

Jesus Against Oral Torah in Matthew: The Case Study of Divorce

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Abstract. Matthew is a first-century Jewish text that reflects the debates and concerns of Second Temple Judaism. His conflicts with Jewish leaders reflect an *intra-sectarian* debate, not *supersessionism*. The antagonism expressed towards the Pharisees reflects the Gospel's Jewishness and mimics other Jewish sects of the time. Matthew presents Jesus as the fulfillment of Scripture and provider of their true meaning as the new Moses. Matthew believes that Jesus-followers must observe the law but must also properly understand the meaning of the commandments. Matthew addresses the criticism that his movement is anti-Torah and shows how it is not and how Jesus is actually the correct interpretation of the law. The author of Matthew contrasts the teaching of Jesus with that of the Pharisees through a presentation of Jesus' true teaching of the commandments. Matthew refers to the true teaching of the Torah with the phrase "God said" or equivalent and to the incorrect interpretation by the phrase "Moses said" or "you have heard it said." In this manner, Matthew presents Jesus' Torah teaching as an *alternative* interpretation to the Torah against the Pharisaic proto-Mishnah, referred to as the *traditions of the fathers*.

Key words: Second Temple Judaism, Torah, Mishnah, Matthew

Introduction: Matthew-within-Judaism

Matthew is a first-century Jewish text that reflects the debates and concerns of Second Temple Judaism, reflecting the beliefs of that period, as well as the topics of debate and disagreement that characterized that era.¹ The Gospel has been the subject of scholarly debate, however, particularly with an eye to ascertain its relationship to the observance of Torah, with predictable divisions with some stating that the Gospel advocates for a more-or-less traditional observance of Jewish law² and others see the opposite.³ This paper advocates for the Gospel as reflecting *intra-sectarian* debate of that period and not the supersessionism characteristic of second century *Christianismos*.⁴ Additionally, it proposes that Matthew offered an *alternative halakhah* to the emerging rabbinic consensus. The *intra-sectarian* Jewishness of the Gospel is displayed in its

¹ Cuvillier, Élian. "Torah observance and radicalization in the First Gospel. Matthew and first-century Judaism: A contribution to the debate." *New Testament Studies* 55, no. 2 (2009): 145.

² J.A. Overman, *Matthew's Gospel and Formative Judaism. The Social World of the Matthean Community* (Minneapolis, MN 1990); A.J. Saldarini, *Matthew's Christian-Jewish Community* (Chicago, IL 1994); D.C. SIM, *The Gospel of Matthew and Christian Judaism. The History and Social Setting of the Matthean Community* (Edinburgh 1999); M. VAHRENHORST, "Ihr sollt überhaupt nicht schwören". *Matthäus im halachischen Diskurs* (WMANT 95; NeukirchenVluyn 2002); M. Konradt, "Die vollkommene Erfüllung der Tora und der Konflikt mit den Pharisäern im Matthäusevangelium", *Das Gesetz im frühen Judentum und im Neuen Testament* (eds. D. SÄNGER et al.) (NTOA 57; Göttingen 2006) 129-152; and B.T. Viviano, *Matthew and His World. The Gospel of the Open Jewish Christians. Studies in Biblical Theology* (NTOA 61; Göttingen 2007).

³ D.A. Hagner, "Matthew: Apostate, Reformer, Revolutionary?", *NTS* 49 (2003) 193-209; P. Foster, *Community, Law, and Mission in Matthew's Gospel* (WUNT 2/177; Tübingen 2004); R. Deines, *Die Gerechtigkeit der Tora im Reich des Messias. Mt 5,13-20 als Schlüsseltext der matthäischen Theologie* (WUNT 177; Tübingen 2005); and R. DEINES, "Not the Law but the Messiah: Law and Righteousness in the Gospel of Matthew—An Ongoing Debate", *Built Upon the Rock. Studies in the Gospel of Matthew* (eds. D.M. Gurtner – J. Nolland) (Grand Rapids, MI 2008) 53-84.)

⁴ Matt Jackson-McCabe. *Jewish Christianity: The Making of the Christianity-Judaism Divide*, p. 156.

polemics against the Pharisees, also found in the Qumran documents and portrays the characteristics of Jesus' disciples vis-a-vis other Jewish groups.⁵

Matthew's Jesus reflects the community's understanding of Jesus as fulfillment of the Law and the Prophets, that is Jesus gives the true meaning of each. Matthew's Judaism adds to the requirement of observing the Torah to enter the Kingdom, as did the Pharisees with their *traditions of the elders*. The Matthean Jesus' exhortation to *exceed* the righteousness of the scribes and Pharisees should be seen as evidence that Matthew asserts the believer's responsibility to go beyond ordinary observance of the Law, by which is probably meant the common literary document of the Torah, seen as the constitution of the Judeans.⁶

The meaning of Jesus' announcement that he came to *πληρῶσαι* the Torah and the Prophets is interpreted as either to bring to its completion⁷, or to *do, observe*?⁸ This paper proceeds from the latter option, meaning that Matthew is placing the requirement to observe Torah on Jesus' lips and this was the

⁵ Kampen, John. *Matthew within sectarian Judaism*. Yale University Press, 2019. Some of these themes can be seen in places such as the view of Jesus as the sole mediator of the knowledge of God (Mt 11:25–27), Jesus' identification with wisdom (Matt 11:19), his performance of wondrous deeds and the rejection of his unique identity by other Judeans (Matt 11:20–24). The communal procedures in Matt. 18:15–20 with regard to how to reprove community members are remarkably similar to those of the Qumran community. These procedures exist to reinforce the community's difference to other groups. The gospel highlights the differences between the Jesus group and other groups and several instances in the gospel serve to discredit the authority of other groups, especially their authority figures.

⁶ Cuvillier, Élian. "Torah observance and radicalization in the First Gospel. Matthew and first-century Judaism: A contribution to the debate." *New Testament Studies* 55, no. 2 (2009): 144–159.

⁷ J.P. Meier, *Law and History in Matthew's Gospel* (Rome 1979) 73–82, and R.T. France, *The Gospel of Matthew* (NICNT; Grand Rapids, MI 2007) 182–183.

⁸ H.D. Betz, *The Sermon on the Mount: A Commentary on the Sermon on the Mount, including the Sermon on the Plain* (Matthew 5:3–7:27 and Luke 6:20–49) (Hermeneia; Minneapolis, MN 1995) 178.

expectation of his community. It also serves as an interpretive key to the entirety of the “antitheses” in the Sermon on the Mount that follows and is an intertextual, rhetorical strategy that is based on textual support from the Hebrew Bible and in rabbinic literature.⁹

Thiessen observes how these terms were used in Second Temple literature and sees evidence of an accusation against Jesus and the Judean believers who followed him that they sought the abolition of the Torah. This is due to the proximity of these words to the discussion in the sources around the Antiochian persecution and Josephus’ account of the Zealots in the Jewish War. Matthew is, then, addressing an accusation by outsiders that his community is a law-abolishing group and a threat to Judeans everywhere.¹⁰ The role of Jesus in the gospel, then, is to serve as the official interpreter of God’s will and Torah. Matthew shows that, even though Jesus’ *halakhah* differed from the scribes and Pharisees, Jesus wanted his followers to observe Torah faithfully as other Judeans did.

Matthew’s Jesus offers an alternative to the Pharisaic consensus with the “true interpretation” of Torah, introduced through the phrase “God said” or equivalent and to the incorrect interpretation by the phrase “Moses said” or “you have heard it said.” This makes Matthew’s Gospel a type of alternative Mishnah, used by Jewish followers of Jesus which provided its

⁹ Grohmann, Marianne. "Intertextuality and canonical criticism: lamentations 3: 25–33 in an Intertextual network." *Second Wave Intertextuality and the Hebrew Bible* 93 (2019): 225.

¹⁰ Thiessen, Matthew. "Abolishers of the Law in Early Judaism and Matthew 5, 17-20." *Biblica* (2012): 554, “Just as the authors of 2 and 4 Maccabees believed that the Jewish Hellenizers brought about the Antiochan persecution, and just as Josephus argued that the law-abolishing Zealots brought about the destruction of the Temple and Jerusalem, so, too, some may have argued that Jewish Christian abandonment of ancestral customs occasioned divine wrath. If so, the correct response of other Jewish groups to Matthew’s community should conform to Moses’ command...The Gospel of Matthew consistently works against this understanding of Jesus; instead, Jesus is a new Moses who comes to enable faithful Torah observance.”

own legal conclusion vis-a-vis practical observance of Torah law than the Pharisees. We shall examine one such case in the regulations surrounding divorce in the Matthean community, reflecting how it differentiated itself from the Pharisees and other Jewish sects of the time.

The Double Torah

The notion of the *additional* regulations to the Mosaic constitution is a characteristic of the Pharisees. The Pharisees were one of the more prominent sects or “philosophies” as Josephus terms them, in the first century CE. They are well-known throughout the Gospel literature, as the objects of the authors’ sectarian disputes. The Pharisees were concerned with eating regulations, tithing, festivals, agricultural regulations, purity and marriage. These might have arisen from a body of the *traditions from the fathers*, not included in the written law (Mk 7:5; Mt 15:2; Gal 1:14).¹¹ Josephus describes these traditions “which are not written in the laws of Moses” (*Ant.* 13.297) and that the Sadducees rejected them. These traditions represent an “attempt by a group trying to reproduce the temple cult in their own home”¹² and were primarily known as a table-fellowship sect. The issues they were concerned about, especially ritual purity and tithing were associated with the Temple cult. The group could have originated as a lay movement imitating priests or a priestly group extending temple regulations to their homes.

The Pharisaic traditions are contrasted to the laws of Moses, which are followed by all *Ioudaioi*, which is explored in *Antiquities* 1–12. This can be read as a version of the rabbinic

¹¹ Grabbe, Lester. *An Introduction to Second Temple Judaism: History and Religion of the Jews in the Time of Nehemiah, the Maccabees, Hillel and Jesus*. New York: T & T Clark (2010), p. 52.

¹² Grabbe, Lester. *An Introduction to Second Temple Judaism: History and Religion of the Jews in the Time of Nehemiah, the Maccabees, Hillel and Jesus*. New York: T & T Clark (2010), p. 57.

idea of the oral Torah.¹³ However, this is viewed as *additional* to the Torah.¹⁴ In contrast, the rabbinic view includes the oral Torah as part of the universal legislation incumbent on all Jews.¹⁵ The universal constitution of the Judeans (*Ap* 2.190) includes things such as the prohibition of idols (*Ap*. 2.191), having one temple (*Ap*. 2.193–195), where sacrifices are offered in a state of ritual purity (*Ap*. 2.196; 198, 203). It includes marriage regulations (*Ap*. 2.198–201), and requires a decent burial (*Ap*. 2.205), among other regulations. It is incumbent on all Judeans (*Ap*. 2.211). Philo reiterates the points made by Josephus and adds the proper treatment of slaves (*Preparation for the Gospel* 8.7.2), regulations surrounding marriage and the duties and responsibilities of children to parents (8.7.3–8.7.5), the golden rule (8.7.6), giving to the poor (8.7.7), providing a proper funeral, prohibiting abortion, treat animals respectfully, not enslaving his offspring, dealing in business dishonestly, (8.7.8). Philo also mentions ritual purity (8.7.6), the observance of the Sabbath (8.7.12–13) and some agricultural laws (8.7.15; 8.7.9). The law is a “wonder” and “not a single one of the commandments” should be violated. It is a unique mark of the *Ioudaioi* and their qualities (8.7.11). This makes the contrast between the common constitution of the *Ioudaioi* and the specific regulations incumbent upon members of the Pharisaic movement.

Where, then, did the idea of two Torahs begin? Was there more than one way of conceptualizing the two Torahs?

Some of Philo’s statements can be interpreted as evidence of a double Torah, especially in the way he speaks of two divinely legislated laws, one of nature and one of Moses. The law of

¹³ J.M. Baumgarten. “The unwritten Law in the Pre-Rabbinic Period,” *JSJ* 3 (1972), 12–14; E. Rivkin, *A Hidden Revolution* (Nashville: Abingdon, 1978), 41–42.

¹⁴ Mason, Steve. "Josephus, Judea, and Christian Origins." *Methods and Categories*. Peabody, MA: Hendrickson (2009), p. 198.

¹⁵ Neusner, J. *The Rabbinic traditions about the Pharisees Before 70* (3 vols.; Leiden: Brill, 1971), 2:163.

nature cannot be written but only seen through the lives of the sages, in contrast to the written law of Moses. Philo's unwritten law of nature is different from the *tannaitic* oral Torah but shows how these ideas might have developed.¹⁶ The beginning of the double Torah might come from the intertestamental period. For example, Jubilees mentions Moses receiving two Torahs, one written by God on tablets, one written by Moses given to him by an angel (1:1, 4–27). Some even see evidence in Paul's writings.¹⁷ This is seen through two meanings of the word *nomos* and the idea that Jesus brings about two voices within the Torah, one which describes the ordinances of the Jews and one that speaks to all. Paul, then, makes Torah relevant to the members of the Nations in his associations. He can do this through a "double-*nomos*" in the Torah itself.¹⁸

Matthew and Torah

Matthew's Gospel presents a thorough examination of Jesus' halakhic stances vis-a-vis the common issues of the day,¹⁹ such as divorce and the minutiae of Sabbath observance.²⁰ Several of Jesus' statements have sparked intense debate.²¹ The subject of the *Antitheses*, present Jesus' halakhic statements as the

¹⁶ Najman, Hindy. "A Written Copy of the Law of Nature: An Unthinkable Paradox." *The Studia Philonica Annual* 15 (2003), 54–63.

¹⁷ Yuval, Israel Jacob. "The Orality of Jewish Oral Law: From Pedagogy to Ideology." In *Judaism, Christianity, and Islam in the Course of History: Exchange and Conflicts*, ed. Lothar Gall and Dietmar Willoweit (Munich: Oldenbourg, 2011), 237–260.

¹⁸ Fisch, Yael. "The Origins of Oral Torah: A New Pauline Perspective", *Journal for the Study of Judaism* 51, 1 (2020): 43–66, doi: <https://doi.org/10.1163/15700631-12511265>

¹⁹ Sigal, Phillip. *The Halakhah of Jesus of Nazareth according to the Gospel of Matthew*. No. 18. Society of Biblical Lit, 2007.

²⁰ Bockmuehl, Markus. "Matthew 5.32; 19.9 In the Light of Pre-Rabbinic Halakhah." *New Testament Studies* 35, no. 2 (1989): 291–95. doi:10.1017/S002868850002467X.

²¹ Rabbinowitz, Noel S. "Matthew 23: 2–4: Does Jesus recognize the authority of the Pharisees and does He endorse their halakhah?." *Journal of the Evangelical Theological Society* 46, no. 3 (2003): 423.

new Moses.²² Throughout this section, Jesus consistently reveals the true meaning of earlier Mosaic legislation. For example, Moses condemned adultery (Ex 20:14; Dt 5:18) and Jesus reveals that the underlying forbidden action includes adulterous thoughts (Matthew 5:28). This is how Jesus reveals the true interpretation of the law and not its undoing.²³

Throughout the main text of the Gospel, there are countless quotes or allusions to Scriptural texts. Matthew's use of Scripture can be quantified. The bulk of the Scriptural quotations occur between Chapters 5 and 25, which contains Jesus' teaching and miracles. The books which are quoted the most are Isaiah, Deuteronomy, and Psalms. However, overall, Matthew quotes from the books of the Torah the most, followed by the Prophets, and Writings.

Matthew ties aspects of Jesus' life to Scriptural proof-texts, often using the formula, "This took place to fulfill what had been spoken through the prophet, saying..." to introduce the prophetic fulfillment passages. Matthew's Gospel also relies on many instances of typology.

The use of Scripture throughout the text has a purpose overall, besides to prove the messianic role of Jesus, which is to show that Jesus fulfilled the Scripture.²⁴ It also has the purpose of extending the mission of Israel. The demand of Jesus to exceed the observance of the Pharisees points to another goal of the Matthean gospel, which is an expanded and enhanced Torah for the Nations, written in Greek. For this reason, Matthew

²² Theophilos, Michael P. "Jesus as New Moses in Matthew 8–9." In *Jesus as New Moses in Matthew 8–9*. Gorgias Press, 2013.

²³ Viljoen, Francois P. "Jesus' halakhic argumentation on the true intention of the law in Matthew 5: 21-48." *Verbum et ecclesia* 34, no. 1 (2013): p. 11.

²⁴ Culpepper, R. Alan. "Fulfillment of Scripture and Jesus' teachings in Matthew." In *die Skriflig* 49, no. 2 (2015): 1-8.

relies on prophetic proof-texts heavily to support the mission of the Jesus-believing assemblies throughout the Diaspora.²⁵

Book	# of citations	Percent
Isaiah	12	21.42%
Deuteronomy	12	21.42%
Psalms	9	16.07%
Exodus	6	10.71%
Leviticus	5	8.92%
Daniel	3	5.35%
Hosea	2	3.57%
Zechariah	2	3.57%
Genesis	2	3.57%
Malachi	1	1.78%
Jonah	1	1.78%
Jeremiah	1	1.78%
Torah	25	44.64%
Prophets	19	33.92%
Writings	12	21.42%
Total	56	

Table 1. Old Testament Quotes in Matthew

Sayings in Matthew are found in rabbinic literature, in the person of Rabbi Tarfon,²⁶ who lived between the destruction of the Temple in 70 CE and the Bar Kokhba revolt in 135 CE. He is associated with both Lod and Yavne, which suggests that he was from Lod but moved to Yavne to join Yohanan ben Zakkai's *yeshivah* there (m. Ta'anit 3:9; m. Bava Metzia 3:3; b. Hagigah 18a). It is also said that he was of priestly lineage (t. Hagigah

²⁵ Hays, Richard B. "The Gospel of Matthew: Reconfigured Torah." *HTS: Theological Studies* 61, no. 1_2 (2005): 165-190.

²⁶ Mt 7:1-5; c.f. Lk 6:37-42; Thom 26 vs. b. Arakhin 16b; Mt 5:29-30 vs. b. Niddah 13b

3:9). He valued halakhic leniency, although he was associated with the School of Shammai²⁷, noted for its halakhic stringency. In other halakhic matters, he is noted for writing the blessing after drinking water (m. Berakhot 6:8). He is also mentioned in the Passover Seder (m. Pesachim 10:6) and in the aggadic collection of ethical sayings, Pirke Avot (2:15, 16). Perhaps due to his proximity to the nonconformists with Jesus-belief, he takes a firm stance against them and their writings. He thought scrolls written by nonconformists (*minim*)²⁸ should be burnt, even if the name of God was written (t. Shabbat 14:4; b. Shabbat 116a).

The Rabbis enacted legislation against the *minim*, declaring that their books should be burned, as their books were not considered sacred.²⁹ If they wrote a Torah scroll, it should also be burned.³⁰ *Minim* were noted by certain liturgical variations, particularly omitting certain blessings in synagogue was seen as a sign of *minut*.³¹ There might have been as many as twenty-four types of *minim*, if Talmudic records are to be considered accurate.³² The Tosefta seems to punish *minim* more than Gentile sinners, lying concerning the Torah, departing from the congregation, lied concerning the resurrection and caused others to sin.³³ Additionally, the *birkat haminim* prayer is thought to refer to them and their expulsion from the synagogue in the first century CE, although much debated.³⁴

The Gospel of Matthew might represent a community of what rabbinic literature termed *minim*, those who rejected rabbinic

²⁷ b. Yevamot 15b; y. Shevuot 4:20; m. Kilaim 5:6; m. Yevamot 15:6; m. Ketubot 5:2

²⁸ Following Stuart S. Miller. The Minim of Sepphoris Reconsidered. HTR 86:4 (1993) 377-402, I translate *minim* as “nonconformists.”

²⁹ T Sanhedrin 8:5; T Yadayim 2:13

³⁰ B Gittin 45b

³¹ Y Berakhot 9c

³² Y Sanhedrin 29c

³³ T Sanhedrin 8:4-5

³⁴ B Berakhot 28b-29a; Y Berakhot 9c

orthodoxy and believed in Jesus. Rabbinic stories of *minim* present them as *individual* sectarians, but not any cohesive image of sectarian groups. However, this might have been done for polemical reasons, i.e. to diminish the size of these groups. Sepphoris, in the lower Galilee, *might* have been a century of “nonconformist” activity, even if it was known as a Jewish town by Christian writers (*Haer.* 30:11). Yet, the Rabbis’ writings about the *minim* indicates that they were aware of these ideas *within their midst*, meaning that a rabbinic “heretic” might still have access to rabbinic teachings and documents, as might be the case with Matthew’s Gospel.³⁵

Matthew, Divorce and the Double Torah

It is within the context of Matthew’s use of the Torah overall and the potential disagreements between the proto-rabbinic and Matthean communities that we begin to examine the texts relating to divorce.

The Torah prescribes a means of initiating divorce, from the husband’s perspective, if he finds *ervat davar* in his wife. He can then write a *sefer keritut*, a “bill of divorcement” and “send her away” from his house. In the LXX, *ervat davar* is translated ἄσχημον πρᾶγμα, an *indecent thing*. Provided below are English translations of the Masoretic text and the LXX.

Deuteronomy 24:1 (JPS)

A man takes a woman [into his household as his wife] and becomes her husband. She fails to please him because he finds something obnoxious about her, and he writes her a bill of divorcement, hands it to her, and sends her away from his house.

³⁵ Stuart S. Miller. The Minim of Sepphoris Reconsidered. HTR 86:4 (1993) 401.

New English Translation of the Septuagint

Now if anyone takes a wife and lives with her, and it shall be, if she does not find favor before him because he found a shameful thing in her, then he shall write her a bill of divorce and shall give it into her hands and shall send her out of his house.

The rabbinic approach to divorce is found in the appropriate mishnaic tractate, *Gittin*, which deals with all legal matters pertaining to divorce. The debate centers around two words used in Deuteronomy 24:1. Beit Shammai focuses on עֲרֻהָ which here is translated as *something obnoxious*. However, the word has another meaning which is a forbidden sexual act. Beit Shammai understands this to mean essentially that the couple may separate if there is a case of adultery. Beit Hillel focuses on the word דָּבָר, “thing”, which opens the permissibility of divorce to many more situations beyond infidelity. The third position of Rabbi Akiva extends this even further to a complete no-fault divorce position. m. Gittin 9:10³⁶

The House of Shammai says: A man may not divorce his wife unless he finds about her matter of forbidden intercourse, as it is stated, “Because he has found some unseemly matter in her...” (Deuteronomy 24:1).

And the House of Hillel says: Even [if] she burned his dish, as it is state: “Because he has found some unseemly matter in her.”

Rabbi Akiva says: Even if he found another woman better looking than her, as it is stated, “And it comes to pass, if she finds no favor in his eyes.” (Deuteronomy 24:1)

³⁶ Original translation.

Therefore, within the proto-rabbinic community, it seems there was a wide range of views, ranging from a very restrictive view of divorce in Beit Shammai to a fully permissive Rabbi Akiva, representing the more lenient wing of Beit Hillel. There were probably other positions along the continuum. However, there is no rabbinic voice that outright condemns divorce and remarriage. This is not the case at Qumran. The Damascus document mentions a cryptic reference to the prohibition of “taking two wives at the same time”, which has been read as a condemnation of polygamy, but also as a prohibition of divorce and remarriage.³⁷ A strict reading of the text would imply that only a widower would be allowed to be remarried at Qumran, implying a nearly absolute prohibition of divorce and remarriage.³⁸

Covenant of Damascus 4:20–21

Such men may be described as 'builders of a rickety wall' [Ezek. 13.10], or as persons that have 'walked after filth' [Hos. 5.11]. The 'filth' in question is the babbling preacher of whom God said, 'Babble-babble shall they preach' [Mic. 2.6]; while the fact that *two* words [viz. 'pit' and 'trap'] are used to describe the

³⁷ Gershon Brin, “Divorce at Qumran,” in Moshe Bernstein, Florentino Garca Martnez and John Kampen (Ed.), *Legal Texts and Legal Issues: Proceedings of the Second Meetings of the International Organization for Qumran Studies* Cambridge 1995, Leiden, New York and Köln: Brill, 1997. 231-244. John Kampen, “The Matthean Divorce Texts Reexamined,” in George J. Brooke and Florentino Garca Martnez (Ed.), *New Qumran Texts and Studies: Proceedings of the First Meeting of the International Organization for Qumran Studies*, Paris 1992, Leiden, New York and Köln: Brill, 1997. 149-167; Schuller, (1994) 118-120. and *Ibid*, “Women in the Dead Sea Scrolls,” in Peter W. Flint and James C. Vanderkam with the Assistance of Andrew E. Alvarez (Ed.), *The Dead Sea Scrolls After Fifty Years: A Comprehensive Assessment (Volume Two)*, Leiden, Boston and Köln: E. J. Brill, 1999. 123-131; Kim, David. “Hearing the Unsung Voice: Women in the Qumran Community.” *International Journal of Humanities and Social Science* 2 (2012): 275-282.

³⁸ Cohen-Matlofsky, Claude. “The Halakhah in the Making at Qumran Where Women are Concerned.” *The Qumran Chronicle*, vol. 27, no. 1–4 (2019), pp. 83–99.

net in which they will be caught alludes to the whorish practice of taking *two* wives at the same time, the true basis of nature being the pairing of one male with one female, even as it is said (of Adam and Eve), 'A male and a female created He them' [Gen. 1.27], and of those that went into the ark, 'In pairs they entered' [Gen. 7.9]. Similarly, too, it is said concerning a prince: 'He shall not take more than one wife' [Deut 17.17].

The Qumran texts base their view of marriage on texts in Genesis, where it says “male and female he created them.” This is read as expressing the essence of marriage as the physical union between man and woman that cannot be broken.³⁹ If the strict readings of the Qumran material are correct, the sect’s view of marriage can be placed at the extreme prohibitive end of the spectrum, further prohibiting divorce beyond what Beit Shammai envisioned.

The Matthean Jesus’ approach to divorce should be read within this context and with the continuum of options specifically in mind. In two places, the Matthean Jesus addresses concerns of divorce and remarriage, placing his discussion firmly within the context of Second Temple Judaism, reflecting its concerns and the legal debates of the day.

The first incident is found within the Sermon on the Mount, where Jesus makes a simple proclamation while quoting the prooftext from the latter portion of Deuteronomy 24:1, cited above. This pronouncement should be read in light of the general way in which Jesus provides the intended “true interpretation” of the Torah in the *Antiheses* section of Matthew. Moses provided for a bill of divorce, i.e. permission to divorce in the aforementioned text from Deuteronomy. Jesus’ position is that this was provided to protect women and not as a means of

³⁹ Geza Vermes, “Sectarian Matrimonial Halakhah in the Damascus Rule,” *JJS* 25 (1974): 197–202, at 200.

no-fault divorce. He restricts it to cases where there is a “de-facto” divorce due to adultery.⁴⁰

Matthew uses the Greek πορνεία to refer to the *ervat davar* from the Hebrew Bible. This is used in Greek literature (i.e. Hp. *Epid.* 7.122; D. 19.200) to refer to prostitution. The Syriac, ܩܘܪܒܐܢܐ, has many of the same connotations throughout Aramaic literature.

Matthew 5:31–32, NRSVUE

“It was also said, ‘Whoever divorces his wife, let him give her a certificate of divorce.’ But I say to you that anyone who divorces his wife, except on the ground of sexual immorality, causes her to commit adultery, and whoever marries a divorced woman commits adultery.

Jesus’ comments on divorce occur within the first century Judean and proto-rabbinic continuum, as Jesus concurs with both Beit Hillel and Beit Shammai that divorce is, ultimately, lawful, even if undesirable in most cases. Matthew’s audience would have assumed that any marriage would be damaged by any form of sexual impropriety. Jesus’ use of Scripture in the passage, particularly Genesis 2:24, seems to indicate an anti-polygamous and possible anti-divorce stance from Matthew.⁴¹ Cuvillier interprets Jesus’ interpretation of the Torah here in an innovative manner, stating that Jesus proposes that the Pharisees oppose God’s original purpose because God did not envisage the separation of a man and a woman from marriage. This leads to the awkward conclusion that “when they [the

⁴⁰ Viljoen, Francois P. "Jesus' halakhic argumentation on the true intention of the law in Matthew 5: 21-48." *Verbum et ecclesia* 34, no. 1 (2013): p. 11.

⁴¹ Jacob Peter Oluwashola, Kolawole Oladotun Paul. Jesus’ Teaching on Divorce in Matthew 19:3. *The American Journal of Biblical Theology* Volume 22(17). April 25, 2021.

Pharisees] obey the commandments of the law they disobey the will of God.”⁴²

Matthew 19:1–9

When Jesus had finished saying these things, he left Galilee and went to the region of Judea beyond the Jordan. Large crowds followed him, and he cured them there.

Some Pharisees came to him, and to test him they asked, “Is it lawful for a man to divorce his wife for any cause?” He answered, “Have you not read that the one who made them at the beginning ‘made them male and female,’ and said, ‘For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh’? So they are no longer two but one flesh. Therefore what God has joined together, let no one separate.” They said to him, “Why then did Moses command us to give a certificate of dismissal and to divorce her?” He said to them, “It was because you were so hard-hearted that Moses allowed you to divorce your wives, but from the beginning it was not so. And I say to you, whoever divorces his wife, except for sexual immorality, and marries another commits adultery, and he who marries a divorced woman commits adultery.”

Focusing on one aspect of Jesus’ arguments, there is a contrast between what *God* says and what *Moses* says in Matthew’s presentation of the text. Jesus begins his answer to the question of “is it lawful for a man to divorce his wife for any cause?” by stating what “the one who made them at the beginning” said regarding husband and wife, stringing together

⁴² Cuvillier, Élian. "Torah observance and radicalization in the First Gospel. Matthew and first-century Judaism: A contribution to the debate." *New Testament Studies* 55, no. 2 (2009): 156.

two portions of biblical text, “he made him, male and female he made them” (Gen. 1:28, LXX; c.f. 5:2) and “a man leave his father and his mother and shall cleave to his wife, and they two shall be one flesh” (Gen. 2:24 LXX). Jesus adds his own interpretation to these divine statements, stating that they mean that “what God has joined together, let no one separate,” i.e. stating his position against no-fault divorce. That is, Jesus uses the framing “God said” to explain what he thinks is the correct interpretation of the biblical law and the phrase “Moses commanded” to give the current Pharisaic interpretation.

The use of the phrasing “Moses commanded” is found in other places in Matthew’s Gospel. For example, in Jesus’ healing of the leper in chapter 8, he heals the leper after he asks Jesus to make him clean, if he is “willing.” Jesus agrees and heals him and tells him to bring the offering as “Moses commanded” (Matt. 8:4; c.f. Leviticus 14:1–32). Although, in this case, in the Torah, it is God who is directly speaking, whereas in Deuteronomy, Moses presents a restatement of the Torah to the people of Israel. However, the direction towards the Temple might hint at Matthew’s context post-Temple and how Jesus now fulfills the role of the Temple for his Judean community of Jesus-believers.

In another case, Jesus is asked by a Saduccee about marriage and the resurrection with a fictitious story about a family of seven brothers who fulfilled the commandment of levirate marriage (m. Yevamot; Ant. 4.254-256). The Saduccees ask who will be married to her in the resurrection and quote what “Moses said,” in Deuteronomy, “And if brethren should live together, and one of them should die, and should not have seed, the wife of the deceased shall not marry out *of the family* to a man not related: her husband’s brother shall go in to her, and shall take her to himself for a wife, and shall dwell with her (Deut. 25:5, LXX).” Jesus turns to the matter of interpretation, saying that the Saduccees do not understand Scripture or the power of God. He says that in the resurrection, people will not “marry nor are given in marriage, but are like angels,” reflecting the belief that angels do not die, common in Second Temple

literature (1 En. 15:6; 51:4; Wis 5:5; 2 Bar. 51:10; 1QH 3.21-23). This was an idea found in rabbinic literature as well.⁴³ Jesus quotes the Scripture again, saying what “God said” and using that to prove the matter of the resurrection.⁴⁴ Here, “Moses said” is used to contrast the Matthean community’s position with the Saducees.

In the Sermon on the Mount, there is also the Matthean formula, “you have heard it said,” used to refer to the Torah and before Jesus’ reinterpretation of the law, usually to add to its intended meaning. The topics of this discourse include: murder (Ex 20:13; Dt 5:17); adultery (Ex 20:14; Dt 5:18); oath taking (Lv 19:12), a reinterpretation of “an eye for an eye” (Ex 21:24; Lv 24:20; Dt 19:21); an expansion on the idea of loving one’s neighbor (Lv 19:18). These citations of Moses’ teaching lead to Jesus’ true interpretation of the laws found in the Judean constitution.

Matthew’s comments on divorce and the situation of Jesus’ position in Second Temple Judaism, contrasting the no-fault position adopted by the Pharisees but different still from the Qumran position, should be read with his other comments about the Pharisees, particularly the “seat of Moses” in Matthew 23:2, where Jesus instructs, “do whatever they teach you and follow it, but do not do as they do, for they do not practice what they teach (23:3).” The critical attitude of Jesus in Matthew 23 is part of a series of confrontations and escalations that occurs during the transition to the Passion narrative section of

⁴³ Translated directly from the Munich manuscript, מרגלא בפומיה דרב העולם הבא אין, בו לא אכילה ולא שתיה ולא פריה ולא רביה ולא משא ולא מתן [לא קנאה] ולא שנאה ולא איבה ולא תחרות / אלא צדיקים יושבים ועטרותיהם בראשיהם ונהנים מזיו השכינה שני ויהו את האלהים ויאכלו וישתו / There is no eating, drinking, or reproduction nor negotiations, or jealousy or hostility or competition in the World-to-Come. Rather, the just ones sit and their crowns [are] upon their heads and they enjoy the splendor of the Shekhinah, as it says: And they beheld God, and they ate and drank (b. Berakhot 43a).

⁴⁴ “I am the God of thy father, the God of Abraam, and the God of Isaac, and the God of Jacob; and Moses turned away his face, for he was afraid to gaze at God (Ex. 3:6, LXX).”

Matthew's Gospel.⁴⁵ The passage can be read as ironic⁴⁶ in the sense that it is Jesus' instruction to those believers found under bad leadership, meaning that there might be members of Pharisaic groups with some sympathy to Jesus-belief.⁴⁷ These potential believers were instructed to follow the Pharisaic regulations.⁴⁸ This implies a *temporary* ceding of authority to the Pharisees for Jesus-sympathetic believers.⁴⁹ Jesus' reference to a "seat of Moses" could be a literal chair or a symbolic representation of Pharisaic authority to interpret the law. There is some archeological evidence that points towards a literal chair⁵⁰ but the lack of any additional textual evidence might lean in the other direction in that this might be a metaphor⁵¹ that Matthew coined to show the legal authority of Jewish leaders at the time.⁵² Alternatively, it could refer to the authority of the scribes to guard the scrolls of the Torah and the permissibility to read the scrolls in public. That is, Jesus' followers should go to them to read the texts but follow Jesus' interpretation.⁵³ The reference is something that cannot be fully understood, due to lacking context.⁵⁴ The evolving interpretation of Judean law by Pharisees and Matthean Jesus-

⁴⁵ Viljoen, Francois P. "The controversy dialogue leading towards Jesus' severe response in Matthew 23." *In die Skriflig* 52, no. 1 (2018): 1-8.

⁴⁶ Talbert CH (2010) *Matthew*. Grand Rapids, MI: Baker Academic.

⁴⁷ Stuckert, Jonathan D. "Forgive our presumption: a difficult reading of Matthew 23: 1-3." *Perichoresis* 16, no. 3 (2018): 4.

⁴⁸ Garland DE (1979) *The Intention of Matthew 23*, volume 52. Supplements to Novum Testamentum. Leiden: E. J. Brill.

⁴⁹ Stuckert, Jonathan D. "Forgive our presumption: a difficult reading of Matthew 23: 1-3." *Perichoresis* 16, no. 3 (2018): 3-15.

⁵⁰ Newport KGC (1990) A Note on the 'Seat of Moses'. *Andrews University Seminary Studies* 28(1): 53-58; Newport KGC (1995) *The Sources and Sitz im Leben of Matthew 23*. *Journal for the Study of the New Testament Supplement Series* 117. Sheffield Academic Press.

⁵¹ Turner DL (2008) *Matthew*. Grand Rapids, MI: Baker Academic, p. 548.

⁵² Newport, Kenneth GC. "A Note on the" Seat of Moses"(Matthew 23: 2)." *Andrews University Seminary Studies (AUSS)* 28, no. 1 (1990): 1.

⁵³ Powell, Mark Allan. "Do and Keep What Moses Says (Matthew 23: 2-7)." *Journal of Biblical Literature* 114, no. 3 (1995): 419-435.

⁵⁴ Powell MA (1995) Do and Keep What Moses Says (Matthew 23:2-7). *Journal of Biblical Literature* 114(3): 419-435.

believers likely overlapped, but differed on key matters such as ritual purity, tithing, table fellowship, etc.⁵⁵ All of this suggests Matthew's framing of Jesus-as-interpreter of Torah as an alternative to the Pharisaic "traditions of the fathers."

In summary, the use of the phrase *Moses said* is often used to refer to the *development* of Torah laws in the direction of the rabbinic oral Torah and not to refer to the literal text of the Torah as the Pharisees possessed. The phrase *you have heard it said* was used to introduce a contrast with the traditional understanding of the text and Jesus' novel interpretation.

Conclusions

The above analysis has shown how Matthew situated Jesus within the sectarian divisions of his day within Second Temple Judaism. The issue of specific examination in this paper was the Matthean Jesus' prohibition of divorce, a topic that would have been current and salient for the audience of Matthew's Gospel. The decisions of Jesus position the Matthean community as possessing the true interpretation of the Torah and distinguishes them from both Pharisaic schools, but also distinct from the Qumran community, making it a unique sectarian viewpoint. Matthew adds an interpretation of *ervat davar/porneia*, as adultery, in this case, which is slightly more precise than the Shammaite definition of the same term. The use of the phrase *Moses said* is often used to refer to the *development* of Torah laws in the direction of the rabbinic oral Torah and not to refer to the literal text of the Torah. The phrase *you have heard it said* was used to introduce a contrast with the traditional understanding of the text and Jesus' novel interpretation. That is, the Matthean Jesus contrasts between himself as the ideal Torah interpreter and Moses as the incorrect interpreter of the Torah, even though the community

⁵⁵ Morris L (1992) *The Gospel According to Matthew*. Grand Rapids, MI: Eerdmans, p. 572.

itself would probably claim that it was more accurately representing Moses over the interpretation of the Pharisees.