

5. Marriage, Betrothal, and the Law in First-Century Judaism and Rome

In the time of Jesus, Jewish marriage had two main stages:

- **Betrothal (Kiddushin)** – This was a legally binding agreement. Even though the couple did not live together yet, they were considered married in the eyes of Jewish law. The only way to break a betrothal was through a formal divorce.
- **Marriage (Nisu'in)** – This happened about a year later when the groom took the bride into his home. After this, they were fully husband and wife.

Why Did Betrothal Last a Year?

The betrothal period served several purposes:

- **Legal and Social Preparation** – The bride and groom were already legally bound, but this time allowed the bride to prepare to leave her family home and the groom to prepare a household.
- **Financial Arrangements** – The groom would often use this time to secure a home, gather resources, and fulfill the agreed-upon bride price (mohar) if one was required.
- **Ensuring the Bride's Purity** – The waiting period could confirm that the bride was not already pregnant by another man, ensuring the legitimacy of future children.

Unlike modern engagements, betrothal was not primarily a time for the couple to date or get to know each other. In many cases, marriages were arranged by families, and while the couple might interact, their relationship was not the focus. Instead, the betrothal was a period of waiting and preparation.

Social and Legal Consequences of a Premarital Pregnancy

In Jewish society, a woman becoming pregnant before marriage was a serious matter. People would assume she had been unfaithful, and this could bring severe consequences.

The Jewish Law (Torah) had clear rules about this. According to Deuteronomy 22:23-24, if a betrothed woman was found to be with child by another man, she could be accused of adultery. The strictest punishment in the Law was death by stoning, but by the time of Jesus, this was rarely carried out.

More often, a woman in this situation would face public shame and rejection. She might be cast out by her family or the community, leaving her in poverty.

Joseph's Decision: A Quiet Divorce

Matthew's Gospel tells us that Joseph was a righteous man (Matthew 1:19). He had two choices:

1. Expose Mary publicly, which could lead to punishment and disgrace.
2. Divorce her quietly, which would spare her from public humiliation.

At first glance, divorce might not seem like it would spare Mary from disgrace since she would still be pregnant. However, a quiet divorce could allow her to return to her family without an open accusation of adultery. If Joseph did not publicly name her as unfaithful, there was a chance that people might assume the child was his or that she was a widow, rather than an adulteress.

In many cases, women without husbands had few options, but being quietly divorced might at least prevent her from being officially shamed and possibly allow her to find protection elsewhere. However, there is no doubt that her situation would have still been extremely difficult.

The Role of Roman Law

At the time of Jesus, Judea was under Roman rule. While Jewish courts handled religious and civil matters, they could not carry out capital punishment without Roman approval.

This means that while Jewish law allowed stoning, in reality, the Romans likely would not have permitted it. Instead, Mary's biggest challenge would have been social rejection and the risk of being abandoned.

What Would Have Happened If Joseph Had Divorced Mary?

If Joseph had actually divorced Mary, the social and legal repercussions for her would have been severe, even if she wasn't formally punished under Jewish law. Here's why:

Public Humiliation and Social Rejection

- Nazareth was a small village where everyone knew each other's business.
- Even with a quiet divorce, it would have been impossible to hide her pregnancy, meaning she would be perceived as either:
 - A fornicator (if she had conceived out of wedlock)
 - An adulteress (if people assumed she had been unfaithful to Joseph)
- Either way, her reputation would have been ruined, and she would have likely been shunned by her community.

Economic Hardship and Lack of Support

- Unmarried pregnant women had no protection or rights in ancient Jewish society.
- If her father refused to take her back, she could have been left destitute.
- She might have been forced to beg or rely on distant relatives for survival.
- In extreme cases, she might have been driven out of the village.

Possible Legal Consequences

- Deuteronomy 22:20-21 states that a woman found not to be a virgin at marriage could be stoned to death if her father did not defend her honor.
- However, in first-century Galilee, the Romans controlled capital punishment, so stoning wasn't common.
- More likely, she would have been beaten or publicly disgraced instead.

Difficulty in Marrying Again

- A divorced woman with a child had almost no chance of remarriage.
- A woman who was perceived as impure or immoral would have been considered undesirable as a wife.
- This means Mary would have been condemned to a life of social isolation and hardship.

Why Joseph's Choice Mattered

- By deciding to divorce her quietly, Joseph was trying to protect her from public disgrace and potential punishment.
- If he had made a public accusation, it could have led to formal consequences for Mary.
- By keeping quiet, he was giving her a chance to leave town and possibly start over elsewhere.

Could Joseph Have Relations with Mary During Betrothal?

The short answer is no, not normally.

Jewish Customs on Marital Relations During Betrothal

- During betrothal, the couple was legally bound but did not live together or consummate the marriage.
- Sexual relations were forbidden until the second stage of the marriage (Nisu'in), when the husband formally took his wife into his home.
- If a man had relations with his betrothed before the wedding, it would have been considered improper and dishonorable, though not necessarily adultery.
- However, there is some evidence that in certain cases, if a betrothed couple did have relations before marriage, they were sometimes still considered married (i.e., they could not later claim that their marriage was invalid). This wasn't the norm, but it did happen.

In Joseph and Mary's case, if Joseph had relations with Mary during betrothal, he wouldn't have been considering divorce at all, because the pregnancy would be expected. So the fact that he assumed she had been unfaithful tells us that he knew the child was not his. That's why his decision to divorce her quietly is so significant—it shows his mercy and restraint rather than reacting with anger or public condemnation.