

What was Unfair and Illegal about the Way to the Cross

By Anne Denniston

On the first Good Friday, Jesus not only suffered dreadful physical pain for our sins, but also psychological pain because what was done to him wasn't fair, and mental pain because what was done to him wasn't legal. Part of why he did this was so that no one can ever say to God, "You don't know what I'm going through - it isn't fair!" or "it isn't legal!"

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1. Background

In Israel, at the time of Jesus, trials were judged by the Sanhedrin according to the law of Moses and the Talmud.

1.1. The Sanhedrin

The Jewish system of jurisprudence, law and judgment was based mostly on **Deuteronomy 16:18–20** ¹⁸*You shall appoint for yourself judges and officers in all your towns which the Lord your God is giving you, according to your tribes, and they shall judge the people with righteous judgment.* ¹⁹*You shall not distort justice, you shall not be partial, you shall not take a bribe, for a bribe blinds the eyes of the wise and perverts the words of the righteous.* ²⁰*Justice and only justice you shall pursue, that you may live and possess the land which the Lord your God is giving you.*

In Jerusalem, there was a Great Sanhedrin, with 71 members, the high priest being president. The odd number was so that, in any voting, there would always be a majority. There were three classes:

- 24 chief priests, or heads of the twenty-four priestly courses (1 Chr 24),
- 23 scribes, and

- 24 elders.

They constituted the national parliament and sat as judges, with legislative, executive and judicial powers under the Mosaic Code.

1.2. The Mosaic Code

The Mosaic Code was the written law, based on the writings of Moses in the first five books of the Old Testament, known as the Torah.

The entire criminal procedure of the Mosaic Code was based on four rules:

- the charge must be definite/unchanged
- the trial must be public
- the accused has the right to defence
- there must be no errors in the testimony/evidence.

In the first century A.D., "the Law" included the regulations of the Talmud, which contained the ancient traditions (the Mishnah) and Rabbinic interpretations (the Gemara) transmitted orally for many centuries before being written down. In English, it takes up about 400 books. Many of these regulations were also broken during the arrest, trial and sentencing of Jesus, but I have not given the references here because we cannot look them up in the source documents.

1.3. The charges

The charge brought against Jesus before the Sanhedrin was first sedition against the state and then blasphemy against Jehovah. The charge brought against him before Pilate and Herod, was treason against the government of Rome. Both blasphemy and treason were capital offences, i.e., crimes punishable by death.

2. The arrest

Jesus celebrated the Passover meal with his disciples on the Thursday night, then he went with his disciples to the garden of Gethsemane.

2.1. What was unfair

2.1.A. His friends did not pray with him

Three times, Jesus asked the disciples to pray with him but they fell asleep, while he was sweating blood in prayer.

Matthew 26:36-46. ³⁶ Then Jesus went with them to a place called Gethsemane, and he said to his disciples, "Sit here, while I go over there and pray." ³⁷ And taking with him Peter and the two sons of Zebedee, he began to be sorrowful and troubled. ³⁸ Then he said to them, "My soul is very sorrowful,

even to death; remain here, and watch with me.”³⁹ And going a little farther he fell on his face and prayed, saying, “My Father, if it be possible, let this cup pass from me; nevertheless, not as I will, but as you will.”⁴⁰ And he came to the disciples and found them sleeping. And he said to Peter, “So, could you not watch with me one hour?⁴¹ Watch and pray that you may not enter into temptation. The spirit indeed is willing, but the flesh is weak.”⁴² Again, for the second time, he went away and prayed, “My Father, if this cannot pass unless I drink it, your will be done.”⁴³ And again he came and found them sleeping, for their eyes were heavy.⁴⁴ So, leaving them again, he went away and prayed for the third time, saying the same words again.⁴⁵ Then he came to the disciples and said to them, “Sleep and take your rest later on. See, the hour is at hand, and the Son of Man is betrayed into the hands of sinners.⁴⁶ Rise, let us be going; see, my betrayer is at hand.”

2.1.B. His disciple betrayed him

Judas had years as a disciple of Jesus to learn to love his leader, witness his miracles and absorb his teaching. Yet he plotted against Jesus.

2.1.B.a. Judas accepted money to betray Jesus

He went to the chief priests and offered to give Jesus up to them.

Luke 22:3-6. ³ Then Satan entered into Judas called Iscariot, who was of the number of the twelve. ⁴ He went away and conferred with the chief priests and officers how he might betray him to them. ⁵ And they were glad, and agreed to give him money. ⁶ So he consented and sought an opportunity to betray him to them in the absence of a crowd.

2.1.B.b. Judas betrayed him with a kiss

He led a mob (that could have been a thousand strong) to Jesus and identified him to them by kissing him.

Matt 26:48-50. ⁴⁸ Now the betrayer had given them a sign, saying, “The one I will kiss is the man; seize him.” ⁴⁹ And he came up to Jesus at once and said, “Greetings, Rabbi!” And he kissed him. ⁵⁰ Jesus said to him, “Friend, do what you came to do.”^[f]

2.1.C. His followers abandoned him

The disciples ran away when Jesus was arrested.

Mark 14:50-52. ⁵⁰ And they all left him and fled.

2.2. What was illegal

2.2.A. The Sanhedrin bribed Judas

Deuteronomy 16:19c. *You shall not distort justice, you shall not be partial, you shall not take a bribe, for a bribe blinds the eyes of the wise and perverts the words of the righteous.*

Luke 22:4-5. ⁴ *He went away and conferred with the chief priests and officers how he might betray him to them.* ⁵ *And they were glad, and agreed to give him money.*

2.2.B. Jesus was arrested at night

Jewish law did not allow any part of the legal proceedings for a capital offence to take place at night.

3. The trial

The trial was stretched out over an exhausting night, with Jesus being dragged from the garden of Gethsemane to Annas' house, then to Caiaphas' house, two meetings of the Sanhedrin, to Pontius Pilate's house, to Herod's palace, back to Pontius Pilate and the Roman garrison, and finally up the steep road to Mount Golgotha (English name, Place of the Skull; Latin name, Calvary).

3.1. What was unfair

3.1.A. There were two high priests

There was only supposed to be one high priest at a time but there were two people acting as high priest at the time of Jesus, Annas and his son-in-law, Caiaphas.

Luke 3:2 *In the high priesthood of Annas and Caiaphas, the word of God came to John, the son of Zacharias, in the wilderness.*

Under God's design, high priests were high priests for life but Annas was only the official high priest from A.D. 6 to 15. The Romans removed him from office but he was still a power behind the scenes. Five of his sons succeeded him as high priest and his son-in-law was the high priest at the time of Jesus' ministry. All of the money-changing and the buying and selling of the sacrifices in the temple was called "the bazaars of Annas". Jesus went in and overturned the tables and threw everybody out (John 2:13-17) and Annas hated him for it.

John 18:13, 14 *And led him to Annas first; for he was father-in-law of Caiaphas, who was high priest that year. Now Caiaphas was the one who had advised the Jews that it was expedient for one man to die on behalf of the people.*

Most of the judges were legally disqualified to try Jesus. Some had bought their way into office, according to Josephus. Under the Romans, high priests could be voted into office year by year. There were 12 ex-high priests at that time, all part of the Sanhedrin.

3.1.B. Peter denied him

Peter said three times that he did not know Jesus, even though he had previously said he would die with him, and all the other disciples said the same.

John 18:15-17 ¹⁵ Simon Peter followed Jesus, and so did another disciple. Since that disciple was known to the high priest, he entered with Jesus into the court of the high priest, ¹⁶ but Peter stood outside at the door. So the other disciple, who was known to the high priest, went out and spoke to the servant girl who kept watch at the door, and brought Peter in. ¹⁷ The servant girl at the door said to Peter, "You also are not one of this man's disciples, are you?" He said, "I am not." ¹⁸ Now the servants and officers had made a charcoal fire, because it was cold, and they were standing and warming themselves. Peter also was with them, standing and warming himself....

John 18:25-27 ²⁵ Now Simon Peter was standing and warming himself. So they said to him, "You also are not one of his disciples, are you?" He denied it and said, "I am not." ²⁶ One of the servants of the high priest, a relative of the man whose ear Peter had cut off, asked, "Did I not see you in the garden with him?" ²⁷ Peter again denied it, and at once a cock crowed.

Matthew, Mark and Luke have Peter in Caiaphas' courtyard (Matthew 26:57-58; Mark 14:53-54; Luke 22:54) whereas John has him in Annas' courtyard (John 18:13). Probably Annas and Caiaphas lived in the same place or at least did official business in the same place.

3.1.C. There was an extra interrogation before only one judge

Jesus was privately examined by a high priest before His regular trial by the Sanhedrin.

Later laws stated, "Be not a sole judge, for there is no sole judge but One" and "An accused man must never be subjected to private or secret examination, lest in his perplexity, he furnish damaging testimony against himself." These laws may have been in place in Jesus' time.

John 18:19. *The high priest then questioned Jesus about his disciples, and about His teaching.*

3.1.D. A servant hit Jesus

One of the Annas' servants hit Jesus for telling Annas to check with witnesses. Since Jesus was bound, there was no way for him to defend himself.

John 18:20-23. *When he had said this, one of the officers standing nearby struck Jesus, saying, "Is that the way you answer the high priest?" Jesus answered him, "If I have spoken wrongly, testify of the wrong; but if rightly, why do you strike me?"*

According to Hebrew law it was illegal to bind an uncondemned man.

3.1.E. Jesus was charged with blasphemy

The high priest said Jesus blasphemed and the rest of the Sanhedrin said he deserved death for it.

Leviticus 24:16. *"If anyone blasphemes the name of God, he is to be put to death."*

Matthew 26:63-66. ⁶³ *But Jesus remained 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."* ⁶⁴ *Jesus said to him, "You have said so. But I tell you, from now on you will see the Son of Man seated at the right hand of Power and coming on the clouds of heaven."* ⁶⁵ *Then the high priest tore his robes and said, "He has uttered blasphemy. What further witnesses do we need? You have now heard his blasphemy. ⁶⁶ What is your judgement?" They answered, "He deserves death."*

According to the Mishnah, blasphemy involved the use of the sacred name of God, Yahweh. Jesus did not use God's name.

The Sanhedrin spat on Jesus

The religious aristocracy spat on Jesus, blindfolded him and punched him.

Mark 14:65. ⁶⁵ *And some began to spit on him and to cover his face and to strike him, saying to him, "Prophecy!" And the guards received him with blows.*

To the Jews, the supreme sign of contempt was to spit.

Numbers 12:14. *And the LORD said unto Moses, If her father had but spit in her face, should she not be ashamed seven days? let her be shut out from the camp seven days, and after that let her be received in again.*

Deuteronomy 25:9. *Then shall his brother's wife come unto him in the presence of the elders, and loose his shoe from off his foot, and spit in his face, and shall answer and say, So shall it be done unto that man that will not build up his brother's house.*

3.2. What was illegal

3.2.A. The Sanhedrin brought charges against Jesus

The Sanhedrin was not supposed to originate charges. It could only investigate charges brought before it by witnesses.

In Jewish law, the witnesses are questioned, not the accused. When Jesus told Annas that he had said everything openly in front of witnesses, it was essentially a demand for a fair trial, with witnesses to defend him.

Numbers 35:30, Deuteronomy 17:6, Deuteronomy 19:15 all say you have to have two or three witnesses.

John 18:20-21. ²⁰ 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 in secret. ²¹ Why do you ask me? Ask those who have heard me what I said to them; they know what I said."

Mark 14:55. Tearing his clothes, the high priest said, 'What further need do we have of witnesses? You have heard the blasphemy; how does it seem to you?'

3.2.B. The witnesses did not agree

The accounts of the witnesses against Jesus did not agree.

A person could only be charged with a crime by two or three witnesses: they had to be specific about what they saw; they had to do it in a public assembly; and their evidence had to agree.

Deuteronomy 19:16-19. *If a malicious witness rises up against a man to accuse him of wrongdoing, then both of the men who have the dispute shall stand before the Lord, before the priests, and the judges who will be in office in those days. And the judges shall investigate thoroughly, and if the witness is a false witness and he has accused his brother falsely, then you shall do to him just as he had intended to do to his brother; thus you shall purge the evil from among you.*

Matthew 26:59-61. ⁵⁹ Now the chief priests and the whole Council were seeking false testimony against Jesus that they might put him to death, ⁶⁰ but they found none, though many false witnesses came forward. At last two came forward ⁶¹ and said, "This man said, 'I am able to destroy the temple of God, and to rebuild it in three days.'"

Mark 14:57-59. ⁵⁷ And some stood up and bore false witness against him, saying, ⁵⁸ "We heard him say, 'I will destroy this temple that is made with

hands, and in three days I will build another, not made with hands.'" ⁵⁹ Yet even about this their testimony did not agree.

The Sanhedrin should have been prosecuting the false witnesses.

3.2.C. The high priest tore his clothes

The high priest was not allowed to tear his clothes – but he did so here to stir up emotion and prejudice.

Leviticus 21:10. *And he who is the high priest among his brethren, on whose head the anointing oil was poured and who is consecrated to wear the garments, shall not uncover his head nor tear his clothes.*

Mark 14:55-65. *Tearing his clothes, the high priest said, 'What further need do we have of witnesses? You have heard the blasphemy; how does it seem to you?' And they all condemned Him to be deserving of death. Some began to spit at Him, and to blindfold Him, and to beat Him with their fists, and to say to Him, 'Prophecy!' And the officers received Him with slaps in the face.*

3.2.D. The Sanhedrin convened before dawn

The Sanhedrin convened before the offering of the morning sacrifice.

The Mishnah makes it very clear a meeting of the Sanhedrin in the night was illegal. The Sanhedrin could only sit between the morning sacrifice and the evening sacrifice. The morning sacrifice is offered at dawn.

Jesus was taken before Caiaphas and a quorum of the Sanhedrin at night and then to a more formal trial after dawn before the full Sanhedrin (Matthew 26:57, 27:1; Mark 14:53, 15:1; Luke 22:54, 66; John 17:24).

3.2.E. The trial only took one day

Jesus was arrested, tried and executed within about nine hours.

The Mishnah says that, if a person was found guilty of a capital offence, sentence could only be passed on the third day, so that the judges had a day in between to fast, meditate and pray about it. This also allowed time for any witnesses in support of the accused to present themselves.

3.2.F. The trial was on the day before the Passover

Jesus' trial was held on a Friday that was also the day before a Jewish festival.

No court of justice in Israel was allowed to hold sessions on the Sabbath (Saturday) or any of the seven Jewish festivals. Trials of capital crimes could not start on the day before any of these holidays, because it was not legal, either

to adjourn them for more than one night, or to continue them on the Sabbath or a holiday.

3.2.G. The verdict was unanimous

If none of the judges defended the culprit, i.e., all pronounced him guilty, when he had no defender in the court, the verdict of guilty was invalid and the sentence of death could not be executed.

Mark 14:64b. *...they all condemned Him to be worthy of death.*

The Mishna said the members of the Sanhedrin sat in a semicircle with a secretary at each end. One secretary recorded the votes in favour of the accused, the other the votes against him. The proper method of voting was to have each judge in turn absolve or condemn. In ordinary cases the judges voted according to seniority, the oldest first; in a capital case, the youngest voted first so that the younger members of the Sanhedrin could not be influenced by the views or the arguments of their more mature, more experienced colleagues.

Jesus was convicted by acclamation.

4. The sentencing

The main aim of the Hebrew judicial system was to make it impossible to convict an innocent person. Jesus was sentenced to death, although he was innocent of the charges against him.

4.1. What was illegal

4.1.A. The sentence was based on His own confession

No one could bring an accusation against himself. Any confession of guilt had to be properly attested by two witnesses. No one was allowed to lead a man on to incriminate himself.

Maimonides, the Jewish medieval scholar said, "The law does not permit the death penalty as a sentence for a sinner by his own confession."

Mark 14:56. ⁵⁶ *For many bore false witness against him, but their testimony did not agree...*

When the witnesses did not agree, instead of releasing Jesus, the judges tried to get Jesus to speak but he would not answer them. By remaining silent, he was invoking the right not to incriminate himself. Yet, by calling on the living God, Caiaphas insisted that Jesus do just that. So Jesus quoted from Daniel's well-known Messianic prophecy.

Matthew 26: 63-64. ⁶³ *But Jesus remained 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.” ⁶⁴ Jesus said to him, “You have said so. But I tell you, from now on you will see the Son of Man seated at the right hand of Power and coming on the clouds of heaven.”

Daniel 7:13-14. ¹³I saw in the night visions, and, behold, one like the Son of man came with the clouds of heaven, and came to the Ancient of days, and they brought him near before him. ¹⁴And there was given him dominion, and glory, and a kingdom, that all people, nations, and languages, should serve him: his dominion is an everlasting dominion, which shall not pass away, and his kingdom that which shall not be destroyed.

4.1.B. Sentence was pronounced in a forbidden place

The trial took place at the high priest's house. According to the law, a death sentence could only be pronounced in the court's appointed place.

The court building could not legally be opened until after sunrise.

Luke 22:54. Then, having arrested Him, they led Him and brought Him into the high priest's house.

Maimonides said, “A sentence of death can be pronounced only so long as the Sanhedrin holds its sessions in the appointed place.”

4.1.C. The judges were not impartial

The members of the Sanhedrin were prejudiced against Jesus.

Deuteronomy 16:19b. ... you shall not be partial,

They had already decided the sentence; they just needed a crime to justify it.

Matthew 26:3,4. Then the chief priests and the elders of the people were gathered together in the court of the high priest, named Caiaphas; and they plotted together to seize Jesus by stealth and kill him. But they were saying, “Not during the festival, otherwise a riot might occur among the people”.

4.1.D. There was no defence

Jesus should have been allowed to have witnesses in his defence.

Despite Deuteronomy 13:14, the high priest did not “inquire, and make search, and ask diligently” to see whether Jesus' statement was blasphemous. The law in the Mishna says: “The judges shall weigh the matter in the sincerity of their conscience.” Instead, the court pronounced sentence instantly and unanimously!

Jesus' opponents had made sure that only those who hated Him would be there. Joseph of Arimathea was a member of the court, yet he was not there.

Luke 23:50-51. *Now there was a man named Joseph, a member of the Council, a good and upright man, ⁵¹ who had not consented to their decision and action. He came from the Judean town of Arimathea, and he himself was waiting for the kingdom of God.*

5. The judges

Jesus was judged by the Sanhedrin, Pontius Pilate and Herod.

5.1. The Sanhedrin

The high priesthood was in the same family for fifteen centuries but, at the time of Christ's trial, was given to the one who offered the most money for it. Josephus, the historian, said that people who wanted to be priests "... struggled together... by casting reproachful words against one another, and by throwing stones... after a licentious manner."

The Talmud said, "They are high priests themselves, their sons are treasurers, their sons-in-law are commanders, and their servants strike the people with staves."

The majority of the priests were Pharisees, who used religion as a tool for ruling over the people. They believed they were infallible, and they were not interested in bringing Jesus to justice; they only wanted to protect their own corruptness and unfounded religious views by utterly disgracing him.

5.1.A. The illegality

5.1.A.a. The charges were changed

Jesus was charged with sedition, blasphemy and high treason against Caesar.

At the beginning of the trial before the Sanhedrin, Jesus was charged with sedition which was soon abandoned for lack of witnesses. The trial proceeded on the charge of blasphemy. Then, before Pilate, the charge of blasphemy was dropped and a third charge was made: "high treason" against Caesar, the most serious crime known to the Roman law.

Mark 14:58 *"We heard him say, 'I will destroy this temple made with human hands and in three days will build another, not made with hands.'"*

Mark 14:63 *Tearing his clothes, the high priest said, 'What further need do we have of witnesses? You have heard the blasphemy; how does it seem to you?'*

Luke 23:2. ² *And they began to accuse him, saying, "We found this man misleading our nation and forbidding us to give tribute to Caesar, and saying that he himself is Christ, a king."*

The court illegally switched the charges from blasphemy to treason before Pilate. Jesus' opponents wanted Him killed, but they did not want to do it themselves. So they charged Him with treason – a Roman crime – so the Romans would be responsible for His death. They did not present any evidence.

John 18:29-30 *So Pilate came out to them and asked, "What charges are you bringing against this man?"*

³⁰*"If he were not a criminal," they replied, "we would not have handed him over to you."*

5.2. Pontius Pilate

Both Josephus and Philo painted a very ugly picture of this sixth Roman procurator of Judea. Philo charged him with "corruptibility, violence, robberies, ill-treatment of the people, grievances, continuous executions without even the form of a trial, endless and intolerable cruelties."

The injustice

The Sanhedrin avoided ceremonial uncleanness but embraced murder

The Sanhedrin would not go into Pilate's house (the *Praetorium* - hall of judgment) because it would make them unclean and so unable to eat the Passover. There is no law in the Old Testament against entering a Gentile's home, but in later teaching it was laid down that "the dwelling-places of gentiles are unclean".

John 18:28 *Then the Jewish leaders took Jesus from Caiaphas to the palace of the Roman governor. By now it was early morning, and to avoid ceremonial uncleanness they did not enter the palace, because they wanted to be able to eat the Passover.*

The crowd chose Barabbas rather than Jesus to be freed

The crowd demanded the release of someone who was under arrest for his threat against Rome. There is also irony in the name "Barabbas", since it means "son of the father" and, especially in John's Gospel, Jesus is known as the Son of the Father.

Matthew 27:15-23. ¹⁵ *Now at the feast the governor was accustomed to release for the crowd any one prisoner whom they wanted.* ¹⁶ *And they had then a notorious prisoner called Barabbas.* ¹⁷ *So when they had gathered, Pilate said to them, "Whom do you want me to release for you: Barabbas, or Jesus who is called Christ?"* ¹⁸ *For he knew that it was out of envy that they had delivered him up.* ¹⁹ *Besides, while he was sitting on the judgement seat, his wife sent word to him, "Have nothing to do with that righteous man, for I*

have suffered much because of him today in a dream.”²⁰ Now the chief priests and the elders persuaded the crowd to ask for Barabbas and destroy Jesus.²¹ The governor again said to them, “Which of the two do you want me to release for you?” And they said, “Barabbas.”²² Pilate said to them, “Then what shall I do with Jesus who is called Christ?” They all said, “Let him be crucified!”²³ And he said, “Why, what evil has he done?” But they shouted all the more, “Let him be crucified!”

Pilate found him innocent

Pilate regarded Jesus as a harmless religious fanatic, from whom Caesar had nothing to fear. He went to the rabble and pronounced a verdict of “not guilty, I find in Him no fault at all.”

Pilate actually conducted a proper Roman trial, asking direct questions of the accused three times. He asked Jesus if he was the King of the Jews. Jesus replied, “*My kingdom is not of this world: if My kingdom were of this world, then would My servants fight, that I should not be delivered to the Jews; but My kingdom is not from hence*” (John 18:36).

Luke 23:7. *And as soon as he knew that He belonged to Herod's jurisdiction, he sent Him to Herod, who was also in Jerusalem at that time”.*

Luke 23:13. *[Pilate said,] “You brought me this man as one who was inciting the people to rebellion. I have examined him in your presence and have found no basis for your charges against him. Neither has Herod, for he sent him back to us; as you can see, he has done nothing to deserve death. Therefore, I will punish him and then release him.”*

Matthew 27:24-26. *When Pilate saw that he could not prevail at all, but rather that a tumult was rising, he took water and washed his hands before the multitude, saying, ‘I am innocent of the blood of this just Person. You see to it.’*

Pilate was truly afraid that Jesus was God, but he was more afraid of Caesar than he was of God.

John 19:7-8. ⁷ *The Jews answered him, “We have a law, and according to that law he ought to die because he has made himself the Son of God.”*

⁸ *When Pilate heard this statement, he was even more afraid.*

John 19:12. *As a result of this Pilate made efforts to release Him, but the Jews cried out saying, “If you release this Man, you are no friend of Caesar; everyone who makes himself out to be a king opposes Caesar.”*

5.3. Herod

Herod was the Tetrarch of Galilee, a selfish light-minded unjust narcissist who despised the God of his fathers. This is shown by his marriage to his brother's wife, his beheading of John the Baptist, his acceptance of praise that belonged to God, and his resultant hideous death.

Herod never really cared who Jesus was, he just wanted Jesus to "perform." Jesus treated his prurient questions with contemptuous silence.

Luke 23:8-9. ⁸ *When Herod saw Jesus, he was very glad, for he had long desired to see him, because he had heard about him, and he was hoping to see some sign done by him.* ⁹ *So he questioned him at some length, but he made no answer.*

5.3.A. The illegality

5.3.A.a. Herod was out of his area of jurisdiction

In Jerusalem, a place outside his province, Herod was not judicially empowered to examine Jesus so Jesus was not legally compelled to answer

Luke 23:11. *And Herod with his soldiers treated him with contempt and mocked him. Then, arraying him in splendid clothing, he sent him back to Pilate.*

5.3.A.b. Jesus was probably flogged more than 39 times

Jewish law only allowed a person to be flogged 39 times.

Deuteronomy 25:1-3. ¹*If there is a dispute between men and they come into court and the judges decide between them, acquitting the innocent and condemning the guilty,* ²*then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten in his presence with a number of stripes in proportion to his offense.* ³*Forty stripes may be given him, but not more, lest, if one should go on to beat him with more stripes than these, your brother be degraded in your sight.*

2 Corinthians 11: 24. *Five times I received at the hands of the Jews the forty lashes less one.*

5.3.A.c. The Roman soldiers put a crown of thorns on him

The Roman soldiers flogged, mocked and spat on Jesus. They stripped him naked except for a crown of thorns (probably from the date palm, which has thorns 30 cm long), and forced him to carry his splintery cross on his bloody back through the crowded streets to his place of execution.

6. The execution

Jesus was fastened to the cross by spikes driven through his wrists and ankles, then the cross was raised so that he hung from the spikes. The position made it impossible to expand his chest so he had to keep pulling himself up on the spikes in his wrists and pushing himself up on the spikes in his ankles in order to breathe.

6.1. The injustice

6.1.A. The curse of death by crucifixion

Jewish law only allowed criminals to be stoned, burned, beheaded or strangled. Under the Romans, the Jews were allowed to stone people to death. The Roman death by crucifixion was a worse fate for a Jew than stoning because “a hanged man is cursed by God”.

Deuteronomy 21:23. *And if a man has committed a crime punishable by death and he is put to death, and you hang him on a tree, his body shall not remain all night on the tree, but you shall bury him the same day, for a hanged man is cursed by God. You shall not defile your land that the Lord your God is giving you for an inheritance.*

Galatians 3:13. ¹³ *Christ redeemed us from the curse of the law by becoming a curse for us—for it is written, “Cursed is everyone who is hanged on a tree”.*

We know Jesus could have been stoned to death because the Jews earlier wanted to stone the adulterous woman to death and later stoned Stephen to death. But probably the Sanhedrin wanted something worse for Jesus and so conspired to have him sentenced under Roman law by Pontius Pilate.

John 8:3-5 *The teachers of the law and the Pharisees brought in a woman caught in adultery. They made her stand before the group ⁴ and said to Jesus, “Teacher, this woman was caught in the act of adultery. ⁵ In the Law Moses commanded us to stone such women. Now what do you say?”*

Acts 7:57-58 *At this [the members of the Sanhedrin] covered their ears and, yelling at the top of their voices, they all rushed at [Stephen], ⁵⁸ dragged him out of the city and began to stone him. Meanwhile, the witnesses laid their coats at the feet of a young man named Saul.*

6.1.B. Jesus was crucified like a thief

Jesus was hung on the cross between two thieves, as though he was also a thief.

The criminal crucified with Jesus said: “We are punished justly, for we are getting what our deeds deserve. But this man has done nothing wrong” (Luke 23:41).

The centurion said: "Surely this was a righteous man" (Luke 23:47).

7. Summary

The arrest, trial, sentencing and execution of Christ were unjust and illegal:

1. Unjust: His friends did not pray with him
2. Unjust: His disciple betrayed him
3. Unjust: His followers abandoned him
4. Illegal: The Sanhedrin bribed Judas
5. Illegal: Jesus was arrested at night
6. Illegal: There were two high priests
7. Unjust: Peter denied him
8. Illegal: There was an extra interrogation before only one judge
9. Unjust: A servant hit Jesus
10. Unjust: Jesus was charged with blasphemy
11. Unjust: The Sanhedrin spat on Jesus
12. Illegal: The Sanhedrin brought the charges
13. Illegal: The witnesses did not agree
14. Illegal: The high priest tore his clothes
15. Illegal: The Sanhedrin convened before dawn
16. Illegal: The trial only took one day
17. Illegal: The trial was on the day before the Passover
18. Illegal: The verdict was unanimous
19. Illegal: The sentence was based on His own confession
20. Illegal: Sentence was pronounced in a forbidden place
21. Illegal: The judges were not impartial
22. Illegal: There was no defence
23. Unjust: The charges were inconsistent
24. Unjust: The Sanhedrin avoided ceremonial uncleanness but embraced murder
25. Unjust: The crowd chose Barabbas rather than Jesus to be freed
26. Unjust: Pilate found him innocent
27. Illegal: Herod was out of his area of jurisdiction
28. Unjust: Jesus was probably flogged more than 39 times
29. Unjust: The Roman soldiers put a crown of thorns on him
30. Unjust: The curse of death by crucifixion
31. Unjust: Jesus was crucified between two thieves

8. Conclusion

As John MacArthur said:

God should spit in my face, and punch me, and slap me, and execute me, and condemn me, but Christ took my place...

I was once a captive at the will of Satan, but Christ became a captive that I might be set free.

I was once an outcast forsaken... but Christ became forsaken... that I might be made forever a member of the family of God.

I was once denied compassion and ... sympathy, but Jesus went to a compassionless death, and is now my sympathetic high priest...

I was once accursed from God, but Jesus became accursed for me.

I was once a false witness, who denied the truth about Christ, but Christ endured false witnesses to make me His own, and now no one can ever bring an accusation against me, even it's true, that will stand against my salvation.

I saw Jesus silent for me; shall I not fill my mouth with praise for Him?

I was dead, but Jesus died that I might live.

Sermons, Matthew 26:62-68, 2390, Jan 27, 1985