reader who is interested in questions concerning the reception of the Bible in the context of norma-

1. All translations are my own unless otherwise noted. For the Latin, see Karl Zeumer, ed., *Formulae Merovingici et Karolini aevi*, MGH (Turnhout: Brepols, 2010), 541–42: *summus et ineffabilis pater, cuius super essentia ipsas etiam athomos et inane principalitate naturae percurrit ... per insitam sibi, quamvis non temporaliter, totius boni formam, per coeternam videlicet ac consubstantialem sapientiam, bis quinque spiritualium catervarum ordinibus ad laudem et gloriam nominis sui conditis, caelicae sublimitatis splendifluum prestitit habitaculum. illi vero subtilissimae naturae angelici chori secundum beneplacitum Creatoris sui, aliis alii dispositi ministeriis et honorum decorati donariis.... verum chorus ille, qui ob claritatem, quam ex divina munificentia creando susceperat, nomen accepit Luciferi, dum sui conditoris excellentiam respicere maiestatemque revereri non meminit, sese mirans intumuit. nec mora, luculento habitu viduatus, in voraginem baratri omni turpitudine defuscatus corrui. tunc caetera celicorum agmina discrimine ac ruina scelestorum percussa, dum similem casum timuerunt incurrere, de bivio libertatis imperfectum et simplicem bonitatis habitum sic leguntur evasisse, ut nequaquam amplius affectio peccandi posset eos attingere. ea igitur causa genus humanum sumpsisse perhibetur originem, ut obediendo proficisceretur ad gloriam, quam superbus amiserat ob inremediabilem culpam. cuius generis propaginem non sic intelligitur amplificari voluisse bonus omnis creaturae dispositor, ut licenter quibuslibet viri mulieribus abuterentur, sed inter marem ac feminam fides servaretur coniugii, cum protoplasto non plures, sed unam desponsaverit; cum per eundem sanctum adhuc et sapientem dixerit: “relinquet homo patrem suum et matrem et adheret uxori suae, et erunt duo in carne una.” qui ergo uni viro virginem unam despondit quique duos in carne una constituit, subtiliter interventionem terciae vel terciae propter duorum discordium arguens interdicat. verum istud tantis nove legis et vetustae nititur assertionibus, ut nostris argumentis firmari non indigeat.*

tive texts of the early Middle Ages.² First of all, the narrative about the creation of man is itself astonishing. In contrast to various other formulae, which draw the narrative only from the stories of Genesis (1:27–28, as well as 2:18–24), the starting point here is sought in the myth of the fallen angels.³ In this representation, God first created the angels. Some of these were not obedient to him but rather raised themselves above God’s goodness and, for this reason, were cast down by him into hell. The other choirs of angels therefore thought better of their conduct and decided to remain loyal to God. But still, God apparently did not want to let his creation be so incomplete and decided to create the human race. This creation was intended—differently from the fallen angels!—to come to glory through obedience. The writer of the formula knows exactly how such an obedience should look. God did not want “to fashion the increase of the human race in such a way that the men might licentiously abuse all the women they might desire, but rather that the fidelity of marriage be preserved between man and woman, since he had betrothed the first created [that is, Adam] not to several women but only to one” (*Form. extr.* 1.13.541–542).

Behind these descriptions stood that conception of marriage in which a man and a woman were dependent upon one another as creatures of equal value and rank and succeeded in becoming the “completion of God’s intention in creation” only “when they united in marriage, were true to each other, and showed love for one another.”⁴ After all—so the formula continues—man had left father and mother in order to bind himself to his wife, so that the two became one flesh. This one flesh, however, may under no circumstances be destroyed. Consequently, God forbade “the encroachment by a third person, man or woman, and [fought] against him or her because of the discord that he [that is, the third person] has brought about between the two.” Accordingly, the man as well as the woman was explicitly obliged to maintain marital loyalty on the basis of the “declarations from the New and Old Testament” (*Form. extr.* 1.13.541–542).

Thus this formula, just like other normative texts of the early Middle Ages, had at its disposal an extremely positive image of marriage, as well as

2. In addition to the formulas, councils, capitularies, books of penance, and laws.

3. See Ines Weber, “Die Bibel als Norm! Eheschließung und Geschlechterverhältnis im frühen Mittelalter zwischen biblischer Tradition und weltlichem Recht,” in *Geschlechterverhältnisse und Macht: Lebensformen in der Zeit des frühen Christentums*, ed. Irmtraud Fischer and Christoph Heil, EUZ 21 (Berlin: LIT, 2010), 257–304.

4. See Weber, “Die Bibel als Norm!,” 301.

of the sexes. For one also can read repeatedly in the works of other authors that marriage was the highest good because it had been instituted and blessed by God himself.⁵ In this formula, though, man and woman also appear in an extremely positive light because God basically had trusted the first human couple, as well as the angels, to choose the good.

How the understanding of adultery was rooted in such a system, and how this understanding was substantiated through a massive conglomeration of biblical arguments, is only just beginning to be noticed in research to the present.⁶ The basics of marriage theology in the ninth century have been discussed, and various references have been made to the reception of the chastity clauses in Matthew, the *πορνεία* ideas of Paul, and the cultic purity concept in the Old Testament.⁷ The connection to adultery, divorce, and separation, partially gleaned from the New Testament, has also been mentioned.⁸ And it is also the case that the multifarious nature of such an

5. See Hans-Werner Goetz, *Frauen im frühen Mittelalter* (Weimar: Böhlau, 1995), 168–96, esp. 168, 178, 191.

6. See Philip L. Reynolds, *Marriage in the Western Church: The Christianization of Marriage during the Patristic and Early Medieval Periods*, VCSup 24 (Leiden: Brill, 1994), 315–419.

7. On marriage theology, see Goetz, *Frauen*, 168–96; see also Philip L. Reynolds, “Marrying and Its Documentation in Pre-modern Europe: Consent, Celebration, and Property,” in *To Have and to Hold: Marrying and Its Documentation in Western Christendom, 400–1600*, ed. Philipp L. Reynolds and John Witte (Cambridge: Cambridge University Press, 2007), 1–42, esp. 16; Reynolds, “Dotal Charters in the Frankish Tradition,” in Reynolds and Witte, *To Have and to Hold*, 114–64, esp. 114–32; Reynolds, *Marriage in the Western Church*, 315–419. On *porneia*, see Hubertus Lutterbach, *Sexualität im Mittelalter: Eine Kulturstudie anhand von Bußbüchern des 6. bis 12. Jahrhunderts*, BAK 43 (Cologne: Böhlau, 1999), 96–106, 122–49; see also Ines Weber, *Ein Gesetz für Männer und Frauen: Die frühmittelalterliche Ehe zwischen Religion, Gesellschaft und Kultur*, 2 vols., MF 24.1–2 (Ostfildern: Thorbecke, 2007), 1:151–91.

8. See Goetz, *Frauen*, 168–96; see also Lutterbach, *Sexualität*, 96–106, 122–49; Weber, *Ein Gesetz*, 151–91; Karl Ubl, *Inzestverbot und Gesetzgebung: Die Konstruktion eines Verbrechens (300–1100)*, MSKG 20 (Berlin: de Gruyter, 2008); Ubl, “Doppel-moral im karolingischen Kirchenrecht? Ehe und Inzest bei Regino von Prüm,” in *Recht und Gericht in Kirche und Welt um 900*, ed. Wilfried Hartmann, SHK 69 (Munich: Oldenbourg, 2007), 95–102; Hinkmar von Reims, *De divortio Lotharii regis et Theutberga reginae*, ed. Letha Böhringer, MGH (Hannover: Hahn, 1992); Letha Böhringer, “Gewaltverzicht, Gerichtswahrung und Befriedung durch Öffentlichkeit: Beobachtungen zur Entstehung des kirchlichen Eherechts im 9. Jahrhundert am Beispiel Hinkmars von Reims,” in *Rechtsverständnis und Konfliktbewältigung: Gerichtliche und außergerichtliche Strategien im Mittelalter*, ed. Stefan Esders (Cologne: Böhlau, 2007), 255–89.

offense, seen against the background of the special social situation of the early Middle Ages, as well as the fundamental legal possibilities of action on the part of those concerned, has already been explained elsewhere in the context of specific communicative situations raised by the corresponding texts.⁹ But to what extent biblical texts were taken up within the arguments concerning adultery, to what purpose they were employed, and in which way a complete framework of standards could be established have remained unexamined to the present.

Thus the prohibition of the entire spectrum of adultery within the knowledge of a broad biblical legacy is illuminated in the following essay, against the background of the image of marriage portrayed above. Both secular and biblical lines of argument will be made accessible and placed in relation to each other. In order to do this, a short survey of the marriage regulations themselves is first necessary.

2. The Understanding of Adultery in the Normative Texts of the Seventh to the Twelfth Century

2.1. Standards in the Conclusion of a Marriage

The marriage regulations that had developed in accordance with specific group relationships in the early Middle Ages included four essential elements, without which—apart from some exceptions—the marriage was not considered to be legally concluded and which also corresponded to the understanding of marriage cited above. First of all, the consent of all those concerned, which meant the agreement of the bride and bridegroom as well as that of the parents or relatives in each case. Then—at least in the well-to-do classes—a dowry or matrimonial gift was conferred, which provided for the widow after the death of her husband, but which was also intended to make the newly founded marital couple financially independent. Finally, the marriage had to take place publicly and to satisfy certain formal regulations, including that written endowment agreement cited at the beginning of this essay.¹⁰ All these elements were, on the one hand, justified through formal secular regulations but, on the other hand, were

9. See Weber, *Ein Gesetz*, 151–91; see also Wolfgang Graf, “Der Ehebruch im fränkischen und deutschen Mittelalter unter besonderer Berücksichtigung des weltlichen Rechts” (PhD diss., Universität Würzburg, 1982).

10. See Weber, *Ein Gesetz*, 47–63, 83–150.

placed decidedly in the biblical tradition and justified first and foremost by the two creation stories in Genesis, as well as by statements in the book of Tobit.¹¹ Consequently, all the persons taking part in the marriage ceremony were, on the one hand, treated equally, and, on the other hand, the woman, to whom initially no public, legally effective action had been conceded in early medieval society, was also included in it and was provided with security by it.

2.2. Adultery

Against the background of this specific method of concluding a marriage, a quite particular definition of what had to be considered adultery developed in the early Middle Ages. Adultery was much more than just an extramarital sexual relationship, because basically every action that infringed upon the lawful event of concluding a marriage was stigmatized as a forbidden sexual relationship, *adulterium* or *fornicatio*. The starting point was the issue of marital consent. With the use of legal categorizations and theological arguments from the Bible—more precisely, selected passages from the Old and New Testaments—a consistent image of what was considered to be a forbidden extramarital sexual relationship emerged in early medieval society, for “not only the law condemns” adultery—that is, the secular law—“but also the authority of the gospel completely forbids that it happens.”¹² Let us follow, first of all, the trail of legal argument.

From the beginning, basically all the persons who were involved in the business of concluding a marriage and who infringed upon the consensual agreement were considered to be adulterers in the early Middle Ages:

(1) The bridal couple that initiated a marriage, or even a sexual relationship, without having first obtained the necessary agreement of all parties was characterized as adulterous because no one was allowed to marry a wife “against the will of the parents/relatives” (*contra parentum voluntatem*) and no one was permitted to enter a sexual relationship without previously having “been bound in marriage by the parents/relatives” (*a parentibus sociata*).¹³ This conduct—as Burchard of Worms also argued at

11. See Weber, “Die Bibel als Norm!,” 284–304.

12. Rabanus Maurus, *Poen. lib. 3* (PL 112:1406A): *adulterium autem non solum lex damnat, sed etiam evangelica auctoritas omnino fieri vetat.*

13. See *Fori Jud.* 3.4.7 (Karl Zeumer, ed., *Leges Visigothorum*, MGH [Hannover: Hahn, 1902], 150): *si puella vel vidua ad domum alterius pro adulterio venerit, eamque*

the beginning of the eleventh century—must be seen as adultery because whoever had done this had “violated a virgin” (*corrupisti virginem*) and thereby “violated [the lawful] wedding” (*nuptias violasti*), regardless of whether he “later married the same woman” (*eandem suscepisti uxorem*; *Decr. lib.* 19 [PL 140:958C]).

(2) Above and beyond this—and this is astonishing, but also consistent with the process of concluding a marriage in the early Middle Ages—all those persons who, without the support of the rest of the relatives, had agreed (*consentire*) either to an extramarital sexual relationship, or even to a marriage, were considered adulterers, for “the relatives who were present at the resolution shall suffer the same judgment” (*et cognati, qui illi consilio interfuerit, patiantur eandem sententiam*) as the bridal couple itself.¹⁴ Accordingly, as a rule, the relatives were required to perform the same or only a marginally different type of penance as the man and woman themselves.

(3) Following on from this understanding of marriage, engaged, married, and even widowed persons who had dismissed their partners and joined themselves to another without legally annulling the existing agreements were likewise considered adulterers.¹⁵ If a marriage could be

vir ipse habere coniugem vellit. si puella ingenua sive vidua ad domum alienam adulterii perpetratione convenerit, et ipsam ille uxorem habere voluerit, et parentes, ut se habeant, adquiescant: ille pretium det parentibus, quantum parentes puelle vellint, vel quantum ei cum ipsa muliere convenire potuerit. mulier vero de parentum rebus nullam inter fratres suos, nisi parentes voluerint, habeat portionem. See also, *Fori Jud.* 3.4.15 (ed. Zeumer, 156); *Ed. Roth.* 189 (Friedrich Bluhme, ed., *Leges Langobardorum*, MGH [Hannover: Hahn, 1868], 39); Rob Meens, ed., *The Penitential of Finnian and the Textual Witness of the Paenitentiale Vindobonense “B”* (Toronto: Pontifical Institute of Mediaeval Studies, 1993), 400. On *contra parentum voluntatem*, see Ghärbald of Luttich, *Capitulary 2.4* (Peter Brommer, Rudolf Pokorny, and Martina Stratmann, eds., *Capitula episcoporum*, 4 vols., MGH [Hannover: Hahn, 1995], 1:27); *Capit. Silv.* 1–2 (ed. Brommer, Pokorny, and Stratmann, 3:81). On *a parentibus sociata*, see *Lex Baiuv.* 8.8 (Ernst Maria Augustin Schwind, ed., *Lex Baiuvariorum*, MGH [Hannover: Hahn, 1926], 357).

14. See *Paen. Ps.-Egb.* 2.8 (F. W. H. Wasserschleben, ed. *Die Bussordnungen der abendländischen Kirche* [Halle: Graeger, 1851], 325); see also *Paenitentiale Hubertense* (Raymund Kottje, ed. *Paenitentia minora Franciae et Italiae saeculi VIII–IX*, CCSL 156 [Turnhout: Brepols, 1994], 16, 20); *Paen. Mers.* 23 (ed. Kottje, 175–76); Rabanus Maurus, *Poen. lib.* 3 (PL 112:1406C–D); *Fori Jud.* 3.3.11 (ed. Zeumer, 144–45).

15. See *Paen. Sil.* c. 157 (Ludger Körntgen and Francis Bezler, eds., *Paenitentia Hispaniae*. Vol. 2 of *Paenitentia Franciae, Italiae et Hispaniae saeculi VIII–XI*, CCSL 156A [Turnhout: Brepols, 1998], 32): *qui dimiserit uxorem suam et duxerit aliam ... a*

dissolved at all, then as a rule this could occur only with the consent of all those involved. One of the few exceptions was the case of fornication, discussed below.¹⁶

(4) Inevitably, the same persons were called adulterers if they conducted an extramarital sexual relationship.¹⁷ The name was applied even to engaged partners, for the agreement to conclude a marriage made the marriage obligatory; with an agreement, the marriage was concluded.¹⁸ This meant that the “daughter of a free Burgundian” (*Burgundionis ingenii filia*), for example, was to be condemned according to the *Lex Burgundionum*, because “before she [had been] given to a husband” (*priusquam marito tradatur*) she had “in secret bound herself” to a man of her choice “through the shamefulness of adultery” (*occulte adulterii se foeditate coniuncxerit*).¹⁹ But at the same time, all those persons who maintained a sexual relationship to an engaged, married, or widowed

communione fidelium abstinendus. See also *Conf. Ps.-Egb.* c. 19 (ed. Wasserschleben, 308–9); *Paen. Sil.* 155 (Turnhout: Brepols, 1998), 31; *Decr. Verm.* 756 8 (A. Boretius and V. Krause, eds., *Capitularia regum Francorum*, 2 vols., MGH [Hannover: Hahn, 1883–1897], 40–41; see also the texts in note 34.

16. See below; on further cases of the separation of married couples, see Weber, *Ein Gesetz*, 47–85.

17. See *Paen. Ps.-Egb.* 2.7 (ed. Wasserschleben, 324): in the case at issue, the man and the woman receive exactly the same penitential sentence. See also *Paen. Mers.* W10.12 (ed. Kottje, 129); *Paen. Vall.* 6.20 (Hermann Joseph Schmitz, ed., *Die Bussbücher und die Bussdisciplin der Kirche* [Mainz: Kirchheim, 1883], 360); *Paen. Finn.* 51 (Ludwig Bieler, ed., *The Irish Penitentials*, SLH 5 [Dublin: Dublin Institute for Advanced Studies, 1963], 92); Columban, *Paen. Columb.* C16 (G. S. M. Walker, *Sancti Columbani opera*, SLH 2 [Dublin: Dublin Institute for Advanced Study, 1957], 176); *Paen. Oxon.* 1.10 (ed. Kottje, 23); *Paen. Vall.* 1.15 (ed. Schmitz, 267); *Paen. Cas.* 17 (ed. Schmitz, 404); *Paen. Sil.* 165 (ed. Körntgen and Bezler, 32); *Fori Jud.* 3.4.12 (ed. Zeumer, 151–52); Wilfried Hartmann, ed., *Konzil von Worms 868: Überlieferung und Bedeutung*, AAWG 105 (Göttingen: Vandenhoeck & Ruprecht, 1977), 279; *Paen. Ps.-Rom.* 14 (ed. Schmitz, 476); *Fori Jud.* 3.4,3 (ed. Zeumer, 148); *Paen. Ps.-Greg.* 4 (Franz Kerff, ed., “Das Paenitentiale Pseudo-Gregorii: Eine kritische Edition,” in *Aus Archiven und Bibliotheken: Festschrift für Raymund Kottje zum 65. Geburtstag*, ed. Hubert Mordek [Frankfurt am Main: Lang, 1992], 161–88, esp. 169–70); *Paen. Sil.* 165 (ed. Körntgen and Bezler, 32).

18. Weber, *Ein Gesetz*, 86–92; see also Ines Weber, “‘Wachset und mehret euch’: Die Eheschließung im frühen Mittelalter als soziale Fürsorge,” in *Ehe—Familie—Verwandtschaft: Vergesellschaftung in Religion und sozialer Lebenswelt*, ed. Andreas Holzem and Ines Weber (Paderborn: Schöningh, 2008), 145–80, esp. 150–52.

19. See *Lib. const.* 44.1 (Ludwig Rudolf von Salis, ed., *Leges Burgundionum*, MGH

person, regardless of whether they themselves were married or not, were considered adulterers.²⁰ All of these acts were considered equal to an extramarital offense, for which atonement had to be made. The only difference was in the extent of the penance, for this was dependent, among other things, on the status of the persons concerned.²¹ These are precisely the arguments that had already played a role in the formula from the ninth century cited at the beginning of this essay, which Burchard of Worms also cites here: If the partner relationship between the two married people is broken apart by another person, then adultery has occurred. If this person himself or herself is married, then another case of adultery is added to this—namely, the breach of the partner relationship between the adulterer and his or her marital partner. But double adultery requires a doubly severe atonement.

(5) In accordance with this argumentation, then, every marital partner who, along with the relationship to the marriage partner, also maintained

[Hannover: Hahn, 1892], 74); see also *Ed. Roth.* 179 (ed. Bluhme, 37); *Fori Jud.* 3.4,2 (ed. Zeumer, 147–48).

20. See *Cap. Jud.* 7.3 (Rob Meens, ed., *Het tripartite boeteboek: Overlevering en betekenis van vroegmiddeleeuwse biechtvoorschriften (met editie en vertaling van vier tripartita)*, MSB 41 [Hilversum: Verloren, 1994], 442): *si quis cum uxore alterius adulteraverit ... laicus V ann. paenit., II ex his i.p.e.a.; hii supra scribti a communione priventur. post actam paenit. reconcilientur ad communionem*; see also *Paen. Ps.-Greg.* 4 (ed. Kerff, 169–70); *Paen. Ps.-Egb.* 2.10 (ed. Wassersleben, 325); *Paen. Vig.* 77 (ed. Körntgen and Bezler, 10); *Paenitentiale Silense* (ed. Körntgen and Bezler, 29); *Paen. Vall.* 6 (ed. Schmitz, 357); *Can. Wall.* A:17 P 27 (ed. Bieler, 138); *Cap. Jud.* 7.4 (ed. Meens, 442); *Paen. Sang.* 4, 5 (ed. Meens, 330); *Fori Jud.* 3.4.9 (ed. Zeumer, 150–51); *Ed. Roth.* 212, 213 (ed. Bluhme, 44); *Lex Baiuv.* 8.10 (ed. Schwind, 358); *Capit. Olon.* 822/823.3 (ed. Ubl, 317); Columban, *Paen. Columb.* 14 (ed. Walker, 174); *Paen. Mers.* 8, 9, 23 (ed. Kottje, 128, 175–76); *Paen. Flor.* 8 (ed. Kottje, 15, 19); *Paen. Sang.* 29.1 (ed. Meens, 396); *Paen. Vall.* I.14 (ed. Schmitz, 266); *Paen. Par.* 7 (ed. Kottje, 14, 18); *Conc. Trib.* 895.5 (A. Boretius and V. Krause, eds., *Capitularia regum Francorum*, 2 vols., MGH [Hannover: Hahn, 1883–1897], 2:207); *Fori Jud.* 3.4.1 (ed. Zeumer, 147); *Paen. Vall.* 6.20 (ed. Schmitz, 360); *Fori Jud.* 3.4.14 (ed. Zeumer, 155); *Decr. Verm.* 756.8 (ed. Ubl, 40–41); Columban, *Paen. Columb.* 16 (ed. Walker, 176).

21. Worms, *Decr. lib.* 19, Sp. 957D: *moechatus es cum uxore alterius, tu non habens uxorem? XL dies in pane et aqua ... cum septem sequentibus annis poeniteas. si moechatus es tu uxoratus cum alterius uxore, quia habuisti quodmodo impleres tuam libidinem, duas carinas, cum quatuordecim sequentibus annis poenitere debes, unam quia super uxorem tuam alteram habuisti, ecce unum adulterium: habuisti etiam alterius uxorem, ecce aliud adulterium, et nunquam debes esse sine poenitentia.*

a permanent relationship to another woman, or even to a concubine, also had to be considered an adulterer.²²

All of these offenses were accompanied by biblical justifications:

(1) In this sense, the engaged or married partner violated the standard when he left his wife and married another spouse because he—also according to biblical law—“is an adulterer” (*adulter est*).²³ After all—so argued Rabanus Maurus—one could read in the gospel: “Whoever has dismissed his wife and led home another breaks the marriage” (*qui dimiserit uxorem suam, et aliam duxerit, moechatur; Poen. lib. 3* [PL 112:1406A–B; cf. 1406C–D]). The saying attributed to Jesus in the argument with the Pharisees is used here to establish the offense of adultery and to brand it as sinful conduct. This saying, which is handed down differently in the different gospel traditions, was received in two variants in the texts at hand.²⁴ Rabanus Maurus is clearly likely to have had the Lucan version, which is considered the original one, in view.²⁵ The *Paenitentiale Pseudo-Egberti*, however, took up the Marcan form, for the offense here is played out equally for both sexes, just as in Mark: if the “woman has left her lawful husband and chosen another, then she should be worthy of the same judgment” (*si mulier virum suum legitimum deseruerit et alium elegerit, sit eadem sentential digna*), so that not only was the wife forbidden to leave her husband, but the husband also was forbidden to leave his wife (2.8). Both were considered to be adulterers and “the same judgment” (*eadem sentential*; 2.8) was pronounced over both.²⁶ Mark had accommodated

22. *Capit. Ital. episc. c. 5* (ed. Boretius and Krause, 1:202): *et hoc etiam scribimus, ut cunctis diligentes inquirat: ut si est homo uxorem habens, et supra ipsa cum alia adulterans et concubinam habuerint, a tali igitur inlicita perpetracione faciat eos cum omni sollicitudine separari*; see also Rodulf of Bourges, *Capit. episc. 1.42* (R. Pokorny and M. Stratmann, eds., *Capitula episcoporum*, 2 vols., MGH [Hannover: Hahn, 1995], 2:265); *Paen. Sil. 149* (ed. Körntgen and Bezler, 31); *Liut. Leg. 104* (ed. Bluhme, 125); *Paen. Cas. 17* (ed. Schmitz, 404).

23. See *Paen. Ps.-Egb. 2.8* (ed. Wasserscheleben, 325).

24. See Mark 10:11–12: *et dicit illis quicumque dimiserit uxorem suam et aliam duxerit adulterium committit super eam et si uxor dimiserit virum suum et alii nupserit moechat*; Luke 16:18a: *omnis qui dimittit uxorem suam et ducit alteram moechatur*. See also Michael Theobald, “Jesu Wort von der Ehescheidung,” *TQ* 175 (1995): 109–24, esp. 114–15, 117.

25. See Dieter Zeller, *Der erste Brief an die Korinther*, KEK 5 (Göttingen: Vandenhoeck & Ruprecht, 2010), 244.

26. See *Paen. Ps.-Egb. 2.8* (ed. Wasserscheleben, 325).

Jesus's words to the practice prevailing in his Jewish-Hellenistic congregations, in which the woman could also initiate divorce.²⁷ The fact that the *Poenitentiale* employed the Marcan and not the Lucan variant could indicate that in the social practice of this region, a divorce brought from the woman's side was also possible.

(2) Continuing in the application of the gospel passages, the conduct of people who married a divorced spouse was also against the norm because—in reference to Matt 5:32b; 19:9b, as well as Luke 16:18b—“The Lord himself said, ‘Whoever marries a divorced woman commits adultery [*qui dimissam duxerit, adulterat*].’”²⁸ The argument behind this was made in these terms: with such conduct, the already unlawful adultery that had arisen with the divorce was extended still further.

(3) The same applied to the woman who had married a man honorably but had then separated herself from him and later had committed herself to another in adultery.²⁹ Whether or not the man to whom she had subsequently committed herself had also for his part become guilty of an adulterous offense, and if so what offense, was not explained in more detail at the Irish synod. The council texts from the ninth century, however, express themselves very clearly in this regard. Thus it was forbidden for a man after the death of his spouse to marry the woman with whom he in his lifetime had already committed adultery. Such an “execrable thing” (*rem execrabilem*) had “to be detested by all Catholics” (*catholicis omnibus detestandam*), for such a relationship may not “rightly be called a marriage when through it arise the evils that the apostle enumerates—namely, fornication, impurity, licentiousness, and the others, the last of these being poisoning and homicide” (*iure dici matrimonium potest, per quod oriuntur, quae apostolus numerat mala, quae sunt fornicatio, immunditia, luxuria et*

27. See Theobald, “Jesu Wort,” 114.

28. See *Paen. Hub.* 46 (ed. Kottje, 113); see also *Paen. Mers.* b 4 (ed. Kottje, 173); *Paen. Sil.* 157 (ed. Körntgen and Bezler, 32); Ghärbald of Lüttich, *Capitulary* 2 (ed. Brommer, Pokorny, and Stratmann, 1:27); *Capit. Silv.* 1–2 (ed. Brommer, Pokorny, and Stratmann, 3:81); *Paen. Oxon.* 2.2 (ed. Kottje, 191); Maurus, *Poenitentium liber*, 1406A–B; *Capit. Trev. c. 9*” (ed. Brommer, Pokorny, and Stratmann, 1:56). See Matt 5:32b: *et qui dimissam duxerit adulterat*; Matt 19:9b: *qui dimissam duxerit moechatur*; Luke 16:18b: *et qui dimissam a viro ducit moechatur*.

29. *Syn. prim.* 19 (ed. Bieler, 56): *mulier Christiana quae acciperit virum honestis nuptis [-iis?] et postmodum discesserit a primo et junxerit se adulter[i,]o, quae haec fecit[,] excommonis sit.*

cetera, ad ultimum vero veneficia et homicidia).³⁰ Quoting word for word the catalogue of vices in Gal 5:19, which also is found in a similar form in 1 Cor 6:9–10; Eph 5:5; and 1 Cor 5:11, the council fathers condemned such a union with acute precision, even to the extent of maintaining that the death of the first spouse could not lead to any lawful marriage between the earlier adulterers.³¹ But what was so abhorrent about such a union? It is once again that understanding of marriage explained at the beginning of this essay that is likely to be the basis of the argumentation here as well. Recall: if a man and woman married, they became one flesh, after which the union fundamentally became inseparable. Every person who now intruded into this union broke it apart and polluted it. Such an “intrusion of a third party” was, in any case, forbidden.³² But if a marriage was later attached to this forbidden relationship, then such a union could only be the mixing of poison.

(4) Even “those who lead other women home after they have sent away their wives because of fornication” (*quod hi, qui causa fornicationis dimissus uxoribus*) had “to be seen as adulterers according to the word of the Lord” (*Domini sentential adulteri esse notentur*).³³ As a rule, the innocent spouse was allowed to leave his or her partner when the latter had committed adultery.³⁴ This was also ensured biblically with

30. *Conc. Trib.* 895.40 (ed. Boretius and Krause, 236–37); see also Synode de Beauvais, *Conc. Meld-Par.* 69 (ed. Boretius and Krause, 117); *Fori Jud.* 3.4.12 (ed. Zeumer, 151–52); *Conc. Trib.* 895.51 (ed. Boretius and Krause, 241).

31. See Gal 5:19, 21c: *manifesta autem sunt opera carnis quae sunt fornicatio immunditia luxuria.... quoniam qui talia agunt regnum Dei non consequentur*; 1 Cor 6:9–10: *an nescitis quia iniqui regnum Dei non possidebunt? nolite errare: neque fornicarii neque idolis servientes neque adulteri neque molles neque masculorum concubitores neque fures neque avari neque ebriosi neque maledici neque rapaces regnum Dei possidebunt*; Eph 5:5: *hoc enim scitote intellegentes: quod omnis fornicator aut immundus aut avarus quod est idolorum servitus non habet hereditatem in regno Christi et Dei*; 1 Cor 5:11: *nunc autem scripsi vobis non commisceri si is qui frater nominatur est fornicator aut avarus aut idolis serviens aut maledicus aut ebriosus aut rapax, cum eiusmodi nec cibum sumere*.

32. See *Form. extr.* 1.13 (ed. Zeumer, 541–42).

33. *Conc. Par.* 69.2 (A. Werminghoff, ed., *Concilia*, MGM [Hanover: Hahn, 1908], 2.2:671).

34. See *Conc. Par.* 69.2 (ed. Werminghoff, 2.2:670–71); see also Paul Willem Finsterwalder, ed., “Judicia Theodori,” in *Die Canones Theodori Cantuariensis und ihre Überlieferungsformen*, UB 1 (Weimar: Böhlhaus, 1929), 270; Meens, *Penitential of Finnian*, 428; *Paen. Mart.* 40 (Walther von Hörmann, ed., *Bussbücherstudien VI*

the citation of Matt 19:9.³⁵ Individual traditions, then, even allowed a subsequent marriage to the betrayed partner.³⁶ Other traditions, on the other hand, prohibited precisely this remarriage, so that those persons who acted in a manner contrary to it were characterized as *adulteri* in individual texts.³⁷ What was the justification for this? The fathers of the council at Friaul wrote,

For even if it is read in the text of the gospel that the Lord said that the man is permitted to send away his wife only in the case of adultery, one nevertheless cannot read there that he [that is, the Lord] has allowed him to bind another woman to himself in marriage while his former wife still lives; it is much more the case that no doubt can exist that he has forbidden it. He says, namely: "Whoever has sent his wife away, except for the case of adultery, and has led another woman home, commits adultery."

In order to gain clarity about this gospel passage, the council fathers performed a word-for-word exegesis on the corresponding passage from the Gospel of Matthew and then justified their decision with the position assumed by the passage "except in the case of adultery" inserted into the sentence structure:

[Weimar: Böhlau, 1914], 378); *Conc. Suess.* 744.9 (ed. Werminghoff, 2.1:35); Bourges, *Capit. episc.* 1.42 (Pokorny and Stratmann, 2:265). The following texts, however, decide that even in the case of adultery the spouse may not be dismissed; see Franz Bernd Asbach, "Judicia Theodori," in "Das Poenitentiale Remense und der sogen. Excarpus Cummeani: Überlieferung, Quellen und Entwicklung zweier kontinentaler Bußbücher aus der 1. Hälfte des 8. Jahrhunderts" (PhD diss., Universität Regensburg, 1975), 83; Finsterwalder, "Judicia Theodori," 260.

35. See Matt 5:32a: *ego autem dico vobis quia omnis qui dimiserit uxorem suam excepta fornicationis causa facit eam moechari et qui dimissam duxerit adulterat*; Matt 19:9a: *dico autem vobis quia quicumque dimiserit uxorem suam nisi ob fornicationem et aliam duxerit moechatur*.

36. See *Paen. Ps.-Theod.* 4.19.18 (ed. Wasserschleben, 582; Carine van Rhijn, ed., *Paenitentiale Pseudo-Theodori*, CCSL 156B [Turnhout: Brepols, 2009], 28); see also *Conf. Ps.-Egb.* 19 (ed. Wasserschleben, 308–9); Finsterwalder, "Judicia Theodori," 251, 277; Asbach, "Judicia Theodori," 83; *Paen. Sil.* 145 (ed. Körntgen and Bezler, 30); *Paen. Mers.* b 31 (ed. Kottje, 176); *Cap. Jud.* 9.1c (ed. Meens, 446); Finsterwalder, "Judicia Theodori," 261; Meens, *Penitential of Finnian*, 426; *Paen. Oxon.* 2.2 (ed. Kottje, 191); *Conc. Rom.* 826.36 (ed. Boretius and Krause, 582).

37. See *Conc. For.* a. 796 vel 797 (ed. Werminghoff, 2.1:192–93); see also *Capit. Trev.* 9 (ed. Brommer, Pokorny, and Stratmann, 56); *Paen. Mart.* 24, 37 (ed. von Hörmann, 370, 377).

Because, as one sees, the equivocal expression “except in the case of adultery” stands in the middle, it can, of course, be asked whether the dictum “whoever has dismissed his wife except in the case of adultery” refers only to permission for the dismissal of the wife or to both—that is, to take another woman as a wife while the former still lives, as though He had said: “Whoever has dismissed his wife and accepted another, except in the case of adultery, commits adultery.”

They finally sought advice in the “commentary of the highly experienced blessed Jerome” and there “carefully” and “attentively” investigated his “interpretation.” The result: the insertion “can refer only to the permission to dismiss the wife,” for, according to Jerome’s justification, the initially innocent spouse also “is not permitted—namely, to replicate the misdeed of the adulterous wife.” Even when that wife

has split the two, [who] certainly [are] still one flesh, through the offense of adultery that divides them into three, the husband is not allowed to recklessly divide the three into four through his action. For this reason, it is openly explained that it is to be understood that as long as the adulteress lives, the husband is not allowed to enter into a second marriage, and he cannot remain unpunished when he does so.³⁸

38. *Conc. For.* a. 796/797 10 (ed. Werminghoff, 2.1:193): *nam etsi legatur in sacris evangelicis paginis sola fornicationis causa dixisse Dominum dimittere virum uxorem suam, non tamen legitur concessisse aliam vivente illa in coniugio sibi sociare, prohibuisse quidem modis omnibus non ambigitur. ait enim: “quicumque dimiserit uxorem suam nisi ob fornicationem et aliam duxerit, moechatur.” qua de re ita diffinire prospeximus, ut juxta eiusdem Domini mellifluam vocem nemo haec interdicta violator inculcare praesumat. sed quoniam in medio ambiguus interponitur sermo, id est “nisi ob fornicationem, quaeri nimirum potest, utrum ad solam licentiam dimittendi uxorem “qui dimiserit uxorem suam nisi ob fornicationem” an etiam ad utrumque dictum referatur, hoc est ad aliam vivente illa accipiendam, quasi dixerit: “qui dimiserit uxorem suam et aliam nisi ob fornicationem duxerit, moechatur.” et idcirco peritissimi viri beati Hieronimi libellum commentariorum recenseri nobis studiose mandavimus, anxiae [sic] utique cognoscere festinantes, qualiter hisdem famosissimus doctor haec sacrata dominica verba juxta capatoris ingenii sui subtilitatem sensisse monstraretur. cuius nimirum sensum, sagaciter explorantes, in promptum nichilominus patuit ad solam dimittendi uxorem licentiam pertinere. nam cum more suo vir sanctus ad huius capituli summatim seriem exponendam transcurreret, inter cetera et post pauca sic ait: et quia poterat, inquit, accidere, ut aliquis calumniam faceret innocenti et ob secundam copulam nuptiarum veteri crimen inpingeret, sic prior dimitti iubetur uxor, ut secundam prima vivente non habeat. non enim debet imitari malum adultere uxoris, et si illa duo, immo unam carnem per*

Once again, we come full circle to the formula already repeatedly mentioned: the relationship between a man and a woman, who had become inseparable on the basis of the marriage, may not be broken apart by anyone. The idea of the one flesh of the married couple, along with Matthew's clauses on adultery, also laid the foundations here for establishing the offense.

(5) Accordingly, it had to be seen as especially injurious "to have two wives at the same time, or concubines ... for while it is of no advantage in the household, it will bring damage to the soul." With reference to Eph 5:9 and surrounding verses, which had been employed in a different way within other marriage regulations, precisely on behalf of the equal treatment of the married couple, and not in the sense of the subordination of the wife under the authority of the husband, it was also argued here that "just as Christ has preserved the church as pure, so must the husband preserve his marriage as pure."³⁹ Once again, the image of the one flesh stood behind these reflections. Just as every human being nourishes and tends his or her own flesh (Eph 5:29), so also the husband ought to preserve the purity of the flesh that he shared with his wife since the conclusion of marriage.⁴⁰ And so in this case, it was in fact the husband—not just first and foremost, but he alone—who was urged to maintain marital fidelity.

2.3. The Consequence: Loss of the Kingdom of God

But what happened to those who, in spite of these prohibitions, infringed on the norm? Both men and women had to reckon with severe punishment. Among such penitential requirements were long periods of fasting, as well as denial of a Christian burial.⁴¹ And then there is the argument that—in

scissuras fornicationum divisit in tres, non decet, ut maritus nequius exsequendo tres dividat in quattuor. unde patenter datur intellegi: quamdiu vivit adultera, non licet viro nec potest inpune secundas contrahere nuptias.

39. *Conc. Rom.* 826 37 (ed. Boretius and Krause, 582): *ut non liceat uno tempore duas habere uxores sive concubinas. nulli liceat uno tempore duas habere uxores, quia, cum domui non sit lucrum, animae fit detrimentum. nam sicut Christus castam observat ecclesiam, ita vir castum debet custodire coniugium; cf. Conc. Par.* 69.2 (ed. Werminghoff, 2.2:670–71). See Weber, "Die Bibel als Norm!," 274–76, 290.

40. Eph 5:29: *nemo enim umquam carnem suam odio habuit sed nutrit et fovet eam sicut et Christus ecclesiam.*

41. See *Paen. Ps.-Egh.* 2.8 (ed. Wassersleben, 325): *qui uxorem suam legitimam deseruerit et aliam mulierem ceperit, adulter est; ne det ei ullus presbyter eucharistiam,*

reference to 1 Cor 5:11—as the apostle Paul “himself writes, [believers] shall not eat” (*nec cibis sumendus est*) with such persons.⁴² In addition, the adulterer could also be condemned to repay the dowry or matrimonial gift several times over.⁴³ In all cases, however, the same penitential requirements awaited the man as well as the woman.⁴⁴ It was Rabanus Maurus who drew special attention to the fact that “the Christian religion [condemns] the adultery of both sexes on the same scale.” Nevertheless, he saw problems precisely here that were rooted in the legal situation of the early Middle Ages. Because women in early medieval legal practice were, as a rule, capable of only limited action in the public realm, they could “not easily accuse their husbands of adultery,” so that there was “no punishment for sins committed in secret” by the men. Husbands, however, were able “with greater ease to bring charges against their adulterous wives before the priests.... Thus although the case for men and women is quite similar, the criminal proceedings are suspended sometimes for lack of evidence.”⁴⁵ But that was to be avoided, precisely upon the basis of the principle of equality mentioned at the beginning.

neque ullum eorum rituum, qui Christianum hominem decent; et si eum obire contigerit, ne ponatur cum Christianis hominibus. et si mulier virum suum legitimum deseruerit et alium elegerit, sit eadem sententia digna, ut supra dictum est; et cognati, qui illi consilio interfuerint, patiantur eandem sententiam, nisi prius ad emendationem se convertere velint, prout confessarius eorum eis

42. 1 Cor 5:11: *nunc autem scripsi vobis non commisceri si is qui frater nominatur est fornicator aut avarus aut idolis serviens aut maledicus aut ebriosus aut rapax cum eiusmodi nec cibum*. For the quote, see Felix, *Counc. Sav.* a. 859 c. 16 (Wilfried Hartmann, ed., *Concilia*, MGM [Hanover: Hahn, 1984], 3:479); see also, for example, *Paen. Cas.* o.c. (ed. Schmitz, 430).

43. See *Fori Jud.* 3.4.7 (ed. Zeumer, 150); see also Columban, *Paen. Columb.* 16 (ed. Walker, 176); *Ed. Roth.* 179 (ed. Bluhme, 37); *Fori Jud.* 3.4.2 (ed. Zeumer, 147–48); *Paen. Ambr.* 2.2 (Ludger Körntgen, ed., *Studien zu den Quellen der frühmittelalterlichen Bussbücher*, QFRM 7 [Sigmaringen: Thorbecke, 1993]); Salis, *Leges Burgundionum: Liber Constitutionum* 61, 93.

44. See, for example, *Paen. Finn.* 51 (ed. Bieler, 92); see also *Paen. Ps.-Egb.* 2.8 (ed. Wasserscheleben, 325); *Capit. Trev.* 9 (ed. Brommer, Pokorny, and Stratmann, 56); *Paen. Ps.-Egb.* 2.7 (ed. Wasserscheleben, 324); *Paen. Ps.-Egb.* 2.10 (ed. Wasserscheleben, 325); 4 (ed. Kerff, 169–70); *Paenitentiale Hubertense* (ed. Kottje, 16, 20); *Paen. Mers.* 23 (ed. Kottje, 175–76).

45. Maurus, *Poen. lib.* 3 (PL 112:1406B–C): *item in decretis Innocentii papae, cap. 24, scriptum est quod viri cum adulteris non conveniant. et illud desideratum est sciri cur communicantes viri cum adulteris uxoribus non conveniant, cum contra uxores in*

The councils and capitularies, which, true to type, often recognized no penitential punishments, often forbade a remarriage after a separation.⁴⁶ Above and beyond this, permission for the spouse to kill the adulterer and adulteress, if he had caught both in the act, is found in isolated cases in the *leges*.⁴⁷ Even if Hans-Werner Goertz assumes that this punishment was seldom put into practice or not at all, these are nonetheless hard sanctions that require explanation.⁴⁸ Upon closer examination, the texts show that the authors here, too, could have used Old Testament passages as their models, which then, along with Roman law, would have acted as a precedent for the corresponding regulations, for exactly such a case is dealt with in Lev 20:10 as well as in Deut 22:22.⁴⁹ There, the law insisted upon punishment, but only if the adulterers were caught *in flagranti*. Adultery was considered to be an offense within private law and for this reason could be sanctioned personally by the individual concerned.⁵⁰ The fact that in the Old Testament texts there is no passage that shows that the same right was conceded to the wife as that enjoyed by her husband can be explained quickly. In the ancient Near East, adultery was seen as an injustice committed against the husband. Extramarital sexual relationships on

consortio adulterorum virorum manere videantur. super hoc Christiana religio adulterium in utroque sexu pari ratione condemnat. sed viros suos mulieres non facile de adulterio accusant, et non habent latentia peccata vindictam. viri autem liberius uxores adulteras apud sacerdotes deferre consueverunt: et ideo mulieribus, prodito earum crimine, communicatio denegatur. virorum autem latente commisso, non facile quisquam ex suspicionibus abstinetur. qui utique submovebitur, si ejus flagitium detegatur. cum ergo par causa sit, interdum probatione cessante, vindictae ratio conquiescit.

46. See, for example, *Capit. Trev. c. 9* (ed. Brommer, Pokorný, and Stratmann, 56): *si alicuius uxor adulterata fuerit vel si ipse adulterium commiserit, quia neque dimissus ab uxore neque dimissa a marito alteri coniungatur*; see also *Concilium Foroiviense, 192–93; Conc. Suess. 744.9* (ed. Werminghoff, 2.1:35).

47. See *Ed. Roth. 212* (ed. Bluhme, 44): “Antiqua. Si adulter cum adultera occidatur. Si adulterum cum adultera maritus occiderit, pro homicidio non teneatur”; see also *Fori Jud. 3.4.4* (ed. Zeumer, 149); *Lib. const. 35.2; 68.1, 2* (ed. von Salis, 9, 95); *Fori Jud. 3.2.2* (ed. Zeumer, 133–34); *Fori Jud. 3.4.5* (ed. Zeumer, 149).

48. Goetz, *Frauen*, 238.

49. Lev 20:10: *si moechatus quis fuerit cum uxore alterius et adulterium perpetravit cum coniuge proximi sui morte moriantur et moechus et adultera. Deut 22:22: si dormierit vir cum uxore alterius uterque morientur id est adulter et adultera et auferes malum de Israhel.*

50. Georg Braulik, *Deuteronomium II: 16, 18–34, 12*, NEB 5, KATE 28 (Würzburg: Echter, 1992), 167.

the part of the man were considered adultery only when he intruded into the marital community of another man. Then, again, the right to indemnification rested upon the latter. But the wife had no recourse in the case of her husband's adultery. This understanding of adultery, however, no longer lay at the basis of the texts of the seventh to the eleventh century. The fact, though, that one nowhere reads of the wife's right to kill, and only once about the surrender of the adulterers to the wife, may be due to the social practice of the time and the lack of possibilities for legal action conceded to the woman connected with it. Thus it should be emphasized all the more that in the cases already mentioned both partners in adultery were always killed and that in no way was it the woman alone who met this fate. On the contrary, according to some texts, only the husband was put to death, above all when he was not able to clear himself of the charge of adultery by swearing an oath.⁵¹ By the middle of the ninth century, however, resistance to this practice seems to have increased. At the Council of Mainz (861–863), the question—namely, whether the husband “is allowed according to secular law to kill her” if his “wife has committed adultery”—was answered in the following way: “The holy church of God is never bound by secular laws. It does not possess the sword, except for the spiritual and the divine ones; he shall not kill her but rather let her live; she does not kill but rather gives life.”⁵² The council fathers thus countered secular law with an alternative action because they did not want themselves to be bound by the former.

Along with these punishments, all of which—whether with biblical foundation or not—were to be performed in the here and now and which always served the purpose of peace within the congregations and the world, the offense of adultery was also discussed in the context of the Christian message of salvation and thus within reflections upon the kingdom of God.⁵³ Such discussions and reflections took place in the various council and capitulary texts, as well as in the penitential books. There were

51. See *Lex Baiuv.* 8.1 (ed. Schwind, 353–54); *Can. Wall.* [A] 17 (P XXVII) (ed. Bieler, 138); *Ed. Roth.* 213 (ed. Bluhme, 44).

52. *Council of Mainz a. 861–863* (Wilfried Hartmann, ed., *Die Konzilien der karolingischen Teilreiche, 860–874*, MGH Concilia 4 [Hannover: Hahnsche Buchhandlung, 1998], 131): *si cuius uxor adulterium perpetraverit, utrum marito ipsius liceat secundum mundanam legem eam interficere. Sancta dei ecclesia mundanis numquam constringitur legibus; gladium non habet nisi spiritalem atque divinum; non occidit, sed vivificat.*

53. Weber, *Ein Gesetz*, 380–81.

urgent warnings about the offense, because adulterers “as the apostle says, will not gain the kingdom of God” (*sicut ait apostolus, regnum dei non consequentur*).⁵⁴

For because of such an illicit love, some have been destroyed through poison, others by means of the sword or through other evil deeds. Therefore, those evils, through which the kingdom of God must be closed to human beings, must be cut out with the sharpest knife and with all the medical arts, “since of course,” as the same apostle says, “those who act in this way will not gain the kingdom of God.”⁵⁵

It cannot be clarified without further investigations of exegesis in the early Middle Ages whether the writers of the texts in their considerations always had only the Pauline expressions in mind, which state that the unrighteous will not possess the kingdom of God (1 Cor 6:9–10; Gal 5:19–21; Eph 5:5) or whether such texts are to be read in the larger context of the proclamation of the kingdom of God—that “core of Jesus’s work”—that, as is known, runs through all the gospel texts.⁵⁶ For it is not possible, on the basis of the present state of research, to say in what way the biblical texts were interpreted in the context of knowledge about the other texts, what cross references were possible, and how reference was made among them. Relevant investigations are lacking. The fact that reflections on the kingdom of God in the gospels are at no place brought into connection with adultery or fornication speaks in favor of the possibility that the authors draw exclusively upon Paul in the texts examined here.

In this way, the circle comes around again to the formula cited at the beginning of this essay, so that we can at least state the following: all of the offenses named here were considered sinful conduct. Just as in that formula, which had connected the act of creation with the fall of the angels and so for the very first time had integrated adultery into the context of the

54. Felix, *Counc. Sav.* 16 (ed. Hartmann, 3:479).

55. *Conc. Trib.* 895.40 (ed. Boretius and Krause, 236–37): *quia pro tam illicito amore alii veneno, alii gladio vel aliis diversis sunt perempti maleficiis. Idcirco acutissimo ferro et totius generis artificio sunt resecanda, per quae caelestia regna sunt obcludenda; quoniam, ut idem apostolus ait, qui talia agunt, regnum Dei non consequentur*; cf. *Paen. Mart.* 37 (ed. von Hörmann, 377).

56. For the text of the Pauline citations, see note 31. See Hermann-Josef Venetz, “Jesus von Nazaret: Prophet der angebrochenen Gottesherrschaft; Grundlegende Reich Gottes-Texte der synoptischen Evangelien,” *BK* 62 (2007): 78–88, quote at 78.

sinful offenses committed by human beings and had banished Lucifer to hell, it is likely that this context of evil was implied in all the texts in which the loss of the kingdom of heaven was mentioned.

3. Marriage, Adultery, and the Decision between Secular Law and Biblical Foundation—A Conclusion

The following can be stated as a result: The notion of marriage as a consensual contractual event among four legally equal parties is just as much the basis of the early medieval understanding of adultery as are the ideas on adultery presented in the New Testament or derived from the gospels or the letters of Paul. These ideas, which differ in detail in various passages, were synchronized in the early medieval texts and combined there to form a consistent doctrine. Secular legal regulations concerning marriage were combined with biblical ideas in such a way that, even in the sphere of marital offenses, the conclusion of a marriage was consistently formulated and, at the same time, the entire spectrum of New Testament thought was considered. But the entire array of offenses was also anchored in Christian thought about sin and in Christian anthropology, which similarly was based upon an equality of the sexes.

With regard to the relationship between groups and between the sexes, this had the result that the man and the woman, but also the respective relatives, were treated equally. Just as all the partners in the consensual event of concluding a marriage were placed on the same level, all violations of the norm entailed the same consequences for all those participating. Those punishments that were applied to the bride and groom, or to the married couple as a whole, and that, in accord with the New Testament model, in most cases prohibited a remarriage were, in an agrarian society, extremely hard and therefore a deterrent, because survival was possible only within intact family relationships. And these were focused on three factors: the indissolubility of the marital union, the woman's need for protection, and the need for peace within the community, because adultery contains in itself an extreme potential for destroying the group.⁵⁷ The woman—who, as a rule, could not act effectively in the public realm and thus could not act independently and, as a result, was clearly more endangered in the

57. On the entire theme of remarriage, see Weber, *Ein Gesetz*, 60–63 (remarriage of widows), 177–82, 189, 191.

face of wrongful accusation from the man's side—was to be protected.⁵⁸ In addition, the woman was not to be forced to live without protection outside the familial community after the dissolution of the marriage.⁵⁹

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58. For a further example for an unjustified accusation, see *Grim. leg. 7* (Franz Beyerle, ed., *Leges langobardorum, 643–866*, GWR n.s. 8 [Witzzenhausen: Deutschrechtlicher Instituts-Verlag, 1962], 75–76).

59. On the theme of the separation of a marriage, see the literature in note 8.

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