

Introduction to Tractate Sanhedrin

Sanhedrin deals with the organization of the Israelite government and the courts and punishments administered thereby. The court system is set forth in the Mishnah's statement of matters (Mishnah tractate *Sanhedrin* 1:1–5:5), the death-penalty (Mishnah tractate *Sanhedrin* 6:1–11:6), and extra-judicial penalties (Mishnah tractate *Sanhedrin* 9:5–6, 10:1–6). The penalties other than capital punishment, that is, perjury (with variable penalties), banishment, and flogging, are set forth in the next tractate, *Makkot*.

- I. The court system
 - A. Various kinds of courts and their jurisdiction
 - B. The heads of the Israelite nation and the court system
 - C. The procedures of the court system: property cases
 - D. The procedures of the court system: capital cases
- II. The death penalty
 - A. Stoning
 - B. The four modes of execution that lie within the power of the court and how they are administered
 - C. Stoning
 - D. Burning or decapitation
 - E. Strangulation
 - F. Extra-judicial punishment
 - G. Death at the hands of Heaven: denial of eternal life

While Scripture supplies many facts, the Talmud organizes matters in its own way. The details of the organization of the court system do not derive from the written Torah, nor are the specificities of the death penalty supplied there. Scripture's contribution is therefore episodic. Deu. 16:18–20 specifies appointing judges and Deu. 17: 8–13 provides for an appellate system. The death penalty for murder is specified in Num. 35:30 and that it must rely on the testimony of two or three witnesses in Deu. 17:6–7. The comparison of the high priest with the king (Mishnah tractate *Sanhedrin* 2:1–5) rests on Lev. 21:10–12 (for the high priest) and Deu. 17:14–20 (for the king). The death penalty involving hanging the body on a tree until night (but with burial on the same day) is found in Deu. 21:22–23. The death penalty for the stubborn and rebellious son is found in Deu. 21:18–21. The city that is wiped out because of idolatry is treated in Deu. 13:12–18. Scripture contributes facts for the law in *Sanhedrin* on specific topics, but the shape and program of the tractate as a whole cannot be predicted on the basis of the Torah.

In its overarching structure tractate *Sanhedrin* moves from property cases to capital cases. Then within capital cases *Sanhedrin* addresses the penalties for catalogued crimes (from the most severe to the lightest crimes). Lastly the law turns to the most severe penalty of all: the penalty that only the Heavenly court can impose.

The auxiliary portion of the tractate then proceeds from capital to corporal punishment. The order of the whole tractate is:

- (1) the earthly court and property cases;
- (2) the earthly court and capital punishment;
- (3) the Heavenly court; and, then appended,
- (4) corporal punishment.

This order of exposition identifies for us what is at issue when the topic of punishment for criminal acts is addressed. The rabbinic sages approach the topic of criminal justice bearing in mind a profound theological issue: how God's justice is to be done on earth in such a way as to express God's mercy, even for sinners and criminals.