

A Reform Respona On Second Day Yom Tov Observance

Sheilah

I am an administrator at HUC-JIR, an academic institution affiliated with and supported by the Reform Movement. What should be our policy regarding the second day of festivals (Rosh Hashanah, Sukkot, Shemini Atzeret, Pesach and Shavuot)? Should the building be closed? Should we open the building and require the staff, some of whom are Jewish, to work, but cancel classes? Should we hold regular classes, and if so, should absences due to observance of the second day be “excused” or unexcused? Should our less “denominational” academic programs, programs that seek to attract non-Reform Jews, be considered differently than our rabbinical and cantorial programs for this issue?

Tshuvah

An Introduction

Before even beginning to answer this complex question, it is imperative that we first understand what prompts the question at hand. While in part, the question asks for clarification of the value or lack thereof regarding a second day of *Yom Tov* to the Reform Jewish community, the question is being asked for other reasons as well. Even if we do find no value for the Reform Jewish community of a second day *Yom Tov* observance, HUC does not only serve the Reform Jewish community. Therefore, it will be useful to also consider what value there is or is not in upholding the notion of pluralism. Finally, this question seems to ask for our consideration of the value we can glean from our tradition regarding either opening or

closing the HUC buildings when at least some students, staff and faculty will not be able to come.

The History of a Second Day of *Yom Tov*

We begin with the most salient part of the question, can we find any value in the observance of a second day of *Yom Tov* for the festivals of Rosh Hashanah, Sukkot, Pesach and Shavuot in the Reform movement? Let us start with our oldest Jewish source, the Torah. According to the Torah, “On the fifteenth day of the first month is God’s feast of Unleavened Bread...On the first day you shall celebrate a sacred occasion: you shall not work at your occupations...The seventh day shall be a sacred occasion: you shall not work at your occupations.¹ While Leviticus is only speaking about Passover, Numbers chapters 28 and 29 go into detail about not just Passover but also Rosh Hashanah and Sukkot. On each of them, the Torah says we should observe on the first day a *mikra kodesh* or sacred occasion. It is this day that the rabbis develop into what we now call *yom tov*. Nowhere in the Torah does it say we should observe a second day of *mikra kodesh*. Why then, is there even a question about whether or not we should observe a second day of festivals? We must continue our search with some developments in rabbinic texts.

In the earliest rabbinic text, the *Mishnah*, the rabbis declare that the power to set the calendar rests in the hands of *beit din hagadol* in Jerusalem. Mishnah Rosh Hashanah 2:8-9 tells us the story of the head of the *Beit Din*, Rabban Gamliel, who enters a dispute with his student, Rabbi Joshua. The disagreement begins when Rabban Gamliel accepts the testimony of two

¹ Leviticus 23:6-8

witnesses who claim to have seen the new moon. Rabbi Joshua, in agreement with Rabbi Dosa ben Harkinus, believes the witnesses are false. When Rabban Gamliel gets word of Rabbi Joshua's dissent, he orders him to come and appear before him (Gamliel) on the day that he (Joshua) calculates Yom Kippur to be. Rabbi Joshua seeks advice from Rabbi Dosa ben Harkinas who says:

אִם בָּאִין אָנוּ לְדוֹן אַחַר בֵּית דִּינֵנוּ שֶׁל רַבֵּן גַּמְלִיאֵל, צְרִיכִין אָנוּ לְדוֹן אַחַר כָּל בֵּית דִּין וּבֵית דִּין שֶׁעָמַד מִיָּמֹת
מִשָּׁה וְעַד עַכְשָׁיו

“If we are to come and call into question the judgements of the court of Rabban Gamliel, we also need to call into question the judgements of all courts that stood from the days of Moses until now.”²

From this Mishnah, we can draw two important conclusions. First, there seems to already be a debate about setting the actual time for festivals, such as Rosh Hashanah and Yom Kippur, due to doubt of when the new moon appears. Second, this Mishnah attributes authority to the *beit din* to make the decisions about the calendar, which is ultimately why Rabbi Joshua decides at the end of Mishnah Rosh Hashanah 2:9 to accept the words of Rabban Gamliel. The Mishnah says:

עָמַד רַבֵּן גַּמְלִיאֵל וַיִּנָּשְׁקוּ עַל רֹאשׁוֹ, אָמַר לוֹ, בֵּא בְּשָׁלוֹם, רַבִּי וְתִלְמִידִי, רַבִּי בְּחָכְמָה, וְתִלְמִידִי שֶׁקִּבַּלְתָּ דְבָרִי
“Rabban Gamliel stood and kissed him [Joshua] on his head, he said to him, “Come in peace, my master and my disciple. My master in wisdom, and my disciple in that you accepted my

² Mishnah Rosh Hashanah 2:8-9

words.”³ While Joshua may doubt the accurateness of Gamliel’s decision, he accepts it because Gamliel is the head of the *beit din*.

Earlier in Mishnah Rosh Hashanah, we learn more about the importance of the eye witness testimonies of seeing the new moon and the subsequent communication of the testimony to the people, so they would know it was a new month. According to the Mishnah, messengers were sent out on six months of the year, so outlying community would know when holidays occurred in those months.⁴ The concept of doubt in the validity of these eye witnesses, however, was not limited to that of Rabbi Joshua. According to Mark Washofsky, the extra day of Yom Tov was added due to the difficulties in communication between Jerusalem, the location of the *Beit Din* or Sanhedrin, and the diaspora. The method of communication was a series of torches that were lighted on hilltops. This method, though, was not perfect. The Samaritans were able to impair it by lighting their own torches on hilltops on the thirtieth night of the month even if the new moon was not declared by the Sanhedrin. Because months can either be 29 or 30 days long in the Jewish calendar, *Rosh Chodesh* sometimes occurred on the 30th day, but could also happen on the 31st as well. This confusion brought on by the Samaritans led the Sanhedrin to send messengers to communicate the beginning of the new month. The problem with this new method, though, is that the messengers could not reach the whole Diaspora within a period of two weeks. This doubt for communities located outside of the two-week range caused the Sanhedrin to issue a decree or *takanah* for those communities to observe a second day of *Yom Tov* to alleviate any doubt of when it should be celebrated. In

³ Mishnah Rosh Hashanah 2:9

⁴ Mishnah Rosh Hashanah 1:3

other words, the added day of Yom Tov was the rabbis' way of covering all their bases and eventually became the custom of all diaspora Jewish communities.⁵

The Talmud asks the question of why we should continue to observe a second day of *Yom Tov* now that the calendar is mathematically calculated. The Gemara states,

מ"ט הוי דבר שבמנין וכל דבר שבמנין צריך מנין אחר להתירו

“What is the reason [we continue to observe a second day of Yom Tov]? It is a matter that was voted on [by the Sanhedrin] and any matter that was voted on [by the Sanhedrin] needs another vote to permit it.⁶ According to Maimonides, we cannot abolish second day of *Yom Tov* in the diaspora because there is no court that is qualified to overturn the decree which was already made. The most recent Reform Responsum on the topic of second day *Yom Tov* adds another possible reason, as suggested by Rashi, for the Talmud not abolishing the second day of *Yom Tov*. That is, the possibility that the government could someday prevent Torah study and therefore take away our ability to determine the calendar, causing us to observe the festival on the wrong date. This Reform responsum concludes by saying it believes the second day of *Yom Tov* should be eliminated in the Reform movement because we no longer have calendrical doubt and are not bound to maintain ancestral customs when their justifications cease to exist.⁷

Almost 20 years after this Reform responsa was written, most Reform congregations in North America celebrate *yom tov* for only one day. On the other hand, some North American Reform congregations follow the traditional two-day observance for a number of reasons

⁵ Washofsky, *Jewish Living: A Guide To Contemporary Reform Practice*

⁶ BT Beitzah 5a

⁷ *The Second Festival Day and Reform Judaism* (1999)

including the desire to recover the traditional observance or to be in solidarity with our fellow Jews in the diaspora. According to Washofsky, it is a very good example of the pluralism and the variety of Jewish life in the Reform Jewish community.⁸

Pluralism at HUC

When Mishnah Rosh Hashanah 2:9 ended, as we stated above, there was a moment of reconciliation between Rabban Gamliel and Rabbi Joshua. About this conclusion, Avraham Walfish says, “The paradoxical sentence with which the story ends, “my master in wisdom, my disciple in that you accepted my words,” expresses (among other things) the tension between the pluralism of the realm of ideas and the uniformity required in the realm of practice.”⁹ In other words, the same Mishnah that underscored the first notion of a calendar debate, which eventually led to the development of a second day of *Yom Tov*, also underscores another very important principle. The principle of pluralism, as Walfish calls it, is something that we must consider when deciding about the matter of a second day of *Yom Tov* at Hebrew Union College. Pluralism means accepting the plausibility of two or more views, only one of which is our own view. While Joshua accepts the authority of Gamliel, the text is clear to show that there is an understanding that Joshua stills holds his own opinion about the truth of the matter. That is, he still holds the opinion that Gamliel’s declaration is technically incorrect. The notion of pluralism, however, allows the two of them to respectfully hold their own positions at the same time, to be as the Mishnah says, *b’shalom*, in peace.

⁸ Washofsky, “Do Reform Jews Celebrate One or Two Days of Rosh HaShanah?”

⁹ Walfish, “Halakhic Confrontation Dramatized: A Study of Mishnah Rosh Hashnah 2:8-9,” 13.

The Hebrew Union College-Jewish Institute of Religion's mission statement affirms that it values the principle of pluralism. The mission statement for the College says in part,

"Hebrew Union College-Jewish Institute of Religion (HUC-JIR) is North America's premier institution of Jewish higher education and the center for professional leadership development of Reform Judaism. A multi-campus academic and spiritual learning community, HUC-JIR builds vibrant progressive Judaism in North America, Israel and around the globe by studying the great issues of Jewish life, history and thought with an open, egalitarian, inclusive and pluralistic spirit."¹⁰

HUC is indeed a Reform institution of higher learning; however, as this mission statement so eloquently says, it is also one of "Inclusive and pluralistic spirit." In our answer to your question about the second day of *Yom Tov* at HUC, we must now account for the important principle of pluralism in deciding about how to carry out operations on this day. While it is true, that we understand the reason why the Reform Movement does not largely adhere to an observance of a second day of *Yom Tov*, we have a responsibility to heed both the words of our Mishnah and that of Hebrew Union College itself. In both sources, the value of pluralism, of holding onto two positions or more is deemed important. At HUC, as you even say in your question to us, there are programs outside of the rabbinic and cantorial schools which seek to attract non-Reform Jews. This means that in the student body alone, there may very well be people that choose to observe a second day of *Yom Tov*. In addition, we are aware that many of the staff and faculty at HUC come from denominations other than Reform Judaism and they too may choose to observe a second day of *Yom Tov*. With this data in mind, HUC would be infringing on the principle of pluralism if it decides to hold classes on the second day of *Yom Tov*.

¹⁰ "Mission Statement"

For a better understanding of our reasoning here, let us go back to your original question. If you choose either the option of cancelling classes but opening the building and requiring staff to come in and work, or opening the building and holding regular classes, you will infringe upon the pluralism that HUC so diligently wants to uphold. Requiring staff who observe a second day of *Yom Tov* to come in to work shows a disregard for their Jewish practice. By opening the building and holding regular classes, you would extend this disregard to not only staff but also faculty and students who observe a second day of *Yom Tov*. Some students may not personally observe a second day but may be required to work in their internships on the second day of *Yom Tov* if their respective communities choose to observe the second day. Even if you allow the students to have an excused absence, the faculty to cancel class, or the staff to use a day of vacation if they observe the second day of *Yom Tov*, you are certainly making it much more difficult for them to make such a decision, and implicitly communicating that not only is your position of observing one day of *Yom Tov* authoritative, but that it is really the only position that should be held. HUC should not be in the business of making this kind of statement, for it completely goes against its mission statement. If HUC is to close the building and cancel regular classes on the second day of *Yom Tov*, the value of pluralism will be upheld. Those that would like to observe only one day of *Yom Tov* may choose to spend the second day however they wish. They may choose to get work done or to attend services at a local synagogue, for example. In either case, by closing the building and cancelling regular classes, the principle of pluralism will be upheld to the highest degree. With this said, we still have one other important category with which to consider before we conclude with our final answer. Harkening back to Walfish's commentary on Mishnah Rosh Hashanah 2:9, we

must acknowledge, “The tension between the pluralism of the realm of ideas and the uniformity required in the realm of practice.”¹¹ We have just finished our assessment of the pluralism piece. Now, we must contemplate the realm of practice by considering the contemporary considerations of Jewish ethics and economics and practical logistics at HUC.

Contemporary Considerations: Economic Ethics and Logistical

In his book, *Organizational Ethics and Economic Justice*, Dr. David Teutsch, frames the way in which Jewish nonprofit organizations should make decisions. He says, “A not for profit must therefore balance the fulfillment of its mission with a variety of ethical considerations regarding its ongoing operations. These include all the considerations facing businesses...plus the obligation to use public funds with maximal efficiency.”¹² HUC, we know, is a nonprofit organization which means we can apply Teutsch’s wisdom to your question. The question becomes, in making the decision about what to do on the second day of *Yom Tov*, HUC must balance the fulfillment of its mission with an obligation to adhere to Jewish values, including that of using the public funds or *tzedakah* it receives with maximal efficiency.¹³ What this means, for the question that you have asked us, is, how does the opening or closing of the HUC buildings on the second day of *Yom Tov* relate to achieving this balance of fulfilling HUC’s mission and its responsibility to use its funds with maximal efficiency?

¹¹ Walfish, “Halakhic Confrontation Dramatized: A Study of Mishnah Rosh Hashnah 2:8-9,” 13.

¹² David A. Teutsch, *Organizational Ethic And Economic Justice* (Reconstructionist Rabbinical College Press, 2007), 66-67.

¹³ Washofsky, *Jewish Living: A Guide to Contemporary Reform Practice*, 293.

In speaking about the use of Tzedakah in his book *Jewish Living: A Guide to Contemporary Reform Jewish Practice*, Mark Washofsky states, “It is, of course, a monumental undertaking to eradicate poverty or other social ills. Our communal as well as personal resources are limited, and this means that we have to make difficult choices concerning the proper allocation of our tzedakah funds.” Ruth Valerie Adar argued in her rabbinic thesis, *Money and Menschlichkeit: A Jewish Ethics of Personal Finance*, “Fundraisers and administrators have responsibilities to the community, responsibilities to their clients, and their own reputations and careers to build and protect...In terms of Jewish tradition and tzedakah, they should hold themselves (and be held by the community) to a very high standard of behavior and professionalism.”¹⁴ In their balancing act of both promoting their mission as an organization and their responsibility to use their funds most efficiently, we believe HUC needs to consider the following: their mission, as stated above, to be “North America’s premier institution of Jewish higher education and the center for professional leadership development of Reform Judaism,”¹⁵ the way they treat their employees and finally what it means for them to use their limited funds as efficiently as possible. Let’s begin with HUC’s mission to be the premier institution of Jewish higher education.

HUC might be thinking they should either hold all regular classes or at least classes for our denominational rabbinic and cantorial classes on what non-Reform Jews consider the second day yom tov so as not to lose another day of rich Jewish education. We would disagree with this position. Jewish learning, while obviously important to HUC, will be compromised on

¹⁴ Adar, *Money and Menschlichkeit: A Jewish Ethics of Personal Finance*, 36.

¹⁵ “Mission Statement”

this day. Without a doubt, classes held on a second day of *Yom Tov* would be missing at least some students and some faculty. While it is possible that the students who are present may get some value out of class, the absence of faculty and/or students would impede the learning which happens on a regular calendar day. This issue would affect both the non-denominational programs at HUC and the specifically Reform rabbinic and cantorial programs as well. In addition, if you choose to make different choices for the rabbinic and cantorial programs from the rest of the programs at HUC, you will once again risk sacrificing the value of pluralism and as Walfish so eloquently states, “the uniformity required in the realm of practice.” What we mean by this, is, by cancelling all classes rather than only some, the uniformity of the decision actually makes its implementation much easier in practice. This principle would also apply to the possibility of cancelling classes and requiring staff to come in to work. Again, such a decision would not only compromise the pluralism at HUC but be complicated in terms of how to handle staff who need to take off to observe a second day of *Yom Tov*. At this point, we have ruled out all of the viable options you presented us, except for one, to close the building all together.

We believe it is in your best interest to close the HUC buildings all together, thereby cancelling all classes and having no staff or faculty on the second days of *Yom Tov*. Besides all the reasons we have already mentioned, there is another we would like to mention. After doing a little bit of research into one of the campuses, Los Angeles, we have learned some important information. When we spoke with the maintenance supervisor on the LA campus, he told us that it costs a minimum of \$875 to open the LA campus. For the building to be open, HUC requires there be one security guard and custodian in the building at all times. This number

reflects the payment of security and maintenance as well as the average daily cost of variable utilities (mainly electric). He reminded us that usually HUC spends additional money on other things like coffee, cutlery and other incidentals. Likely, that means HUC LA spends around \$1,000 to simply open its building. We are certain that number would be at least the same for the New York Campus, and probably much higher in Cincinnati which has a much larger campus. Therefore, we estimate HUC spends between approximately \$3,500 and 4,500 s to open all three of its North American campuses (We have purposely left out the Jerusalem campus because the issue of second day Yom Tov only applies on Rosh Hashanah there). Spending this amount of money to open the building on a second day of *Yom Tov*, where no students or faculty would need to be in the building and at least some staff will not come into work, seems irresponsible.

Judaism has a lot to say about ethics regarding the use of public funds, in this case *tzedakah*. Deuteronomy teaches us, “Remember that it is God who gives you the power to make wealth for the sake of the establishment of God’s covenant that was sworn to your fathers as on this day.”¹⁶ In response to this idea, Dr. Meir Tamari, the director of the Center for Business Ethics in Jerusalem says,

“Since they (resources and wealth) are granted to us in a custodial relationship, they may not be frivolously dissipated or wantonly destroyed, even where the legal ownership is unquestioned...Man as a custodian of natural resources needs to husband them, so that in addition to being used, they remain for future generations. In this, he becomes, as it were, a partner in the Divine process of creation.”¹⁷

¹⁶ Deuteronomy 8:18

¹⁷ Tamari, *The Challenge Of Wealth: A Jewish Perspective on Earning and Spending Money*, xxiii-xxiv.

In terms of our question, Deuteronomy and Tamari's theology of economics provide a large degree of guidance. The responsibility we have as Jews to use public funds as efficiently as possible connects us back to our role as God's tenders of earth. If HUC opens its three stateside campuses on a day where they are not being readily used, we are wasting a lot of money. In doing so, they are not only wasting the wealth which God bestowed upon us for the good of the world, but natural resources as well. It is one thing to consume a large amount of electricity on a day where the building is being fully utilized. However, on a day like second day *Yom Tov* where this is not the case, HUC would essentially be wasting nonrenewable resources, a violation of the Jewish prohibition to waste, known as *baal tashchit*.¹⁸

Finally, in conjunction with closing the building on second day *Yom Tov*, we will address one last concern you may have. As a part of the Jewish ethic on economics, we will address the relevant ethical issue regarding labor policies. Tamari writes, "Since workers are not simply factors of production, Judaism provides special protection over and above those laws regarding contracts of hiring and leasing. Such protection is essential due to the direct dependence of the worker on his wages, often his only means of livelihood"¹⁹ We believe HUC will be able to make sure that all of its workers will be protected if they decide to be closed a few additional days each year for the second day of *Yom Tov*. According to the office manager at HUC in LA, all full-time HUC faculty and staff receive paid time off for Jewish holidays. Therefore, the only staff that could potentially suffer from having forced additional days off due to second day *Yom Tov* are part time hourly workers, such as administrative assistants. She informed us that this issue

¹⁸ Tamari, *The Challenge Of Wealth: A Jewish Perspective on Earning and Spending*, 251.

¹⁹ Tamari, *The Challenge Of Wealth: A Jewish Perspective on Earning and Spending*, 109.

for part time employees already exists for weeks with other holidays, Jewish or secular. The solution, she says, could be for the relevant supervisors to work with their part time employees to schedule times which are mutually convenient for the employee and their direct supervisor to make up the missed hours. When this remedy is applied, even the part time HUC employees will not lose out on any wages due to the building being closed on a second day of Yom Tov. In our research at HUC LA, we also had the privilege of speaking with the director of the Frances Henry Library, Sheryl Stahl. According to Stahl, she and other HUC staff would be much happier if HUC ceased to determine through an ad hoc method whether to cancel on second day *Yom Tov* and instead be consistent. She says that it can be difficult to operate both personally and professional without such consistency. We believe our decision to recommend HUC close its building on all second days of *Yom Tov* will resolve her concern as well.

In Conclusion

Although it appears that there is little value to the celebration of a second day of Yom Tov in the Reform Jewish community, we recommend that HUC-JIR make a policy to close all of its North American campuses on the second day of all festivals and cancel all classes. For the reason of both Reform Judaism/HUC's commitment to pluralism and the Jewish tradition's view on economic ethics as well as other practical concerns for the college, we believe this decision will be most appropriate.

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