

Rosh ha-Shanah in Palestine at the Inception of the Jewish Calendar: one or two days?

We examine the evolution of the situation in Jerusalem with regard to Rosh ha-Shanah. It appears that Rosh ha-Shanah was sometimes or even often kept during two days although the Rabbis made all the possible efforts to have the month of Elul defective. By contrast, in all the other areas of Palestine, outside of Jerusalem, the population kept two festival days for Rosh ha-Shanah.

During the period ~239 – ~305, the month of Tishri was not always defective and it happened sometimes to be full, the true day of Rosh ha-Shanah was then the second day of Rosh ha-Shanah on Elul 31. This was the result of a new rule that Rosh ha-Shanah could not fall on Wednesday and Friday. This situation created a great confusion and insecurity. However by the end of this period, the Court came back to the former situation when the Council of intercalation made all the possible efforts in order to have Elul defective. This allowed the Jewish population of Palestine and Babylonia to fast on Yom Kippur with confidence and without the fear that the true day of Yom Kippur was the following day. This situation prevailed until the inception of the Jewish calendar and even slightly before when the Palestinian Council of intercalation began communicating the dates of the festivals in advance to the Babylonian communities which, by this moment, began to know the fixing of the month. The Babylonian communities had hoped to be released from the obligation of keeping two festival days. However a Palestinian enactment, which they followed scrupulously, imposed them to go on keeping two festival days as before because of the insecurity and the dangers of disruption of the communication of the calendar. It is not excluded that this enactment was also a form of punishment against the Diaspora. From the other side the Council of intercalation, presided by Rabbi Jose (Youssa) ruled that the whole country of Palestine would keep Rosh ha-Shanah only one day, by contrast with the situation prevailing before. In fact the Palestinian part of the enactment was never known nor understood by the Babylonian Amoraïm and Geonim who understood that the same rule and the same reason applied to both the Babylonians and the Palestinians. Finally in the 12th century, when the Palestinian leadership had weakened and lost any power, the Diaspora, lead by the Babylonian Jewry, succeeded imposing to Palestine the keeping of two festival days for Rosh ha-Shanah.

Rosh ha-Shanah in Palestine¹ at the Period of the Talmud: one or two days?

Most of the references in the Talmud about Rosh ha-Shanah refer to the period of the empirical calendar by observation. They show that, either in Palestine or in Babylonia, once the practice of lighting fire signals on the top of the mountains² was suppressed at the end of the second century, under the patriarchate of Rabbi Judah the Prince,³ people kept two festival days for Rosh ha-Shanah. Only in Jerusalem, Rosh ha-Shanah could be kept one day.

1. The situation in Jerusalem.

The situation in Jerusalem is known through quotations of B. Rosh ha-Shanah 30b and B. Eruvin 5b. The understanding of these quotations is however not unique and gives rise to divergent opinions. The opinion of Maimonides is based on the two following principles:

- The day of the first moon sighting is Tishri 1. Thus if the first sighting of the lunar crescent occurred at the end of Elul 29 then Tishri 1 is on Elul 30, otherwise it is on Elul 31.
- The religious day of Rosh ha-Shanah, with the blowing of shofar, the sacrifices' offering and the sending of the scapegoat depended on the proclamation of the Court. If the Court could, after the examination of the witnesses, proclaim the new moon during the day of Elul 30, before the night, the day of Rosh ha-Shanah would be on Elul 30; otherwise it would be on Elul 31.

1. The first period during the period of the Temple.

Rosh ha-Shanah could be kept only one day, on Elul 30. This would happen if the witnesses who had seen the new lunar crescent in its proper time, i.e. at the end of Elul 29, on the evening belonging already to Elul 30, arrived in Jerusalem at the Court before the end of this day, early enough to allowing the sanctification of Rosh ha-Shanah during this day of Elul 30 as the only day of Rosh ha-Shanah, which would then be Tishri 1.

¹ We use the name Palestine instead of Israel because this last denomination is a modern political denomination. Palestine was the Roman denomination and Israel would seem anachronistic. However in Hebrew things are completely different and Israel was always the denomination of the homeland of the Jews. ארץ ישראל: 1 S:13; 19.

גבול ישראל: Jud 19; 29. 2 S 21; 5. 1 R 1; 3. 1 S 11; 3. 1 S 11; 7. 1 S 27; 1.

ארעא דישראל: Hagada

² We have no information about the effective use of this communication system. It is difficult to know the real extension of this system in a country devastated in the period 135-138 by the war with the Romans under Hadrian and still under Roman rule. This solution could have helped the Jews of Syria and West Babylonia but certainly not those living in other areas of Palestine or Egypt.

³ See Y. Rosh ha-Shanah II, 2, 58a.

If the Court had not more the time for declaring the sanctification of Elul 30 before the beginning of the night belonging to Elul 31, the Court could not sanctify the day of Elul 30 and the day of Rosh ha-Shanah would be kept on Elul 31.⁴ There are however differences of appreciation:

Maimonides. Elul 30 would be Tishri 1 for calendaric calculations.⁵
Elul 31 would be the day of Rosh ha-Shanah. However Elul 30 would already have been kept, out of doubt, in the sanctity of Rosh ha-Shanah but without the sacrifices. Only if the witnesses did not arrive on Elul 30,⁶ Tishri 1 would be on Elul 31.

Rashi. Elul 31 would be the day of Rosh ha-Shanah and Tishri 1. However Elul 30 would already have been kept, out of doubt, in the sanctity of Rosh ha-Shanah, but without offering of the sacrifices.

Tossafot. Elul 31 would be the day of Rosh ha-Shanah and Tishri 1. However Elul 30 would already have been kept, out of doubt, in the sanctity of Rosh ha-Shanah until the moment when they became sure that the month would have been made full. Afterwards the day could be considered as a weekday.⁷

2. The second period during the period of the Temple.

In a second stage, always in Jerusalem, the witnesses were accepted only until *Minha*⁸ i.e. until 3h; 30m p.m. in order to avoid the doubt and the trouble created by this situation: how to proceed with the New year sacrifices? Thus as soon as the witnesses arrived after 3h; 30m p.m. the true festival day of Rosh ha-Shanah was delayed until Elul 31 while the first day was ended, according to the opinions, whether as a weekday or in the respect of the interdictions of the festival day.

Maimonides. Elul 30 would be Tishri 1 for calendaric calculations.⁹

⁴ The proclamation of sanctification of the new moon must be ended before the appearance of the third night star at the beginning of Elul 31. At this last moment it was still possible to sanctify Elul 30 as Rosh ha-Shanah and Tishri 1.

⁵ This can be proved through *Hilkhot Kiddush ha-Hodesh III; 15 and 16*. If afterwards, witnesses could change, à posteriori, the calendar because they saw the lunar crescent in its proper time, at the end of the 29th day of the former month, à fortiori, when they arrive on the same day, the Neomenia is fixed on the day of the first vision. In *Yad Peshuta*, R' Nahum Rabbinowitz gives two other convincing proves of this understanding: *HKH I; 3 and HKH II; 8*.

⁶ Whether because the new moon could not be seen, whether because the witnesses did not arrive in time.

⁷ See *ha-Moadim ba-halakhah*, R' Solomon Joseph Zevin, Jerusalem, p. 30.

⁸ *Minha ketana*.

⁹ This can be proved through *Hilkhot Kiddush ha-Hodesh III; 15 and 16*. If afterwards, witnesses could change, à posteriori, the calendar because they saw the lunar crescent in its proper time, at the end of the 29th day of the former month, à fortiori, when they arrive on the same day, the Neomenia is fixed on the day of the first vision. In *Yad Peshuta*, R' Nahum Rabbinowitz gives two other convincing proves of this understanding: *HKH I; 3 and HKH II; 8*.

Elul 31 would be the day of Rosh ha-Shanah. However Elul 30 would already have been kept, out of doubt, in the sanctity of Rosh ha-Shanah but without the sacrifices.¹⁰

Only if the witnesses did not arrive on Elul 30,¹¹ Tishri 1 would be on Elul 31.

Rashi. Elul 31 would be the day of Rosh ha-Shanah and Tishri 1.¹² However Elul 30 would already have been kept, until Mincha, out of doubt, in the sanctity of Rosh ha-Shanah, but without the sacrifices.

Tossafot. Elul 31 would be the day of Rosh ha-Shanah and Tishri 1. However Elul 30 would already have been kept, out of doubt, in the sanctity of Rosh ha-Shanah until the 3h; 30m, when they became sure that the month would have been made full.

3. The third period after the destruction of the temple.

In a third stage, after the destruction of the Temple and still always in Jerusalem, the problems related to the offering of the sacrifices of Rosh ha-Shanah disappeared and Rabbi Johanan ben Zakkai introduced a new enactment, that the witnesses would be again accepted on Elul 30 until the night. Therefore the Court could again proclaim the Neomenia until the night, more precisely, until the appearance of the third night star. Thus Rosh ha-Shanah would be on Elul 30 if the Court could proclaim the Neomenia before the night. If the witnesses were late and the court could not make the proclamation before the night: the true day of Rosh ha-Shanah would be delayed until Elul 31.

Maimonides. Elul 30 would be Tishri 1 for calendaric calculations. The true day of Rosh ha-Shanah would be delayed until Elul 31. However Rosh ha-Shanah was, in this particular case, kept during two days, according to the status of one sanctity.¹³ In the former Only if the witnesses did not arrive on Elul 30,¹⁴ Tishri 1 would be on Elul 31.

Rashi. According to Rashi, the former *takana* was not abrogated; it was supplemented by this new *takana*. As soon as the witnesses arrived after 3h; 30m p.m. Rosh ha-Shanah was kept during two days, according to the

¹⁰ See Hilkhoh Kiddush ha-Hodesh III; 6. Of course there was a doubt only until 3h; 30m. Afterward there was no more doubt and they knew that the true day of Rosh ha-Shanah would be the day after. However they must end this day under the sanctity of Rosh ha-Shanah.

¹¹ Whether because the new moon could not be seen, whether because the witnesses did not arrive in time.

¹² However Rashi in B. Menahot 100b, considers that Tishri 1 is Elul 30, thus the first day. Thus in the case of a late arrival of the witnesses who saw the new moon in its time at the end of Elul 29, but arrived after 3h; 30m The true day of Rosh ha-Shanah is Elul 31 but Tishri 1 is Elul 30.

¹³ Maimonides has certainly the reading of R' Hananel in, B. Beitsah 5a bottom:

מי לא מודה רבי יוחנן בן זכאי שאם לא באו עדים עד הערב שנוהגים אותו היום קודש ולמחר קודש.

¹⁴ Whether because the new moon could not be seen, whether because the witnesses did not arrive in time.

status of one sanctity.¹⁵
the true day of Rosh ha-Shanah would be Elul 31.

The only effect of the new *takana* was to adopt Elul 30 as the first day of Tishri.

Only if the witnesses did not arrive on Elul 30,¹⁶ Tishri 1 would be on Elul 31.

Tossafot. Adopt the reading of R' Hananel. They must have therefore the same position as Rambam.

It appears thus, according to Maimonides and Tossafot, that except the case when the new crescent could be seen at the end of Elul 29 and the witnesses could arrive on the same day early enough to allowing the examination of the witnesses and the sanctification of the Neomenia by the Court before the night,¹⁷ Rosh ha-Shanah was kept two days in Jerusalem and acquired the status of “a long day” having the same and unique sanctity.¹⁸

2. The situation outside of Jerusalem.

Outside of Jerusalem, once the practice of lighting the fires was abandoned, people could never know the situation in Jerusalem, the moment of arrival of the witnesses and the true day of Rosh ha-Shanah. Therefore they were obliged to keep two festival days on Elul 30 and 31, out of doubt. At this level there was no difference between Palestine and Babylonia. In both countries people must keep two festival days for Rosh ha-Shanah, without knowing the true festival day. Now with the tendency, when there were two days of Rosh ha-Shanah in Jerusalem, to considering them as a “long day” having “one unique sanctity”, it is clear that the same rule was applied outside of Jerusalem. We find a discussion¹⁹ between Rabbi Judah and the Sages whether the two days of Rosh ha-Shanah have the same sanctity or have each of them its own sanctity. This discussion is from the end of the second century. Rabbi Judah considers two different sanctities because there is finally only one true festival day, the second being kept out of doubt. By contrast the sages considered a unique sanctity because even in Jerusalem, in many if not in most cases, they kept two festival days. However the Sages agreed that this principle

¹⁵ Rashi had the reading of our printed text in B. Beitsah 5a, bottom:

מי לא מודה רבי יוחנן בן זכאי שאם באו העדים מן המנחה ולמעלה שנהגים אותו היום קודש ולמחר קודש

In the former situation, the first day was kept out of doubt but as soon as Mincha was reached (3h; 30m) they knew that Rosh ha-shanah was delayed to the next day and they could end the first day as a weekday.

¹⁶ Whether because the new moon could not be seen, whether because the witnesses did not arrive in time.

¹⁷ Rosh ha-Shanah would then be on Elul 30.

¹⁸ According to the Hakhamim in Mishna Eruvin III ; 7 and 8. The discussion between Rabbi Judah and Hakhamim must belong to the end of the second century corresponding to the third period.

¹⁹ Mishnah Eruvin III: 7 and 8.

of a unique sanctity was introduced in historical times and had not always existed.²⁰ Its attribution to the first prophets could however be an exaggeration.

The great difference between Palestine and Babylonia was that in Palestine, by the 15 of each month, the population knew exactly on which day the Neomenia had been proclaimed.²¹ Therefore they knew the first day of Tishri before Tishri 15 and the first day of Nissan before Nissan 15; therefore they knew the true festival days of Sukkot or Pesah.

By contrast, the population of Babylonia did not know the true festival days of Sukkot and Pesah and they must therefore keep two festival days instead of one, for Sukkot Pesah and for Shavuot.

We can also understand that the most removed places in Israel were not aware of the true day of Yom Kippur. They were not more comfortable than the Babylonians in this respect. However, in order to diminish the doubt about the calendar and the festivals, the authorities responsible for the calendar made any efforts in order to have always defective months in Elul before the festivals of the beginning of the year and Adar before Passover so that Tishri 1 would be on Elul 30 and Nissan 1 would be on Adar 30. This is the meaning of the following quotations:²²

מימות עזרא ואילך לא מצינו אלול מעובר. ראש השנה י"ט ע"ב
רב אמר, תשרי לא נתעבר מימיו. ירושלמי סנהדרין פ"א ה"ב.

These statements are certainly exaggerations and cannot be understood *stricto sensu*. Indeed there are some pieces of evidence proving that Elul could be full.²³

However, according to the distinction made by Maimonides, one could argue that these quotations concern the true day of Rosh ha-Shanah but not the civil day of Tishri 1.

The quotation in B. Rosh ha-Shanah 25a relating the sanctification of the Neomenia of Tishri by Rabbi Hiya teaches us that, at the end of the second century, they could fix in advance the day Tishri 1 on Elul 29 and sanctify it although the new crescent could certainly not be seen. Such a sanctification of Elul 30, when the new crescent could not be seen, could be obtained only by a requested and manipulated testimony.²⁴ We can conclude that fixing Rosh ha-Shanah on Elul 30 was imperative, even if the new moon could not be seen and the testimony had to be manipulated.

This practice was very important because it put the people of Palestine and Babylonia in confidence. The true festival day was Elul 30 and the next day must be probably kept because of a rabbinical doubt. This allowed them fasting with some confidence and comfort on Elul 39 because they knew that this day was, in all likelihood the true day of Kippur and they could trust that the doubt was rabbinic.

²⁰ Y. Eruvin III, 10, 21c (the numbering of the Mishnah is not always the same in the editions of the Mishnah, the Babylonian Talmud and the Jerusalem Talmud): מודין חכמים לר' יודה בשני ימים טובים של ראש השנה שהן מתקנת נביאים הראשונים

²¹ Y. Sanhedrin V; 3 (Mishna and beginning of Gemara).

²² B. Rosh ha-Shanah 19b and Y. Sanhedrin I; 2. This last reference is also valid for Adar before Nisan.

²³ פעם אחת נשתהו העדים מלבוא עד המנחה, ראש השנה ל ע"ב , ביצה ד ע"ב
ראש השנה שהייה ירא שמא תתעבר, ערובין ל"ט ע"א
ליום השני ירד רבי חנינא, ראש השנה ל"ב ע"א

In this last quotation, the plain meaning refers certainly to the second day of Rosh ha-Shanah.

²⁴ See HKH III: 15 – 18.

3. The period ~239 – ~305C.E.

The period~ 239 – 279 corresponded to the reign of Rabbi Johanan in the academy of Tiberias.

Under the leadership of rabbi Johanan a new important rule was introduced. In order to avoid Yom Kippur falling on Friday or Sunday, the first day of Tishri could not more fall on Wednesday or Friday. Until then, all the days of the week were suitable for Rosh ha-Shanah. This rule is implicitly mentioned in the declaration of Ulla bar Ismael.²⁵

Before this time all weekdays were suitable and could be Tishri 1; now Wednesday and Friday were no longer suitable. This required certainly some manipulations of the testimony by the witnesses as reported by Rabbi Judah Nessia to Rabbi Ami.²⁶

Therefore, if it was necessary to have the month of Elul defective they resorted to frightening the witnesses and cause a positive testimony. By contrast if they wanted to have a month of Elul full they must frighten and confuse the witnesses who had seen the new crescent in its time at the end of Elul 29 in order to get their retraction.

We find in the Talmud three to five cases in which Elul was not defective and all of these cases correspond to this period.²⁷ Contrary to the assertion of Ulla the Babylonians were really embarrassed by this new situation and not pleased at all, contrary to the assertion of Ulla. Indeed they had always had the conviction that Elul was defective. Now Elul could really be full and their doubt which had always been an academic doubt, a doubt of rabbinic order became a real doubt, perhaps a doubt of Torah²⁸ order.

The consequences of this situation were on the one hand, that some religious authorities felt obliged, because of the doubt of torah order, to fast two consecutive days for Yom Kippur and on the other hand that the burden of the situation of uncertainty and insecurity was such that Samuel considered creating an independent calendar in order to bring a solution to the Diaspora.²⁹ How long will this situation last?

There is an interesting passage of Talmud *Yerushalmi* quoting R' Hisda:³⁰

²⁵ B. Rosh ha-Shanah 20a:

אמר עולא, ידעי חברין בבלאי מאי טיבותא עבדינן בהדייהו

²⁶ B. Rosh ha-Shanah 20a.

²⁷ B. Rosh ha-Shanah 20a: the case of Ulla, R.H 21a: the cases of Rav Nahman, Rabbah, Levi, and the case of Rabbi Eivu bar Nagadi and Rabbi Hiya bar Abba.

²⁸ In fact during the direction of Rabbi Johanan we find several cases of the month of Elul made full in connection with the Takana lo DU Rosh reported by Ulla. The doubt was thus real and not anymore academic. However this real doubt was perhaps not a doubt of torah order because the number of cases of full months of Elul remained the minority. This could explain why Rabbi Johanan said (B. Sukkah 46b bottom) שמיני לזה ולזה. According to the second explanation of the Talmud it means that Rabbi Johanan did not eat in the Sukkah on Shemini Atseret because of the contradictory character of this day and Sukkot. Such attitude would be impossible if the doubt that this day is the seventh day of Sukkot was of Torah order.

²⁹ About the calendar activities of Samuel see: B. Rosh ha-Shanah 20b: גולה לכולה גולה

B. Hulin 98b: שני ליה עיבורא דשיתין שני and Y. Ketubot II, 6, 26c: את השנה שעיבר את השנה

³⁰ Y. Rosh ha-Shanah I, 4, 57b (at the end of *halakhah* 4), (8b in the Vilna edition) and Y. Hallah I, 1, 57c (4a in the Vilna edition).

תמן חשין לצומא רבא תרין יומין. אמר לון רב חסדא למה אתם מכניסים עצמכם למספק הזה המרובה, חזקה שאין בית דין מתעצלין.

There, in Babylonia, they are worried about the true day of the fast of Kippur (and some Rabbis fast two days). Rav Hisda said to them: "Why are putting yourself in this big doubt? There is a strong presumption that the Court is not neglectful."

This quotation of Rav Hisda must be from the very beginning of the fourth century; he was the head of the academy of Sura during ten years from 300 until 309. The classical commentary is that the court sent the messengers immediately. This explanation seems untenable because we know that the messengers could never reach Babylonia in time to inform them about the true day of Yom Kippur. I think that the correct explanation of this quotation is the following. Until this period the Babylonian community did not know in advance whether the Court in Israel decided that Elul would be a defective month of 29 days or a full month of 30 days and therefore they lived in a real doubt, especially about Yom Kippur. Therefore some people fasted two days on Yom Kippur. Rav Hisda seemed to know that the Court of Palestine changed its conduct and abandoned the possibility of having the month of Elul full. Elul was again, as it used to be always before, a defective month of 29 days. If it was necessary to avoid an instance of Rosh ha-Shanah falling on Wednesday or Friday, the Court would move the Neomenia of Elul or even the Neomenia of Av by one day in order to obtain the desired result without making Elul full. "The Court is not neglectful" would then mean that the Court reacts in time, enough in advance, and does not more wait for the last moment. Of course this last attitude implied that it was necessary to consider calculation more than observation. If our assumption is correct, the situation during the first quarter of the fourth century would have evolved and would be different than before. While, before the beginning of the fourth century, the Babylonian community did not know the fixing of the month and had a real doubt, during the first quarter of the fourth century, although still under the status of not knowing the fixing of the month, it appeared that the true festival day did not fall anymore on the second festival day. The heads of the Babylonian Academies established that the true festival day corresponded always to the first festival day and therefore their doubt about the true day of Yom Kippur and the true festival day, which had been a real doubt, of Torah³¹ order, became a doubt of rabbinical order.³²

4. From about 325 onwards The Babylonians knew the fixing of the month.

Different proves have already been proposed to prove that Abaye and Rava knew the fixing of the month.³³ An additional proof can be found in a quotation from B. Ta'anit 21b

אבא אומנא הוה אתי ליה שלמא ממתבתא דרקיע כל יומא, ולאביי כל מעלי יומא דשבתא, לרבא כל מעלי יומא דכיפורי.

³¹ See note 28.

³² If not « de jure », at least « de facto ».

³³ References: Rav Zeira II in B. Beitsa 4b and Rava in B. Hulin 101b.

Abba the bonesetter received the greetings of the celestial academy each day, Abaye received them each eve of Sabbath and Rava each eve of Kippur.

Apparently Rava had no more doubt about the day of Kippur. After 325, they received the *keviya* of the next year in advance and had no more doubts about the festivals; the two festival days were held because of the *takana* sent from Israel and no longer due to doubt. But this passage could also relate to a period earlier than 325, perhaps after 300-305, when the council of intercalation decided, according to the testimony of Rav Hisda, that Elul would be again defective, so that Kippur would be Elul 39. The attribution of the passage to a period after 325 seems more likely, because only after this year Abaye and Rava appeared as outstanding personalities. Before this period they were still in the shadow of Rabbah and Rav Joseph.

Another proof is provided by a quotation from B. Sabbat 23a

אמר אביי ודאי דדבריהם בעי ברכה, ספק דדבריהם לא בעי ברכה. והא יום טוב שני דספק דבריהם הוא ובעי ברכה, התם כי הכי דלא לזילזולי בה. רבא אמר, רוב עמי הארץ מעשרין הן.

Abaye said: an obligation which has the status of certainty by rabbinical enactment³⁴ requires a benediction but an obligation which has a status of uncertainty by rabbinical enactment³⁵ does not require a benediction. But the second festival day has the status of uncertainty by rabbinical decree³⁶ and it nevertheless requires a benediction?³⁷ This is only in order that one should not despise the second festival day. Rava said: most of the peasants deduct the tithe.³⁸

When from about 325 onwards Abbaye and Rava knew the *keviya* in advance, they knew that the first festival day is the true festival day while the second festival day is in fact a working day. They could have considered to keep only one festival day. However, they received from Palestine the instruction to go on keeping the second festival days as before under the status that the second festival day could still be the true festival day. Thus by rabbinical enactment this second day remained a day of uncertainty in order to allow them facing a situation of disruption of the Jewish calendar because of a possible lack of information from Palestine. This corresponds well to the expression: ספק דדבריהם. The uncertain character of this day is the tenor of the rabbinical enactment. This represents a considerable evolution with regard of the situation existing before, when both the first and the second day could be the true festival day and had therefore, both, the status of uncertainty.³⁹

³⁴ The obligation of lighting the Hanuka candles does not suffer any uncertainty and is a rabbinical obligation.

³⁵ Demai is the peasant's crops; by rabbinical enactment it is considered uncertain whether the peasant deducted the tithe and therefore, in order to go out of this state of uncertainty the rabbis prescribed that one should deduct מעשר. Demai is thus ספק דדבריהם. תרומת מעשר.

³⁶ The second festival day should be now a working day but the rabbinical enactment sent by the Palestinians orders to go on keeping the second festival day and consider it as the possible true festival day.

³⁷ The introductory Kiddush.

³⁸ According to Rashi and Rabad, Rava says that in the case of Demai, the probability that the peasant did not deduct the tithe is very little and we cannot speak of a doubt. The deduction of מעשר is intended only to remove any fear but we cannot speak of a case of uncertainty and therefore no benediction is required. But in other cases of uncertainty by rabbinical enactment like *yom tov sheni* a benediction is required without the necessity to have recourse to Abbaye's argument.

³⁹ From the Torah. The following quotation from Yerushalmi is related to this period:

5. The takanah sent from Palestine to go on keeping two festival days as if the doubt still persisted.

At the end of chapter 3 of Yerushalmi Erubin, it says:

רבי יוסי משלח כתב להון, אף על פי שכתבנו לכם סדרי מועדות, על תשנו מנהג אבותיכם נוהי נפש

“Rabbi Yose sent them [the people of Alexandria] a letter: Although I sent you the order [the details] of the festivals, do not change the custom of your late ancestors.”

This passage seems to happen at the beginning of his leadership, around 325-330 C.E. There is a parallel passage in Babli Beitzah 4b:

והשתא דידיעיןן בקביעא דירחא מאי טעמא עבדינן תרי יומי, דשלחו מתם, הוהירו במנהג אבותיכם בידכם, זמנין דגזרו המלכות גזירה ואתי לאקלקולי

“And now, when we know the fixing of the moon, why are we observing two festival days? Because they sent from Palestine the following order: be careful to maintain the practice of your late parents. It could once happen that the authority enacts [unfair] laws [against the Jews] and they could be wrong, if they observe only one day.”

This passage is clearer than the first one in spelling out the reason of the decision. It is a later interpolation, from the time of the redaction, in the time of Rav Ashi and his son. This passage was not correctly understood as long as people believed that the institution of a fixed calendar allowed the Diaspora to calculate the calendar in full independence. Under such conditions, the justification of the maintenance of two festival days is not easy to understand or to justify because a fixed calendar gives complete independence to all communities.

Rabbi Yose imposed upon the Diaspora the observance of the second festival days on the ground that new persecutions could place them once more in the situation of not knowing the fixing of the month. This passage provides evidence that the Diaspora was not able to calculate the calendar by itself. Each year, the Palestinians sent the Diaspora

דאיפלגון, שני ימים טובים של גליות, רבי יוחנן אמר מקבלין התרייה על ספק, רבי שמעון בן לקיש אמר אין מקבלין התרייה על ספק.

See Y. Pesahim V, 4, 32c; Y. Nazir VIII, 1, 57a and Y. Yevamot XI, 7, 12b.

The following quotations of statements by Rava belong also to this new period when he knew the keviya in advance.

1. B. Beitsah 6a:

אמר רבא מת ביום ראשון יתעסקו בו עממין, מת ביום שני יתעסקו בו ישראל.

2. B. Beitsah 5b:

רבא אמר אף מתקנת רבן יוחנן בן זכאי ואילך ביצה אסורה

3. B. Beitsah 17a :

אמר רבא, מניח אדם עירובי תבשילין מיום טוב לחבירו ומתנה

the data about the calendar for the next year. This circumstance indicates the fragility of the Jewish calendar. The only improvement upon the empirical calendar was that the envoys had only to come once a year instead of at least twice a year. In the case of crisis or persecutions, envoys could even come only once every few years. More important was the fact that the envoys could already travel at the beginning of the year well before the month of Elul, as they used to do before. This was confusing the authorities and the enemies of Jews who were accustomed to watch the envoys around the month of Elul.

6. Rosh ha-Shanah in Palestine at the period of the inception of the fixed calendar.

R' Hananel on B. Beitsah 5b writes:

וכן אמר רבא, אף מתקנת רבי יוחנן בן זכאי ואילך ביצה אסורה, מי לא מודה שאם לא באו עדים עד הערב שנוהגים אותו היום קודש ולמחר קודש. הנה תמצא לריב"ז ב' ימים טובים כי האי גבוונא כי הן קדושה אחת שמע מיניה שאפילו בני ארץ ישראל צריכין להיות עושין ראש השני ב' ימים.

The Rif on B. Beitsah p. 3 writes⁴⁰

ואסיקנא, רבא אמר אף מתקנת רבן יוחנן בן זכאי ואילך ביצה אסורה, מי לא מודה רבן יוחנן בן זכאי שאם באו עדים מן המנחה ולמעלה שנוהגים אותו היום קדש ולמחר קדש, אלמא קדושה אחת היא וביצה אסורה בתריוויו ושמעינן מיהא דבני ארץ ישראל צריכי למעבד שני ימים טובים של ראש השנה.

On the basis of this statement of Rava, which belongs certainly to the new period, when they knew the fixing of the moon, the Babylonian Gaonim always ascertained that the Palestinians must keep two days on Rosh ha-Shanah but they were not followed by the Palestinians who held only one day. The point of view of the Palestinian was summarized by R' Zerahia ha-Levi on the Rif: As soon as the whole world knew the fixing of the moon, thanks to the communication in advance of the *kevia*, all Israel could be considered as the Court's courtyard and they kept only one festival day for either Rosh ha-Shanah and the other festivals. This was valid for any localization in Israel. The Palestinian Jewish communities followed this principle until the 11th-12th centuries. But after the disappearing of the Palestinian Gaonim, Rabbis from Provence imposed upon them to keep two festival days on Rosh ha-Shanah and, according to information given by the book *Kaftor ve-Ferah*,⁴¹ imposed upon them to keep two festival days in some places. The point of view of the Palestinian Gaonim was fiercely fought by the Babylonian Gaonim, it was considered as erroneous and not founded because they did not understand its origin.⁴² We propose here a justification of the conjecture of Razah and an explanation of the origin of the divergence between the Babylonians and the Palestinians about Rosh ha-Shanah in Palestine.

If we consider the two parallel passages in B. Niddah 67b and Y. Megilah IV, 1:

אמר רב הונא....., אשה חופפת באחד בשבת וטובלת בחמישי בשבת שכן אשה חופפת בערב שבת וטובלת במוצאי שני ימים טובים של ראש השנה שחל להיות אחר השבת.

⁴⁰ The Rif considers that Rava belonged to the period of the fixed calendar. In fact it seems that he died slightly before the inception of the fixed calendar but he knew already the fixing of the month.

⁴¹ Chapter 51.

⁴² Razah (R' Zerahia ha-Levi) tried to justify the Palestinian position on another manner. He ascertained that the statement of Rava belonged to the former period when they did not know the fixing of the moon. But the truth is that the leadership of Abaye and Rava belongs already to the new period. Rava was probably not aware of the part of the *takana* intended for the Palestinians.

הוא התקין שתהא אשה חופפת וסורקת קודם טהרתה ג' ימים. רבי יוסא בשם..... כדי לשבת ולשני ימים טובים של גליות.

We observe that both, Rav Hunna, the head of the Babylonian academy, and Rabbi Yose, the head of the academy of Tiberias, agreed that a woman is allowed to wash her head and comb her hair three days before her purification bath. Rav Hunna gives the following example: she is allowed to wash her hair on Friday and have her purification bath on Monday evening immediately after the end of Rosh ha-Shanah following Sabbath.

Rabbi Yose, who lived after Rav Huna and was at the head of the academy of Tiberias during the first half of the 4th century, when the Babylonians knew already the fixing of the moon, gives another example: she may wash her head on Friday and have her bath on Monday evening at the end of the second festival day of the Diaspora.

The Babylonian Rav Huna considered the case of Rosh ha-Shanah, which is valid anywhere. But the leader of the Tiberias' academy must consider the two festival days of the Diaspora because in Israel they had not anymore two consecutive festival days because they kept only one festival day even for Rosh ha-Shanah. But the obligation of going on keeping two festival days abroad, as enacted by Rabbi Yose, was so important in his eyes, that he accepted three days interval between the hair washing and the purification bath, only because of the need of the Babylonians.

It is thus likely that the justification principle mentioned by R' Zerahia ha-Levi, referring to R' Effrayim,⁴³ that all Israel was then considered as the Court's courtyard and that in Israel they kept only one day for Rosh ha-Shanah and all the festivals, was taught by Rabbi Jose.

There was thus a real contradiction between Rava who thought that all the Jews must keep two days for Rosh ha-Shanah and Rabbi Jose whose *takana* was apparently different for the Babylonians than for the Palestinians.

The *takana* aiming at the perpetuation of the ancient practice of keeping two festival days that Rabbi Yose sent to the Diaspora included in fact two parts. The first part was destined to the Diaspora. By contrast the second part of the *takana*, destined to Israel was very different. Until now they kept two festival days on Rosh ha-Shanah, except in Jerusalem where they kept one or two days. According to the second part of the *takana* the Jews of Palestine were now allowed to keep only one festival day. If my understanding is correct, the *takana* of Rabbi Jose was a great *takana* with two non symmetrical parts. The Babylonians were not allowed to take advantage of the early communication of the calendar and they must go on enduring the inconvenience of the ancient situation because it was never certain that the rabbis of Palestine would succeed to send them the required information for the following year. Indeed, by contrast with the generally accepted opinion, the Babylonians did not know the rules of the calendar and they were still dependant on the *kevia* sent from Palestine on annual basis. It looks also like the Babylonians were punished for having left Israel.⁴⁴ The Babylonians accepted their part of the *takana* but they never understood and accepted that the Palestinians were not treated on the same basis. In fact they thought that the inhabitants of Israel were exposed to the same dangers as them and there was no reason for them to be treated

⁴³ A famous disciple of R' Isaac ben Jacob ha-Cohen Al-Fassi (Rif).

⁴⁴ Y. Eruvin III, 10, 21c : מי גרם לי להיות נוטר' את הכרמים על שם כרמי שלי לא נטרתי. מי גרם לי להיות משמרת שני : ימים בסוריא על שלא שמרתי יום אחד בארץ. סבורה הייתי שאני מקבלת שכר על שנים ואיני מקבלת שכר אלא על אחת.

otherwise. They did not understand that the danger to which they were exposed was a disruption of the communication in advance of the *kevia*, which did indeed not exist in Palestine. Finally the Babylonians succeeded many centuries later to impose upon the Palestinians to keep two festival days on Rosh ha-Shanah. But this was nor the spirit nor the letter of the ruling of Rabbi Jose.