

ABSTRACT

ON RULES AND REASON IN LAW AND IN HALAKHAH –
A FRESH CONCEPTUAL FRAMEWORK FOR THE STUDY
OF THE RATIONALE OF THE COMMANDMENTS

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In generations past, thinkers and preachers, rabbis and halakhists, have avoided attributing reasons for commandments and halakhot. Their hesitation is rooted in various religious outlooks. According to one outlook, the reasons for commandments are beyond attainment. According to another outlook, the reasons for the commandments are not relevant since the essence of the religious-halakhic life is servitude to God ('accepting the yoke of Heaven'). These two outlooks are often coupled with the view that reasons undermine the force of commandments and are liable to bring about disregard for them. This leads those who adopt these outlooks to relate to commandments as entities, or to view them as laws of nature that do not have – and do not need – purposes and justifications. They simply exist. From these understandings comes the view that attributing reasons to commandments is a matter only for philosophers, whose musings are outside the boundaries of the halakhic discourse. According to these thinkers and halakhists, this was the way reasons for commandments were always understood – in the Bible, in the Mishnah and Talmud, and in the medieval halakhic literature.

Philosophers, jurists, and other halakhists, understood differently. Legal rules are categorically different from laws of nature, *inter alia*, because they are rooted in reasons, i.e. purposes and justifications. Studies in philosophy, particularly in the last generation, have demonstrated that even though partial separation of laws from their reasons is essential to their effectiveness, reasons are nonetheless the essence of legal rules. In this article, I will demonstrate how the understandings that arise from these philosophical discussions shed new light on the link between commandments and halakhot and their reasons. Furthermore, these understandings illustrate how halakhic claims that appear to be disconnected from reasons, encapsulate different types of reasons. I will demonstrate these claims in various halakhic and literary contexts. The analysis that I will present is of crucial importance to understanding the development of halakhah and identifying changes that occurred in the fundamental infrastructure of halakhic discourse over the generations.

This study critically examines unconscious or semi-conscious assumptions that have been widespread in recent generations regarding the reasons of the commandments and the halakhot. The article offers a new conceptual foundation that points to the tight bond between commandments and their reasons in the canonical Jewish literature: The Bible, the Mishna, Talmudic discussions, and Maimonides' Code. This conceptual foundation is grounded in philosophical inquiry that readers of Jewish Studies scholarship are unaccustomed to. My aspiration is that the conceptual formulations that I will lay out in the first part of the article will produce, in the second part, understandings regarding the general nature of reasons in halakhah. These understandings, in turn, will contribute to this philosophical-jurisprudential discourse.