JUDAÏSME ANCIEN ANCIENT JUDAISM

Revue internationale d'histoire et de philologie International Journal of History and Philology

JUDAÏSME ANCIEN / ANCIENT JUDAISM

Revue internationale d'histoire et de philologie International Journal of History and Philology

publiée sous les auspices de la

SOCIÉTÉ POUR L'ÉTUDE DU JUDAÏSME ANCIEN

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> Volume 10 2022

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D/2023/0095/128 ISBN 978-2-503-59870-3 ISSN 2294-9321 eISSN 2507-0339 DOI 10.1484/J.JAAJ.5.133240

Printed in the EU on acid free paper

LIMINAIRE

Présentation

La revue couvre toutes les problématiques de recherche scientifique en rapport direct ou indirect avec le judaïsme ancien pris au sens large et couvrant aussi bien le judaïsme sacerdotal ou synagogal que le judaïsme rabbinique ou chrétien. Elle s'intéresse aux débats et aux résultats de la recherche concernant toute la documentation permettant d'accéder à la connaissance du judaïsme ancien dans toutes ses formes et de comprendre ses dynamiques.

Historique et philologique, la revue se veut aussi interdisciplinaire: elle s'intéresse aussi bien à la littérature, l'archéologie et l'épigraphie qu'à la culture, la religion et la sociologie. Elle envisage de couvrir une période allant des environs du VI^e siècle avant notre ère au IX^e siècle de notre ère. La revue se veut aussi un espace pour caractériser les interactions (relations, influences et distinctions) entre le rabbinisme, le christianisme et les débuts de l'islam. La revue entend donc couvrir un large spectre sans exclusive et recevoir des contributions non seulement en français mais aussi en allemand, en anglais et en italien qui sont ses langues de publication. C'est de plus l'unique revue internationale dans la recherche francophone qui couvre ce que l'on appelle le judaïsme ancien, et qui veut avoir une orientation spécifiquement historique et philologique.

The journal tackles, both directly and indirectly, all of the scientific issues associated with Ancient Judaism. Every aspect of Judaism, including variations, trends, and differing approaches, will be considered. The journal is particularly interested in debates and the results of research regarding primary documentation allowing direct access to knowledge about Ancient Judaism.

The journal is both historical and philological with the intention of being interdisciplinary. It focuses on literature, archaeology and epigraphy, culture, religion and sociology. It intends to cover the period spanning between the sixth century BCE and

the ninth century CE. The journal is to be a milieu in which to characterize the interactions (relationships, specificities, distinctions, acculturations) between Rabbinic Judaism, Christian Judaism, and Early Islam. Thus the journal covers a broad spectrum without being exclusive. It accepts contributions in French as well as English, German and Italian. Moreover, it is the only international journal published in the French language on the subject of Ancient Judaism that is characterized by historical and philological approaches to the material.

Argument

Les nombreuses découvertes archéologiques et épigraphiques de la seconde moitié du XX^e siècle touchant le judaïsme ancien et les renouvellements épistémologiques comme méthodologiques des dernières années jettent une lumière nouvelle sur sa définition et son fonctionnement dans le monde des religions, en particulier dans l'espace méditerranéen et son *hinterland*.

De nouvelles questions sur le judaïsme ancien sont alors formulées, d'autres questions plus anciennes sont renouvelées en profondeur. Ainsi, le moment et les conditions de la séparation entre le judaïsme dans diverses dimensions et le christianisme restent discutés: les rapports entre le rabbinisme et le christianisme avec l'islam à ses débuts sont à examiner selon différentes expressions (archéologie, épigraphie et littérature); la définition même du judaïsme est questionnée à ses débuts (VIe-IVe siècles avant notre ère); les relations et interactions du judaïsme avec la culture grecque et/ou romaine méritent d'être précisées; les échecs successifs des deux révoltes judéennes contre Rome (celle de 66-74 et celle de 132-135) apparaissent davantage comme des événements accélérateurs de changements politiques, religieux, sociaux et économiques déjà à l'œuvre aux époques antérieures; si le judaïsme trouve un espace définitoire malgré les débats qui le traversent, le périmètre et la définition de ces groupuscules ou communautés restent à circonscrire; la dissémination des Judéens dans l'espace méditerranéen pose aussi la question de la pluralités des expressions du judaïsme.

Ces quelques problématiques ne se veulent pas exhaustives mais elles révèlent que le judaïsme ancien est en soi un objet de recherche en plein renouvellement. Il s'affranchit des études centrées sur la Bible hébraïque ou sur les apocryphes, et il dépasse

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la définition anglo-saxonne du judaïsme du « Second Temple ». La prise en compte des nouveaux documents (données archéologiques, inscriptions, manuscrits) mis au jour ces dernières décennies permet des études scientifiques nouvelles et à des échelles différentes.

The various archaeological and epigraphic discoveries over the second half of the twelfth century have led on renewal of both the epistemological and methodological considerations related to the study of Ancient Judaism. Therefore, recent years have shed new light on the definition of Ancient Judaism and how it functions in the world of religions, especially in the Mediterranean and its *hinterland*.

This has led to the formulation of new questions about Ancient Judaism, while other, older questions have been deeply renewed. For example, the time period and the conditions under which Judaism and Christianity parted ways have re-entered the discussion. The relationships between Rabbinic Judaism, Christian Judaism, and Early Islam are being studied on the basis of different criteria (archaeology, epigraphy and literature). The definition of Judaism itself is being examined at the point of its emergence (6th-4th centuries BCE). The relationships and interactions with Greek and/or Roman culture need to be investigated and clarified. The crisis of Judean revolts against Rome (66-74, 132-135) can be contextualized as an accelerating process of political, religious, social and economic changes that is already at work. If Judaism finds a defining space in spite of debates, the boundaries and the definition of groups or fellowships inside Judaism remain circumscribed. The widely dispersed Judaean population throughout the Mediterranean also raises questions concerning the plurality of Judaism.

The issues mentioned above are not intended to be exhaustive but they do reveal that Ancient Judaism is a fascinating subject that has been undergoing a process of complete renewal. It surpasses scientific studies focussed on Hebrew Bible or Apocrypha and it goes beyond the definition of "Second Temple Judaism". Recently discovered documentation (archaeological data, inscriptions, scrolls) allows for new forms of scientific study on a number of different levels.



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EARLY ISLAMIC DIFFERENTIATION FROM JUDAISM

THREE ADDITIONAL CASE STUDIES¹

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Résumé

Cet article développe un aspect relativement négligé de la relation entre l'islam et le judaïsme - la différenciation à partir du judaïsme - en exposant trois exemples du début de la période islamique: l'institution de l'année bissextile, le témoignage contre les adultères et la punition des parjures. Dans les trois cas, le Coran suggère que la pratique juive ne doit pas être observée. Dans les deux premiers, la tradition islamique se différencie de la pratique juive en promulguant ce qu'elle considère comme des règles de comportement plus clémentes (une ligne de conduite considérée comme importante dans de nombreuses sources islamiques); cela suggère la possibilité d'une présence juive rabbinique dans le milieu islamique originel, une présence qui, aux yeux des musulmans, devait être contrée. Dans le troisième cas, cependant, la tradition islamique établit une règle plus stricte, ce qui est rarement le cas. Ici, l'objectif de la différenciation semble avoir été la nécessité d'éviter l'assimilation avec les Juifs.

Summary

In this article, I elaborate on an earlier paper concerning a relatively neglected aspect of the relationship between Islam and Judaism – differentiation from Judaism – by providing three exa-

^{1.} This research was supported by the Ben Zvi Institute for the study of Jewish communities in the East.

mples from the early Islamic era: instituting the leap year, testifying against adulterers, and punishing perjurers. In all three, the Qur'ān suggests that the Jewish practice is not to be observed. In the first two, the Islamic tradition differentiates from Jewish practice by enacting what it considers more lenient rules of behavior (a course of action considered important in many Islamic sources); this suggests the possibility of a Rabbinite Jewish presence in the foundational Islamic milieu, one that, in Islamic eyes, had to be countered. In the third case, however, the Islamic tradition establishes a more stringent rule, as is rarely done. Here, the purpose of differentiation appears to have been the need to avoid assimilation with the Jews.

Introduction

In 2013 I published an article that discussed a relatively neglected aspect of the relationship between Islam and Judaism: the way Islam differentiated itself from Judaism. The concept of differentiation from other religions is known in Islamic sources as mukhālafa. The article examined Jewish sources that may have motivated Muslims to adopt customs that were the opposite of Jewish customs in several matters and explained how two additional concepts, the golden path (wasaṭ) and leniency (rukhṣa), were applied to several issues in religious law, such as divorce, the call to prayer, the direction of prayer, and the number of daily prayer services.² This was one of a series of articles that approached the subject; in the other articles, I discussed differentiation from menstrual laws, fasting, and growing sidelocks.³ The

^{2.} H. MAZUZ, "The Relationship between Islam and Judaism: A Neglected Aspect," Review of Rabbinic Judaism 16 (2013) 28-40. On Islam as a "middle nation," see further H. A. R. GIBB, "Pre-Islamic Monotheism in Arabia," Harvard Theological Review 55 (1962) 277. On rukhṣa, see M. J. KISTER, "On 'Concessions' and Conduct. A Study in Early Ḥadīth," in G. H. A. JUYNBOLL (ed.), Studies on the First Century of Islamic Society (Carbondale, IL, 1982) 89-107; R. PETERS, "Rukhṣa," Encyclopaedia of Islam (Leiden, 1995) 8:614-615; H. MAZUZ, "Menstruation and Differentiation: How Muslims Differentiated Themselves from Jews regarding the Laws of Menstruation," Der Islam 87 (2012) 211-213.

^{3.} H. MAZUZ, "Menstruation and Differentiation: How Muslims Differentiated Themselves from Jews regarding the Laws of Menstruation," *Der Islam* 87 (2012) 204-223; H. MAZUZ, "The Day of Atonement and Yawm 'Āshūrā': From Assimilation to Differentiation," *Ancient Near Eastern Studies* 50 (2013) 255-261; H. MAZUZ, "Growing of Sidelocks among Jews in Northern Arabia," *Pe amim* 137 (2014) 125-144 [Hebrew].

aspects of Jewish practice from which Muslims differentiated in their own practices were identical to those described in rabbinic law. The sources that I discussed in these articles mentioned religious customs of Jews in Medina (and also, to some extent, in Khaybar), suggesting that these Jews were rabbinic-oriented. This article is an addendum to the 2013 article. On the following pages, I present three additional cases that demonstrate how Islamic law differentiated itself from Jewish law.

Instituting the Leap Year

During the Second Temple period, various Jewish factions used different calendars. The Qumran sect followed the solar calendar; the Sadducees observed the lunar calendar. The Talmudic sages, whose positions matched those of the Pharisees (there is no source that specifies which calendar the Pharisees themselves followed) used the lunar calendar with the addition of a leap year. The reason for the latter adjustment was the rabbinic interpretation of Deut. 16:1 ("Observe the month of Spring") as meaning that the holy days must take place in specific seasons of the year (BT, Ro'sh ha-Shanah 21a). This resulted in a combined solar and lunar calendar: the Talmudic sages adopting a nineteen-year intercalation cycle in which seven years (the third, sixth, eighth, eleventh, fourteenth, seventeenth, and nineteenth) receive an extra month – Adar II.⁵

According to Islamic sources, pre-Islamic Arabs originally used the lunar calendar (sana qamariyya) that they had received from Abraham and his son, Ishmael. In the late pre-Islamic period, 6 however, some Arabs appropriated the concept of the leap year (kabīsa) from the Jews and the Christians. Over time, this custom spread across the Arab lands and took root among them. 7

^{4.} See further, H. MAZUZ, The Religious and Spiritual Life of the Jews of Medina (Leiden, 2014).

^{5.} E. REGEV, The Sadducees and Their Halakha: Religion and Society in the Second Temple Period (Jerusalem, 2005) 91-97 [Hebrew].

^{6.} According to Islamic sources, the pre-Islamic era may be divided into two sub-periods. There are two schools of thought on the first of these pre-Islamic periods (al-jāhiliyya al-ūlā). According to one, it began with Adam and continued until Noah. In the contrasting view, it began with the life of Noah and ended with Idrīs (Enoch). See I. GOLDZIHER, Muslim Studies (New Jersey, NJ, 2006) 202.

^{7.} FAKHR AL-DĪN MUHAMMAD B. UMAR AL-RĀZĪ, *Mafātīḥ al-Ghayb: al-Tafsīr al-Kabīr* (Tehran, n.d.) 16:50. For recent studies on the pre-Islamic Arab calendar, see H. IOH, "The Calendar in Pre-Islamic

A passage in BT, 'Abōdah Zarah 11b appears to confirm the observation that the pre-Islamic Arabs indeed followed a lunar calendar: "The festival of the Tayya'ā is different, as it is not a fixed holiday." The word Tayya'ey (singular Tayya'ā) in the Talmud refers to Bedouin, especially those in the vicinity of modern Iraq, and is a generic term for Arabs in Syriac sources.8 Here, the term refers to Arabs in general.

The Qur'an specifically expresses its wish to abrogate the leap of the year. Q. 9:36-37 reads: "The number of the months, with Allāh, is twelve in the Book of Allāh, the day that He created the heavens and the earth [...]. The month postponed is an increase of unbelief whereby the unbelievers go astray [...]".9 These two verses seem to react against the Talmudic reform of adding a leap month. In Q. 9:36, it is argued that Allah still rules over the months of the year and has not transferred his sovereignty in this matter to human beings. Furthermore, the year is alleged to have numbered only twelve months at all times, contradicting the Talmudic tradition of adding Adar II to the calendar. 10 These Qur'anic verses may have been specifically directed against a passage attributed to R. Joshua b. Levi - an Amora who lived in the Land of Israel in the third century CE - in Midrash Tanhūmā, according to which, since the creation of humankind, God initially ensured the continuity of the calendar by enacting the leap year himself. When the Israelites became a nation, however, he transferred the responsibility for maintaining the calendar to

Mecca," Arabica 61 (2014) 471-513; C. ROBIN, "Die Kalender der Araber vor dem Islam," in N. SCHMIDT – N. K. SCHMID – A. NEUWIRTH (ed.), Denkraum Spätantike. Reflexionen von Antiken im Umfeld des Koran (Wiesbaden, 2016) 299-386; F. DE BLOIS, "The Chronology of Early Islam: The Ancient Calendar at Mecca and the Origin of the Islamic Calendar," in S. STERN (ed.), Calendars in the Making: The Origins of Calendars from the Roman Empire to the Later Middle Ages (Leiden, 2021) 188-209.

^{8.} I. Shahîd, "Ṭayyi or Ṭayy," Encyclopaedia of Islam (Leiden, 2000) 10:402-403. See further, Y. Carmell, "Jāhiliyya: The Figure of the Arab, Ṭayya'ey and Ishmaelite in the Talmudic Literature," Pe amim 158 (2019) 77-109 [Hebrew].

^{9.} Translation taken from A. J. Arberry (ed.), *The Koran interpreted* (London, 1964). The Qur'an uses the word *nasī*' to denote the leap year; commentators use the word *kabīsa*.

^{10.} Although the nineteen-year intercalation cycle was used by the Babylonians and Greeks, it is very likely that the Qur'an responds to its milieu which does not include the latter but does include, mainly, Jews, Christians, and pagan Arabs.

them (Midrash Tanḥūmā, Exodus, Bo' 12:2). Notably, it is hard to date the redaction of Midrash Tanḥūmā. The Tanḥūmā-Yelammedenū literature is best regarded as a particular Midrashic genre that began to crystallize in the Land of Israel in the late Byzantine era, before the Muslim conquest (634 CE), and continued to evolve and spread throughout the Diaspora well into the Middle Ages, sometimes developing different recensions of a common text.¹¹ Throughout, however, the Islamic position clearly opposed the Jewish position regarding the leap year.

Testifying against Adulterers

While Jewish law requires at least two witnesses for the acceptance of testimony ("by the mouth of two or three witnesses the matter shall be established." Deut. 19:15), the Qur'ān requires twice as many. According to Q. 4:15, to prove that a married woman has committed adultery, four eyewitnesses must testify to having seen the act: "And as for those of your women who are guilty of an indecency, call to witness against them four [witnesses] from among you."

Islamic tradition holds that Q. 4:15 was revealed due to an event that occurred in 628 CE (some sources say 626 CE) when a Muslim army raided the Banū Muṣtaliq. This story is known in Islamic sources as the tradition of the slander against 'Ā'isha bt. Abī Bakr (ḥadīth al-ifk). After breaking camp, 'Ā'isha climbed into her palanquin, where she noticed that she had forgotten her jewelry. She dismounted the palanquin and began to search for the missing object. The rider of her camel, unaware that she had left, moved on; thus, 'Ā'isha spent the entire night alone in the open. In the morning, Ṣafwān b. Muʿaṭṭal, bringing up the rear of the column, saw 'Ā'isha, mounted her on his camel, and delivered her to the Muslim camp. After the Muslims returned to Medina, some of them accused 'Ā'isha of having committed adultery with Ṣafwān, resulting in the revelation of Q. 4:15. 12 Since no eyewitnesses, let alone four, had seen 'Ā'i-

^{11.} M. Bregman, "Tanḥuma Yelammedenu," Encyclopaedia Judaica (Detroit, MI, 2007) 19:503-504; M. Lavee, "Midrash Tanḥuma in the Islamic Cultural Milieu," Encyclopedia of Jews in the Islamic World (Leiden, 2010) 3:417-418.

^{12.} Минаммар в. 'Umar al-Wāqidī, Kitāb al-Maghāzī (London, 1966) 2:426-439; Минаммар в. Jarīr al-Ṭabarī, Ta'rīkh al-Rusul wa'l-Mulūk (Cairo, 1960) 2:610-619.

sha and Ṣafwān b. Muʿaṭṭal committing adultery, there were no grounds for divorce and ʿĀʾisha remained Muḥammad's wife. In this case, Islamic law differentiated itself from Jewish law by doubling the minimum number of witnesses who are required for the acceptance of testimony.

Punishing False Witnesses

According to Jewish law, a man who gives false testimony in court (ed zōmem) is given the same punishment that would have been imposed on the man against whom he testified in case he was convicted ("then shall you do unto him as he intended to do unto his brother [...]." Deut. 19:19). BT, Makkōt 4a reports a disagreement between R. Meir and the other Talmudic sages over the punishment for perjurers, which was generally defined as forty lashes. R. Meir argued that false witnesses should receive eighty lashes. The sages resisted this opinion and supported their view by citing Jewish law, based on Deut. 25:2-3: "And it shall be, if the wicked man be worthy of being beaten, that the judge shall cause him to lie down and to be beaten before his face, according to his fault, by a certain number. Forty lashes may he give him and shall not exceed [...]". A passage of Mishna, Makkōt 1:3 and BT, Makkōt 4a reads:

(If witnesses) testify that so-and-so is liable to a flogging of forty lashes and they are found lying, they then receive eighty (lashes), forty on account of "you shall not bear false witness against thy neighbor" (Exod. 20:12) and forty on account of "then shall you do unto him as he intended to do unto his brother" (Deut. 19:19). These are the words of R. Meir; but the sages said that they receive only forty lashes.

Islamic tradition claims that Muḥammad received an additional revelation regarding the punishment of those who accuse married women of adultery: "And those who accuse married women and bring not four witnesses, flog them [with] eighty stripes and never accept their evidence, and these are the transgressors" (Q. 24:4). Thus, the position rejected by the Talmudic sages regarding punishment for perjurers is accepted by the Qur'an and here, too, the Islamic demand doubles the Jewish one and establishes a contrast to it. Furthermore, while the Islamic punishment is double that of Judaism, the sages wondered whether to give the

convicted person forty lashes or just thirty-nine ("forty less one". Mishna, $Makk\bar{o}t$ 3:10) in order to avoid causing him more pain than absolutely necessary. In the case of a convicted man who is physically weak, the court reduces the number of lashes (BT, $Makk\bar{o}t$ 22a-b), demonstrating a tendency to leniency.

Conclusion

The three cases mentioned above demonstrate Islamic differentiation from Judaism that originates in the Qur'ān. Two of them stand in clear contrast to Talmudic law, giving further support to the possibility of the existence of a Talmudic Jewish faction in the early Qur'ānic milieu. Usually, the Islamic tradition diverges from Jewish practices by enacting what it considers more lenient rules of behavior and when "trapped" between Jewish and Christian customs, it chose the "golden path" between them. In the case of punishment for perjurers, we encounter a rarity: the Islamic attitude is clearly stricter. Although the importance of leniency is reflected in many Islamic sources, the principle of avoiding assimilation with the Jews appears to have prevailed over it.

^{13.} See further, H. MAZUZ, "Thoughts on Qur'ānic Evidence for the Religious Nature of the Qur'ānic Jews," *Revue des études juives* (forthcoming). Cf. J. COSTA, "Les juifs d'Arabie dans la littérature talmudique," in C. J. ROBIN (ed.), *Le judaïsme de l'Arabie antique* (Turnhout, 2015) 482-484.