

## SUMMARY

# THE SANHEDRIN AS AN IDEAL AND AS REALITY IN THE PERIOD OF THE SECOND TEMPLE

by

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According to the New Testament and Flavius Josephus, the Sanhedrin appears as a distinctly priestly hegemony, while it is described in the Talmud as a Pharisaic institution. There are three ways in which it has been attempted to solve this contradiction.

A one-sided approach, especially common among Christian schools of thought, does not concede any authority to the Talmud, because this literature was compiled later and did not reflect situations of the Second Temple period but the period of Yavneh, so that only to a very limited extent can it be used as a source.

Another big group of scholars, in contrast, tries to reconcile the different statements. Some of this group postulate a supreme Sanhedrin composed of various cells, while others assume the existence of several parallel bodies.

The purpose of the present study is not to find a synthetic solution to this problem, but to answer the following questions: Is the Talmudic picture homogenic? Does Josephus confirm the New Testament presentation? How are *Boule*, *Gerousia* and *Synhedrion* (Sanhedrin) to be distinguished from each other?

### *The Sanhedrin in the Talmud*

In order to assess properly the Talmudic literature, a historical-critical approach is necessary, for we find in it several historical layers. In the Palestinian Talmudic literature (Mishnah, Tosephta, Talmud Yerushalmi and

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a) The Sanhedrin in the Vision and the Reality of the Second Temple. Hebrew title: הסנהדרין בחזון ובמציאות של הבית השני in Prof. Benzion Katz Jubilee volume on the occasion of his 60th birthday, entitled: 'ליום הולדת הששים לפרופ' בנציון כ"ץ דורן ... ליום הולדת הששים לפרופ' בנציון כ"ץ' in: *World Congress of Jewish Studies*, 4 (1965) Papers, Vol. I, Jerusalem, 1967, pp. 167-204.

b) The Sanhedrin and the Gerousia in the Period of the Second Temple. Hebrew title: הסנהדרין והגרוסיה בימי הבית השני in: *World Congress of Jewish Studies*, 4 (1965) Papers, Vol. I, Jerusalem, 1967, pp. 89-93.

the corresponding Midrashim) which is nearest to oral tradition and must therefore be granted the greatest credibility, the Sanhedrin appears as the mainstay of an ideal legislation, which was only partly realised in the period of the return from Babylon, in the same manner as also Prophecy, Kingship and Priesthood did not renew themselves, and fundamental commandments such as those of the *Shemittah* and the Jubilee were not completely observed.

The special character of this image of the Sanhedrin becomes clear already at the beginning of the Mishnah tractate *Sanhedrin* 1, 1ff. There are three different courts; one of three judges dealing with cases concerning property, a lesser Sanhedrin with twenty-three judges for capital cases, and a greater Sanhedrin with seventy-one members. Only the last-named is entitled to try "a tribe, a false prophet, or the High Priest" or to set up Sanhedrins for the several tribes. In *Shevu'ot* 2,2 the greater Sanhedrin is placed parallel to a king, a prophet and Urim and Thummim. These examples link the Sanhedrin with biblical situations and institutions that no longer existed in the period of the Second Temple, so that no real Sanhedrin could be meant.

A *Baraita* in the name of Rabbi Jose reads: "In the beginning there was no difference of opinion in Israel, but a Sanhedrin of seventy-one members sat in the Chamber of Hewn Stones". If a question could not be solved in the lower courts, it was brought before the central Sanhedrin for final decision. However, the idyll of a pure consensus without acrimonious discussions and splits no longer existed from the period of the famous "pairs" of sages mentioned at the beginning of the tractate *Avot*, but the divisions multiplied until in the days of the schools of Hillel and Shammai virtually "two Torahs" had developed, and there is no indication that the various opinions were then brought to a supreme body for final decision. The overriding view in the ancient Talmudic tradition refutes the existence of a Sanhedrin on its proper and complete scale, since the ideal constitution had lapsed. The activity of a central Sanhedrin ceased, and its image disappeared, in the Hellenistic period.

The designations of the "pairs" of sages as *Nasi* and *Av beit-Din* do not apply to offices in the Sanhedrin sitting in the Chamber of Hewn Stones, but find their explanation against the background of the confusion during the Hasmonean period. In Pharisaic circles a new spiritual and religious authority and leadership emerged, and courts and councils for lawsuits and learning were established. It is in these contexts that the designations of *Nasi* and *Av beit-Din* belong, but the "pairs" were never placed at the head of a Sanhedrin. About the "pairs", it is known that they introduced improvements in education and in certain *halakhot* and were involved in capital cases and criminal law, but a Sanhedrin is never mentioned in connection with all these activities.

The Chamber of Hewn Stones in the Temple complex served various purposes and it is possible that sometimes sages assembled there, but not within the proper framework of the Sanhedrin. According to Mishnah tractate *Middot* 5, 4 "the Great Sanhedrin" of Israel used to sit in the Chamber of Hewn Stones to deal with the ritual purity of the priesthood, but this is said in a context of abstract laws which are isolated from a clear historical background. It is likely that a Pharisaic Council at the acme of its powers supervised the Temple worship and the various *halakhot* connected with it, but this Council was never identified with the Sanhedrin.

Palestinian Talmudic sources do not contain any hint of a practical role having been played by the Central Sanhedrin during the long and dynamic period – full of strife and controversy – between the first "pairs" (± 200 B. C. E.) and the end of the Second Temple period and even its authority is never exemplified by any real case out of the whole chain of events after the return from the Babylonian exile. The only logical conclusion to be drawn from this is that in the ancient consciousness which is contained in the Palestinian Talmud, the Central Sanhedrin is not depicted as something that really existed in the Second Temple period. There were only various Sanhedrins of lower status which had the right to impose capital punishment.

A Palestinian *Baraita* reads: "Forty years before the Second Temple was destroyed, the right of capital punishment was taken away from Israel" (j *Sanhedrin* 1, 18a), whereas the parallel *Baraita* in the Babylonian Talmud reads: "Forty years before the Temple was destroyed, the Sanhedrin went into exile and settled in the sale-room" (b *Sanhedrin* 41a). In the Palestinian version, which must be regarded as the more original, no Sanhedrin is mentioned, but only the historical fact of the Romans' denial of Jewish rights with regard to capital punishment is here reflected, which caused the decline of the lower Sanhedrin's authority. However, under the influence of the Babylonian Talmud, this basic approach became obscured and the picture of a Sanhedrin existing uninterruptedly down to the period of the Amoraim emerged. This view was widely accepted without reservation, and scholarly criticism wrongly regards it as representative of the entire Talmudic tradition.

### *The Sanhedrin in Josephus's writings*

The existence of a Central Sanhedrin, sitting in the Chamber of Hewn Stones, as described in the Talmud is not evident in any other Jewish source from the Second Temple period. In the Septuagint, Philo and Josephus, mention is made of the people's *Gerousia* (Council of Elders) in previous generations. Difficult cases were brought before "the high priest, the prophets and the Gerousia".<sup>1</sup> The function of the *Gerousia* somewhat

<sup>1</sup> *Antiquities* IV, 8, 14, 218.

resembles the status of the Central Sanhedrin in the Talmudic tradition, although a profound difference between the two parallel pictures may be remarked. Josephus's scheme is, in contradistinction to the Talmud, orientated to the priesthood. His ideal picture also was only partly realised in the Second Temple period, and all traces of this body had completely vanished by the Hasmonean period.

Afterwards, various councils, institutions and courts of limited significance existed, which could also be called Sanhedrins, but nowhere is there any reference to a Central Sanhedrin. Josephus mentions, for example, a Sanhedrin installed by Agrippa II.<sup>2</sup> This picture of the existence of various institutions confirms the image in the Talmud with regard to the Second Temple period. During the period of Roman rule, a city council called *Boule* was functioning in Jerusalem. It represented the upper classes, comprising leaders of the priesthood and the aristocracy, and was concerned with a measure of Jewish autonomy, and in the controversies on the eve of the Great Revolt it opposed the zealots, but it did not take the place of the *Gerousia*, nor that of the Central Sanhedrin as described in the Talmud.

### *The Sanhedrin in the New Testament*

The image of the Sanhedrin in the New Testament contradicts the Talmudic one. The word "Sanhedrin" in New Testament usage means "the court" (cf. Mt. 5:22), but it can also receive a specific nuance, when the apostles and disciples are warned of persecution by the Sanhedrins: the Jewish Sanhedrin represents the sinful nation that rejected Jesus as Saviour and therefore persecuted him. The clear function of the Sanhedrin as an instrument of suppression and injustice is concretised in the series of trials described in the New Testament, the central one of which was the trial of Jesus.

In this trial and what preceded it, three groups appear continually, resembling in a way three classes mentioned in the Hebrew Bible: "the chief priests", who are in the leading position; the influential "scribes"; and finally "the elders", or "the elders of the people". This structure is not consistently maintained. In the Gospel of John, the Pharisees appear instead of the scribes, and often only two of these classes are mentioned. This three-fold hierarchy does not tally with other descriptions of any institution of the Second Temple period, neither of the *Gerousia* nor of the *Boule*, in which mention is made of chief priests and notables, and sometimes also Pharisees, but there was not a constitutional division with a class of "Scribes" alongside one of "Elders".

At the climax of the Christological drama, the Sanhedrin plays an essential part: through it the nation condemns the Christian Saviour, des-

<sup>2</sup> *Antiquities* XX, 9, 6, 216ff.

pises his teaching and his heavenly kingdom and prefers a material and political messianism, symbolised in the figure of the rebel Barabbas. This picture of the Sanhedrin is as unreal as the way in which the feast of Passover is viewed in the Gospels; completely detached from any reference to the Exodus from Egypt and from national reminiscences, it is the good and unique opportunity to catch and kill Jesus. The lack of credibility of the Sanhedrin passage is properly exposed in the absurd question which comes, of all people, from the mouth of the High Priest in a public session – whether the accused was the Messiah, the Son of God. This perverse and wicked Sanhedrin seeks a legal cover for evil design, tramples elementary principles of proper legal procedure and infringes basic *halakhot* concerning capital cases, e. g. “capital cases must begin with reasons for acquittal and may not begin with reasons for conviction”; “one holds the trial during the daytime and the verdict must also be reached during the daytime” (and not at night, as in the Gospel account); “a verdict of acquittal may be reached on the same day, but a verdict of conviction not until the following day, therefore trials may not be held on the eve of a Sabbath or on the eve of a festival-day”.<sup>3</sup> Sources from the Hasmonean and Roman periods prove that the Jews were anxious to free themselves from political and civil duties on Sabbaths and festivals<sup>4</sup>.

It makes no sense to assume that this was a Sadducean Sanhedrin which would not have proceeded according to Pharisaic *halakhot*, for according to the New Testament, Elders and Scribes, who stood not far from the Pharisees, were also members of this Sanhedrin; and it was not Sadducees but Pharisees who, according to the main sources, conspired against Jesus, and they were considered by the early Church as her most dangerous enemies. All these things together indicate that this whole record of the trial of Jesus found its origin in the Christian belief which laid on the “blasphemous Jewish people” the blame for the murder of the heavenly Saviour. But the trial was no trial, just as the Passover was no Passover, and the Sanhedrin was no Sanhedrin.

Between the Acts of the Apostles and the Gospel of Luke, both of which are traditionally attributed to the same author, there exists some contradiction because *Acts*, as opposed to *Luke*, accentuates enmity on the part of the Sadducees and a certain sympathy from the Pharisees. The reason for presenting this picture is an apologetic one, showing how far the *Acts of the Apostles* has drawn away from the Palestinian reality: it wants to present Christianity to the enlightened world as the legitimate continuation of a well-established form of Judaism. Especially the manner in which the Sanhedrin is described in the trial of Paul (Acts 22:30-23:10) is a caricature which surpasses the one given in the Gospels.

<sup>3</sup> Mishnah *Sanhedrin* 4, 1.

<sup>4</sup> I Macc. 10:34; Josephus, *Antiquities* XVI, 6, 2, 163; XVI, 6, 4, 168.

No rumour of such a strange Sanhedrin has ever reached Josephus. There are, however, two references in Josephus which concern events in relation to Christianity and which in their picture of the Sanhedrin resemble the one given in the Gospels, namely *Antiquities* XVIII, 3, 3, 63f, which describes Jesus "who was a wise man, if he may be called a man", who "was the Messiah" and was crucified by Pilate because of the accusation by the "heads of Israel"; and *Antiquities* XX, 9, 1, 199f, which describes the death sentence passed on James the brother of Jesus by the Procurator Albinos. But both of these passages must be considered as Christian interpolations.

### *Conclusion*

The description of the Sanhedrin as it appears in the New Testament, composed of three classes and led by the High Priest, is not confirmed by Josephus and other sources. On the other hand, there is no contradiction between these and the Palestinian Talmudic tradition, which describes the Central Sanhedrin in the Chamber of Hewn Stones as something that has its place in an ideal legislation which was never completely realised since the period of the Hebrew Bible. This early view became obscured under the influence of the Babylonian Talmud.

The Talmudic Sanhedrin is not based on historical experience, but it is a design prepared by circles of Chasideans and Pharisees who established courts and councils for lawsuit and learning, who exerted influence and authority from the Maccabean period until the destruction of the Second Temple, alongside other official and governing institutions. One of these was the Jerusalem Council (*Boule*), some traits of which resemble the Sanhedrin described in the New Testament. But the New Testament picture has emerged from Christian theology and is alien to the realities and visions of the Second Temple period, in contrast to the Talmudic picture of the Sanhedrin, which shows the longing and striving of the Pharisees and their heirs for a better world.

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