

Good Friday and Easter Sunday Reading the Passion Narratives in the Context of the Mishnah's Rabbinic Theology or How, in the Mishnah, the Death Penalty is Merciful¹

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I. A Secular, Juridical, versus a Sacred, Theological Reading of the Passion Narratives: What is the difference?

How people view the death penalty governs their reading of the Passion narratives. The prevailing picture is simple and secular. Execution after trial and conviction represents a legal punishment after an unjust trial – pure and simple. Jesus was tried for a crime, found guilty, and executed. Reading the execution as penalty for a crime does not accommodate the next chapter in the story. The resurrection disrupts that narrative rather than completing it and forming its climax. Within that framework, Good Friday alone – the trial, conviction, sentence, and execution, – registers. Within the teleology of the juridical narrative there is no accounting for Easter Sunday. That destroys the juridical transaction.

That juridical perspective on the Passion narratives, secular at its heart, governs in the prevailing culture and stresses a secular reading of the matter. It draws attention away from those components of the narratives that underscore an other-than-punitive evaluation, an other-than-judicial approach to the story. There is no compelling logic, from that perspective, that requires the climactic chapter of resurrection.

Accordingly, the culture in which we live affords no space for an other-than-secular perspective, accords short shrift to a final chapter of resurrection and eternal life. So the representation of the Passion Narratives is truncated, with its emphasis on trial and execution, and it is unable to explain the resurrection except as a contradiction. That is why the culture, defying the continuity and logic of the narrative as

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a whole, dwells on Good Friday, not on Easter Sunday, to speak liturgically: the death of Jesus the man, not the resurrection of Christ, atoning for humanity's sins. That secular reading of the Passion with its emphasis on the horror of the trial and the gruesome penalty inflicted necessarily rather than on the sublime conception realized in the narrative treats as an epilogue what is and theologically is meant to be the climax.

And it is not how the Gospels present the matter. But how else, and in what context if not the juridical one, are we to read the Passion Narratives? A perspective on the death penalty formed within the theology of monotheism restores the correct emphasis of the Passion Narrative, that is, within monotheism we see the climactic place of the resurrection and the realization of eternal life. What I wish to show is how the model of the Rabbinic framing of the monotheist narrative allows us to read the Passion narratives in all their proper proportion and perspective: how the crucifixion fits in to the salvific narrative. And that, we shall see, not only accommodates all of the details in a governing theory of the transaction, but imposes the focus, on the Passion narratives, that the punitive, juridical model distorts.

II. The Monotheist Narrative

To understand the centrality of resurrection in monotheism, and therefore the trial and punishment of the felon as an act of mercy, we have to stand back and ask, why is resurrection, whether of Christ on Easter Sunday or of holy Israel at the end of days, critical to the monotheist system, whether that system is expressed in philosophical or mythic categories.

To begin with, we note that a religion of numerous gods finds many solutions to one problem, a religion of only one God presents one to many. Life is seldom fair. Rules rarely work. To explain the reason why, polytheisms adduce multiple causes of chaos, a god per anomaly. Diverse gods do various things, so, it stands to reason, ordinarily outcomes conflict. Monotheism by nature explains many things in a single way. One God rules. Life is meant to be fair, and just rules are supposed to describe what is ordinary, all in the name of that one and only God. So in monotheism a simple logic governs to limit ways of making sense of things. But that logic contains its own dialectics. If one true God has done everything, then, since he is God all-powerful and omniscient, all things are credited to, and blamed on, him. In that case he can be either good or bad, just or unjust – but not both.

Responding to the generative dialectics of monotheism, Judaism systematically reveals the justice of the one and only God of all creation. God is not only God but also good. Appealing to the

facts of Scripture the Rabbinic sages in the first six centuries of the Common Era constructed a coherent theology, a cogent structure and logical system, to expose the justice of God. Only in that context does resurrection find its place.

The theology of the Oral Torah conveys the picture of world order based on God's justice and equity. The categorical structure of the Oral Torah encompasses the components, God and man; the Torah; Israel and the nations. The working-system of the Oral Torah finds its dynamic in the struggle between God's plan for creation – to create a perfect world of justice – and man's will. That dialectics embodies in a single paradigm the events contained in the sequences, rebellion, sin, punishment, repentance, and atonement; exile and return; or the disruption of world order and the restoration of world order. There are four principles in that system, the relevant one coming at the end:

1. God formed creation in accord with a plan, which the Torah reveals. World order can be shown by the facts of nature and society set forth in that plan to conform to a pattern of reason based upon justice.
2. The perfection of creation, realized in the rule of exact justice, is signified by the timelessness of the world of human affairs, their conformity to a few enduring paradigms that transcend change (theology of history).
3. What disrupts perfection is the sole power capable of standing on its own against God's power, and that is man's will. What man controls and God cannot coerce is man's capacity to form intention and therefore choose either arrogantly to defy, or humbly to love, God. Because man defies God, the sin that results from man's rebellion flaws creation and disrupts world order. The paradigm of the rebellion of Adam in Eden governs, the act of arrogant rebellion leading to exile from Eden thus accounting for the condition of humanity. But, as in the original transaction of alienation and consequent exile, God retains the power to encourage repentance through punishing man's arrogance. In mercy, moreover, God exercises the power to respond to repentance with forgiveness, that is, a change of attitude evoking a counterpart change. Since, commanding his own will, man also has the power to initiate the process of reconciliation with God, through repentance, an act of humility, man may restore the perfection of that order that through arrogance he has marred.
4. God ultimately will restore that perfection that embodied his plan for creation. *In the work of restoration death that comes about by reason of sin will die, the dead will be raised and judged for their deeds in this life, and most of them, having been justified, will go on to eternal life in the world to come.* In the paradigm of man restored to Eden is realized Israel's return to the Land of Israel. In that world or age to come, however, that sector of humanity that through the Torah knows God will encompass all of humanity. Idolators will perish, and humanity that comprises Israel at the end will know the one, true God and spend eternity in his light.

The importance of resurrection in the realization of the logic of monotheism is now self-evident. The narrative requires that justice ultimately prevail, God's mercy ultimately come to full expression. Life cannot end at the grave, death cannot mark the last chapter, for there is no ultimate justice prior to a final judgment and a restoration of humanity, cleared of sin, to Eden. In that systemic context, the death penalty constitutes an act of mercy, as I shall now show.

III. The Death Penalty as an Act of Mercy

The Mishnah's laws governing the death penalty define a theological and narrative, not a juridical, context in which the Passion Narratives may be read. The law, Halakhah, forms Judaism's principal medium of theology and translates details of law into a theological system expressed in patterns of deeds.

The Halakhah set forth in Mishnah-tractates Sanhedrin and Makkot deals with the organization of the Israelite government and courts and punishments administered thereby. The court system is set forth in the Mishnah's statement of matters at M. 1:1–5:5, the death-penalty at 6:1–11:6, and extra-judicial penalties at 9:5–6, 10:1–6. The penalties other than capital are set forth in Makkot, covering perjury (with variable penalties), banishment, and flogging. In tractate Sanhedrin, we find ourselves, then, at the heart of the Halakhah's system of criminal justice. The order of the whole is [1] the earthly court and property cases; [2] the earthly court and capital punishment; [3] the heavenly court; and, appended, [4] corporal punishment. The criminal justice system set forth in the Halakhah of the categories, Sanhedrin and Makkot, works out yet another medium of atonement for sin.

Given the Rabbinic conviction that all Israel possesses a share in the world to come, meaning, nearly everybody will rise from the grave, the sages took as their task a very particular task. It was the specification of how, in this world, criminals-sinners would receive appropriate punishment in a proper procedure, so expiating sin or crime that, in the world to come, they would take their place along with everyone else in the resurrection and eternal life.

It follows that the religious principle that comes to expression in Sanhedrin-Makkot concerns the meaning of man's being in God's image. That means, as God lives forever, so it is in man's nature to surpass the grave. And how, God's being just, does the sinner or criminal survive his sin or crime? It is by atonement, specifically, paying with his life in the here and now, so that at the resurrection, he may regain life, along with all Israel. That is why the climactic moment in the Halakhah comes at the end of the long catalogue of those sins and crimes penalized with capital punishment. It is with ample reason that the Bavli places at the conclusion and climax of its

version the ringing declaration, “all Israel has a portion in the world to come, except. . . .” And the exceptions pointedly do not include any of those listed in the long catalogues of persons executed for sins or crimes.

When, accordingly, we come to the heart of the matter, the criminal justice system, we take up an entirely abstract theological problem, the fate of Man after death. Here we move to the limits of Eden, viewed as a situation and a story, focusing upon what is explicit in Eden, the governing simile for Man. And that is God, which is to say, Man is in God’s image, after God’s likeness, possessed of an autonomous, and free, will. That is what accounts for Man’s fall from the paradise of repose by reason of rebellion. In the setting of the civil order, then, the issue of Man’s rebellion plays itself out, for in the criminal justice system we turn to the outcome of it all. Now we consider what happens to the sinful or criminal Israelite, the one who wilfully does what God forbids, or deliberately refrains from doing what God commands, the fate of the sinner or criminal who acts in the manner of Adam and Eve. If we broaden the matter, we see that the most profound question facing Israelite thinkers concerns the fate of the Israelite at the hands of the perfectly just and merciful God. Since essential to their thought is the conviction that all creatures are answerable to their Creator, and absolutely critical to their system is the fact that at the end of days the dead are raised for eternal life, the criminal justice system encompasses deep thought on the interplay of God’s justice and God’s mercy: how are these reconciled in the case of the sinner or criminal?

Within Israel’s social order the Halakhah addresses from a theological perspective the profound question of social justice: what shall we make of the Israelite sinner or criminal? Specifically, does the sin or crime, which has estranged him from God, close the door to life eternal? If it does, then justice is implacable and perfect. If it does not, then God shows his mercy – but what of justice? We can understand the answer only if we keep in mind that the Halakhah takes for granted the resurrection of the dead, the final judgment, and the life of the world to come beyond the grave. So this world’s justice and consequent penalties do not complete the transaction of God with the sinner or criminal. Eden restored at the end of days awaits. From that perspective, death becomes an event in life but not the end of life. And, it must follow, the death penalty too does not mark the utter annihilation of the person of the sinner or criminal. On the contrary, because he pays for his crime or sin in this life, he situates himself with all of the rest of supernatural Israel, ready for the final judgment. Having been judged, he will “stand in judgment,” meaning, he will find his way to the life of the world to come along with everyone else. Within the dialectics formed by those two facts – punishment now, eternal life later on – we identify as the two critical

passages in the Halakhah of Sanhedrin-Makkot M. Sanhedrin 6:2 and 10:1.

As to the former: the rite of stoning involves an admonition that explicitly declares the death penalty the means of atoning for all crimes and sins, leaving the criminal blameless and welcome into the kingdom of Heaven; I italicize the key-language:

A. [When] he was ten cubits from the place of stoning, they say to him, "Confess," for it is usual for those about to be put to death to confess.

B. For whoever confesses has a share in the world to come.

C. For so we find concerning Achan, to whom Joshua said, "My son, I pray you, give glory to the Lord, the God of Israel, and confess to him, [and tell me now what you have done; hide it not from me.] And Achan answered Joshua and said, Truly have I sinned against the Lord, the God of Israel, and thus and thus I have done" (Josh. 7:19). And how do we know that his confession achieved atonement for him? For it is said, "And Joshua said, Why have you troubled us? The Lord will trouble you this day" (Josh. 7:25) – *This day you will be troubled, but you will not be troubled in the world to come.*

D. And if he does not know how to confess, they say to him, "Say as follows: 'Let my death be atonement for all of my transgressions.'"

M. Sanhedrin 6:2

So within the very centre of the Halakhic exposition comes the theological principle that the death-penalty opens the way for life eternal. Achan pays the supreme penalty but secures his place in the world to come, all Israel, with only a few exceptions, is going to stand in judgment and enter the world to come, explicitly including all manner of criminals and sinners. And the latter passage states explicitly that all Israel, with specified exceptions, inherit the world to come:

A. All Israelites have a share in the world to come, as it is said, "your people also shall be all righteous, they shall inherit the land forever; the branch of my planting, the work of my hands, that I may be glorified" (Is. 60:21).

B. And these are the ones who have no portion in the world to come: He who says, the resurrection of the dead is a teaching which does not derive from the Torah, and the Torah does not come from Heaven; and an Epicurean.

M. Sanhedrin 11:1

10:2 A. Three kings and four ordinary folk have no portion in the world to come.

B. Three kings: Jeroboam, Ahab, and Manasseh.

E Four ordinary folk: Balaam, Doeg, Ahitophel, and Gahazi.

10:3 A. The generation of the flood has no share in the world to come,

E. The generation of the dispersion has no share in the world to come,

I. The men of Sodom have no portion in the world to come,

S. The spies have no portion in the world to come,

10:4 A. The townfolk of an apostate town have no portion in the world to come,

M. Sanhedrin 11:2, 3, 5

The executed criminal does not figure among these exceptions, only those who wilfully defy God in matters of eternity.

What the Halakhah wishes to explore then is how is the Israelite sinner or criminal rehabilitated, through the criminal justice system, so as to rejoin Israel in all its eternity? The answer is, the criminal or sinner remains Israelite, no matter what he does – even though he sins – and the death-penalty exacted by the earthly court. So the Halakhah of Sanhedrin embodies these religious principles: [1] Israel – Man “in our image” – endures for ever, encompassing (nearly) all Israelites; [2] sinners or criminals are able to retain their position within that eternal Israel by reason of the penalties that expiate the specific sins or crimes spelled out by the Halakhah; [3] it is an act of merciful justice that is done when the sinner or criminal is put to death, for at that point, he is assured of eternity along with everyone else. God’s justice comes to full expression in the penalty, which is instrumental and contingent; God’s mercy endures forever in the forgiveness that follows expiation of guilt through the imposition of the penalty.

That explains why the governing religious principle of Sanhedrin-Makkot is the perfect, merciful justice of God, and it accounts for the detailed exposition of the correct form of the capital penalty for each capital sin or crime. The punishment must fit the crime within the context of the Torah in particular so that, at the resurrection and the judgment, the crime will have been correctly expiated. Because the Halakhah rests on the premise that God is just and that God has made man in his image, after his likeness, the Halakhah cannot deem sufficient that the punishment fit the crime. Rather, given its premises, the Halakhah must pursue the issue, what of the sinner once he has been punished? And the entire construction of the continuous exposition of Sanhedrin-Makkot aims at making this simple statement: the criminal, in God’s image, after God’s likeness, pays the penalty for his crime in this world but like the rest of Israel will stand in justice and, rehabilitated, will enjoy the world to come. That is what I mean when I insist that the criminal justice system explores in highly abstract terms the concrete meaning of incarnate Man.

Then where are the limits to God’s mercy reached? It is at the rejection of the Torah, the constitution of a collectivity – an “Israel” – that stands against God. Israel is made up of all those who look forward to a portion in the world to come: who will stand in justice and transcend death. In humanity, idolaters will not stand in judgment, and entire generations who sinned collectively as well as Israelites who broke off from the body of Israel and formed their

own Israel do not enjoy that merciful justice that reaches full expression in the fate of Achan: he stole from God but shared the world to come. And so will all of those who have done the dreadful deeds catalogued here. The theological principle expressed here – God’s perfect, merciful justice, correlated with the conviction of the eternity of holy Israel – cannot have come to systematic statement in any other area of the Halakhah. It is only in the present context that sages can have linked God’s perfect, merciful justice to the concrete life of ordinary Israel, and it is only here that they can have invoked the certainty of eternal life to explain the workings of merciful justice.

Conclusion

In the Halakhic context, the death penalty achieves atonement of sin, leading to the resurrection at the end of days. It is an act of mercy, atoning for the sin that otherwise traps the sinner/criminal in death. In the context of the Gospel narrative, with its stress on repentance at the end and atonement on the cross by a single unique man, representative of all of humanity, for the sins of all humanity, we deal with no juridical transaction at all. It is an eschatological realization of the resurrection of humanity through that of Jesus Christ on Easter Sunday. Read in light of Mishnah-tractate Sanhedrin and its Halakhic theology with its climax, “All Israel has a portion in the world to come,” the Passion narrative coheres, each component in its right proportion and position, all details fitting together.

The Mishnah interprets the death penalty as a medium of atonement in preparation for judgment leading to resurrection, just as the theology of the Passion narratives has always maintained. For both the Mishnah and the Gospels, the death penalty is a means to an end. It does not mark the end but the beginning. The trial and crucifixion of Christ for Christianity, like the trial and execution of the Israelite criminal or sinner for Judaism, form necessary steps toward the redemption of humanity from death, as both religions have maintained, each in its own idiom.

Indeed, in the context of the law as articulated in the Mishnah, the details of the Passion narratives take on acute meaning. All that requires translation is Christ for the criminal, and the Passion narrative covers that ground in the context of the larger theology of atonement. A truly Christian film of the Passion Narratives begins with a prologue of suffering on the cross, giving way to a luminous, truly sublime vision of resurrection in all its glory. And, by the way, such a truly Christian film will no more feature “the Jews” – villains of the juridical reading of the Passion narratives – any more than the truly Judaic counterpart film will focus on Jeroboam, Ahab, and Manasseh, Balaam, Doeg, Ahitophel, and Gahazi.