

Module 1: The Legality of the Trial

Part 1: The Sanhedrin:

The Jewish State was run by the religious authorities as a theocracy

- Rome didn't want trouble in the colonies
 - allowed local limited self-rule, ultimate authority held by Rome
 - taxes
 - military
 - death penalty
 - Therefore Jewish high priesthood and Sanhedrin was essentially the secular authority, too.
- Sanhedrin: (Etymology: from Greek, assembly of council in sitting posture)
- Modelled after Moses' elders (God told him to choose 70 – Num 11)
 - 14 I am not able to carry all this people alone, the burden is too heavy for me. 15 If thou wilt deal thus with me, kill me at once, if I find favor in thy sight, that I may not see my wretchedness."*
 - 16 And the LORD said to Moses, "Gather for me **seventy** men of the elders of Israel, whom you know to be the elders of the people and officers over them; and bring them to the tent of meeting, and let them take their stand there with you.*
 - 17 And I will come down and talk with you there; and I will take some of the spirit which is upon you and put it upon them; and they shall bear the burden of the people with you, that you may not bear it yourself alone.*
- Held in highest respect/awe
 - 69 members plus 2 leaders: "Prince" and "Father"
 - 3 chambers of 23 – chamber of priests, chamber of scribes, chamber of elders
- High court of Justice and Supreme Tribunal of the Jews
 - Called when affair concerned: a whole tribe, a false prophet, the high priest, declaring war, enlarging Jerusalem, establishing subsidiary courts, or placing towns under excommunication
 - So powerful that Herod the Great, while prefect, was called before it as defendant when he caused a band of robbers to be killed by its leader (Josephus); King Hyrcanus couldn't get him exempted
 - Could only pronounce a death sentence in one place: "Gazith", or hall of hewn stones, in one of Temple Courts – Talmud: "Except in the Gazith no sentence of death whatsoever can be passed."
- in 11 A.D. Rome reserved power of life and death to itself in all provinces (Tacitus and Talmud). This was considered a terrible blow
 - members covered themselves in sackcloth and ashes: "*Woe unto us, for the sceptre has departed from Judah, and the Messiah has not come!*" (Gen 49:10; Judah praying over his sons: '*The scepter shall not depart from Judah, nor the ruler's staff from between his feet, until he comes to whom it belongs; and to him shall be the obedience of the peoples*').
- Rabbis saw in Gen 49:10 two signs that would precede the coming of the Messiah:
 - "*The Son of David shall not come unless the royal power (kingship) has been taken from Judah...*" (Happened on the return from Babylon – rulers had not been of David's line.

- Maccabeans were of Levi, Herod Idumean (Edomite), not even Jewish blood.
- “*The Son of David shall not come unless the judges have ceased in Israel*” (Sanhedrin f.97) – fulfilled with loss of capital punishment
- When they did it anyway (James stoning) other Jews went to procurator Albinus to object to its illegality (Josephus)
- ““council of high priests” (Mt. 26:59, Mk 14:55) – Jews say it is an error, but
 - confirmed in Talmud that there were multiple high-priests
 - abuse had been going on for a century; instead of hereditary for life, became appointed annually by procurators in return for bribes
 - 12 “high priests” at time of Jesus' trial: Ananas (ex), Caiaphas (his son-in-law), 5 sons of Ananas,
 - high-priests sent servants to threshing-floors to take the tithes due to simple priests, so much so that the poorest priests starved to death (Josephus)
 - Talmud usually praises the high-priests! but (Pesachim f.57): “*What a plague is the family of Ananas; cursed be their hissing of vipers!*...*their servants strike the people with staves*” ... “*The porch of the sanctuary cried out...Depart from here, descendants of Eli; ye pollute the Temple of the Eternal...Widen yourselves, ye gates, and let Ananias ... gourmand enter; that he may glut himself on the victims!*”
 - Gamaliel was in the Council of Scribes, Joseph of Arimathea and Nicodemus in the Council of Elders (less power)

Part 2: Condemned before Trial

3 Council sessions held condemning Jesus to death before his “trial”:

1st Council: held between 28th and 30th of September the year before the Crucifixion. (33 A.D). John 7:

*After this Jesus went about in Galilee; he would not go about in Judea, because **the Jews sought to kill him**. Now the Jews' feast of Tabernacles was at hand. So his brothers said to him, “Leave here and go to Judea, that your disciples may see the works you are doing....Jesus said to them, “Go to the feast yourselves; I am not going up to this feast, for my time has not yet fully come.” So saying, he remained in Galilee. But after his brothers had gone up to the feast, then he also went up, not publicly but in private. The Jews were looking for him at the feast, and saying, “Where is he?”*

*About the middle of the feast Jesus went up into the temple and taught. The Jews marveled at it, saying, “How is it that this man has learning, when he has never studied?” So Jesus answered them, “My teaching is not mine, but his who sent me... Did not Moses give you the law? Yet none of you keeps the law. Why do you seek to kill me?”...[And] Some of the people of Jerusalem therefore said, “**Is not this the man whom they seek to kill**.... So they sought to arrest him; but no one laid hands on him, because his hour had not yet come”*

... Nicodemus, who had gone to him before, and who was one of them, said to them, “Does our law judge a man without first giving him a hearing and learning what he does?” They replied,

"Are you from Galilee too? Search and you will see that no prophet is to rise from Galilee."

- This first trial also evidenced in the story of the “man born blind” cured 2 days after the Feast of Tabernacles (Jn 9:22):
*“His parents answered, "We know that this is our son, and that he was born blind; but how he now sees we do not know, nor do we know who opened his eyes. Ask him; he is of age, he will speak for himself." His parents said this because they feared the Jews, for the Jews had already agreed that if any one should confess him to be Christ, **he was to be put out of the synagogue.**”*
- That decree of excommunication must have been proclaimed that September. Following false prophet -> excommunication; being “false” prophet -> death.

2nd Council: February of the year of the Crucifixion (34 A.D.?). Called on account of the resurrection of Lazarus (Jn 11):

So the Jews said, "Could not he who opened the eyes of the blind man have kept this man from dying?" Then Jesus, deeply moved again, came to the tomb; it was a cave, and a stone lay upon it. Jesus said, "Take away the stone." ...So they took away the stone. And Jesus lifted up his eyes and said, "Father, I thank thee that thou hast heard me. I knew that thou hearest me always, but I have said this on account of the people standing by, that they may believe that thou didst send me."

When he had said this, he cried with a loud voice, "Lazarus, come out." The dead man came out, his hands and feet bound with bandages, and his face wrapped with a cloth. Jesus said to them, "Unbind him, and let him go."

[After Lazarus was raised from the dead] many of the Jews who had seen what he did, believed in him; but some of them went to the Pharisees and told them what Jesus had done. So the chief priests and the Pharisees gathered the council, and said, "What are we to do? For this man performs many signs. If we let him go on thus, every one will believe in him, and the Romans will come and destroy both our holy place and our nation."

*But one of them, Caiaphas, who was high priest that year, said to them, "You know nothing at all; you do not understand that **it is expedient for you that one man should die** for the people, and that the whole nation should not perish." He did not say this of his own accord, but being high priest that year he prophesied that Jesus should die for the nation, and not for the nation only, but to gather into one the children of God who are scattered abroad. So from that day on **they took counsel how to put him to death. [not whether, but how]***

- So at 2nd Council death sentence was explicitly decided on
 - without summoning the entire council, without witnesses, without any investigation of his doctrines or his miracles.
 - not pronounced because Jesus was seditious or revolutionary, or because he was changing

- doctrine, but because it was necessary to stop his miracles!
- death sentence pronounced by high-priest and ratified by council (“from that day on they took counsel how to put him to death”). Death sentence a settled question – just a matter of when and how.
- Jesus condemnation and sentence preceded his trial!!!

3rd Council

Held about 2 days before the Passover – about 12th of March. Luke 22 and Mt 26:

*Now the feast of Unleavened Bread drew near, which is called the Passover. And the chief priests and the scribes were seeking how to put him to death; for they feared the people. They gathered in the palace of the high priest, who was called Caiaphas, and took counsel together in order to arrest Jesus by stealth **and kill him**. But they said, "Not during the feast, lest there be a tumult among the people."*

- Note: the question about the sentence on Jesus is not debated – death sentence already determined. Just how and when.
- Were going to delay till after the Feast when Judas showed up offering to turn him over.
- By the time Jesus first appeared before the Sanhedrin, it had met three times about in, and passed 3 adverse judgements against him:
- 1st Council, in excommunicating his followers, denounced him as a false prophet and hence deserving of death penalty
- 2nd Council question of his death was raised and unanimously approved
- 3rd Council his arrest and execution appointed to take place at first favorable opportunity.

All this before his “trial” ! Makes the trial a mockery and lie!

Part 3: Legality of the Trial (at Night)

1. Court must not be held on Sabbath or any Holy Day, or on day preceding (Betza 5:2). (Sanhedrin, 4:1). (To avoid the risk of the judges violating the Sabbath if trial not concluded in time.)
2. Court must be held during daytime: (Sanhedrin 4:1). Maimonides: "...a more searching examination can be made by daylight."
3. Court cannot take place before the morning sacrifice. (Sanhedrin 1:19).
4. The witnesses must be two or more in number (Deut 17:6), and must give their testimony separately, and in the presence of the accused.
5. Before testifying, the witnesses must promise solemnly to tell the truth, and must be reminded that if they testify falsely they suffer the penalty they sought to be imposed (death) (Sanh.4:5)
6. Judges must ask what day, what hour, where, and do you identify this person?
7. No testimony valid unless all witnesses agree on the facts in all details "if one witness contradicts another, the testimony is not accepted (Sanh. :5:2)
8. Judge must address the accused humanely and kindly
9. The accused cannot be condemned on his own confession.
10. Permission must be granted to anyone to plead for the defense
11. Trial that terminates in death sentence cannot be concluded on the day on which it begun (Sanh 4:1)
12. On intervening night, judges must reconsider minutely, two by two
13. 2 scribes must record the votes
14. Condemning votes must exceed by 2 those favoring acquittal
15. Any sentence pronounced outside the Hall of Hewn Stones null and void

Some violations:

1. Held at night
2. on eve of Feast-day
3. concluded in one day
4. the accuser (Caiaphas) acts as judge and president of the assembly
5. Caiaphas does not begin with the indictments and witnesses, but with interrogating the defendant
6. Begins by asking defendant to testify against himself. That's why he refuses to answer (Jn 18:20-1) and gets hit for it.

The high priest then questioned Jesus about his disciples and his teaching. Jesus answered him, "I have spoken openly to the world; I have always taught in synagogues and in the temple, where all Jews come together; I have said nothing secretly. 21 Why do you ask me? Ask those who have heard me, what I said to them; they know what I said." When he had said this, one of the officers standing by struck Jesus with his hand, saying, "Is that how you answer the high priest?" Jesus answered him, "If I have spoken wrongly, bear witness to the wrong; but if I have spoken rightly, why do you strike me?"

-- to protect office of High Priest from sinning

7. Mistreats prisoner

8. Judges did not investigate the witnesses and bind them by an oath
9. Witnesses did not agree
10. Witnesses heard each other
11. Caiaphas demands Jesus respond to the accusations despite their invalidity (Mk 14:60)
12. Caiaphas demands Jesus testify “against” himself (Mk 14:63):

But Jesus was silent. And the high priest said to him, "I adjure you by the living God, tell us if you are the Christ, the Son of God." Jesus said to him, "You have said so. But I tell you, hereafter you will see the Son of man seated at the right hand of Power, and coming on the clouds of heaven."

Then the high priest tore his robes, and said, "He has uttered blasphemy. Why do we still need witnesses? You have now heard his blasphemy. What is your judgment?" They answered, "He deserves death." Then they spat in his face, and struck him; and some slapped him...

- i. Caiaphas gave up on witnesses (nothing found), doesn't release Jesus
- ii. Instead directly interrogates witness
- iii. oath was to be required of witnesses, not defendant!
- iv. Trick question – if Jesus says “no”, he was an imposter, if “yes”, he is a blasphemer
- v. Jesus respects the name of God
- vi. Caiaphas not treating accused with gentleness and respect
- vii. Caiaphas does not address the possible truth of Jesus' claim
- viii. By exclaiming “he is guilty”, Caiaphas forestalls decision of other judges
- ix. Caiaphas precludes other witnesses
- x. “What is your judgment” calls for public and general vote, instead of one at a time in order
- xi. Sentence passed on same day, no deliberations 2 by 2
- xii. Tearing garments forbidden to high priest

Part 4: Morning Trial

1. Morning trial held to avoid annulment of illegal night proceedings
2. before morning sacrifice
3. on a Feast Day
4. Interrogate accused again (Lk 22:66: *When day came, the assembly of the elders of the people gathered together, both chief priests and scribes; and they led him away to their council, and they said, "If you are the Christ, tell us."*)
5. Again “no need of witnesses”
6. verdict *en masse*
7. sentence imposed same day
8. pronounced in Caiaphas' house, not Hall of Hewn Stones