

PERSONALITIES

Rabban Yoḥanan ben Zakkai – רבן יוחנן בן זכאי: Rabban Yoḥanan ben Zakkai was *Nasi* of the Sanhedrin after the destruction of the Second Temple. He was one of the greatest leaders of the Jewish people in all generations.

Rabban Yoḥanan ben Zakkai was the youngest of Hillel the Elder's students. He lived to an advanced age and served as the leader of the Jewish people for many years. It is stated about him that he did not neglect a single area of Torah (*Sukka* 28a). His greatness notwithstanding, he was a modest individual who greeted everyone he met, including gentiles he met in the marketplace.

Even before the destruction of the Temple, Rabban Yoḥanan ben Zakkai was acknowledged as a leading scholar, and most of the Sages of that generation were his disciples. When some Jews of the time revolted against the Romans, Rabban Yoḥanan took a strong stand against their actions, and attempted to bring the rebellion to a peaceful close.

As a leading resident of a besieged Jerusalem, he realized that the city would soon fall, and he successfully escaped with several of his students. Appearing before Vespasian, he was warmly received, and when his prediction that Vespasian would be appointed Caesar came to pass, Vespasian rewarded him by allowing him to establish a new center of Jewish leadership and Torah study in Yavne. He took this opportunity to save the life of Rabban Gamliel as well (see *Gittin* 56a–b).

In Yavne, Rabban Yoḥanan succeeded in instituting a wide range of ordinances that offered hope for Jewish continuity in the absence of the Temple, even as they served to memorialize the Temple and promised the possibility of its ultimate rebuilding. His success in this endeavor is felt to this day in religious practice.

His students taught Torah throughout Eretz Yisrael following the destruction of the Temple, and he served as a mentor for Rabban Gamliel of Yavne, who took over his position as *Nasi*.

וְנִתְקַלְקְלוּ הַלְוִיִּם בַּשִּׁיר. הַתְּקִינוּ שֶׁלֹּא יְהוּ מְקַבְּלִים אֶת הָעֵדִים אֲלֵא עַד הַמִּנְחָה.

and the Levites erred in the song.<sup>N</sup> They were unsure whether to sing the weekday song or that of Rosh HaShana during the sacrifice of the afternoon daily offering, as it was unclear whether or not witnesses would arrive that day. From that point on, the court instituted that they would accept witnesses who came to testify that that day was Rosh HaShana only up to *minḥa* time, i.e., when the daily afternoon offering was sacrificed. If witnesses had not arrived by then, they would declare Elul a thirty-day month and calculate the dates of the Festivals accordingly.

וְאִם בָּאוּ עֵדִים מִן הַמִּנְחָה וְלִמְעַלֶּיהָ – נוֹהֲגִין אוֹתוֹ הַיּוֹם קֹדֶשׁ, וְלִמְחַר קֹדֶשׁ.

And if witnesses came from *minḥa* time onward, although the calculations for the dates of the Festivals began only from the following day, the people would nevertheless observe that day on which the witnesses arrived as sacred, and they would also observe the following day as sacred. On the second day, they observed Rosh HaShana in full, both by sacrificing its offerings as well as calculating the upcoming Festivals from that date. It is evident that the observance of two days of Rosh HaShana did not stem from uncertainty in the Diaspora as to when the Festival began. Rather, the Sages instituted that the two days of Rosh HaShana are one unit due to the inherent difficulty in determining the date of a Festival that is celebrated on the first of the month.<sup>H</sup>

אָמַר רַבָּה: מִתְקַנְתָּ רַבֵּן יוֹחָנָן בֶּן זַכַּאי וְאֵילָךְ בִּיצָה מוֹתֶרֶת. דִּתְנִן: מִשְׁחָרֵב בֵּית הַמִּקְדָּשׁ הִתְקִין רַבֵּן יוֹחָנָן בֶּן זַכַּאי שִׁיְהוּ מְקַבְּלִין עֵדוֹת הַחֹדֶשׁ כָּל הַיּוֹם.

Rabba said: From the time of the ordinance of Rabban Yoḥanan ben Zakkai<sup>P</sup> onward, an egg laid on one day of Rosh HaShana is permitted on the other. As we learned in a mishna (*Rosh HaShana* 30b): After the Temple was destroyed, Rabban Yoḥanan ben Zakkai instituted that the court should once again accept testimony to determine the start of the month all day. Since the concern about errors was no longer relevant, they reverted to the original custom. As the court was aware of the exact date based on the testimony of the witnesses, those in proximity to the court kept only one day of Rosh HaShana. Those who lived far from the court observed two days merely due to uncertainty, and as one of those days was certainly a weekday, an egg laid on the first day was permitted on the second.

אָמַר לִיה אַבְיִי: וְהָא רַב וְשְׁמוּאֵל דְּאָמְרֵי תְרוּיָהוּ בִיצָה אֶסְוֶרָה. אָמַר לִיה: אָמִינָא לָךְ אֲנָא רַבֵּן יוֹחָנָן בֶּן זַכַּאי וְאַתָּה אָמַרְתָּ לִי רַב וְשְׁמוּאֵל?

Abaye said to him: But didn't Rav and Shmuel both say that an egg is prohibited? Rabba said to him: Your question is out of place; I say to you a statement in the name of the distinguished *tanna* Rabban Yoḥanan ben Zakkai, and you say to me a ruling of the *amora'im* Rav and Shmuel?

NOTES

וְנִתְקַלְקְלוּ הַלְוִיִּם בַּשִּׁיר – וְנִתְקַלְקְלוּ הַלְוִיִּם בַּשִּׁיר: Some commentaries suggest that there is a difference between the failure to sacrifice the additional offerings, which would not cause people to treat the Festival with contempt, and the rendition of the weekday song, which would lead those who hear it to disparage the sanctity of the day and treat it like a weekday (*Bigdei Yom Tov*). However, the Rambam writes that the problem caused by the late arrival of the witnesses was due to the failure to sacrifice the additional offerings. This puzzles many commentators, as the Gemara does not mention this factor. One possible way of reconciling the different opinions is that even the Rambam agrees that they certainly sacrificed the offerings conditionally, but their singing of the weekday song indicated retroactively that the offerings were voluntary. If so, it is the problem of the song that caused the neglect of the additional offerings (*Hatam Sofer*, 2nd ed.).

וְנִתְקַלְקְלוּ הַלְוִיִּם בַּשִּׁיר – וְנִתְקַלְקְלוּ הַלְוִיִּם בַּשִּׁיר: A special psalm was recited on Rosh HaShana in honor of the Festival (*Psalms* 81) instead of the regular song for that day. See *Tosafot*, who cite Rabbeinu Peretz's question as to why the Gemara doesn't simply state that they were unable to sacrifice the additional Festival offerings. *Tosafot* answer that the additional burnt-offerings could have been sacrificed conditionally, by means of the following stipulation: If it is a Festival, these should count as the additional Festival offerings, and if not, they should be gift-offerings, the so-called summer fruits of the altar, which were sacrificed so that the altar would not be left empty. The goat for the sin-offering could have been slaughtered beforehand, or delayed until after the daily offering, with its portions for the altar left to burn overnight (Rid; Rabbeinu Tam; Rabbeinu Peretz).

HALAKHA

קַבְּלַת – קַבְּלַת: The Sages decreed that no testimony for the beginning of the new month should be accepted from *minḥa* time onward. If witnesses arrived after that hour, both days were observed, and the additional offerings were sacrificed

on the second day. After the destruction of the Temple, Rabban Yoḥanan ben Zakkai instituted that testimony for the new month should be accepted all day, in accordance with the original custom (Rambam *Sefer Zemanim*, *Hilkhot Kiddush HaHodesh* 3:5–6).

**הָאָה לְוַהֲרָא לְהוּ – This is for us and that is for them** – It can be inferred from here that the residents of Eretz Yisrael would observe only one day of Rosh HaShana (see Rashi). The early authorities dispute this issue, as the *ge'onim* of Babylonia stated that two days should be observed in Eretz Yisrael as well (Rav Hai Gaon, in a letter to Rav Nissim Gaon). See the opinion stated in the Gemara that even Rabban Yoḥanan did not annul the two days of Rosh HaShana, a ruling accepted as *halakha* by the Rif and others. However, Rabbeinu Efrayim, the Ramban, and others hold that only one day of Rosh HaShana is observed in Eretz Yisrael. They add that although the observance of one day applies only in the locale of the Sanhedrin and its environs, because all of Eretz Yisrael is worthy of this privilege, and as there is a standard calendar today, one day alone is observed. There is some evidence that this was indeed the custom in Eretz Yisrael until the Sages of Provence arrived and changed it. In any case, the first opinion has been accepted as *halakha*, and nowadays two days of Rosh HaShana are observed in Eretz Yisrael.

**צָרִיךְ מַנְיָן אַחֵר לְהִתִּירוֹ – Requires another vote to permit it** – Rav Yitzḥak Abuhav explains that once the court has prohibited something, it remains prohibited by force of their decree until they explicitly permit it. Most authorities agree that although the permission of a court is required for a decree whose justification has lapsed, there is no requirement that it be granted by a court greater than the previous one in wisdom and number. Rather, any court can annul the decree, as it is considered to be acting on behalf of the original court (Rabbi Aharon HaLevi; *Meiri*). Some later authorities maintain that this is the Rambam's opinion as well.

**לְעִטֵּר שוּקֵי יְרוּשָׁלַיִם – To adorn the markets of Jerusalem** – Since second-tithe fruits may not be sold but must be eaten by their owner, and fourth-year fruits have the status of second-tithe fruits, it was actually the extra fruit brought by merchants that adorned the marketplaces of Jerusalem. However, it was due to the requirement to bring the fourth-year fruits to the capital that the fruit owners ascended to Jerusalem and brought with them their non-sacred fruit to be sold in the market (Rabbeinu Peretz). A different explanation is offered in the Jerusalem Talmud: Fruit was brought to Jerusalem to ensure that ritually pure fruit would be readily available so it could be used for the libations. See the later authorities, who point out that this interpretation accords with the opinion that the ordinance applied only to fourth-year grapes, not to all fourth-year fruits.

BACKGROUND

**תְּחִיבֵי כִּרְמֵי רְבִיעִי – The boundary of a fourth-year grapevine** – Only two of these stated boundaries are clearly identified: The city of Lod and the Jordan River. According to a variant reading: Eilat to the south, Akrobat to the north, Eilat is probably a small village near Hebron, and Akrobat is a more substantial city, located near Shechem. According to the standard version: Akrobat to the south, this could be referring to a place in southern Judea mentioned in the books of the Hasmoneans.

The identity of the village of Tavi is also unclear; the context indicates that it refers to a village adjacent to Lod.



Environs of Jerusalem for bringing fourth-year grapes

וְלִרְבֵּי וּשְׂמוּאֵל קָשִׁיָּא מִתְּנִיתִין. לֹא קָשִׁיָּא, הָא לָן, וְהָא לָהּ.

The Gemara asks: **And according to the opinion of Rav and Shmuel**, isn't it true that the **mishna is difficult**, as it indicates that the special status of Rosh HaShana has been revoked? The Gemara answers that this is **not difficult: This ruling is for us**, those who live outside of Eretz Yisrael, who have kept the ancient custom of observing two Festival days, and therefore Rosh HaShana is still considered one long day and constitute a single sanctity. Conversely, **that ruling of the mishna is for them**,<sup>N</sup> the inhabitants of Eretz Yisrael. Since Rabban Yoḥanan ben Zakkai instituted that the court should once again accept testimony all day concerning the new moon, then even if circumstances dictate that Rosh HaShana would be observed for two days, each day is considered an independent sanctity.

וְרַב יוֹסֵף אָמַר: אִף מִתְּקַנְתָּ רִבּוֹן יוֹחֵן בֶּן זִבְאִי וְאֵילֶךְ בִּיצֵה אֲסוּרָה. מֵאֵי טַעְמָא? הֲוֵי דְבַר שְׂבַמְנָן, וְכָל דְּבַר שְׂבַמְנָן צָרִיךְ מַנְיָן אַחֵר לְהִתִּירוֹ.

**And Rav Yosef said: Even from the time of the ordinance of Rabban Yoḥanan ben Zakkai onward, an egg remains prohibited.** The Gemara explains: **What is the reason for the opinion of Rav Yosef?** It is that the decree prohibiting an egg laid on the first day of Rosh HaShana on the second day of Rosh HaShana is a matter that was established by a vote<sup>M</sup> of the Sanhedrin, after that occasion on which the witnesses failed to arrive on time, and any matter that was established by a vote requires another vote to permit it.<sup>N</sup> A new vote must be taken to render the prohibited item permitted, as the prohibition does not lapse even if the reason for the decree no longer applies.

אָמַר רַב יוֹסֵף: מֵנָּא אָמִינָא לָהּ – דְּכֹתִיב "לֹךְ אָמֹר לָהֶם שׁוּבוּ לְכֶם לְאֶהְלִיכֶם", וְאוֹמֵר: בְּמִשְׁךְ הַיָּבֵל הִמָּה יַעֲלוּ בְהָרָה.

**Rav Yosef said: From where do I say my opinion? As it is written**, after the Jews received the Torah: **"Go, say to them: Return to your tents"** (Deuteronomy 5:26), where "your tents" is referring to your wives. **And it says**, before the revelation at Sinai: **"When the ram's horn sounds long, they may come up to the mount"** (Exodus 19:13). And it is stated: **"Be ready for the third day, do not come near a woman"** (Exodus 19:15). In other words, although the original prohibition served a particular purpose, in this case the giving of the Torah, it was nevertheless necessary to explicitly render the prohibition permitted.

(וְתִנָּא): כִּרְמֵי רְבִיעִי הֵיךָ עוֹלָה לְיְרוּשָׁלַיִם מִהַלֵּךְ יוֹם אֶחָד לְכֹל צֶדֶד, וְזוֹ הִיא תְּחִיבָהּ: (עֵלַת) מִן (הַצָּפוֹן), וְעֶקְרָבַת מִן (הַדָּרוֹם). לוֹד מִן הַמַּעֲרָב, וְיַרְדֵּן מִן הַמְּזֻרָה.

**And this idea was likewise taught in a baraita:** The fruit of a **fourth-year grapevine** have the status of second-tithe fruits, and therefore their owner would ascend to Jerusalem and eat them there. If he was unable to do so, due to the distance involved or the weight of the load, he could redeem the fruits with money where he was, and later redeem that money for other fruits in Jerusalem. However, the Sages decreed that fruit from the environs of Jerusalem<sup>M</sup> should not be redeemed, but that the owners should bring the fruit itself to Jerusalem. The environs of Jerusalem for this purpose were defined as a **day's walk in each direction. And this is its boundary: Eilat to the north; Akrobat to the south; Lod to the west; and the Jordan to the east.**<sup>B</sup>

וְאָמַר עוֹלָא וְאִיתִימָא רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחֵן: מַה טַּעַם? כִּדִּי לְעִטֵּר שוּקֵי יְרוּשָׁלַיִם בְּפִירוֹת.

**And Ulla said, and some say Rabba bar bar Ḥana said that Rabbi Yoḥanan said:** For what reason did the Sages institute this ordinance, that someone who lived near Jerusalem must bring his fruit there? **In order to adorn the markets of Jerusalem<sup>N</sup> with fruit**, as this decree ensured that there was always an abundance of fruit in Jerusalem for people to eat.

HALAKHA

**A matter that was established by a vote** – דְּבַר שְׂבַמְנָן: If a court enacted a decree or an ordinance that was accepted by the Jewish people, a later court may annul the decree, ordinance, or prevailing custom only if that court is greater than the first one in wisdom and in number. Even if the original reason for the ordinance is no longer applicable, the prohibition itself is not automatically annulled. Rather, the same court, or another court qualified to do so, must vote to annul it (Rambam *Sefer Shofetim*, *Hilkhot Mamrim* 2:2).

**A fourth-year grapevine in the environs of Jerusalem** – כִּרְמֵי רְבִיעִי קְרִיבֵי יְרוּשָׁלַיִם: The Sages instituted that the grapes of a fourth-year grapevine within a day's walk of Jerusalem should not be redeemed but must be brought up to the capital, to decorate its markets with fruit. After the destruction of the Temple, they permitted one to redeem even grapes that sprouted close to the city walls. One may redeem all other fruit even when the Temple is standing (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser Shen* 9:5).

וְתַנְיָא: כָּרַם רַבְעֵי הָיָה לוֹ לְרַבִּי  
אֱלִיעֶזֶר בְּמוֹרָח לוד בְּצַד כְּפַר טָבִי,

And it was further taught in a *baraita*: Rabbi Eliezer ben Hyrcanus, a student of Rabban Yoḥanan ben Zakkai, had a fourth-year grapevine located between Lod and Jerusalem, to the east of Lod alongside the village of Tavi. The grapevine was within the environs of Jerusalem for the purpose of this *halakha*. Rabbi Eliezer could not bring the fruit to the Temple, as it had been destroyed,

וּבְקִשׁ לְהַפְקִירוֹ לְעֵנִיִּים. אָמְרוּ לוֹ  
תְּלַמְּדֵינוּ: רַבִּי! כִּבְר נִמְנו עֲלֶיךָ חֲבֵרֶיךָ  
וְהַתִּירוּהוּ. מֵאֵן חֲבֵרֶיךָ – רַבֵּן יוֹחָנָן  
בֶּן זַכַּי.

and he sought to render the fruit ownerless in favor of the poor, for whom it would be worth the effort to bring the fruit to Jerusalem. His students said to him: Rabbi, there is no need to do so, as your colleagues have already voted for you and permitted it. The members of the Sanhedrin have already taken a vote and permitted the redemption of the fruit of a fourth-year grapevine even near Jerusalem. The reason is that after the destruction of the Temple there is no need to adorn the markets of Jerusalem. The Gemara explains: **Who are: Your colleagues?** This is referring to Rabban Yoḥanan ben Zakkai.<sup>N</sup>

טַעְמָא – דְּנִמְנוּ, הָא לֹא נִמְנוּ – לֹא.

The Gemara infers from the *baraita*: **The reason is that they explicitly voted to annul the decree**, which indicates that if they had not voted, the ordinance would not have lapsed on its own, despite the fact that its justification was no longer applicable. Similarly, the prohibition of a laid egg is not nullified, as it was never explicitly permitted.

מֵאֵי "וְאוֹמֵר"? הֲכֵי קָאָמַר: מִכְּדֵי  
כְּתִיב "הֵיוּ נְבוֹנִים לְשִׁלֻּשֶׁת יָמִים אֶל  
תִּגְשׁוּ אֶל אִשָּׁה" – "לֶךְ אָמֹר לָהֶם  
שׁוּבוּ לָכֶם לְאֵהָלֵיכֶם" לְמָה לִּי שְׁמַע  
מִיָּנָה: כֹּל דְּבַר שְׁבַמְנֵן צָרִיךְ מִנֵּן אַחֵר  
לְהַתִּירוֹ.

The Gemara seeks to clarify why Rav Yosef cited two verses as proof. The Gemara asks: **What is the reason for: And it says?**<sup>N</sup> Why does Rav Yosef find it necessary to quote a second verse? The Gemara explains that this is what he is saying. **Now since it is written: "Be ready for the third day, do not come near a woman" (Exodus 19:15), why do I need the verse "Go, say to them: Return to your tents" (Deuteronomy 5:26)?** After three days the prohibition would lapse in any case. **Conclude from this that any matter established by a vote requires another vote to permit it.**

וְכִי תִימָא: לְמַצּוֹת עוֹנָה הוּא דְאִתָּא –  
תָּא שְׁמַע "בְּמִשְׁךְ הַיָּבֵל הַמָּה יַעֲלוּ  
בְהָר"

And if you say an alternative explanation, that the instruction to "return to your tents" was not given to permit the men to return home to their wives, but rather it came as a special command to fulfill the mitzva of conjugal rights, i.e., the obligation of a man to engage in periodic marital relations with his wife, then it was to refute this possibility that Rav Yosef continued: **Come and hear a different proof from another verse: "When the ram's horn sounds long, they may come up to the mount" (Exodus 19:13).**

NOTES

**חֲבֵרֶיךָ רַבֵּן** – Your colleagues, Rabban Yoḥanan ben Zakkai – יוֹחָנָן בֶּן זַכַּי: The Gemara in tractate *Rosh HaShana* expresses surprise at this statement, as Rabbi Eliezer was Rabban Yoḥanan's student, not his colleague. They answer that since Rabbi Eliezer's disciples were speaking, it would have been inappropriate for them to have said: Your teacher, to their own teacher. They therefore referred to Rabban Yoḥanan ben Zakkai as: Your colleagues.

**What is, and it says** – מֵאֵי וְאוֹמֵר: The phrase: What is: And it says, is generally an inquiry as to why two verses are necessary when a single one appears to offer sufficient proof. Here, however, it apparently includes two questions, as it is also an inquiry with regard to the meaning of the proof itself (*Shitta Mekubbetzet*; see Rashi).

**Be ready for the third day** – הֵיוּ נְבוֹנִים לְשִׁלֻּשֶׁת יָמִים: Most commentaries explain that the proof is based on the context of the first verse: Since the prohibition against approaching a woman was stated with regard to the giving of the Torah at Sinai, it is evident that afterward the husbands were permitted to go back to their wives. According to this interpretation, the verse actually includes two statements. It first establishes a time frame, to "be

ready for the third day," and subsequently issues a mitzva whose duration is unspecified: "Do not come near a woman" (see *Tosafot* on 5a and *Rabbeinu Peretz*). Others suggest that the people initially thought the prohibition was meant to apply throughout the forty days Moses spent on Mount Sinai receiving the Torah (*Simhat Yom Tov*).

However, a different explanation is also possible: Although the prohibition was originally supposed to last only three days, it nevertheless did not lapse on its own without an explicit statement of permission. Apparently, the explanation attributed to Rashi by *Tosafot* and other early authorities is based on this opinion. According to this interpretation, a decree of excommunication or an ordinance that includes a specific time frame still requires an explicit announcement to annul it, even after its time has passed. However, most commentaries and authorities do not accept this opinion and prefer the first explanation. The Ra'avan apparently concurs with the second interpretation, although he does not accept its implications for *halakha*. He claims that in this particular case the prohibition did not lapse automatically due to the severity of the decree, and because it was issued by God Himself. Other ordinances and decrees of excommunication, however, do cease automatically after the set time period has ended.

Now since it is written, **neither shall the flocks, etc.** – **מִכְּדֵי רִתִּיב גַּם הַצֹּאן וְכוּ**: *Tosafot* question the proofs provided by the Gemara, as the verse “Neither shall the flocks nor the herds” was stated not at the time of the giving of the Torah during the month of Sivan, but at a later stage, when Moses ascended the mountain to receive the second tablets (see Rashi).

Rabbeinu Peretz explains that the wording of the verse: “Neither shall the flocks,” indicates that this command depends on the giving of the Torah; when that reason no longer applies, the prohibition lapses as well. The Rashba writes that the phrase: “Neither shall the flocks nor the herds feed before that mount” (Exodus 34:3) indicates that the prohibition should remain in effect as long as the mountain serves its current purpose. Other commentaries propose a novel explanation: The fact that the Torah prohibited once again the grazing of cattle when the second tablets were given indicates that the initial prohibition had automatically lapsed after the giving of the Torah (*Simhat Yom Tov*).

Is that to say that an egg was prohibited by a vote, etc. – **אֵטוּ בִּיצָה בְּמִנְיַן וְכוּ** – The early authorities note that Abaye’s question is both obvious and persuasive. How, then, could it not have occurred to Rav Yosef? They answer that Rav Yosef does not accept the idea that the annulment of part of a decree annuls the entire decree. If that were the case, Rabban Yohanan ben Zakkai’s statement would have been entirely superfluous, as the removal of the justification would have led to the cancellation of the two-day sanctity as well. Rather, it must be that each aspect of an enactment stands on its own (Rashba).

Alternately, there is a difference between the two Festival days and the *halakha* of an egg. The ordinance of observing two days was instituted for the purpose of counting the Festivals, and when this changed, the Sages were not concerned about the ensuing leniencies. By contrast, the case of an egg necessitated rendering a prohibited object permitted (Ritva).

Doesn’t Rabban Yohanan ben Zakkai concede – **לֹא מוֹדָה רַבֵּן יוֹחָנָן בֶּן זַכַּי**: The Rambam holds that Rabban Yohanan canceled the sanctity of the second Festival day of Rosh HaShana. However, Rashi maintains that not even Rabban Yohanan ben Zakkai annulled the second Festival day of Rosh HaShana. Rather, his decree concerned which day is the first of the month, an issue that affects the dates of the other Festivals (see Rashi and *Tosafot*). Some say that he did not have the authority to repeal a prohibition decreed by earlier generations (Rid). Alternately, he did not revoke the ordinance of the second day because the Temple will be speedily rebuilt, and the concern is that people will perform prohibited labor on the second day when the Temple is rebuilt, just as they had done in previous years (Rabbi Aharon HaLevi).

Another possibility is that it is inappropriate to annul the sanctity of the second day because the sanctity of the first day is established only in the afternoon (*Meiri*). The Rashba writes that if witnesses did not arrive on the first day at all, the second day is certainly observed as a holy day, even if they arrived in the evening and testified that they had seen the new moon the previous night. He adds that this explanation applies especially according to the opinion of the Rambam (see Rabbeinu Hananel).

מִכְּדֵי רִתִּיב גַּם הַצֹּאן וְהַבָּקָר אֵל יָרְעוּ אֶל מוֹלֵה הַהָר הַהוּא, “בְּמִשְׁחַן הַיָּבֵל לְמַה לֵּי? שָׁמַע מִיָּנָה: דָּבָר שְׁבַמְנֵן צָרִיךְ מִנֵּן אַחַר לְהַתְּרוֹ.

וְכִי תִימָא: הֲנִי מִלֵּי – בְּדִאֲרֵייתָא. אֲבָל בְּדִרְבָּנָן לֹא – תָא שָׁמַע: כִּרְס רַבְעִי. וְהָא כִּרְס רַבְעִי דְרַבָּנָן וְקִאֲמְרִי לֵיה: כְּבָר נִמְנָנו עַלְיֵךְ חֲבֵרִיךְ וְהַתְּרוּהוּ.

וְכִי תִימָא: בִּיצָה נִמְי אֲמַנּוּ עַלְהָ רַבָּן יוֹחָנָן בֶּן זַכַּי וְשָׂרִיטָה, כִּי אֲמַנּוּ – אֲעֵדוּת, אֲבִיצָה – לֹא אֲמַנּוּ.

אֲמַר לֵיה אֲבִי: אֵטוּ בִּיצָה בְּמִנְיַן מִי הוּא? בִּיצָה בְּעֵדוּת תְּלִיא מְלִתָּא. אֲתָסַר עֵדוּת אֲתָסַר בִּיצָה, אֲשֵׁתְרִי עֵדוּת אֲשֵׁתְרִי בִּיצָה.

רַב אֲדָא וְרַב שַׁלְמָן, תְּרוּוּיְהוּ מִבֵּי כְלוּחִית, אֲמְרִי: אִף מִתְקַנְתָּ רַבָּן יוֹחָנָן בֶּן זַכַּי וְאֵילֶךְ בִּיצָה יִסְוֶה. מֵאִי טַעְמָא מְהֵרָה יִבְנֶה בֵּית הַמִּקְדָּשׁ, וְיֵאמְרוּ: אֲשֵׁתְקַד מִי לֹא אֲכַלְנוּ בִּיצָה בְּיוֹם טוֹב שֵׁנִי, הַשְּׁתָא נִמְי נִכּוּל וְלֹא יָדְעִי דְאֲשֵׁתְקַד שְׁתֵּי קְדוּשׁוֹת הָן, וְהַשְּׁתָא קְדוּשָׁה אַחַת הִיא.

אִי הֲבִי עֵדוּת נִמְי לֹא נִקְבַּל, מֵאִי טַעְמָא – מְהֵרָה יִבְנֶה בֵּית הַמִּקְדָּשׁ, וְיֵאמְרוּ: אֲשֵׁתְקַד מִי לֹא אֲכַלְנוּ עֵדוּת הַחֲדָשׁ כָּל הַיּוֹם כּוּלּוּ, הַשְּׁתָא נִמְי נִקְבַּל.

הֲבִי הַשְּׁתָא? הַתָּם עֵדוּת מְסוּרָה לְבֵית דִּין, בִּיצָה לְכָל מְסוּרָה.

רַבָּא אֲמַר: אִף מִתְקַנְתָּ רַבָּן יוֹחָנָן בֶּן זַכַּי וְאֵילֶךְ בִּיצָה אִסְוֶה. מִי לֹא מוֹדָה רַבָּן יוֹחָנָן בֶּן זַכַּי שָׂאֵם בָּאוּ עֵדִים מִן הַמִּנְחָה וְלִמְעַלָּה שְׁנוּהֲגִין אוֹתוֹ הַיּוֹם קִדְשׁ וְלִמְחָר קִדְשׁ?

Now since it is written: “Neither shall the flocks<sup>n</sup> nor the herds feed before that mount” (Exodus 34:3), this indicates that the prohibition applies only when the Divine Presence is revealed on the mountain, and it is permitted immediately afterward. If so, **why do I need the verse “When the ram’s horn sounds long”?** Why is a special signal required? **Conclude from this that any matter established by a vote requires another vote to permit it.**

And if you say: That statement, that a specific vote is necessary, applies only to matters prohibited by Torah law, but in the case of a matter prohibited by rabbinic law, no, this *halakha* does not apply, come and hear the *baraita* concerning a fourth-year grapevine. The *halakha* that the fruit of a fourth-year grapevine must be brought to Jerusalem and may not be redeemed is by rabbinic law, and they nevertheless said to Rabbi Eliezer: **Your colleagues have already voted for you and permitted it.** This indicates that without a vote, the prohibition would not be abrogated.

And if you say: In the case of the prohibition of an egg also, Rabban Yohanan ben Zakkai took a vote on it and permitted it; the Gemara answers: **When they took a vote, it was with regard to testimony to determine the start of the month; they did not take a vote to annul the prohibition of an egg.**

Abaye said to Rav Yosef: **Is that to say that an egg was prohibited by a vote?**<sup>n</sup> Did the court take a special vote to render prohibited an egg laid on Rosh HaShana? Isn’t the *halakha* of an egg dependent on the matter of testimony? When testimony in the late afternoon was prohibited, the eating of an egg laid on Rosh HaShana was thereby prohibited as well, and when this testimony was permitted, the eating of an egg was automatically permitted. Rav Yosef’s observation is therefore incorrect.

Rav Adda and Rav Shalman, who both came from Bei Keloheit, said: **Even from the time of the ordinance of Rabban Yohanan ben Zakkai and onward, an egg remains prohibited. What is the reason? May the Temple speedily be built, and the ordinance that testimony is accepted only until *minḥa* time will be restored, and people will say: Last year, didn’t we eat an egg laid on the first day of Rosh HaShana on the following day, the second Festival day of Rosh HaShana? Now, too, we will eat it, like last year. And they will not know the significant difference in *halakha* between the two cases, as last year the two days of Rosh HaShana were two sanctities, and now they are one long sanctity.**

The Gemara challenges this: **If so, that this is the concern, we also should not accept testimony nowadays. What is the reason? May the Temple speedily be built, and the people will say: Last year, didn’t we accept testimony to determine the start of the month all day? Now, too, we will accept the testimony of witnesses even after *minḥa* time.**

The Gemara rejects this challenge: **How can these cases be compared? There, with regard to witnesses, testimony is entrusted to the court, and the court is capable of distinguishing between the reasons for decrees. An egg, however, is entrusted to all, and as not all people will consult a Sage about the status of their eggs, there is a legitimate concern about error.**

Rava said: **Even from the time of the ordinance of Rabban Yohanan ben Zakkai and onward, an egg remains prohibited.** Rava explained his reasoning: **Doesn’t Rabban Yohanan ben Zakkai concede<sup>n</sup> that if witnesses came from *minḥa* time and onward, even after the destruction of the Temple, then one observes that day as a holy day and also the following day as a holy day? The only difference is that during the time of the Temple any testimony delivered on the first day was not taken into account at all, which meant the second day was considered the first of the new year, whereas during the time of Rabban Yohanan ben Zakkai the new year was counted from the first day.**

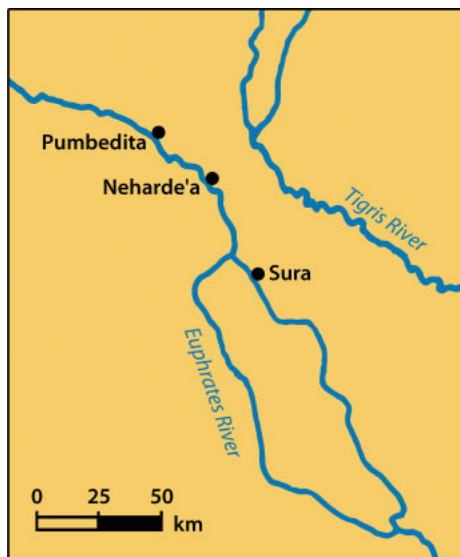
וְאָמַר רַבָּא: הֲלִכְתָּא כּוּתִיָּה דְרַב בְּהַיָּי תְּלַת, בֵּין לְקוּלָא בֵּין לְחוּמְרָא.

As far as the sanctity of the Festival is concerned, however, the second day was also treated as sacred, which proves that when two days were observed in Eretz Yisrael, they were considered a single sanctity rather than two. **And Rava said in summary: The halakha is in accordance with the opinion of Rav in these three cases, whether the ruling is lenient, or whether the ruling is stringent.**

Perek I  
Daf 6 Amud a

PERSONALITIES

**The Sages of Neharde'a** – נְהַרְדְּעֵי: The Gemara in tractate *Sanhedrin* explains that this is a reference to Rav Hama, a fourth-generation Babylonian *amora*. He apparently lived a long life, as his discussions with Sages of the previous generation are recorded in the Talmud. Since he served for over twenty years as head of the yeshiva in Neharde'a, his *halakhot* are attributed to the Sages of Neharde'a.



Neharde'a and the surrounding area

אָמַר רַבָּא: מֵת בְּיוֹם טוֹב רֵאשׁוֹן – יִתְעַסְקוּ בּו עַמּוּמִים, מֵת בְּיוֹם טוֹב שֵׁנִי – יִתְעַסְקוּ בּו יִשְׂרָאֵל, וְאִפְּלוּ בְּשֵׁנֵי יָמִים טוֹבִים שֶׁל רֵאשׁ הַשָּׁנָה, מִה שְׂאִין בֶּן בְּבִיעָה.

**Rava said: If one died on the first day of a Festival,<sup>H</sup> gentiles should attend to his burial. If he died on the second day of a Festival,<sup>N</sup> Jews should attend to his burial.<sup>N</sup> And even with regard to the two Festival days of Rosh HaShana, the halakha is that the legal status of the two days is like that of the two days of the Festivals; however, that is not so with regard to an egg that was laid on the first day of Rosh HaShana, as it remains prohibited on the second day.**

נְהַרְדְּעֵי אָמְרֵי: אִף בְּבִיעָה, דְּמַה דְּעֵתִיד – דְּלִמָּא מַעֲבְרֵי לִיה לְאִלוּל, הָא אָמַר רַב חִינָנָא בְּר כְּהֵנָּא אָמַר רַב: מִימּוֹת עוּרָא וְאִילָךְ לֹא מְצִינּוּ אִלוּל מְעוּבָר.

**The Sages of Neharde'a<sup>P</sup> say: Even with regard to an egg, Rosh HaShana is no different from other Festivals, as an egg laid on the first day is permitted on the second. As what do you think i.e., what is your concern; perhaps witnesses will fail to arrive, and the court will proclaim the month of Elul full, i.e., thirty days long, and begin counting the year only from the following day? In that case, both days are kept as sacred *ab initio*. Didn't Rav Hinnana bar Kahana say that Rav already said in this regard: From the days of Ezra and onward we have not found that the month of Elul was full,<sup>N</sup> as the Sages employed various methods to ensure that there would be no need to add a thirtieth day. Consequently, Rosh HaShana would always occur on the thirtieth day after the beginning of Elul.**

אָמַר מַר זוּטְרָא: לֹא אָמְרֵן אֲלָא דְאִשְׁתְּהֵי, אֲבָל לֹא אִשְׁתְּהֵי – מְשִׁהֵינָן לִיה.

**Mar Zutra said: We said that Jews should attend to the dead on the second day of Rosh HaShana only when the burial of the corpse has already been delayed<sup>N</sup> and for some reason the burial was not on the day that he died. In that case, the body might begin to decay, and the dignity of the dead is at stake. However, if the burial has not been delayed, and there is no concern for the dignity of the corpse, its burial may not be attended to on the Festival; rather, we delay it until the Festival has ended.**

NOTES

**The first and second Festival days** – יוֹם טוֹב רֵאשׁוֹן וְשֵׁנִי: Several sources indicate that the practice of sending out messengers to announce the New Moon ended during Rava's lifetime, when the Sages began to determine the Festivals solely by means of the calendar. From that point on, it was clear that only the first day was by Torah law, while the second was observed as a custom. Therefore, Rava sought to differentiate between the two days with regard to burying the dead (see *Tziyyun LeNefesh Hayya*).

**Died on the second day of a Festival, Jews should attend to his burial** – מֵת בְּיוֹם טוֹב שֵׁנִי יִתְעַסְקוּ בּו יִשְׂרָאֵל: The reason for these leniencies is that the burial of the dead is considered a matter of human dignity for both the dead and the living. The Sages say that human dignity is so important that it overrides the command: "You shall not deviate" (Deuteronomy 17:11) from the instructions of the Sages (*Berakhot* 19b). In other words, the Sages overrode several rabbinic decrees due to human dignity. With regard to the first Festival day, the decree against

instructing a gentile to perform prohibited labor on behalf of a Jew was overruled for this reason. The sanctity of the second day, which is rabbinic, is overruled entirely for the sake of human dignity, as Jews express this value by burying their dead (*Yam Shel Shlomo*). Some commentaries ask why the Sages didn't allow Jews to ask gentiles to bury the dead on Shabbat and Yom Kippur as well. It is suggested that due to the special sanctity of those days, the Sages elevated their decrees to the status of Torah prohibitions (*Meiri*).

**We have not found Elul full** – לֹא מְצִינּוּ אִלוּל מְעוּבָר: The Ra'avan explains at length that when the people observed two days of Rosh HaShana in the times of Ezra, (see *Nehemiah* 8:13), they did not do so in the manner of the later decree. Rather, on that occasion they observed two days because witnesses actually testified that the second day was the New Year, while the first day was observed as a Festival only due to uncertainty.

Throughout the Second Temple period, although the months were determined by eyewitness testimony, the Sages

would calculate the precise moment of the appearance of each month's new moon ahead of time and do everything possible to ensure that Elul was never full. This is clearly stated in tractate *Rosh HaShana* and explained at length by the Rambam in *Hilkhot Kiddush HaHodesh*. The Sages likewise ordained that Yom Kippur must not be allowed to occur on a Friday or Sunday. Some commentaries ask: Didn't the Gemara mention a situation in which Elul was once a full month, when the witnesses were late in arriving? It is suggested that even in that case they did not make the month full; rather, the incident had the appearance of a mistake and the Sages still considered the first day as the New Year for the calculation of the other Festivals (*Meiri*).

**Delayed** – אִשְׁתְּהֵי: There would be a delay in a case where a Festival occurred on a Sunday and someone died the day before, on Shabbat, so they could not tend to his burial until the Festival (*Rashba*).

HALAKHA

**Died on... a Festival** – מֵת בְּיוֹם טוֹב: A corpse that is to be buried on the first Festival day should be attended to by gentiles rather than Jews, even if this could be left until the next day without demeaning the dead. This *halakha* applies to digging the grave and preparing a coffin and shrouds. However, the ritual washing and cleansing, including the heating of water for this purpose, and the removal and actual burial of the corpse, may be performed by Jews as well.

If one dies on the second day of the Festival, including the second day of Rosh HaShana, Jews should attend to the corpse and tend to all of its needs. If it is necessary to remove the body outside the city for burial, that is permitted, as with regard to the dead the second Festival day is considered a weekday. Even if it can be arranged for gentiles to care for the dead, it is preferable for Jews to do so. However, the Ashkenazic custom is to have all labors prohibited by Torah law performed by gentiles whenever

possible, with Jews doing the rest. A Torah prohibition may be performed by Jews only if it cannot be done by gentiles (*Rema*).

All this applies only to cases where the decision is made to bury him that day. If, however, for some reason the decision is not to bury him on that day, nothing prohibited may be performed on his behalf, even by gentiles (*Shulhan Arukh, Orah Hayyim* 526:1, 4).