

## **Seeing John 11:47-57 as the Jewish Trial of Jesus according to John**

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The proceeding before Caiaphas and the Sanhedrin at the end of John 11 should be viewed as a legal trial that resulted in a verdict that Jesus was guilty of a capital offense. It was more than a preliminary hearing,<sup>1</sup> and it should not be called or given the subheading of “The Plot to Kill Jesus.”<sup>2</sup> More is going on in John 11:45-57 than a theological debate, a religious council, or a preliminary investigation.

My paper is motivated by four things: (1) Growing recognition of the historical value of the Gospel of John.<sup>3</sup> Whenever the Gospel of John was written, it draws on earlier sources, perhaps much earlier. (2) Dissatisfaction with typical efforts to understand and report the trial of Jesus, which still lack persuasiveness. It seems unlikely that the events in the last two days of the life of Jesus came out of nowhere, and that things could develop so quickly without prior provocations, deliberations, and official decisions. (3) Seeing most commentators ignoring the reported proceedings and orders of the Sanhedrin found in John 11. Simply ignoring this source preemptively or categorically seems unsatisfactory. And (4) agreement with several reputable scholars who have engaged with John 11 legally. Their approach offers us another path.

If the following analysis is legally persuasive, then biblical law opens a pathway running through John 11:47-12:11 that appears to make clear sense and is solidly grounded in Jewish law, thought, and culture. Objections to this conclusion appear answerable, and it offers many insights and solutions to otherwise perplexing problems. For example, seeing that proceeding as a legal trial explains many things, including especially why there was no need in John 18 for any further hearing or determination by the Sanhedrin that Jesus was worthy of death when he was taken to Annas and then to Caiaphas after his capture in John 18. As Ernst Bammel rightly concludes, Annas only attempted “to extract from Jesus details which might result in the persecution [and, I would add, prosecution] of the disciples. The case [of Jesus] itself need[ed] no further deliberation.”<sup>4</sup> The legal verdict of guilt had already been determined a few weeks earlier. Following the judgment of the Sanhedrin in John 11, which was precipitated by the excitement generated by the widely reputed raising of Lazarus, only two legal issues would have remained: (1) who should execute Jesus, and (2) what mode of execution should be used. Those

two issues would naturally have been deferred until Jesus had been found and had been cautiously apprehended.

While Ernst Bammel (1970), A.E. Harvey (1976),<sup>5</sup> W. Grundmann (1984),<sup>6</sup> John A.T. Robinson (1985),<sup>7</sup> Donald A. Carson (1991),<sup>8</sup> Roger David Aus (1992),<sup>9</sup> N.T. Wright (1996),<sup>10</sup> Jonathan Burnside (2011),<sup>11</sup> and a respectable number of other scholars have seen this matter pretty much this way, most trial of Jesus scholarship rarely mentions this post-Lazarus proceeding in any detail, if at all. Moreover, rarely do theological and literary commentators on the Gospel of John analyze this proceeding from a legal perspective, and in such works, the matter is often mentioned only briefly, if at all. In my previous work on the trial of Jesus (2006), I have focused on the roles that allegations of magic (and being a *kakopoios* or malificus) together with charges of treason (*maiestas*) might have played in providing common grounds between Jewish and Roman legal concerns regarding Jesus.<sup>12</sup>

I now turn expanded attention to the legal proceeding in John 11. After a brief introductory overview of the facts in this case, I will revisit the record in John, paying special attention to the meanings of the many legal terms in the text of John 11:45-57 and 12:9-11. I will then offer a new analysis of the legal and verbal connections between Deuteronomy 12-13 and John 11. Final thoughts will be given on the “one-for-many” legal principle that Caiaphas invoked. Leaving many implications for later discussion, I conclude that it is time to see John 11:47-57 and 12:9-11 as a full-fledged legal trial, before the full Sanhedrin, presided over by Caiaphas, resulting in a conclusive verdict that Jesus should be put to death (John 11:53) and soon that Lazarus should be arrested and put to death also (12:9-10). While the extent to which this trial itself should be viewed as historical remains to be explored further, this case may have more historical and legal value than has been previously thought.

## **Case Overview**

The narration of the events of Jesus’s final week in the Gospel of John cannot be understood without backing up to a reported event that happened a few weeks earlier in Bethany, just over the hill to the east of Jerusalem,<sup>13</sup> namely the raising of Lazarus at his family home. The story is fairly well known, but not its legal implications.

Jesus had come at the behest of Lazarus’s two sisters, Martha and Mary (John 11:3). He had been a bit slow in coming (11:6), perhaps deliberately so (11:15), and in the meantime

Lazarus had died, or so Jesus said though he was not even there yet there (11:14). Trouble was in the wind.

According to John, Jesus and his disciples sensed the dangers ahead. Thomas whispered to the other disciples, “Let us also go [to Bethany], that we may die [too]” (11:16). After the body of Lazarus had lain in the burial chamber four days, Jesus arrived (11:17). Jesus would say to Martha, “I am the resurrection, and the life: he that believeth in me, though he were dead, yet shall he live” (11:25). As a personal favor to Mary, Martha, and Lazarus, all of whom Jesus loved (11:5), Jesus is reported to have brought Lazarus back to life. Before doing so, Jesus thanked God for hearing him precisely so that the crowd there “might believe that [God] had sent [him]” (11:42).

Whatever people thought the event consisted of, the raising of Lazarus was a newsworthy event. The death of Lazarus had been conspicuous. His family apparently had some wealth, a sizable house with a family burial cave nearby, and many social connections. Several influential Jews had come to mourn with Mary (11:19, 31). John 11:42 has Jesus explicitly thanking God for hearing him precisely so that the crowd of people (*ochlon*) there at the home of Mary, Martha and Lazarus might believe that God had sent him. Some of them were closely associated with leading Pharisees in Jerusalem (11:45-46). Many of these leading Jews in Jerusalem saw “the things which Jesus did” and they “believed on him” (11:45). The news spread immediately and was acted upon quickly (11:48). Being the most public and impressive of all the seven wonders or miracles reported in the Gospel of John, the raising of Lazarus was most likely the culminating sign found in John’s sourcebook, the Book of Signs.

News spread quickly, Jesus went into hiding, and legal steps were immediately set in motion. While many saw this reported wonder favorably and believed on Jesus, others continued to fear that Jesus had tricked, or was “deceiv[ing] (*planai*)” some of the people (*ochlon*) (John 7:12).

Immediately after Jesus had raised Lazarus, “some of them went their ways to the Pharisees, and told them what things Jesus had done” (11:46). This report must have been tantamount to the filing of a legal notice by those who thought they had witnessed, seen, and recognized a person violating the law (see Leviticus 5:1). John 11:47-54 then offers a report of the deliberation and legal decision in this case.

## Legal Terminology in John 11:57-12:11

In 1970, almost 50 years ago, Ernst Bammel rightly described this meeting “as a particular one in which the high priest had a decisive voice and as a result of which legal procedures were enacted.”<sup>14</sup> A close look at the rhetorical judicial register generated by the facts and Greek legal terminology in this passage bears out, and adds to, Bammel’s analysis and conclusions concerning the judicial nature of this proceeding.<sup>15</sup> Although emotional fears, religious issues, and political worries were surely involved in the minds of the members of the Sanhedrin, the specific vocabulary used and the essential issues raised in this case were grounded in what lawyers today would call black-letter law. Looked at from a legal perspective, this account in John 11 is not just a “vague account” corresponding loosely “with the things actually worked,” as E.P. Sanders concluded.<sup>16</sup>

For example, this legal council meeting was presided over officially by Caiaphas, the high priest that year (11:49). Present were the chief priests and the Pharisees (11:47, 57). Bammel worried about the absence of any mention of the Sadducees here,<sup>17</sup> but the composition of that political faction remains vague enough that they could well have been subsumed alongside the chief priests at the time of Caiaphas. Few individuals are ever identified by name as Sadducees, and they “have a rather miscellaneous character about them—they do not form a coherent set of beliefs. . . . Several bits of information suggest some sort of connection with the priestly establishment and the Temple,”<sup>18</sup> perhaps explaining their being omitted in this particular case. At the end of the proceeding in John 11, “the high priests and the Pharisees” again are named as the authorities issuing the legal order (*entolē*) requiring people to tell, if they knew, where Jesus had fled (11:57). And reputedly not long afterwards, when Peter and the apostles were apprehended and imprisoned in Acts 5:18, the Sadducees are named as being a sect, party, or school (*hairesis*) who comprised “all who [on that occasion] were with the high priest” in that proceeding (Acts 5:17). So the absence of explicit reference to the Sadducees in John 11:47 need not imply that they were not there or that this was less than a full session of the Sanhedrin. This case would have been convened at a normal time of day, with plenty of opportunity for notice and full participation. The mention of the Pharisees here, moreover, is significant, to indicate that their minority interest was, in this case, aligned with the chief priests. The Pharisees had been repeatedly alarmed by the miracle working of Jesus, performed

particularly but not exclusively on Sabbath days (John 7:47, 48; 8:13; 9:13, 15, 40; 11:46; 12:9, 42).

“Then gathered (*synēgogon*) the chief priests and Pharisees [in] council (*synedrion*)” (11:47). The word “*synhedrion*” has a clear legal sense here.<sup>19</sup> This meeting must have been more than just getting together for an informal conversation or committee meeting. This assembly must have been something of an official gathering, the convening of a session of the Sanhedrin with both parties, the chief priests (the Sadducees) and the Pharisees present and involved.

The body did not just talk about things philosophically, but its members wondered and debated what action to take (*ti poioumen*, 11:47).

They readily recognized that “this man” had worked many miracles or signs (*polla poiei sēmeia*, 11:47). The word “signs” would have been well known to these legal administrators from several biblical law contexts and foundational accounts,<sup>20</sup> particularly Dt 13:2, 5, making it a capital offense to use such signs to lead people to “go after other gods.”

As they discussed the case of Jesus and Lazarus, some argued, “If we let [Jesus] thus alone (*aphōmen*), all (*pantes*) will believe on him and the Romans shall come and take away both our place and nation” (11:48). The word *aphōmen* can mean to leave him alone, let him go on in his way, but in a legal context also to forgive, condone, or exonerate, effectively approving.<sup>21</sup>

They feared that “the place” (*ton topon*) and the people (*to ethnos*) would be destroyed (*arousin*). In this context, these are strong words, likely referring to the Temple or holy area of central authority,<sup>22</sup> the people of God,<sup>23</sup> and meaning to be destroyed, taken away, not just from the control of those rulers, but swept off, conquered by force, even by killing.<sup>24</sup>

Caiaphas, the high priest, however, discounted those concerns and rejected those arguments and their rationales, saying “You know nothing at all.” Founding his case on stronger logic and legal reasoning (*logizesthe*),<sup>25</sup> he ruled—based on a long-standing principle of Jewish law—that it is sometimes justifiable and would be helpful (*sympherei*)<sup>26</sup> for us (*hymin*—which could refer to either the members of the Sanhedrin or to the Jewish people generally) that one man die on behalf of or as a legal substitute (*hyper*) the people, rather than for the whole (*holon*) Jewish nation to be destroyed (11:50), making this a matter of public concern and legal cognizance. The Gospel of John twice makes the point that Caiaphas said this, and that he “did

not say this as his own personal opinion (*ap' eautou*),” but that he was acting officially as (being) the High Priest (*archiereus ὄν*, 11:51). He authoritatively argued that Jesus should die for the people, and not just for one group of the people (*tou ethnous monon*), but also so that the scattered children of God could be gathered into or unto one (*synagagēi eis hen*, 11:52).

The Gospel of John concludes in a clear legal, executive mode: “Then from that day forth they took counsel or were legally resolved together (*ebouleusanto*) that they would kill him (*hina apokteinōsin auton*). A strong consensus and binding ruling had been reached, although it had not yet been decided *how* he was to be executed—stoning, by the sword, or hanging on a tree were options under Deuteronomy 13:10, 15; or 21:22, respectively. Neither was it decided *who* should execute him—those who had witnessed his illegal actions, or temple guards, or Jewish or Roman soldiers were all among the possibilities.

Because Jesus had fled, the chief priests and the Pharisees unanimously issued an order (*entolēn*) that if anyone knew anything about where Jesus was, they must make it known (*mēnusēi*), so they could apprehend (*piasōsin*) him (11:57). These are unmistakable legal terms. The word *entolē* appears most often in the plural, referring to the commandments of God, but in the singular as it is here, *dedōdkeisan . . . entolēn* can be read “as a technical legal phrase indicating the issuing of a legal writ.”<sup>27</sup> And *mēnusēi* legally requires one to inform, make known, so that that the information might be officially made known, sometimes in a written report, and in a forensic sense to give information to authorities.<sup>28</sup> The verb *piazō* means to arrest in an official legal capacity.<sup>29</sup>

Unable to find Jesus, the chief priests (and perhaps their Scribes and Sadducees) reconvened and decided (*ebouleusanto*) to arrest Lazarus, that they might put him to death as well, since many of the Jews, because of him, were “going away” (*hypēgon*) and following Jesus (12:10-11).

The list of seventeen mainly legally relevant terms in John 11:47-12:11 is substantial: *synedrion* (συνέδριον), *sēmeia* (σημεῖα; σημεῖον), *aphōmen* (ἀφήμι), *topos* (τόπος), *ethnos* (ἔθνος), *arousin* (αἶρω), *logizesthe* (λογίζομαι), *sympherei* (συμφέρω), *apothanēi* (ἀποθνήσκω, twice), *hyper* (ὑπέρ), *holon* (ὅλος), *ap' eautou* (ἀπ' ἑαυτοῦ), *ebouleusanto* (βουλεύω, twice), *hina apokteinōsin auton* (ἵνα ἀποκτείνωσιν αὐτόν), *entolēn* (ἐντολή), *piasōsin* (*piazō*), and *mēnyō* (μηνύω). Their density in this relatively brief passage cumulatively draws particular attention to their technical legal meanings.

### **The Two-Part Crime Proscribed in Deuteronomy 13**

Turning now to the identification of the main legal cause of action that would have most likely been of concern to the Sanhedrin, further analysis can now be advanced to strengthen earlier suggestions that the main cause of action upon which the proceeding in John 11 mostly likely was based on Deuteronomy 13:1-5.<sup>30</sup> As I briefly asserted in 2006, “Most pertinent to . . . the trial of Jesus is the law in Deut 13:1-5. Even if a prophet were able to give ‘a sign or a wonder,’ Deut 13:1-3 made it illegal to follow such a person to ‘go after other god,’ and the punishment for the one who leads people into apostasy in this way was death. . . . When used for leading people to worship other beings (including oneself) as God, the case became all the more unlawful (Deut 13:1-5).”<sup>31</sup> Thus, the indictment would not have been that Jesus was *either* a wonder-worker *or* that he was misleading the people, but significantly that he was (a) openly using signs and wonders (b) purposefully in order to lead people astray (*planēsai*, LXX Dt 13:6), to go after or to serve or worship other gods. Read properly, the crime in Dt 13:1-5 is a two-part composite crime, and Jesus’s action had now reached the point of blatantly and defiantly contravening both prongs of this foremost legal provision, even after he had been repeatedly warned and challenged on previous occasions to cease and desist. It seems clear enough that the actions of the historical Jesus were intentional in this regard. He performed wonders precisely so that people would believe in him. John 11:42 has Jesus explicitly thanking God for hearing him precisely so that the crowd of people (*ochlon*) there at the home of Mary, Martha and Lazarus might believe that God had sent him.

The section of capital laws prohibiting prophets or wonder-workers from leading people away into going after other gods is found in Deuteronomy 13, near the beginning of the legal corpus in Deuteronomy, which runs from Deuteronomy 12 to 26. The law in Dt 13:1-5 thus occupies a place of prominence and legal preeminence.

Moreover, standing just before Dt 13:1-5, comes chapter 12, and rules throughout that chapter speak repeatedly of “the place” (*ho topos*, LXX), namely the temple. This word appears six times in that chapter (verses 5, 11, 14, 18, 21, 26). The temple is the place that “God shall choose to put his name.” The chief priests and Pharisees were expressly worried that they had to do something or else the Romans would come and seize the place (*ton topon*, the temple) and all the people (*to ethnos*, 11:48). The proximity of that word *topos* in Dt 12:26 and the setting forth

of this capital crime only a few lines later in Dt 13:1-5 to protect the steadfastness of the people in worshipping God cannot be seen as inconsequential. Hence Dt 13:1-5 could be seen as being particularly pertinent to the concern about losing “the place” to the Romans.

Moreover, Deuteronomy 13 continues, even if your brother or bosom friend (*ho philos ho isos tēs psyches*, Dt 13:7—as was the relationship between Jesus and Lazarus, *hon phileis*, Jn 11:3) does some miracle in secret (*lathrai*, Dt 13:7—one thinks of Mary telling Martha in secret, *lathrai*, that Jesus had come, Jn 11:28), then that person must report the infraction and, without a trial, that witness must be the first to put his hand upon him to kill him (*apothaneitai*, Dt 13:11). This makes sense because, the fact that the crime was conducted in secret would make it unlikely that there would be any other witnesses to call. Many of Jesus’s closest followers could have fallen under these legal obligations to report and cast the first stone at Jesus.

In addition, Deuteronomy 13:13-19 concludes with yet a third related law, this time pertaining to an entire city that has been subverted or drawn away into apostasy (*apestēsan*, Dt 13:14). While that fact situation does not apply to John 11, this law could have given rise to the exaggerated fear was that “everyone (*pantes*) [the whole city] will believe on him” (Jn 11:48) and in that case “all the inhabitants of that city” (*pantas tous katoikountas en tēi polei ekeinēi*) would be worthy of execution under Deuteronomy 13:16, or in other words “the whole nation would be destroyed” (*holon to ethnos apolētai*, Jn 11:50).

One other connection between John 11 and Deuteronomy 13 may be latent in the requirement that, in the case of an apostate city, the leaders of the people must “inquire, probe, and investigate the report thoroughly” (Dt 13:15). Whether such a duty to conduct a public investigation and similar formal report was required in the first case of the prophet or wonder-worker leading people away, or in the second case of a brother or family friend doing so, is not stated under Deuteronomy 13. But even in the case of an apostate city, nothing is specifically said about the investigators needing to hold a normal court proceeding, to identify the particular perpetrators, convene a city court, bring formal charges, and hear the testimonies of witnesses pro and con, before reaching a guilty verdict. All that Deuteronomy 13 requires in the case of a city-wide defection is for the interrogators to establish with confidence that “the report” was “true,” in which case all the inhabitants of the city and their cattle are to be killed by the sword, anathematizing everything in it to utter destruction (*herem; anathemati anathematieite*, Dt 13:16). Perhaps the normal requirements for convening a full and regular trial in these cases were

suspended because of (1) the obvious perils involved in trying to round up the renegades, (2) the unlikelihood of finding competent judges in such a town who would ever return a guilty verdict, and (3) the dangers faced if magic and wonders were ever used by these pernicious followers of other gods or heterodox ways. In Jesus's case, the truth of the report was not contested. Indeed, that was the problem: it was embraced. "Many of the Jews" had been present at the home of Mary, had seen (*theasameno*) the things that were done (11:45). While this led many of them to believe in Jesus, a number of them (being eyewitnesses) went and dutifully lodged a report of these things with those Pharisees who were members of the Sanhedrin.

Moreover, Deuteronomy 17:2-5 pertains to yet another situation. It says that if a man or woman is found "breaking his covenant and going to worship other gods and prostrating himself before them or before the sun and moon and all the host of heaven, . . . then if it is *reported* to you or you hear of it, [you must] make thorough inquiry. If the report proves to be true . . . *then* bring the man or woman . . . to the city gate . . . and stone him to death." Evidently, under the wording of this statute and also under Deuteronomy 13:13-19, the culprit was not brought to the court *until after* the investigation was conducted to verify the report, and then the culprit was then brought at that time only for sentencing and execution, not for rebuttal or trial. Although Jesus was not substantively accused under Deuteronomy 17 of worshiping forbidden deities or heavenly bodies, procedurally, after Caiaphas's verdict, Jesus was only then sought for and eventually brought sentencing and execution, a legal distinction Bammel failed to recognize.<sup>32</sup>

Such reasons, together with other factors, may have easily convinced Caiaphas that Jesus, or any members of his band of brothers, did not need to be present in order for the truth of the report of numerous witnesses to have been sufficiently ascertained in the case of Jesus's raising of Lazarus for faith-altering purposes.

Ancient laws, under other rare circumstances, allowed courts to proceed *ex parte*, in the absence of the accused. No witnesses are mentioned as having been needed in the case of sacrilege spoken by the blasphemer in Leviticus 24; having offended God, he was held in confinement until his guilty verdict was delivered by God and he was simply taken and killed. Similar treatment was imposed in the case of the desecration of the Sabbath in Numbers 15. The Christians whom Paul was sent to apprehend were apparently already convicted *in absentia*, of being apostates, for Paul described his assignment as being to bring them to Jerusalem, not for trial, but bound as prisoners for avenging "punishment" (*timōrēthōsin*, Acts 22:5). It seems likely

that in rare or emergency cases, some acts of treason, insurrection, conspiracy, brigandage, and perhaps witchcraft were summarily punished by Pharaoh,<sup>33</sup> by Tiberius,<sup>34</sup> and undoubtedly by others, especially when the crimes were committed by individuals of low social ranking.

### **The “One-for-Many” Rationale**

Having established a prima face case that some legal action could and should be taken against Jesus, the legal rationale that ultimately carried the day, as stated by the High Priest Caiaphas, was drawn from an additional legal source, namely a body of texts, traditions, and precedents that support the idea that one person could lawfully be given over to die on behalf of the people (*apothanēi hyper tou laou*, Jn 11:50) rather than for the entire nation to perish (*kai mē holon to ethnos apolētai*).<sup>35</sup>

This “one for many” rubric was not just a maxim or proverb.<sup>36</sup> It was a well-established rule of law, belonging in a formal legal proceeding. This “one for many” principle is found in biblical and Jewish legal narratives and precedents spanning more than a millennium. The indisputable legal force and effect of this point of law has been examined extensively by notable legal scholars, including David Daube,<sup>37</sup> Menachem Elon,<sup>38</sup> Ernst Bammel,<sup>39</sup> Nahum Rakover,<sup>40</sup> Roger David Aus,<sup>41</sup> Jonathan Burnside,<sup>42</sup> and several others.<sup>43</sup>

Before considering the relevance to Jesus’s case of the normal application of the “one for many” principle, I would add that this “one for many” rubric already is logically embedded in the laws of apostasy in Deuteronomy 13, which hold that one person (whether a prophet or a wonderworker) could preemptively be put to death precisely in order to prevent many, if not all, of the people from being led subversively to go after other gods (Dt 13:2, 6, 13). Together with the general idea of corporate or collective responsibility,<sup>44</sup> which also animated the following biblical law cases and succeeding Talmudic holdings, Caiaphas’s reason to support the desired ruling would easily have seemed overwhelmingly persuasive. It is “very likely that a principle and considerations of this kind were not unknown to members of the Sanhedrin.”<sup>45</sup>

The application of the “one for many” principle was nuanced, and it could be applied somewhat differently in one factual situation or another. Archaic cases that involved factual situations and legally recognized outcomes in line with this principle well known in the first century include the following:

(a) Phinehas, the son of the High Priest Eleazar, took it upon himself to kill Zimri and Cozbi, without a trial, in order to prevent a plague from decimating all of Israel (Num 25:1-15). Caiaphas, as the High Priest, could well have seen this precedent as authorizing similar priestly action by himself and the Sanhedrin in Jesus's case.

(b) Achan, in Judges 7:1-26, was detected by divination and stoned in order to save the whole army of Israel from destruction due to YHWH's displeasure because of the one banned thing (*haherem*) in their midst (Josh 7:13).

(c) Most famous in this line of authorities is the case of Sheba ben Bichri in 2 Samuel 20. It is pivotal. This seminal text is cited in most subsequent Jewish discussions of this point of law. Five legal factors here are most significant: David, the recognized monarch of Israel, sought the life of Sheba in order to quash a rebellion. As the leader of this rebellion, Sheba was "manifestly guilty of a capital crime against the legitimate government,"<sup>46</sup> namely treason, and therefore justly deserved to die, although he had not yet been tried and found guilty. Surrounding the city of Abel and threatening it with destruction, Joab made his intentions clear: the citizens of the city had committed no crime—he only wanted Sheba. Valuing their own survival over that of the insurrectionist's, the people of Abel themselves beheaded Sheba and witnessed Joab's retreat. According to this precedent, the "one death for all" principle was applied on five conditions: (1) when the *recognized leader* over Israel wished to execute judgment (2) against a person who was *guilty* of an offense against that leader, and (3) who was also *specifically named* by that leader and his men as the person who must die; and (4) when the people who were commanded to surrender the named person were *not guilty themselves of any offense*, yet (5) they faced *inevitable destruction* if they refused to surrender the named victim. Upon these conditions, the people of Abel were legally permitted to surrender or consign Sheba to death, in order to save the whole city. In the end, they did not turn the Sheba over to Joab, as they could have, but killed him themselves.

These five elements from biblical law form a basic legal framework for applying the "one death for all" principle which has long been applied to various situations in Jewish law. Although all five of these factors need not be present in every case, and each of them may be subject to

interpretation, it is easy to see how this “one for many” paradigm could have been thought by Caiaphas to apply precisely and completely in Jesus’s case:

- (1) The demand was made by Caiaphas, the recognized, highest Jewish leader.
- (2) Like Sheba, Jesus had not been tried and convicted in person, but both were amply deemed guilty.
- (3) Jesus was specifically named. The one killed could not be an anonymous person randomly singled out.
- (4) Those demanding Jesus’s death certainly saw themselves as innocent.
- (5) For Caiaphas, it was a given that the existence of his whole nation would suffer horrible consequences if they did not turn Jesus over to be killed, or kill him themselves. The precedent of Sheba itself allowed them the option of either killing the culprit themselves or turning him over the higher authority.

## **Conclusions**

In conclusion, while most scholars have not looked closely for legal significance in John 11:47-57, 12:9-11, some have done so, and with good reason.

Technical legal terminology is dominant in the account of the official proceedings controlled by Caiaphas and of the legal orders issued under his legal authority, much more so than is usually noticed, let alone systematically analyzed.

The two-part crime proscribed in Deuteronomy 13:1-5, properly understood, requires that a prophet or diviner must both give signs, portents, or wonders, and entice people to follow and worship another god in order to be culpable. This first test in the laws of Deuteronomy supplies the most likely ground on which the Sanhedrin proceeded against Jesus on that occasion.

The one-for-many rationale should then be understood, in this judicial context, as drawing on long-standing legal precedents and rules, even more strongly than has typically been argued in previous scholarship. It was much more than a proverbial maxim or simply a common social sense.

As John’s historical value increases, so should the esteem afforded to John’s presentation of the decisive legal aftermath of Jesus’s final and most controversial sign. This should afford new leverage in improving our understanding of the trial of Jesus to be pursued in future installments.

From the perspective of the members of the Sanhedrin, a statutory mandate clearly required such a man to be put to death (Deuteronomy 13:6). In their view, the event at Bethany culminated an escalating series of objectionable actions and teachings on Jesus's part, in the face of clear warnings and demands to cease and desist. Regrettably and ironically on both sides, while Deuteronomy sees such situations as a test "to see whether you really love the Lord your God with all your heart and soul" (13:5), that was the very commandment that Jesus also saw as first and greatest (Matthew 22:36-37; Mark 12:28-30).

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<sup>1</sup> As in Raymond E. Brown, *The Gospel According to John I-XII* (New York: Doubleday, 1966), 441, speaking of this as one among other preliminary sessions of the Sanhedrin, "we are simply calling attention to the possibility and, indeed, likelihood of sessions of the Sanhedrin before the final trial." Matthew L. Skinner, *The Trial Narratives: Conflict, Power, and Identity in the New Testament* (Louisville, Kentucky: Westminster John Knox, 2010), 91-92, speaking of John 11:45-53, says only: "The scene is more a deliberative hearing than a trial, but its conclusion—'From that day on they determined to kill him'—has the effect of a final judgment." After the verdict, however, this "determining" may have related more to how he would be killed, not that he would be killed.

<sup>2</sup> As in the United Bible Society textual publications.

<sup>3</sup> Due to well-known archaeological discoveries in Jerusalem and Galilee, John's accurate portrayal of Jewish pluralism in the first half of the first century together with a Jewish desire to get along with a tentative new Roman presence, the importance of the Temple to Jews even in Galilee, pilgrimages to the Temple especially for holy days such as Tabernacles, Hanukkah, and Passover, and other Jewish sensitivities and ideals consistent with the presumed social climate during the administration of Pontius Pilate. See James H. Charlesworth, ed., *Jesus and Temple: Textual and Archaeological Explorations* (Minneapolis: Fortress, 2014), with frequent references to all four New Testament gospels. On the historical value of the Gospel of John relevant to the historical Jesus, to events in Jerusalem in during the era of Pilate and Caiaphas, and to the identification of the sources relied upon in the final composition of John, see generally Gary M. Burge, "Gospel of John: New Confidence in John," in Craig Evans, *Encyclopedia of the Historical Jesus* (Routledge, 2008), 237-241; "while scholars will continue to dispute the historical value of the Fourth Gospel," some firmly hold that it "makes a substantive and reliable contribution to the historical Jesus and merits careful study and respect," 214.

<sup>4</sup> Ernst Bammel, "Ex Illa Itaque de consilium fecerunt . . ." in E. Bammel, ed., *The Trial of Jesus: Cambridge Studies in honour of C.F.D. Moule* (London: SCM Press, 1970), 29.

<sup>5</sup> A.E. Harvey, *Jesus on Trial: A Study in the Fourth Gospel* (London: SPCK, 1976). Harvey sees "clear legal implications in" the proceeding before Caiaphas, which yields "an actual decision by the competent Jewish authorities" (98, citing Bammel). Harvey adds an important insight, that in the Synoptics "the miracle stories are not told for the sake of their impact as miracles. On the contrary . . . Jesus' miraculous cures are frequently said to be the result of faith in the sufferer," while "in John it is belief which is the result of the miracle" (98-99). But Harvey does not extend this point to the legal relevance of that distinction. If miracles in John are used to create new belief, this causal relationship lands the miracle working squarely in the legal domain of Deuteronomy 13:1-5, and its prohibition of using miracles to lead people into another path of worshipping God.

<sup>6</sup> W. Grundmann, "The Decision of the Supreme Court to Put Jesus to Death (John 11:47-57) in Its Context: Tradition and Redaction in the Gospel of John," in Ernst Bammel and C.F.D. Moule, *Jesus and the Politics of His Day* (Cambridge: Cambridge University Press, 1984), 295-318. Grundmann agrees largely with Bammel, seeing the Lazarus and Caiaphas materials as belonging to the signs source (301). "Verse 53 contains the decision of the Sanhedrin" and "an arrest warrant is issued" (302), for some unstated reason. Caiaphas's ruling was "authoritative" (305), but nothing is said about the causes of action, especially under Deuteronomy 13, and the "one-for-many" rubric is not seen so much in legal terms as a view that all members of the

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Sanhedrin held “in common,” namely “the agreed distinction between the individual and the people” (306). Being interested more in this anthology with the politics of Jesus’s day, the legal character of this proceeding recedes into the background, and the legal terminology receives no significant analysis.

<sup>7</sup> John A.T. Robinson, *The Priority of John* (London: SCM, 1985). Following Bammel, Robinson recognizes the importance of the raising of Lazarus to the narrative. “Yet the Lazarus story, unlike these others, cannot simply be separated and detached from the surrounding narrative. It crucially affects the unfolding of the story as a whole.” (222). After quoting 11.45-53 Robinson stays, “Here we have a formally convened meeting of the Sanhedrin at which they ‘resolved’ or ‘passed a resolution’” (223). Rather than just plotting, based on the Greek words used. He then mentions that Bammel has pointed out many “quasi-technical terms” in the passage (224). He also mentions that Bammel said that, “the prosecution of Jesus which makes the legal proceedings begin a considerable time before the crucifixion.” (225). So, while Robinson does not fully develop the analysis he seems to be on a track that ties the raising of Lazarus to a formal resolution of the Jewish authorities to kill Jesus.

<sup>8</sup> Donald A. Carson, *The Gospel according to John* (Leicester, England: Inter-Varsity Press, 1991). Carson makes the connection between the raising of Lazarus and the council meeting, albeit with very little discussion, early in his commentary. “Jesus performs his last and greatest ‘sign’ before the cross, the raising of Lazarus – at Bethany near Jerusalem (Jn.11). The result is the announcement of the need for Jesus to die as a sacrifice for the people (11:45-53) – the promised Lamb of God indeed.” (147) Later on, in discussing chapter 11 specifically, he points out that a “Close reading of Mark 14:1, however, shows that even the Synoptists *presuppose* an earlier decision, here attested by John.” (419) To counter the argument that this meeting is “historically dubious,” Carson mentions the healing of a blind man and the raising of Lazarus as the cause of the Jewish leaders concern and meeting at this time (420). He also recognizes that what is going on is based on legal precedents (421). Finally, Carson concludes, “The decision has now been made; it remains only to carry it out, as efficiently as is compatible with political expediency. In short, Jesus is not to be arrested in order to be tried; he is to be tried because he has already been found guilty (as Mk. 14:1-2 presupposes). And this, John insists, has been precipitated by the raising of Lazarus.” (423) While he comes just short of calling this the trial, and he mentions Deuteronomy 13:1-5 only in connection with the investigation by the Pharisees in John 9:13-34 (337), he recognizes the proceeding in John 11 as the time the judicial and legal decision to kill Jesus was made.

<sup>9</sup> “The Death of One for All in John 11:45-54 in Light of Judaic Traditions,” in his *Barabbas and Esther and other Studies in the Judaic Illumination of Earliest Christianity*, (Atlanta: Scholars Press, 1992), 29-63. Aus examines the concepts and terminology in the meeting of the Sanhedrin in John 11. While he is primarily examining the events from a literary or historical view, he identifies the proceeding as a legal proceeding.

<sup>10</sup> N.T. Wright, *Jesus and the Victory of God* (Minneapolis: Fortress, 1996). Wright clearly sees Deuteronomy 13 as the legal background here. Emphasizing the factor of teaching and leading astray far more than the working of signs and wonders, he solidly accepts the idea that the charges in John, that Jesus was “leading people astray,” are not merely expressions of general concern but as **a legal complaint, an accusation that Jesus’s actions violated, in some way, the three types of prohibited conduct in Deuteronomy 13**, making it a capital offense for (1) a prophet to persuade people to go after other gods, (2) for a friend or family member to do the same, or for (3) a scoundrel lead a whole town astray. (439, see also 548). Even regarding other charges, such as “deceiver,” “imposter,” “magician,” and “false prophet,” the background of Dt 13 is “**probable.**” (440). “Jesus clearly put himself in the category condemned by Deuteronomy 13. He had confessed to messianic aspirations (551).

For Wright, this approach to John 11 and its importance, clarifies the subtext for the hearing before Caiaphas. He needed to frame a charge which would stick before Pilate and also sway the Jewish crowd. If the Sanhedrin “were able to claim that he was guilty of a well-known capital crime in Jewish law, they might win the people over.” (549). But, here again, it is the charge of miracle working that carries the most historical force and effect, for “It is highly unlikely that anyone would have invented the charge that Jesus did what he did through being in league with the prince of demons. We are here on firm historical ground” (442).

Thus, Wright “incline[s] to the view that the meeting in John 11, held without Jesus present, **was the real ‘trial’**, at which it was agreed (a) that Jesus was a false prophet leading Israel astray, (b) that he was a serious political liability, and (c) that, since it seemed to be a choice between killing him and letting the

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Temple and nation by jeopardized, he should be killed.” (550) And, following the trial in John 11, Wright claims that “all that remained was to extract some sort of confession of guilt in relation both to the Temple and to the charge of false prophecy. That was what the nocturnal hearing succeeded in doing” (550). But legally other things may be going on with Annas.

Wright thinks that Jesus “could have avoided arrest in the first place” (552), but that seems unlikely after an arrest warrant had gone out for his capture after the trial in John 11. And Wright suggests that Jesus “could, perhaps, have chosen to mollify the Sanhedrin” (552). But once again, that could only have happened if the issue just involved Jesus’s claims, his talk, and his teachings. Following the decision in John 11, the likelihood of any reconciliation seems impossible, following the undeniable reports of witnesses that followed his sensational raising of Lazarus from the dead. Where could the grounds for any such reconciliation on that legal element have come from? Having conspicuously and blatantly performed such a notorious miracle in the environs of Jerusalem, there was no legal going back.

<sup>11</sup> Jonathan Burnside, *God, Justice, and Society* (Oxford: Oxford University Press, 2011), 434-35. Burnside uses “Raising Lazarus” as the subtitle for a short section in his chapter on the Trials of Jesus (434-435). While he rightly identifies the controversial raising of Lazarus as starting “the chain of events that led to Jesus’s arrest” in Gethsemane, he says nothing about the legal procedures and import of the proceeding before Caiaphas in John 11. He recognizes that Jesus’s miracle-working and signs were a part of the problem, but sees the “key issue” as “false prophecy” and “leading Israel astray” as a “false teacher” (434). The words teaching or teacher are mentioned five times, and he sees the law of false prophecy in Dt 18:15 as “one of the issues at the heart of Jesus’s trial” (435). But it is unclear that Jesus was accused of false prophecy, although Peter and Stephen saw Jesus as the one about whom the prophets had prophesied and was the anticipated prophet like Moses.

Burnside discounts the performance of the miracles as being not dispositive, since “after all, Israel had a long tradition of miracle makers.” But it should not be overlooked that the giving of signs and wonders was an essential part of turning teaching and prophesying into a capital offense under Dt 13:1-5, as discussed below.

<sup>12</sup> John W. Welch, “Miracles, *Maleficium* and *Maiestas* in the Trial of Jesus,” in *Jesus and Archaeology*, James H. Charlesworth ed. (Grand Rapids, MI: Eerdmans, 2006), 349-383.

<sup>13</sup> Bammel wishes to put distance between the events in John 7, at which time Jesus was criticized and accused of deceiving the people by his miracle working, and the aftermath of the raising of Lazarus in John 11, opining that for some intentional purpose “The Evangelist Jesus in Bethany before letting him reach Jerusalem,” thus reflecting different traditions that became entangled. Bammel, *Trial of Jesus*, 20. But the distance between Jerusalem and Bethany is not great enough, on its own, to support such a textual separation.

<sup>14</sup> Bammel, *Trial of Jesus*, 20.

<sup>15</sup> See the Glossary of Main Legally Relevant Terms, below.

<sup>16</sup> E.P. Sanders, *Jesus and Judaism* (Philadelphia: Fortress, 1985), 318.

<sup>17</sup> Bammel, *Trial of Jesus*, 21-22.

<sup>18</sup> Lester L. Grabbe, “Sadducees,” in Craig Evans, ed., *Encyclopedia of the Historical Jesus* (Routledge, 2008), 537.

<sup>19</sup> The term can mean any legal court for the prosecution of crimes, including the Great Sanhedrin specifically (Matt 10:17; 26:59; Mk 14:55; Luke 22:66; Acts 4:15; 5:21, 27, 34, 41; 6:12, 15; 22:30; 23:1, 6, 15, 20; 24:20; Josephus, *Ant.*, 14.163-184; 15.173; 20.200; *Wars*, 1.620). An assembly (Josephus, *Ant.*, 1.620), as well as political alliances, and councils (Strabo, *Geographica*, 9.3.7; 11.2.19), including the Roman Senate or Carthaginian Senate (Polybius, *Histories*, 1.11.1; 1.32.8; Dionysius Halicarnassensis, *Antiquitates Romanae*, 9.52.3; 10.12.7; 12.1.13).

<sup>20</sup> In the LXX, the word refers to the signs of Moses and Aaron before Pharaoh (Ex 7:3, 9), as well as the signs of Yahweh’s cursing in Egypt (Ex 10:1; c.f. Josephus, *Ant.*, 2.284; 8.347); “sign” in Deuteronomy 13:1 identifies a prophet leading the people to walk after other gods. Often used with תְּמוֹנָה (“wonders”; σημεῖα καὶ τέρατα). It can be a positive indicator of the truth of a message, as in Luke 2:12 “a sign (σημεῖον) . . . to find the baby in swaddling cloth, in a feeding trough.” In Acts 2:22, Peter says that Jesus was “approved” or “attested” by wonders (τέρασα) and signs (σημεῖοις)—the inverse order of these two words may indicate an intentional direct quotation of Dt 13:2 under Seidel’s Law. The word appears in connection with the

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Sanhedrin's disapproval of the miracles of Peter and John not long after the death of Jesus (Acts 4:16), having asked them by what authority (divine or by other gods) they did such things (Acts 4:7; see also the same question in Matt 21:23; Mk 11:28; Luke 20:2).

<sup>21</sup> In LXX, to forgive (Ex 32:32; Lev 5:6; Num 14:19), especially used after an offense against the law is expiated by an atonement or sacrifice by the priest (Lev 4:20, 26, 31, 35; 5:10, 13, 16, 18; 19:22; Num 15:25, 26). Often as "forgive" in NT, of sins or legal debts (Matt 6:12, 14, 15; 9:2, 5-6; 12:31-32; 18:21, 27, 32, 35; Mark 2:5, 7, 9-10; 3:28; 4:14; 11:25-26; Luke 5:20-21, 23-24; 7:47-49; 11:4; 12:10; 17:3-4; 23:34; John 20:23; Acts 8:22). Also "let go" (John 12:7; 16:32); or "leave alone" in a legal context (Acts 5:38; cf. Josephus, *Ant.*, 4.273, freeing a slave).

<sup>22</sup> τόπος often translates οἶκος in the LXX; used to speak of places in general, often holy places (e.g., Gen 28:16), including the temple (found in high concentration in Deut 12:5, 11, 14, 18, 21, 26). In NT, "place" generally or even "towns" (e.g., Acts 16:4; 27:2), but also used for the temple in particular (Matt 24:15; John 4:20; Acts 6:13).

<sup>23</sup> In LXX, people in general or the children of Israel (the Lord's people, e.g. Ex 33:13). Also used of the "nations" or Gentiles (Gen 10:5). Similar usage in NT: people or Israel (Luke 7:5; 23:2; John 18:35; Acts 10:22; 24:2, 10, 17; 26:4; 28:19); Gentiles (Matt 24:9; Luke 21:24).

<sup>24</sup> This is a strong word meaning to be destroyed, taken away (Matt 21:43; John 17:15 Acts 8:33; 21:36), not just from the control of those rulers, but swept off (Matt 24:39), conquered by force, even by killing (Luke 21:28; John 19:15; Acts 22:36). In LXX, curse (Num 22:6, 11; 23:7).

<sup>25</sup> To reason and decide with strong logic and legal precedent. Can mean to be reckoned as or taken as (in a legal sense), e.g. Rom 2:26: "Therefore if the uncircumcision keep the righteousness of the law, shall not his uncircumcision be counted (λογισθήσεται) for circumcision?" (cf. Rom 9:8).

<sup>26</sup> Better, preferable, conferring a benefit, expedient, fitting, appropriate, suitable, agreeable, coming to terms with, in harmony with.

<sup>27</sup> Bammel, *Trial of Jesus*, 33.

<sup>28</sup> See, for example, Josephus, *Ant.* 4.220; *Martyrdom of Polycarp* 20:1.

<sup>29</sup> To seize or arrest (John 7:30, 32, 44; 8:20; 10:39; 11:57; Acts 12:4; 2 Cor 11:32). The imprecation of one named in an ἐντολή or a legal order (2 Macc 6:11; Josephus, *Ant.* 4.220; Bammel, *Trial of Jesus*, 33), used by Philo when discussing the way a tax collector apprehends a fugitive (Philo, *De Specialibus Legibus*, 3.159; Bammel, *Trial of Jesus*, 34).

<sup>30</sup> A. Strobel, *Die Stunde der Wahrheit* (Tübingen: Mohr, 1980) 81-86, focuses on the words of Jesus ("spricht," "Sprache," "demagogische Tricks," "Demagoge"), which makes Jesus a "misleader" ("Verführer") and ultimately exposes him to the accusation of blasphemy, 92-94, but more than words are involved here. Strobel is followed by P. Stuhlmacher, *Jesus von Nazareth, Christus des Glaubens* (Stuttgart: Calwer, 1988); trans. by S. Schatzmann as *Jesus of Nazareth, Christ of Faith* (Peabody, Mass: Hendrickson, 1993) 42-43, n. 6. Otto Betz, "Probleme des Prozesses Jesu," in *ANRW* 2, 25, 1 (1982) 575-80, 593-97, mentions "Zauberer" and "Wunder," while his focus remains on false teaching and misleading. But without invoking the miraculous, Jesus remains simply another teacher whose opinions can be accepted or rejected through ordinary debate, as Barry Blackburn, *Theios Aner and the Markan Miracle Traditions*, 258, rightly points out. Graham Stanton makes a strong case that Jesus's opponents marginalized him with the double accusation that he was both a magician and a false prophet, but he does not draw legal consequences from these two "closely related" allegations, in his *Jesus and Gospel*, 129, 135, 137.

<sup>31</sup> John W. Welch, "Miracles, Maleficium, and Maiestas in the Trial of Jesus," in James H. Charlesworth, ed., *Jesus and Archaeology* (Grand Rapids: Eerdmans, 2006), 367-68.

<sup>32</sup> Bammel, *Trial of Jesus*, 29. "The laws of Deut. 13 and 17, which are often referred to in discussions of the trial of Jesus, insist on a proper investigation [in all such cases] even [actually, especially] in the case of someone who misleads a city."

<sup>33</sup> Pritchard, *ANET*, 214-216.

<sup>34</sup> Tacitus, *Annals*, 5. For further discussion of many situations under ancient law that allowed for *ex parte* judicial or legal impositions of the death penalty, see generally Frank R. Hermann, "Facing the Accuser: Ancient and Medieval Precursors of the Confrontation Clause," 48 *Virginia Journal of International Law* (1994), 481.

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- <sup>35</sup> For further discussion of this vexing legal permission to elevate the needs of the community over the individual's right to life, Haim H. Cohn, *Human Rights in Jewish Law* (New York: Ktav, 1984), 38.
- <sup>36</sup> Brown, *John*, 442, "In his own mind Caiaphas was giving voice to a common-sense maxim of political expediency."
- <sup>37</sup> David Daube, *Collaboration with Tyranny in Rabbinic Law* (London: Oxford University Press, 1965), reprinted as "Appeasing or Resisting the Oppressor," in *New Testament Judaism*, in Calum Carmichael, ed., *Collected Works of David Daube* (Berkeley: Robbins Collection, 2000), 2:93-118, showing that this rubric "can be explain 'on purely Jewish premises.'"
- <sup>38</sup> M. Elon, *Principles of Jewish Law*, 476.
- <sup>39</sup> Bammel, *Trial of Jesus*, 26-32.
- <sup>40</sup> Nahum Rakover, "The One vs. the Many in Life and Death Situations," in *Jewish Law Association Studies* 8, ed. E. A. Goldman (Atlanta: Scholars Press, 1996),
- <sup>41</sup> Roger David Aus, "The Death of One for All in John 11:45-54 in Light of Judaic Traditions," in *Barabbas and Esther and Other Studies in the Judaic Illumination of Earliest Christianity*, ed. J. Neusner, et al. (Atlanta: Scholars Press, 1992), 29-63. In addition to discussing the case of Sheba, discussed below, Aus argues the author of John also drew on the Jehoiakim/Jehoiachin midrash (31-35). Each of those two descendants of David and "Kings of the Jews" during the rule of King Nebuchadnezzar had experiences tied to this legal principle. Jehoiakim was killed and had his head thrown from the city wall, while Jehoiachin surrendered himself to be killed when Nebuchadnezzar demanded his surrender in exchange for the city. Each of these kings were asked for specifically in exchange for protection for the temple and the city. Other parallels exist to John 11, most significantly the involvement of the Sanhedrin in Jehoiakim's situation. John 11 is only place in John where the Sanhedrin is referred to as a "whole."
- <sup>42</sup> Jonathan Burnside, *God, Justice and Society* (Oxford: Oxford University Press, 2013), 434-35.
- <sup>43</sup> A. Merx, *Das Evangelium des Johannes* (Berlin, 1911), 300, was among "the first to draw attention to rabbinic parallels to Caiaphas's statement." Bammel, *Trial of Jesus*, 26, n.83.
- <sup>44</sup> Joel S. Kaminsky, *Corporate Responsibility in the Hebrew Bible* (Sheffield: Sheffield Academic Press, 1995); Jurrien Mol, *Collective and Individual Responsibility: A Description of Corporate Personality in Ezekiel 18 and 20* (Leiden: Brill, 2009).
- <sup>45</sup> Bammel, *Trial of Jesus*, 28.
- <sup>46</sup> David Daube, *Collaboration with Tyranny in Rabbinic Law* (London: Oxford University Press, 1965), 41.