

**RESPONSE TO REVIEW ARTICLES OF
*FLAME OF YAHWEH***

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I express my appreciation to David Instone-Brewer² and Andre Claris Lombart³ for their willingness to review *Flame of Yahweh*, and for their perseverance in working their way through its 844 pages of text. They have accurately grasped and articulated the overarching objective I was seeking to accomplish, and for the most part have fairly represented my views in their summaries of the book's contents. After my initial read of their review articles, I was content to let the reviews stand, relieved to have received generally favorable marks from eminent scholars whom I respect. But upon further reflection, I could not resist the *AUSS* editors' kind offer to allow me a brief response to clarify various issues that were raised in these perceptive reviews.

I respond first to several points made by Instone-Brewer. Having written extensively on various issues dealt with in my book, Instone-Brewer is well qualified to pose questions in areas where he detects potential problems with my conclusions. I commend him for pinpointing many of the thorny issues with which I have wrestled the most in my twenty-five years of research and writing this book. I do not claim to have final answers to various knotty problems that appear in the biblical text. I have done my best to account for all the relevant data, have changed my mind more than once on several of these issues, and am willing to change my mind again as further evidence is forthcoming.

Regarding the issue of monogamy/polygamy, it is true that I make what Instone-Brewer calls an "unusual claim"⁴ in arguing that the HB consistently upholds the ideal of monogamy. The foundational biblical evidence is found in Lev 18:18. I have been persuaded by the penetrating studies of Angelo Tosato⁵ and Gordon Hugenberger,⁶ augmented by my own research, that the Qumran interpretation is the correct one: this verse proscribes all polygamy, not just sororal polygyny (polygamy involving two consanguine sisters). I have

¹Richard M. Davidson, *Flame of Yahweh: A Theology of Sexuality in the Old Testament* (Peabody, MA: Hendrickson, 2007).

²David Instone-Brewer, "Review Article, I: Richard M. Davidson's *Flame of Yahweh: A Theology of Sexuality in the Old Testament*, *AUSS* 46 (2008): 245-250.

³Andre Claris Lombart, "Review Article, II: Richard M. Davidson's *Flame of Yahweh: A Theology of Sexuality in the Old Testament*, *AUSS* 46 (2008): 251-255.

⁴Instone-Brewer, 247.

⁵Angelo Tosato, "The Law of Leviticus 18:18: A Reexamination," *CBQ* 46 (1984): 199-214.

⁶Gordon P. Hugenberger, *Marriage as a Covenant: Biblical Law and Ethics as Developed from Malachi*, VTSup 52 (Leiden: Brill, 1994; reprint, Grand Rapids: Baker, 1998), 202.

found the many lines of evidence—semantic, syntactical, literary, contextual, and theological—too formidable to interpret in another way, and I have not seen any studies that successfully challenge the conclusions based upon this evidence. I have found the other HB passages dealing with polygamy to be consistent with this foundational passage of Lev 18:18, in condemning the practice, either explicitly or tacitly. Instone-Brewer contrasts my position with “most other scholars” who “argue that, in light of ANE laws allowing polygamy . . . the HB disapproved of polygamy while permitting it.”⁷ Actually, I agree with this position of other scholars as stated by Instone-Brewer. I argue that the HB disapproves of polygamy (in that it is presented as opposed to God’s ideal plan), but that polygamy is, at the same time, “permitted” (i.e., tolerated) in that there is no punishment set forth for this prohibited practice. The law of Lev 18:18 is an example of what Hugenberger calls *lex imperfecta*: “a law which prohibits something without thereby rendering it invalid (reflecting a society which would have lacked the requisite means of enforcement in any case).”⁸ Many other practices in Scripture are morally condemned by God, but not illegal from a civil standpoint (see, e.g., the tenth commandment, which morally prohibits coveting but provides no civil punishment for breaking this command).

With regard to the death penalty for adultery, Instone-Brewer suggests that “Davidson allows his theology to somewhat overpower his conclusions from the text.”⁹ Such may appear to be the case, but in actuality I was driven to my conclusion *by* the text. At least on this point, it was definitely not my theology that overpowered my conclusions because in all drafts of my book manuscript until the last year or so I adhered to the view presented by Moshe Greenberg and others that the death penalty for adultery was absolute and noncommutable. (In fact, I unwittingly allowed this language to remain on at least one page of the first printing of *Flame*,¹⁰ and it was removed in the second printing.) It was only very late in my research process that I came upon the evidence presented by Joe M. Sprinkle, Bruce Wells, Hilary B. Lipka, and others, that strongly suggests the possibility of commuting the death sentence under certain (unspecified) circumstances.¹¹ There may be another way of

⁷Instone-Brewer, 247.

⁸Hugenberger, 118, cited in *Flame*, 197.

⁹Instone-Brewer, 247.

¹⁰*Flame*, 175.

¹¹*Ibid.*, 373-375, 391-392; see Joe M. Sprinkle, “The Interpretation of Exodus 21:22-25 (*Lex Talionis*) and Abortion,” *WTJ* 55 (1993): 237-243; and *idem*, “Sexuality, Sexual Ethics,” *Dictionary of the OT: Pentateuch*, ed. T. Desmond Alexander and David W. Baker (Downers Grove: InterVarsity, 2003), 744; following Bruce Wells, “Adultery, Its Punishment, and the Nature of OT Law” (paper presented at the annual meeting of the Evangelical Theological Society, Orlando, Florida, 20 November 1998). See also Hilary Lipka, “‘Such a Thing Is Not Done in Israel’: The Construction of Sexual Transgression in the Hebrew Bible” (Ph.D. dissertation, Brandeis University, 2004), 220-223.

encompassing these two apparently contradictory strands of evidence (found together in close proximity, for example, in the book of Deuteronomy), but I have adopted the conclusion that seemed to best account for all of the relevant evidence. On one hand, adultery is indeed an absolute crime against God and the regular prescribed punishment is the death penalty, with no gradation of punishment based upon social standing or varying intentions as elsewhere in the ANE. Yet on the other hand, there apparently could be some kind of extenuating circumstances in which this death penalty was commuted.

The possibility of commuting the sentence of adultery seems implied in passages such as Hos 1–3 and Prov 6:35. I also find it implied (although I may have argued it “weakly,” according to Instone-Brewer¹²) by the fact that laws concerning several other high-level crimes such as murder and idolatry explicitly prohibit clemency (see Deut 7:16; 13:8; 19:13, 21; and 25:12), but such prohibitions never occur with regard to adultery. Inasmuch as I dealt with this possibility of leniency only in the concluding and more practical “Divine Grace” section of the chapter on adultery, I did not develop my argument as much as I might have. But the full discussions of the evidence by Sprinkle et al., as referenced in a footnote,¹³ to me were persuasive. In addition to the OT evidence, I find further affirmation for this position in Jesus’ own example in commuting the death sentence for adultery under certain circumstances (John 8:1-12).

With regard to the issue of divorce, I recognize and rejoice that Instone-Brewer has written a whole book on this topic,¹⁴ from which I derived much benefit, especially with regard to ANE parallels. I am gratified to see that Instone-Brewer finds persuasive my arguments that the unusual *hotpaal* form of “defile” in Deut 24:3 should be translated “she has been caused to defile herself.”¹⁵ I am still convinced (but have apparently not [yet!] fully convinced Instone-Brewer) that since the phrase “defile oneself” elsewhere in Scripture implies the equivalent of adultery, therefore according to Deut 25 the husband who divorced his wife has in effect caused her to commit adultery when she is forced (by need for financial security) to remarry. I argue that Jesus’ statement in Matt 5:32 seems to point to his awareness of this implication of the *hotpaal* form when he states: “whoever divorces his wife for any reason except sexual immorality causes her to commit adultery.”

Instone-Brewer finds contradictory my conclusion that (in his words) “the fault for which she [the woman in Deut 24] was divorced appears to be sexual, but it must have fallen short of adultery else she would be executed (even though he [Davidson] said at the end of chap. 8 that death could be commuted).”¹⁶ Here again, I seek to account for all the data involved,

¹²Instone-Brewer, 248.

¹³*Flame*, 373, n. 132.

¹⁴David Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002).

¹⁵Instone-Brewer, “Review Article,” 248.

¹⁶*Ibid.*

assuming a consistency in the Mosaic legislation. I argue that it is important to make a distinction between what is stated *de jure* and what may have happened *de facto*. According to Mosaic law, adultery was to be punished by death and hence legally (*de jure*) would not be regarded as one of the assumed grounds for divorce in the case law of Deut 24. Yet, inasmuch as there might be some unusual mitigating circumstances in which the death penalty for adultery might be commuted, the possibility cannot be ruled out that in practice (*de facto*) the fault of the woman being divorced may have included adultery. This section of my book was originally written when I still assumed that there was no commuting of the death penalty for adultery, and after broadening my understanding to include the possibility of such commutation under unusual circumstances, I sought to integrate the two sets of data in a meaningful way. Perhaps there is a better way to bring such integration, and I am open to such an alternative that is faithful to all the evidence.

Instone-Brewer also finds contradictory that (again in his words) “he [Davidson] finds no HB grounds for divorce, and yet concludes that . . . divorcees could remarry.”¹⁷ Here again (as with the issue of polygamy) I maintain that it is crucial to distinguish in the HB between what is legal and what is moral. With regard to Deut 24, I argue for the existence of an implied ultimate divine moral disapproval of all divorce, even as divorce is legally “permitted” to take place. Though not illegal, divorce is not morally pleasing to God. Divorce, and hence remarriage, was not forbidden or punishable in the HB, but while it is permitted in Moses’ legislation there is nonetheless a hint in that very legislation that calls back to the Edenic ideal of permanence in marriage. This hint becomes explicit in Mal 2:16 where God states: “I hate divorce!” Thus I can argue (without any contradiction, at least as far as I can see) that while divorce was never God’s will morally, yet legally (as Instone-Brewer states it in his summary of my view) “women as well as men were able to divorce in ancient Israel.”¹⁸

Instone-Brewer correctly points out the absence of pertinent Jewish and Greco-Roman background in the Afterword dealing with the NT. This was a deliberate omission due to the immense amount of material involved and (especially) because the Afterword was specifically focused at showing implications of the OT materials for the NT views of sexuality. I freely acknowledge that a theology of sexuality in the NT still remains to be written. Perhaps Instone-Brewer, with his specialty in NT, is willing to tackle this task!

Turning now to the issues raised by Lombart, I first commend him for providing the reader with a succinct summary of the basic points in a theology of sexuality as I see it emerging from the OT. Lombart has insightfully discerned that the “issue of gender is at the heart of the book.”¹⁹ While his suggestion has merit that the word “gender” might even have been added to the subtitle, I believe that my broader definition of “sexuality” to include

¹⁷Ibid., 250.

¹⁸Ibid., 248.

¹⁹Lombart, 254.

gender issues as well as other concerns is defensible and appropriate, even if not in line with distinctions made by some social scientists.²⁰

Lombart has correctly recognized my “egalitarian interpretation of the Genesis account,” but he has provided an incomplete and thus potentially misleading statement of my position on Gen 3 when he writes: “He [Davidson] maintains that this principle of ‘husband servant leadership’ is necessary in a sinful world to preserve harmony in the home.”²¹ What I argue is that God instituted a “husband servant leadership” in the Garden after the Fall (Gen 3:16) as a temporary stopgap measure *where it might be* necessary in a sinful world to preserve harmony in the home. But I go beyond this to suggest that God’s ideal in a sinful world continues to be egalitarian marriage (as presented in Gen 1–2), and the biblical materials consistently reveal God’s attempt to call couples back toward this ideal whenever possible. It is for this reason that I do not present more examples or practical illustrations of “servant leadership” in biblical families, as wished for by Lombart.²²

When I illustrate the principle of “servant leadership” by suggesting, for example, that the husband be the first to say, “I’m sorry,” Lombart finds it tempting to see here the implication that “the husband is to be subservient and subordinate to his wife, thereby contradicting the ‘egalitarian’ postulations by the author.”²³ However, I do not find a contradiction here, but rather, the principle of “mutual submission” as expressed in the NT (e.g., Eph 5:21).

Lombart rightly warns against misuse of narrative theology, and suggests that I may have stepped over the line in implying the sexual consummation by Adam and Eve on their wedding night. He wonders if consistency should demand that there be a parallel between the time of betrothal outside of Eden and a similar time of “longing, waiting, and appreciating” after the couple’s creation before sexual consummation.²⁴ The suggestion is an interesting one, but in my estimation consistency points more strongly in another direction: outside of Eden the regular practice was that the sexual consummation took place on the wedding night and, according to Mosaic legislation, this was even expected and necessary (see Deut 22:13-21). The sexual union was the indispensable means for the consummation of the marriage, and may well have been regarded as the covenant “oath-sign” of the marriage.²⁵ The consistent parallel in Eden would then be consummation of the marriage on the wedding night.

Despite Lombart’s proper caution about the potential for misuse in narrative theology, I remain persuaded that the narrative clues in Gen 3 point to the conclusion that Adam and Eve consummated their marriage union that first Friday evening of creation week. There was indeed a time of “longing,

²⁰See *Flame*, 2.

²¹Lombart, 254.

²²*Ibid.*

²³*Ibid.*

²⁴*Ibid.*

²⁵*Flame*, 382, n. 26, following the suggestion of Hugenberger, 279.

waiting, and appreciating,” but in the unique case of the first couple, it came already *before* Eve was created; as Adam named all the animals, he saw that they all had partners and experienced the “hunger for wholeness” that God then supplied by creating Eve. God created Eve perfectly matched to be Adam’s equal partner (Gen 2:18, 20), and both Adam and Eve were uniquely created as fully formed adults, ready for marriage.

If God had intended that there be an extended period of betrothal-like experience for Adam and Eve before their marriage, this could have been accomplished by delaying the wedding. But Gen 2 portrays God officiating at the couple’s wedding immediately after introducing Eve to Adam. Adam’s first recorded statement after God brought Eve to him contains unmistakable covenant-making terminology, constituting what we would call the wedding vows (v. 23). After the depiction of the first wedding service, the narrator immediately adds that this wedding is a model for all future weddings: the “one flesh” sexual consummation is to follow after the “joining” of the marriage covenant (v. 24-25). Song of Songs also presents this pattern, as the sexual consummation of the marriage follows immediately upon the heels of the wedding service (Song 4:16; 5:1). Just as the first account of the creation week in Gen 1 is climaxed by the holy Sabbath (Gen 2:1-3), so the complementary account in Gen 2:4-25 is climaxed by the holy institution of marriage, with its implied sexual consummation of that marriage in the “one flesh” experience of Adam and Eve (2:22-25). The sexual intimacy and union on the horizontal level between Adam and Eve within the sacred *space* of the Eden sanctuary (2:15-25) is the counterpart of the spiritual intimacy and union on the vertical level between God and humans within the sacred *time* of the Sabbath (2:1-3).

Lombart succinctly and accurately summarizes the ten facets of a theology of sexuality that I set forth in chap. 1, but then asks why I selected these ten and not others. The answer is that these facets are the ones that emerged from my exegetical study of Gen 1–2. An earlier study of these passages uncovered seven facets,²⁶ but further study expanded these to ten. I may later find additional facets, but these are the ones that have inductively emerged from my exegetical research thus far.

Regarding the “pastoral” and “moralistic” tones that surface in the book on occasion, to this charge I must plead guilty! I tried to rein in my pastoral-moralistic tendencies, and my editor applied the scalpel to the manuscript more than once. Yet some traces definitely remain. It is my contention that in biblical theology, contrary to Semler, Gabler, Stendahl and others who separate between what the text meant and what it means, what it “meant” is what it still “means” (see the work of my mentor, Gerhard Hasel, *Old Testament Theology: Basic Issues in the Current Debate*), and thus it is appropriate in an OT biblical theology to draw practical applications for today. I did try to keep these to a minimum, however, and put them in footnotes wherever possible. I also justified (rightly or not) inclusion of certain practical insights

²⁶Richard M. Davidson, “The Theology of Sexuality in the Beginning: Genesis 1–2,” *AUSS* 26 (1988): 5-24.

such as the “twelve steps to moral integrity” in the hymnic Wisdom literature²⁷ by noting that the overall thrust of the Wisdom literature was a practical-moralistic one, and hence I was being faithful to the spirit of the biblical genre I was interpreting!

Lombart is correct that the section on the Song of Songs could have been shorter, or could have been a separate book on its own. I seriously considered publishing the Song of Songs material as a separate monograph, especially partway through my long journey of researching this material when I despaired of ever completing the entire project! But in retrospect, I am glad I did not excise any of this material or publish it separately. After all, the Song of Songs represents Scripture’s major statement on sexuality—a whole book given over to celebrating the beauty and joy of married sexual love! Should it not be given as much space as needed to develop the rich theological material contained therein? Furthermore, the Song of Songs implies that it is an interpretation of the Garden of Eden experience, a “Return to Eden.” Only by placing the material on Gen 1–3 in the same context as the material from the Song of Songs could such interpretation and development be demonstrated. I have tried to balance these two parts of the book by setting them apart as the matching opening and concluding sections, entitling them “In the Garden” and “Return to Eden” respectively, and by assigning them each two chapters.

Once again, I thank David Instone-Brewer and Andre Claris Lombart for their incisive book reviews. I freely acknowledge that there is much yet to learn (and unlearn!) about sexuality in the OT, and look forward to ongoing dialogue with these and other scholars as we continue to explore this vital subject together.

²⁷*Flame*, 375, n. 138.