

The Just One and Political Justice

BY RUI BARBOSA

In an essay first published in 1899 and excerpted here, Brazilian jurist, essayist, lawyer, author, politician, and diplomat Rui Barbosa (1849–1923) analyzes the prosecution of Jesus from a legal standpoint and holds it up as an example for the ages of the miscarriage of justice.

Christ was subjected to six trials—three at the hands of the Jews, three at the hands of Rome—yet He stood before no judge. In court after court His divine innocence was evident to all who judged Him, but not one dared grant Him judicial protection. In Hebraic traditions, the concept of the divine nature of a magistrate’s role was emphasized. It was taught that to rule contrary to the truth was to drive the presence of the Lord from the bosom of Israel, while to judge with integrity, even for an hour, was likened to the creation of the universe. It was taught that there, in the place of judgment, divine majesty abode. Laws and holy books are of little worth, however, when men lose sight of their meaning.

In the very trial of the One who was sinless, there was not a precept or rule in the laws of Israel that her judges did not transgress. From His arrest, approximately an hour before midnight, until dawn, all the events of Christ’s trial were tumultuous, extrajudicial, and an assault on Hebrew precepts. The third phase, the inquiry before the Sanhedrin, was the first to even remotely simulate a judicial hearing—the first act in this judgment to vaguely resemble due process. At least it took place in the light of day.

Christ Himself did not renounce such rights. Annas interrogated Him, making a procedural error, as he had no judicial authority in the matter. In resigning Himself to martyrdom, Jesus never resigned

Himself to the abdication of His lawful rights. Jesus answered Annas, “I spoke openly to the world. I always taught in synagogues and in the temple, where the Jews always meet, and in secret I have said nothing. Why do you ask Me? Ask those who have heard Me what I said to them. Indeed they know what I said.” It was an appeal to the Hebrew institutions, which made no allowance for courts or witnesses representing only one side of a question. The accused had the right to a public trial and could not have been convicted without a body of incriminating testimony. Jesus’ ministry had been to the people. If His preaching had crossed into criminal activity, the place should have been teeming with witnesses. They stood on judicial soil, yet because the Son of God invoked the law, His judges slapped Him. To answer the priest in this manner was insolence. “Do You answer the high priest like that?” “Yes,” replied Christ, insisting on legal grounds. “If I have spoken evil, bear witness of the evil; but if well, why do you strike Me?”

Disoriented, Annas sent Him to Caiaphas, the high priest that year. This matter, however, was also outside Caiaphas’ jurisdiction. It was solely a prerogative of the great Sanhedrin, before whom Caiaphas had already revealed his political bias in persuading them it was necessary for Jesus to die in order to “save the nation.” It was now up to Caiaphas to carry out his own malicious design, which resulted in

the damnation of the people he had intended to save and the salvation of the world, which he had never considered.

The illegality of the nighttime judgment, which Jewish law prohibited even in ordinary civil issues, was worsened by the scandal of the false witnesses. They were bribed by the judge himself, who should have, according to the jurisprudence of that nation, played the role of the defendant’s foremost protector. Yet, no matter how many false witnesses they arranged, they were not able to impute to Him guilt as they had hoped. Jesus remained silent. His judges lost the second round. The high priest, in his “wisdom,” suggested a way to open the divine lips of the accused. Caiaphas questioned Him in the name of the living God, an invocation which the Son could not resist. Obligated to reply, He did not recant and therefore found Himself accused of a capital crime. “He has spoken blasphemy! What further need do we have of witnesses? Look, now you have heard His blasphemy!” Hearing this statement, all present cried, “He is deserving of death.”

The morning dawned, and in the first hours of daylight, the entire Sanhedrin met. It was an attempt to satisfy the judicial guarantees. Daybreak brought with it the required condition of openness. This was now a legitimate judicial proceeding. These were the proper judges, but judges who had already hired witnesses to testify against the defendant could represent little more than a disgraceful travesty of justice. Having agreed beforehand to condemn, these judges left an example to the world, imitated countless times over the years, of tribunals that decide together in the

shadows, later merely simulating in public an actual judgment.

Naturally, therefore, Christ was condemned a third time. The Sanhedrin, however, did not have the authority to pronounce the death sentence. It was a jury of sorts, whose verdict was more opinion than ruling. The Roman courts were under no obligation to heed this verdict. Pontius Pilate, therefore, was under no constraint; he could either condemn or acquit. He asked them, "What accusation do you bring against this Man?" "If He were not an evildoer, we would not have delivered Him up to you" was the insolent reply of his prosecutors. Not wanting to play the role of executioner in a case about which he knew nothing, Pilate tried to weasel out of the predicament by returning the victim to His accusers. "You take Him and judge Him according to your law." "But," replied the Jews, "you know very well that it is not lawful for us to put anyone to death." Their goal was death. Without it the depraved justice of the accusers would not be satisfied.

At this point their libel changed. The accusation was no longer of blasphemy against holy law, but of an infraction of political law. Jesus was no longer the impostor who claimed to be the Son of God, but a conspirator who crowned Himself king of Judea. Again, however, Christ's answer spoiled the morning for His accusers. His kingdom was not of this world. Therefore He posed neither a threat to the security of national institutions, nor to the stability of Rome's rule. "For this cause I have come into the world," Christ said, "that I should bear witness to the truth. Everyone who is of the truth hears My voice." "What is truth?" asked Pilate, clearly revealing his cynicism. He did not believe in the truth, but the truth of Christ's innocence penetrated irresistibly into the depths of his soul. "I find no fault in Him at all," said

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the Roman procurator, once again forestalling the priests' plot.

The innocent should have been spared. He was not. Public opinion demanded a victim. Jesus had stirred the people, not only there in Pilate's territory, but all the way to Galilee. It so happened that Herod Antipas, the tetrarch of Galilee with whom the governor of Judea had severed relations, was in Jerusalem. It was an excellent occasion for Pilate to restore their friendship and at the same time pacify the crowds that had been inflamed by the high priests. Pilate sent the defendant to Herod, flattering him with this homage—vanity. Two enemies, from that day on, became friends. Thus tyrants are reconciled over the ruins of justice. Herod, also, could find no way to condemn Jesus. The martyr returned from Herod to Pilate without being sentenced.

Pilate reiterated to the people the purity of that just Man. It was the third time that Rome's judges had proclaimed His innocence. However, the clamor of the multitudes grew.

Jesus' fourth defense came again from Pilate's mouth. "What evil has He done?" The conflict escalated as the uproar of the multitude grew stronger, and the governor asked, "Shall I crucify your King?" The crowd's shouting answer was the lightning bolt that disarmed Pilate's attempts to forestall. "We have no king but Caesar!" With this word the specter of Tiberius Caesar arose in the depths of the governor's soul. The monster of Capri, betrayed, consumed with fever, covered with ulcers, contaminated with leprosy, entertained himself with atrocities during his final days. To betray

him was to bring about one's own destruction—to fall under even the suspicion of infidelity to him was to die. Frightened, the slave of Caesar acquiesced, washing his hands before the people. "I am innocent of the blood of this just Person," he said, and handed Jesus over to His crucifiers. Behold the proceedings of a court that will not take responsibility for its actions. From Annas to Herod, the judgment of Christ is a mirror of all the ways in which a judicial system, corrupted by factions, demagogues, and governments, deserts its own. Their weakness, their naiveté, their moral perversion crucified the Savior and continue to crucify Him today, in empires and republics, every time that a court covers the truth with a lie, abdicates responsibility, turns its back on or hides from the truth. Jesus was sacrificed because He was accused of being an agitator and a subversive. Every time that it is deemed necessary to sacrifice a friend of our rights, an advocate of the truth, a defender of the defenseless, an apostle of generosity, a proponent of law, or an educator of the people, this is the order that always rises again to justify the activities of the lukewarm judges whose only interest is power. All believe, like Pontius Pilate, that they will save themselves by washing their hands of the blood that they themselves will spill, of the crime that they will commit. Fear, venality, partisan politics, personal reputation, subservience, a conservative spirit, a closed interpretation, reasons of state, overriding interests—call it what you will—judicial prevarication will not escape being branded.

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