

GOSPELIC LEGALISM: A RE-EVALUATION OF THE PHARISEE-CHRISTIAN DEBATE IN THE CANONICAL GOSPELS

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It is often said that the debate between the early Christians and their Jewish forerunners is similar in type to the modern debate between Supreme Court Justices about how to read the Constitution. Namely, that the Jews insisted on literal, originalist interpretations, whereas the Christians advocated for a “spirit of the law” which guides the law’s interpretation beyond the letter of the law. Or, in other words, it is suggested that the first-century debate between Jewish Christ-followers and Jews who rejected Christ regarding the Scriptural Laws was a question of legal formalism versus legal functionalism: the letter of the law versus the spirit of the law.

In this essay, an evaluation of this thesis will be offered, exploring the various critiques of the Jewish Law found in the four canonical Gospels: Matthew, Mark, Luke, and John. The conclusion of this survey will yield that the aforementioned interpretation of the early Jewish-Christian debate holds in only the Gospel of Mark: for the other three, other explanations must be found (and are supplied) for the disagreements between the Pharisaic Jews and their Christ-following brethren with regard to the Law. John, it will be argued, believes the Law to be invalid in the post-Christ world, Luke has a complex relationship with the Law that cannot be summarized simply, and, on the other end of the chain, Matthew accepts the Law and the Pharisees’ interpretations wholeheartedly.

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INTRODUCTION

While Constitutional theorists and Supreme Court Justices have long fallen into the twin camps of “Originalist” or “Textualist” and “Living Constitutionalist” or “Pragmatist,” this divide has come to the fore in recent years, particularly after the overturning of the notorious 1973 *Roe v. Wade*² decision in 2022.³ Since then, this question has gained public appreciation, though, of course, for the Justices, it was always of great importance.

In attempting to define the “Originalist” view, Antonin Scalia—perhaps the most vociferous of the theory’s proponents—once said that “The Constitution is not a living organism. It’s a legal document. It says some things and doesn’t say others... The starting point in any case involving the Constitution is the text of the Constitution and the meaning of that text to the people who ratified it.”⁴ More recently, Amy Coney Barrett has argued that “The central premise of originalism is that the original public meaning of the enacted text... controls, and that it’s a constraint... That was the law that the people ratified.”⁵ The central claim of these justices—as well as, *inter alia*, Clarence Thomas and Brett Kavanaugh—is that the text, as defined by its original context, must determine the law, not our modern sensibilities, valid though those may be.

² *Roe v. Wade*, 410 U.S. 113 (1973).

³ *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022) (overruling *Roe v. Wade*).

⁴ Antonin Scalia, *Common-Law Courts in a Civil-Law System: The Role of United States Federal Courts in Interpreting the Constitution and Laws*, in *A MATTER OF INTERPRETATION* 3, 38–47 (Amy Gutmann ed., 1997).

⁵ *The Nomination of Amy Coney Barrett to the Supreme Court of the United States: Hearing Before the S. Comm. on the Judiciary*, 116th Cong. (2020) (statement of Amy Coney Barrett, J.).

Those opposed may concur with William Brennan's view of Constitutionalism instead: "The genius of the Constitution rests not in any static meaning it might have had in a world that is dead and gone, but in the adaptability of its great principles to cope with current problems and current needs."⁶ For Brennan, as for all Living Constitutionalists, it is built into the document's structure that it must be updated with the times. In more theoretical terminology, we might call this a manifestation of the classic debate between legal formalism (as articulated by H.L.A. Hart⁷), the view that the law is a closed set which has to be interpreted only on its own terms, and legal functionalism (as per Oliver Wendell Holmes Jr.⁸), which sees the law as a set of tools by which to solve social problems.

This is, of course, a cursory overview of a very complicated and long-standing debate among legal theorists and Supreme Court Justices. However, it is sufficient to explain why this framework is often used to understand other legal debates in history. Most important—and oldest—of these, perhaps, is the disjunction between the early Christians (or Christ-following Jews) and Pharisaic Jews. The argument goes that the early Christians' objection to Pharisaism was that the latter were too literalist in their treatment of the Law (that is, of course, the laws of the Hebrew Scriptures or Halakhah), advocating instead for a softer "spirit of the law" approach to its interpretation. As Sanford Levinson puts it, "The 'living' constitution is, at its heart, a Pauline concept. It suggests that the 'Old' text is a dead letter unless it is brought to life by the spirit of the present community. This mirrors the early Christian break from the Pharisees: the belief that the Law must be 'fulfilled' by its underlying purpose rather than its literal, historical commands."⁹ Similarly, Stephen M.

⁶ William J. Brennan, Jr., Address at the Text and Teaching Symposium, Georgetown University (Oct. 12, 1985), in *THE GREAT DEBATE* 11, 14–15 (FED. SOC'Y ed., 1986).

⁷ H.L.A. HART, *THE CONCEPT OF LAW* (Oxford Univ. Press 1961).

⁸ OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* (Little, Brown & Co. 1881).

⁹ SANFORD LEVINSON, *CONSTITUTIONAL FAITH* 191 (Princeton Univ. Press 1988).

Feldman offers that “Originalists are often characterized by their critics as ‘Pharisaic’—implying a narrow, rigid, and ultimately soul-crushing adherence to the ‘dead letter’ of the 1787 text. This rhetoric draws directly from early Christian polemics, which sought to replace the ‘legalism’ of Jewish tradition with a more ‘dynamic’ and ‘spiritual’ interpretation of God’s will.”¹⁰

This article argues that this characterization is correct only when applied to the criticism of the Pharisees found in the Gospel of Mark.¹¹ However, the application of this theory more broadly leads to error. To demonstrate this, a brief study of the four canonical Gospels and their respective presentations of the Pharisee-Christian dispute over the purpose and interpretation of the Law will be necessary. Naturally, this is hardly a full assessment of early Christian thinkers: there were likely dozens of early Christ-following communities that either did not write Gospels or whose Gospels did not survive to the present day. The ever-elusive Q-community,¹² for example, almost certainly existed but left us no record of their beliefs beyond the fragments that are preserved in the Gospels of Matthew and Luke. And, of course, there are the Pauline, Pseudo-Pauline, and other various Epistles which make up the bulk of the New Testament, none of which have any bearing on the Gospels and many of which have

¹⁰ Stephen M. Feldman, *The New Christian Rhetoric of Originalism*, 23 CARDOZO L. REV. 759, 771 (2002).

¹¹ We do not allege—and have no evidence to assume—that either Levinson or Feldman believe that this particular debate is palpable in the Gospels themselves. We simply use them as figureheads for a broad thesis about the earliest conflicts between Christians and Pharisees (or Christ-following and non-Christ-following Jews).

¹² Q (short for *Quelle*, the German word for ‘source’) is a hypothetical list of Jesus-sayings that New Testament scholars have speculated was the source for the Jesus-sayings common to Matthew and Luke but missing from Mark (their other source). See, e.g., JOHN S. KLOPPENBORG, *THE FORMATION OF Q: TRAJECTORIES IN ANCIENT CHRISTOLOGY* (Fortress Press 1987); JAMES M. ROBINSON ET AL., *THE CRITICAL EDITION OF Q* (Fortress Press 2000). For an opposing viewpoint, see MARK GOODACRE, *THE CASE AGAINST Q* (Trinity Press Int’l 2002).

strong views on the Law.¹³ Unlike the first group, these may be analyzed, but require another medium by which to do so: the Gospels are plentiful material for one essay.

Before turning to the Gospels themselves, a brief overview of the scholarly literature on their ordering and composition is in order. Though there are ongoing debates about virtually everything in this field, what is presented here represents the basic consensus of New Testament scholars. It is generally believed that Mark was written first, probably just after the destruction of the Jerusalem Temple. Its composition is thus dated to sometimes around 70-75 CE.¹⁴ Matthew and Luke each used Mark (or some sort of proto-Mark) as a source in the composition of their Gospels, which they wrote some ten years after his (80-85 CE). They were probably unaware of each other and likely had another shared source (the aforementioned Q) as well as other individual sources (often termed M for Matthew's unique source and L for Luke's). The fourth Gospel, John, was likely written some ten years after that, sometime between 90 and 95 CE, and likely did not know of the other three.¹⁵ Since this is the case, any shared material between Matthew Mark and Luke (the Synoptic Gospels) must be set aside for our discussion as it fails to teach us anything about any particular Gospel-author's views.

The order of our analysis of the Gospels will not follow their historical chronology or their traditional arrangement in Christian Bibles,

¹³ The Epistle to the Hebrews, for example, is vehement in its opposition to the Law's literal application. The apocryphal Epistle of James, however, is adamantly supportive of the same.

¹⁴ Though some have expanded this range to as early as 65 CE, see, e.g., R.A. GUELICH, *WORD BIBLICAL COMMENTARY, VOL. 34A, MARK 1-8:26 xxxi-xxxii* (Word Books 1989).

¹⁵ See, e.g., BART D. EHRMAN, *THE NEW TESTAMENT: A HISTORICAL INTRODUCTION TO THE EARLY CHRISTIAN WRITINGS* (8th ed. 2023); RAYMOND E. BROWN, *AN INTRODUCTION TO THE NEW TESTAMENT* (Yale Univ. Press 1997); W.D. DAVIES & DALE C. ALLISON JR., *A CRITICAL AND EXEGETICAL COMMENTARY ON THE GOSPEL ACCORDING TO SAINT MATTHEW* (T&T Clark 1988); GRAHAM STANTON, *THE GOSPELS AND JESUS* (2d ed. 2002).

but their attitudes toward the Law, from simplest to most complex. We will thus begin with Mark—about whom Levinson and Feldman are surely correct—and John—about whom they are surely incorrect—and then proceed to the more complicated views of the antinomian Luke and, lastly, the pseudo-rabbinic Matthew.¹⁶

I. THE GOSPEL OF MARK

It is evident that, according to Mark, the primary error of the Pharisees was their hyperlegalist—or originalist—approach to the Law, which, in his view, came at the cost of the Law's spirit.

The primary text for identifying Mark's attitude towards the Law is from the seventh chapter of his Gospel. There, in a passage that was not copied by either Matthew or Luke, Mark lays out a thorough and condemnatory criticism of the legalistic attitudes of the Pharisees through the means of the following story:

The Pharisees and some of the teachers of the law who had come from Jerusalem gathered around Jesus and saw some of his disciples eating food with hands that were defiled, that is, unwashed. ... So the Pharisees and teachers of the law asked Jesus, "Why don't your disciples live according to the tradition of the elders instead of eating their food with defiled hands?" He replied, "Isaiah was right when he prophesied about you hypocrites; as it is written, 'These people honor me with their lips, but their hearts are far from me. They worship me in vain; their teachings are merely human rules.' ... Again, Jesus called the crowd to him and said, "Listen to me, everyone, and understand this. Nothing outside a

¹⁶ These characterizations are, of course, my own. Much more could be said to demonstrate Luke's disdain for rabbinism and Matthew's fondness for it than the scope of this article permits.

person can defile them by going into them. Rather, it is what comes out of a person that defiles them.”¹⁷

There are three things of note in this passage. The first is the Pharisees’ scrupulous insistence on following the most minute dicta of the Law in a literal fashion. Against this, Jesus complains that the Pharisees have lost their sense of the spirit of the Law in their insistence upon its literal implementation. This culminates in the famous declaration of all foods clean, for only “what comes out of a person” can “defile them.” Thus, it is correct to argue that Markan Christianity saw itself as proponents of a “living Law” or functionalist theory, in contrast to the more “originalist” or formalist Pharisees.

This makes itself evident in another, shorter exchange between Jesus and a delegation of Sadducees (another Jewish sectarian group). A timid group of Sadducees approach Jesus with the following question:

“Teacher,” they said “Moses wrote for us that if a man’s brother dies and leaves a wife but no children, the man must marry the widow and raise up offspring for his brother. Now there were seven brothers. The first one married and died without leaving any children. The second one married the widow, but he also died, leaving no child. It was the same with the third. In fact, none of the seven left any children. Last of all, the woman died too. At the resurrection whose wife will she be, since the seven were married to her?”¹⁸

Given the reverence with which the question was introduced, it was surely intended to be a serious legal query. However, Jesus’ response—as

¹⁷ Mark 7:1–2, 5–7, 14–15 (New International Version).

¹⁸ Mark 12:19–23.

recorded by Mark; again, this passage is not recorded by any other Gospel—is almost vindictive:

Are you not in error because you do not know the Scriptures or the power of God? When the dead rise, they will neither marry nor be given in marriage; they will be like the angels in heaven. Now about the dead rising—have you not read in the Book of Moses, in the account of the burning bush, how God said to him, ‘I am the God of Abraham, the God of Isaac, and the God of Jacob’ [Exod. 3:6]? He is not the God of the dead, but of the living. You are badly mistaken!¹⁹

Instead of responding to their question on their terms, he rejects their premise, rebuking them for considering it a matter of legality rather than theology. In other words, he refuses to deal with the minutiae of the Law, preferring to deal only with the grand values to which the Law points.

Thus, Mark demonstrates a disinterest in the particulars of the Law, stressing through Jesus’ mouth in speeches that no other Evangelist²⁰ records (and thus are probably non-historical) the short-sightedness of the Jewish sectarians (broadly speaking, the Pharisees and Sadducees) who insist on living by a literal interpretation of the Law.²¹

II. THE GOSPEL OF JOHN

If the case for Mark’s beliefs about the Law had to be teased out from his unique Jesus-sayings about the Law, John’s are much more plainly and explicitly stated. In his opening chapter, he remarks that though “the law was given through Moses; grace and truth came through Jesus Christ.”²² Whereas Mark understood the values which Christ preached to be

¹⁹ Mark 12:24–27

²⁰ As the Gospel-authors are traditionally called.

²¹ Obviously, these are not Mark’s only statements about the Law. For brevity’s sake, our discussion of Mark must close here, but much more could be said.

²² John 1:17.

latent in the Law, John perceives it to be something external to the Law. Thus, whereas Mark criticized the Pharisees for misinterpreting the Law, John complains about their continued use of the Law in a post-Christ world. He concedes fully to the Pharisee interpretation of the Law; he simply rejects their assertion of its continued authority.

When a stunned Temple-worshipper (his sect is not mentioned) wonders from whence Jesus derived his wisdom without having been instructed by a rabbi, John records a response that would have been unthinkable in any other Gospel:

Jesus answered, "My teaching is not my own. It comes from the one who sent me. Anyone who chooses to do the will of God will find out whether my teaching comes from God or whether I speak on my own... I did one miracle, and you are all amazed. Yet, because Moses gave you circumcision (though actually it did not come from Moses, but from the patriarchs), you circumcise a boy on the Sabbath. Now if a boy can be circumcised on the Sabbath so that the law of Moses may not be broken, why are you angry with me for healing a man's whole body on the Sabbath?"²³

In this remarkable statement, Jesus effectively declares himself to be a second Moses; by comparing his teachings to Moses, he implies that he has equal authority (at least) with the latter. Thus, his teachings are not a rediscovery of the spirit of the Law, but a new covenant which supersedes the Law. It is no wonder that the very next verses record the Jews plotting to kill him: this is utter blasphemy.²⁴

In perhaps the most famous episode of John's Gospel, Jesus interrupts the stoning ceremony of a woman caught in an act of adultery.

²³ John 7:16–17, 21–23.

²⁴ John 7:25–32.

Turning to the surrounding Pharisees, he calmly remarks, “Let any one of you who is without sin be the first to throw a stone at her.”²⁵ This is not merely an act of mercy; it is a clear example of Jesus applying his own values above the Law. He does not offer any justification for his actions on the basis of the Law; he simply negates the Law’s ability to execute punishment on the basis of just deserts, one of the fundamental principles of any functioning legal system. By doing so, he was not amending the Law, but replacing it.

In case this is not explicit enough, Jesus once refers to the Law as “your law” (νόμῳ [...] τῷ ὑμετέρῳ²⁶; νόμῳ ὑμῶν²⁷) and once as “their law” (νόμῳ αὐτῶν)²⁸ with the clear implication that the Law belongs to the Pharisees and not to his own followers. The dichotomy consistently set up by John’s Jesus between the Law of Moses and his own revelation forbids the application of Levinson and Feldman’s conclusions to his Gospel: the debate between the Pharisees and the early Christ-followers in John’s Gospel is not between different approaches to interpreting the law, but about the veracity of Jesus as a second covenant and revelation.

III. THE GOSPEL OF LUKE

Like his predecessor and primary source, Mark, Luke believed in the continued authority of Scriptural Law. Luke (and Matthew) happily quotes from Mark Jesus’ instruction to a leper to show himself to the priest, “as Moses commanded.”²⁹ When Jesus is approached by “an expert in the law” (presumably a Pharisee) and asked how to achieve eternal life, Luke’s Jesus responds by directing him towards the Law.³⁰ Indeed, in Luke’s rendition of the Birth Narrative, the fulfillment of the various laws

²⁵ John 8:7b.

²⁶ John 8:17.

²⁷ John 10:34.

²⁸ John 15:25.

²⁹ Luke 5:14. *See also* Mark. 1:44; Matt. 8:4.

³⁰ Luke 10:25–26.

pertaining to childbirth is mentioned on numerous occasions.³¹ Thus, Luke clearly demonstrates his normative acquiescence to the Law, at least in principle.

Yet, a number of key passages in his Gospel push in the other direction. When a simple question about inheritance is asked to Jesus, he responds not with the answer normatively prescribed by the Law, but with a warning against the dangers of greed.³² However, the following short, contextless speech Jesus gives in the sixteenth chapter of the Gospel is even more explicit:

“The Law and the Prophets were proclaimed until John. Since that time, the good news of the kingdom of God is being preached, and everyone is forcing their way into it. It is easier for heaven and earth to disappear than for the least stroke of a pen to drop out of the Law.”³³

Despite his general deference to the Law’s authority, he here declares it null since the coming of John the Baptizer. Immediately following this, he issues a rebuttal against the permissive laws of divorce found in the Mosaic Law (Deut. 24:1–4): “Anyone who divorces his wife and marries another woman commits adultery, and the man who marries a divorced woman commits adultery.”³⁴ This passage appears to represent a shift in Jesus’ thought, as presented by Luke. Until now, by and large, he acknowledged the authority of the Law; at this point, he rejects it wholesale and immediately begins making his own judgments.

It is for this reason that Luke’s attitude towards the Law is more difficult to ascertain than Mark’s or John’s: his views are less consistent

³¹ *E.g.*, Luke 2:21 (circumcision); 2:22–24 (purification rites for a new mother); 2:39.

³² Luke 12:13–15.

³³ Luke 16:16–17.

³⁴ Luke 16:18.

than theirs are.³⁵ What can be said, however, is that his critique is not based on legal theory; he was not criticizing the Pharisees for using the wrong tools in the interpretation of their law or for being legal formalists; he was rather admonishing the legal system writ large, eventually concluding that it was not worth maintaining. This can be demonstrated by looking at an earlier passage in the Gospel, where Luke lays out seven complaints against the Pharisees (often called the “seven woes”). We need not go through them all, but the very first one is sufficient to get the general sense of the cause of Luke’s displeasure:

“Woe to you Pharisees, because you give God a tenth of your mint, rue and all other kinds of garden herbs, but you neglect justice and the love of God. You should have practiced the latter without leaving the former undone.”³⁶

Unlike Matthew’s rendition of the woes (Matt. 23:7ff), in Luke’s version, Jesus’ ire is directed towards the Pharisaic system or the Pharisees writ large, not merely against their leaders. Thus, even before rejecting the Law outright, Luke’s Jesus already had hesitations about the Jewish Law as interpreted by the Pharisees. And his arguments against them are not against the method of interpretation—formalism versus functionalism—but against the very structure of the Law.³⁷

³⁵ My own view, for what it’s worth, is that Luke ought to be grouped with John on this matter. It seems to me that most of the pro-Law material in Luke’s Gospel is, in truth, polemical material against the Nazarenes (the residents of Jesus’ hometown) who, as Bruce Chilton has artfully dramatized in *RABBI JESUS: AN INTIMATE BIOGRAPHY* (Doubleday: 2002), regarded Jesus an outcast. By associating the Law with them, Luke is establishing the break between Jesus and his community—who deny him (Luke 4:14ff)—along legal grounds. The somewhat unpalatable—but, to my mind, demonstrably true—consequence of this theory is the negative light it casts Mary and Joseph in, though to pursue this would require a lengthier study than is appropriate for this venue.

³⁶ Luke 11:42.

³⁷ Another iteration of this dissatisfaction with the Pharisaic legal structure, and not just their methods of interpretation, can be seen in Luke 13:10ff, when Jesus is confronted about healing a crippled woman on the Sabbath. Despite this being a common motif in the Gospels, the answer Luke provides for Jesus is not found anywhere else (vv. 15b–16): “You hypocrites! Doesn’t each of you on the Sabbath untie your ox or donkey

IV. THE GOSPEL OF MATTHEW

Though Matthew's attitude towards the Jews is much disputed,³⁸ his treatment of their Law is unquestionably softer than that of the other Evangelists. His—and only his—Jesus declares that he has not only “come to abolish the Law... but to fulfill them.”³⁹ He continues:

For truly I tell you, until heaven and earth disappear, not the smallest letter, not the least stroke of a pen, will by any means disappear from the Law until everything is accomplished. Therefore anyone who sets aside one of the least of these commands and teaches others accordingly will be called least in the kingdom of heaven, but whoever practices and teaches these commands will be called great in the kingdom of heaven. For I tell you that unless your righteousness surpasses that of the Pharisees and the teachers of the law, you will certainly not enter the kingdom of heaven.⁴⁰

He thus not only acknowledges the ineffability of the Law, but the binding authority of the Pharisee leaders (the early rabbis). In this vein, he says that “the teachers of the Law and the Pharisees sit in Moses' seat,”⁴¹ once again affirming their right to interpret Scripture and decide the Law.

Indeed, Matthew's Jesus doesn't only affirm the Law, he insists that his own teachings are the natural conclusion of the Law's ethos. Twice, he

from the stall and lead it out to give it water? Then should not this woman, a daughter of Abraham, whom Satan has kept bound for eighteen long years, be set free on the Sabbath day from what bound her?”

³⁸ For scholars who interpret his view of Jews negatively, see, e.g., PAULA FREDRIKSEN, *FROM JESUS TO CHRIST* (2d ed. 2000); JOHN DOMINIC CROSSAN, *WHO KILLED JESUS?* (HarperCollins 1995). For scholars who interpret it more positively, see, e.g., Ernst von Dobschütz, *Matthäus als Rabbi und Katechet*, 27 *ZEITSCHRIFT FÜR DIE NEUTESTAMENTLICHE WISSENSCHAFT* 338 (1928).

³⁹ Matt 5:17.

⁴⁰ Matt 5:18–20.

⁴¹ Matt 23:2.

refers to the Christian ethic of altruistic charity (which is often considered Jesus' greatest innovation) as the "sum of the Law and the Prophets,"⁴² something no other Evangelist ever does. Not only this, but on numerous occasions, he quotes the early rabbinic tradition as the source of his ethical statements.⁴³ This displayed affinity for the rabbinic tradition demonstrates not only a fondness for the Scriptural Law, but even for the Pharisaic interpretations layered upon it.

However, even Matthew has some complaints against the Pharisees. His, however, is not systematic, but personal. Meaning that he never levies any real critique against the Pharisaic system, only against the Pharisee leaders. To appreciate Matthew's unique polemics, compare his iteration of the "seven woes" to Luke's. Recall that Luke opened his woes with "Woe to you, Pharisees."⁴⁴ Matthew, by contrast, opens most of his woes with "Woe to you, teachers of the law and Pharisees, you hypocrites...",⁴⁵ focusing on the leaders, not the nation or the legal system.

Jewishness or lack thereof of the Matthean Gospel aside, what emerges from this brief analysis is that Matthew's complaint was not against the legalisms of the Pharisees, but against the personal conduct of their leaders. Thus, the conclusion that early Christians critiqued the Jews for their hyper-literalism in interpreting the Law, as opposed to the "spirit

⁴² Matt 7:12; 22:37–40.

⁴³ For example, Matthew's version of the prohibition against divorce (Matt. 5:31–32; 19:1–12), in contrast to Luke's and Mark's iterations of the prohibition, Matthew permits divorce in the case of adultery (5:32). The only other source among first century Jews from which Matthew could have drawn this dicta is from the early tannaic rabbi, Shammai (c. 50 BCE – 30 CE), who says "A man may not divorce his wife unless he finds in her a perverse matter (i.e., she committed adultery or is suspected of having done so), as it says (Deut. 24:1): 'Because he has found some unseemliness in her...'" (m.Gitt. 9:10). Many such examples exist in Matthew's Gospel, but not one can be found in any of the other canonical Gospels.

⁴⁴ Luke 11:42–43. After this, he switches to the generic "Woe is you," as in vv. 44, 45, 47, and 49.

⁴⁵ Matt 23:13, 15, 23, 25, 27, 29.

of the Law” they favored, does not hold for Matthew’s Gospel either, just as it did not hold for Luke’s or John’s.

CONCLUSION

We have thus concluded our survey of the legal disputes in the canonical Gospels. At its close, we raise the question with which we began: is it fair to assert that the legal disagreements between the Pharisees and the early Christians are of the same type as the current (and perennial) debate between Supreme Court Justices about Constitutional Originalism versus the “Living Constitution” or between legal scholars about legal formalism versus legal functionalism? Certain scholars, certainly, are of the view that they are; we cited from Levinson and Feldman, though there are several others of note. However, upon the conclusion of our analysis of the Gospels themselves, we are left puzzled by this thesis: it holds in only one of the four Gospels.⁴⁶ The Markan Gospel, the first and most a priori reliable of the Gospels, presents the Jesus-Pharisee debate as one of formalism versus functionalism: the Pharisees, he alleges, were hyperfocused on the literal interpretation and implementation of the Law, in contrast to Jesus who was far more interested in the spirit of the Law. However, that is only Mark. None of the other Gospels give any indication that they agree with Mark’s assessment of the debate. John, for example, clearly believed that they disagreed about the continued application of the Law in a post-Christ world, with Jesus arguing that his coming dethrones the Law and removes its authority, and the Pharisees objecting that the Law is eternally binding. On the other end of the chain, Matthew explicitly writes that Jesus believed in both the continued authority of the Law and the rabbinic interpretation. He argued with the Pharisees only because he thought their leadership was corrupt. And, though Luke’s view of the Law

⁴⁶ Space does not permit a full analysis of the non-Gospel works (i.e., the Epistles that make up the majority of the New Testament), so I will simply assert that they do not support this theory.

is deeply complicated, what is certain, at least, is that his presentation of Jesus' objections to the Pharisees is not in line with Mark's.

Thus, we conclude that the theory that Jesus and the Pharisees differed on the same grounds as our modern Supreme Court Justices and legal scholars holds only for Mark's Gospel. It would be incorrect to assert such a thesis for Jesus as he is presented by the other three Gospels. Hence, it seems unlikely that this is, historically, the divide between the Christ-following Jews and the Pharisees.