

The Death Penalty in Ancient Israel

The Jewish sages have tabulated the following 18 cases in which death by stoning was inflicted:

- (1) of a man who has sex with his own mother (**Leviticus 20:11**);
- (2) or with his father's wife (**Leviticus 20:12**);
- (3) or with his daughter-in-law (**Leviticus 20:12**);
- (4) or with a betrothed maiden (**Deuteronomy 22:23-24**);
- (5) or with a male (**Leviticus 20:13**);
- (6) or with a beast (**Leviticus 20:15**);
- (7) of a woman who was guilty of lying with a beast (**Leviticus 20:16**);
- (8) the blasphemer (**Leviticus 24:10-16**);
- (9) the worshipper of idols (**Deuteronomy 17:2-5**);
- (10) the one who gives his seed to Molech (**Leviticus 20:2**);
- (11) the necromancer;
- (12) the wizard (**Leviticus 20:27**);
- (13) the false prophet (**Deuteronomy 13:6**);
- (14) the enticer to idolatry (**Deuteronomy 13:11**);
- (15) the witch (**Leviticus 20:17**);
- (16) the profaner of the Sabbath (**Numbers 15:32-36**);
- (17) he that curses his parent (**Leviticus 20:9**); and
- (18) the rebellious son (**Deuteronomy 21:18-21**).

[Biblical law actually mandates the death penalty for a total of 36 offenses. Four methods of execution are discussed in the Talmud: stoning, burning, beheading and strangulation.]

As the Mosaic legislation only directs that the stoning is to take place outside of the precincts of the city (**Leviticus 24:14**; **Numbers 15:36**), and that the witnesses upon whose evidence the criminal has been sentenced to death are to throw the first stone (**Deuteronomy 17:7**), the administrators of the law during the second Temple decreed the following mode of carrying out the sentence:

“On his way from the court of justice to the place of execution a herald preceded the criminal, exclaiming, ‘So-and-so is being led out to be stoned for this and this crime, and so-and-so are the witnesses; if any one has to say anything that might save him, let him come forward and say it.’ Within ten yards of the place of execution he was publicly admonished to confess his sins, within four yards he was stripped naked except a slight covering about his loins. After his hands had been bound, he was led upon a scaffolding about twice the height of a man. Here wine mingled with myrrh was mercifully given him to dull the pain of execution, and from here one of the witnesses pushed him down with great violence so that he fell upon his back. If the fall did not kill him, the other witness dashed a great stone on his breast, and if this did not kill him, all the people that stood by covered him with stones.

“The corpse was then nailed to the cross, and afterwards burnt. Hereupon the relatives visited both the judges and the witnesses to show that they bore no hatred towards them, and that the sentence was just.

“Not unfrequently, however, an excited multitude would resort to stoning when they wished to inflict summary justice. This description will explain why the Jews said to Christ that the woman had to be stoned, and why He replied to her accusers that he who is without sin should cast the first stone (**John 8:5; John 8:7**); why the Jews wanted to stone Christ when they thought He was blaspheming (**John 10:31**), and why they offered Him wine mingled with myrrh before his crucifixion (**Matthew 27:34; Matthew 27:38; Mark 15:23**).

-- *Ellicott's Commentary*

Many of these punishments were substantially modified during the rabbinic era, primarily by adding additional requirements for conviction.

The Mishnah states that a sanhedrin that executes one person in seven years — or seventy years, according to Eleazar ben Azariah — is considered bloodthirsty.

During Late Antiquity, the tendency of not applying the death penalty at all became predominant in Jewish courts

Maimonides stated that "It is better and more satisfactory to acquit a thousand guilty persons than to put a single innocent one to death." Maimonides argued that executing a defendant on anything less than absolute certainty would lead to a slippery slope of decreasing burdens of proof, until we would be convicting merely "according to the judge's caprice.

It was almost impossible to inflict the death penalty because the standards of proof were so high. As a result, convictions for capital offense were rare in Judaism.

That's what makes Jesus' conviction so extraordinary.

The Romans had already taken away the Sanhedrin's power to inflict capital punishment:

“It is not lawful for us to put any man to death” – (**John 18:31**)

But they could still pass sentence, deliberating in the magnificent Hall of Hewn Stones in the Temple, and that's what they did in Jesus' trial.

Passages in the Talmud and New Testament indicate that in 30 A.D. the Sanhedrin was moved out of the Hall of Hewn Stones where it judged cases. Possibly because of the earthquake at Jesus' crucifixion, which may have caused structural damage to the Temple and ripped the Temple Veil.

Stephen and James

(There were some exceptions - the stoning of Stephen (**Acts 7**) reads more like a mob action that defied technical legalities. The execution of James the brother of Jesus was accomplished after a newly appointed High Priest Ananus illegally and hastily convened the Sanhedrin while the new Roman procurator Albinus was still on his way from Alexandria. Ananus wanted to execute James because of his growing influence among all sects of the Jews. For this King Agrippa took the high priesthood away from Ananus. The tradition is that they flung James from the Temple walls, which he survived to pray for them. Then they stoned him, and finally clubbed him to death)
- Josephus, *Antiquities*.

Talmud -

“Forty years before the destruction of the Temple, the Sanhedrin was BANISHED (from the Chamber of Hewn Stone) and sat in the trading station (on the Temple Mount)”– (Shabbat 15a).

“When the Sanhedrin (Supreme Court) CEASED TO JUDGE CAPITAL OFFENCES, they MOVED from the Supreme Court chambers to the ‘shopping mall’” - (Rosh HaShana 31a)

The standards of evidence in capital cases:

- It requires two witnesses who observed the crime. The accused would have been given a chance and if repeated the same crime or any other it would lead to a death sentence. If witnesses had been caught lying about the crime they would be executed.

Deuteronomy 19:15 - “One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.”

Two witnesses were required. Acceptability was limited to:

- Adult Jewish men who were known to keep the commandments, knew the written and oral law, and had legitimate professions;
- The witnesses had to see each other at the time of the sin;
- The witnesses had to see each other, and both of them had to give a warning (hatra'ah) to the person that the sin they were about to commit was a capital offense;
- The witnesses had to be able to speak clearly, without any speech impediment or hearing deficit (to ensure that the warning and the response were done);
- The witnesses could not be related to each other or to the accused.
- This warning had to be delivered within seconds of the performance of the sin (in the time it took to say, "Peace unto you, my Rabbi and my Master");
- In the same amount of time, the person about to sin had to both respond that s/he was familiar with the punishment, but they were going to sin anyway; and begin to commit the sin/crime;
- The Beth Din had to examine each witness separately; and if even one point of their

- evidence was contradictory - even if a very minor point, such as eye color - the evidence was considered contradictory and the evidence was not heeded;
- The Beth Din had to consist of minimally 23 judges;
 - The majority could not be a simple majority - the split verdict that would allow conviction had to be at least 13 to 11 in favor of conviction;
 - If the Beth Din arrived at a unanimous verdict of guilty, the person was let go - the idea being that if no judge could find anything exculpatory about the accused, there was something wrong with the court.
 - The witnesses were appointed by the court to be the executioners.

-- https://en.wikipedia.org/wiki/Capital_and_corporal_punishment_in_Judaism

See also

<https://www.biblegateway.com/resources/encyclopedia-of-the-bible/Crimes-Punishments>
and

<https://www.jewishvirtuallibrary.org/capital-punishment>