

GENDER, SEX, AND SEXUALITY: HISTORICAL AND CRITICAL PERSPECTIVES

HPHP4014

THE DOCTRINE AND DISCIPLINE OF DIVORCE BY JOHN MILTON

1. If you are familiar with any of the writings of John Milton, it is likely to be his epic *Paradise Lost*, first published in 1667. You may have heard of his other epics, *Paradise Regain'd* and *Samson Agonistes*, which were published together in 1671. Perhaps you have encountered his lyric poetry, such as the pastoral elegy *Lycidas*, which was published in 1638. It will almost certainly be that if you know of Milton at all, it will be as a poet. Milton's was an invincible sense of poetic vocation in which he imagined that he would become the greatest English poet.
2. It is much less generally known that Milton wrote controversial tracts on a range of matters from freedom of expression and censorship to religious doctrine. He began writing these tracts on his return to England in the early 1640s, from a 'grand tour' to France and Italy, spending time particularly in the Republic of Venice and Florence, which he 'infinitely admir'd',¹ In Rome he had met Lucas Holstenius, the Vatican Librarian, who showed him the Greek authors in manuscript and print. On his tour of Italy Milton was particularly impressed by the academies, which fired his latent nationalism: "What the greatest and choicest wits of Athens, Rome, or modern Italy, and those Hebrews of old, did for *their* country, I, in my proportion might do for *mine*."² He was apparently about to leave for Sicily and Greece when he was recalled by news of Civil War in England.
3. Milton returned to England with a feeling of his amassed powers, and began to define himself and take a role in public affairs. 'He set out to find a "fit audience, though few" [a phrase from *Paradise Lost*], a new elite based on Parliament and the Assembly of Westminster,' and 'using print as a medium for selected readers'.³
4. Among the tracts that Milton wrote in the early 1640s was *The Doctrine & Discipline of Divorce* (DDD):
 - In this tract, Milton attempts to write with authority on the matters of marriage and divorce, arguing against Canon Law, which forbade divorce with the right of re-marriage.
 - Milton turns to Plato and Aristotle, and to Scripture, that he might interpret passages in support of a position.
 - We need to consider whether Milton is motivated by self-interest. Is he self-righteous in tone?
 - In turning to the Bible for support, Milton conducts biblical exegesis (interpretation) in support of his arguments. The problems of interpretation were well rehearsed in the Reformation and afterwards, during Milton's lifetime. For example, John Hales

¹ *A Complete Collection of the Historical, Political, and Miscellaneous Works of John Milton, both English and Latin. With some Papers never before Publish'd. To which is Prefix'd the Life of the Author [...]* (Amsterdam, 1698), 'The Life of John Milton', by John Toland, p. 8.

² J.W. Saunders, *A Biographical Dictionary of Renaissance Poets and Dramatists, 1520-1650* (Brighton: Harvester Press, 1983), p. 114.

³ Saunders, *A Biographical Dictionary of Renaissance Poets and Dramatists, 1520-1650*, pp. 114-15.

in his *Golden Remains* (1659), commented that, 'It is no hard thing for a man that hath wit, and is strongly possessed of an opinion, and is resolute to maintain it, to find some place of Scripture which by good handling will be wooed to cast a favourable countenance upon it.'⁴ We should consider whether Milton is doing as Hales describes.

CANON LAW ON DIVORCE

1. Replaced by new, reformed legislation in all other Protestant countries in Europe, Canon Law was still in place in England. A commission under Edward VI had proposed reforms but its proposals had been rejected in the House of Commons. Under Elizabeth I and James I, the Anglican hierarchy had become more established and reinforced the position of Canon Law on divorce. This was as follows:
 - a. Since marriage was a sacrament, there could be no divorce with right of remarriage.
 - b. What was possible was legal separation. The grounds, however, were narrow, being limited in England to adultery and cruelty. This did not dissolve the marriage. The justification of this was as follows: Although the Old Testament Mosaic Law (Deuteronomy 24:1-2), which Milton discusses in Book I, Chapter 1, of *DDD*, had permitted divorce in cases of '*some uncleanness*', in the New Testament it seemed to most ecclesiastical commentators and authorities that Christ had forbidden divorce, except on grounds of 'fornication', which they interpreted as adultery. Milton's immense (some might say impossible) task in *DDD* is to reconcile OT law with what Christ says in the NT passages like Matthew 19: 3-9, and to do so in a way that makes it seem that Christ had after all permitted divorce on other grounds than adultery.
 - c. Canon Law permitted nullification of marriage on grounds of a prior cause unknown to one of the partners, such as consanguinity (i.e. the condition of being of the same blood; a relationship through descent from a common ancestor) or prior contract, impotence or female impenetrability. So if the marriage was consummated, there was no possibility of nullification on either of the latter two grounds.
2. Puritan practices: some permitted divorce in cases of cruelty or adultery, with re-marriage of the innocent party.
3. Milton proposes the right of divorce with remarriage for both parties, and not only on the old grounds of 1 and 2, above, but on grounds of mental and emotional incompatibility without physical cause: '*uncleanness*' > '*nakednes of ought, or any real nakednes*' (Bk 1, Ch.1); 'what greater nakedness or unfitness of mind then that which hinders ever the solace and peacefull society of the married couple, and what hinders that more then the unfitness and defectiveness of an unconjugal mind.'
4. The Assembly of Westminster: convened to resolve religious differences in the early 1640s; dominated by Presbyterians, Milton's partners in the rhetorical and political battle against prelacy (the order or rank of prelate, or bishop).

⁴ Cited in Regina M. Schwartz, 'Milton on the Bible', Ch. 3 of *A Companion to Milton*, ed. by Thomas N. Corns (Oxford: Blackwell, 2001), pp. 37-54 (p. 38).

5. Milton tries to persuade his readers of the high moral ground of his position: he is trying to preserve the morality and high state of marriage in arguing for divorce.

Preface to Book I:

... God in the first ordaining of marriage, taught us to what end he did it, in words expressly implying the apt and cheerfull conversation of man with woman, to comfort and refresh him against the evil of solitary life, not mentioning the purpose of generation till afterwards, as being but a secondary end in dignity, though not in necessity; ...

Book I, Chapter 2:

... where the minde and person pleases aptly, there some unaccomplishment of the bodies delight may be better born with, then when the minde hangs off in an unclosing disproportion, though the body be as it ought; for there all corporall delight will soon become unsavoury and contemptible.

THE REGULATION OF PRINTING AND THE PUBLICATION OF *THE DOCTRINE AND DISCIPLINE OF DIVORCE*

- A huge increase in printed books and pamphlets following the demise of state mechanisms for regulating printing in 1641
- A concurrent rise of popular radicalism
- A deepening of the conviction that the state must control the reading material available to its citizens in order to regulate their political activities
- English church hierarchy convinced that the freedom to print works about topics in religion led straight to heresy and schism
- 1643 Act of Parliament brought into the legal context an *Order ... Regulating Printing*: dictated that a license must be sought to print; unlicensed printing a criminal act.
- Anonymous publication: numerous proclamations and decrees had specified that authors, printers, and publishers should be identified on the title pages of all print publications. But never enforceable.

The Doctrine and Discipline of Divorce (1643):

- First published 1643:
- Milton approached an ecclesiastical licenser, John Bachelor, who refused Milton a license.
- Milton's name does not appear on the title page, but he signed the preface with his initials.
- Probably 1,000 copies; sold out in six months and immediately re-printed.
- 1644 edition: Milton's authorship is acknowledged only by initials.
- Third and fourth editions in 1645

Milton's other Divorce Tracts:

- *The Judgement of Martin Bucer* (1644): Milton presents abridged translations of passages of the great Protestant reformer to support the views advanced in *DDD*. They are preceded by six pages of 'Testimonies of the high approbation which learned men have given of Martin Bucer', and then by eight pages of closer type addressed by Milton to the Parliament and signed with his name in full; his name, however, does not appear on the title-page. Even so, *The Judgement of Martin Bucer* was duly licensed.

- A week later, both of Milton's works on divorce were attacked in a sermon delivered before Parliament by Herbert Palmer, a member of the Westminster Assembly.
- A fortnight after that, a Stationers' Company petition naming Milton as a violator of printing regulations was referred to the House of Commons' Committee on Printing. The Commons in response drafted new printing regulations that went up to the House of Lords for approval. Nothing further seems to have come of this draft.
- *Colasterion* (1645): a 'punishment' of an anonymous critic who had attacked the views expressed in *DDD*.
- *Tetrachordon* (1645): published unlicensed and anonymously
 - learned work: tries to harmonize the four chief places in Scripture that speak of marriage or divorce
 - Milton's fullest and final statement on the matter of divorce

Areopagitica (1644):

- Attacks the 1643 *Order ... Regulating Printing*
- Unlicensed, but Milton's name appears in italic capitals near the top of the title page
- December 1644: Milton summoned to appear before the judges appointed by the House of Lords to investigate unlicensed printing; questioned and released after a few days, with no further action taken.

MILTON'S MARRIAGE TO MARY POWELL

- Mary Powell: of a Royalist family; seventeen years of age.
- Milton's nephew, Edward Phillips, writing in 1694

DDD, Bk I, Ch. 3: refutes argument that divorce would be unnecessary if people carefully considered the disposition of their prospective mates before wedlock:

1. 'it may yet befall a discreet man to be mistak'n in his choice: and we have plenty of examples. The sobrest and best govern'd men are least practiz'd I these affairs';
2. 'it is not strange though many who have spent their youth chastly, are in some things not so quick-sighted';
3. Canon Law in England perpetuates a situation which in practice favours those with looser morals, who, 'by reason of their bold accustoming, prove most successfull in their matches, because their wild affections unsettling at will, have been as so many divorces to teach them experience.'

Annabel Patterson, 'Milton, Marriage and Divorce':

Roughly speaking, [Milton] begins with an ill-concealed personal bitterness, moves towards formal high-mindedness by citing a vast chorus of authorities for his position, and ends with renewed personal bitterness, and coarseness – but now redirected to his 'answerers'. More importantly, [...] Milton *discovered* for himself the principle of companionate marriage as

Protestantism was still inventing it, and the engine of his discovery was humiliation and disappointment. That is to say, by finding Mary Milton wanting (and missing), he imagined in the hole she had made in his feelings what a good marriage might be. Consequently he could see for himself, and with acid clarity, what was wrong with a legal system that encouraged hypocrisy, stressed the dynastic and physical aspects of marriage over the psychological and sociable, and did not allow for second chances.⁵

⁵ Annabel Patterson, 'Milton, Marriage and Divorce', Ch. 17 of *A Companion to Milton*, ed. by Thomas N. Corns (Oxford: Blackwell, 2001), pp. 279-93 (p. 282).