

When is a commandment not a commandment?

Text 1 – Leviticus 11:2-12

These are the living things which ye may eat among all the beasts that are on the earth. Whatsoever parteth the hoof, and is wholly cloven-footed, and cheweth the cud, among the beasts, that may ye eat.



Nevertheless these shall ye not eat of them that only chew the cud, or of them that only part the hoof: the camel, because he cheweth the cud but parteth not the hoof, he is unclean unto you.

And the rock badger, because he cheweth the cud but parteth not the hoof, he is unclean unto you. And the hare, because she cheweth the

cud but parteth not the hoof, she is unclean unto you. And the swine, because he parteth the hoof, and is cloven-footed, but cheweth not the cud, he is unclean unto you. Of their flesh ye shall not eat, and their carcasses ye shall not touch; they are unclean unto you.

[...continues at quite some length]

Text 2 – Leviticus Rabbah 13:2

The laws of kashrut may be compared with the case of a physician who went to visit two sick persons, one who they judged would live, and another who would certainly die.

To the one who would live, the physician said: "This you may eat, that you may not eat." But as for the one who was to die, the physician said: "Give them whatever they ask."

Thus of those who are not destined for Heaven anyway, it is written, "Every moving thing that lives shall be for food for you" (Genesis 9:3). But to Israel, who are destined for the life of the World to Come, God said, "These are the living things which ye may eat" (Leviticus 11:2).

Text 3 – Sifra Leviticus 20:22

Rabbi Eleazar ben-Azariah said: "We should not say, 'I do not wish to eat non-kosher meat,' 'I do not wish to indulge in forbidden sex,' but rather, 'I wish, but what can I do since God has decreed otherwise?'"

Text 4 – by The Rebbe, died 1994

Generally speaking, the commandments are divided into two categories: supra-rational 'decrees' (chukkim) and logical 'judgments' (mishpatim).

There are commandments, such as the commandment to give charity or the prohibitions against theft and murder, whose reason and utility are understandable to us, and which we would arguably have instituted on our own if God had not commanded them; and there are commandments, such as the dietary laws or the laws of family purity, which we accept as Divine decrees, despite their incomprehensibility and – in the most extreme of them – their irrationality.

But in other places, the Torah refers to all commandments as 'decrees', and uses the term 'judgments' to refer to supra-rational commandments as well. Chassidic teaching explains that, in essence, every commandment is both a 'decree' and a 'judgment'.

God created the human mind and the logic by which it operates; obviously, then, it would be nothing less than ridiculous to assume that God desires something because it is logical. Rather, the reverse is true: something is logical because God desires it. In other words, the reason the commandment 'do not kill' is logical to us is that God desired a world in which life is sacred, and moulded our minds in accordance with that vision of reality.

In essence, however, 'do not kill' is no more logical than the commandment to sprinkle the ashes of the Red Heifer upon someone who has been ritually contaminated through contact with a corpse. So the rationality of the commandment 'do not kill' is but an external 'garment' behind which lies the commandment's essential nature as the supra-rational will of God.

Text 5 – Joseph Raz, 1975

If the need to give Jane moral support while she struggles with her homework is a reason for Derek to stay at home, then he conforms with that reason if he does stay at home. If Derek not only stays at home but does so because he realises Jane's need and that it is a reason for him to so act, then we would say that he complies with the reason.

Is there anything wrong with mere conformity? Obviously people who conform with a reason do not act against it.

Derek may have decided to stay at home because he was expecting an important telephone call, or to watch a good TV program. In staying at home he did in fact give Jane moral support. But this was not the reason for his staying at home. Has he failed in any way?

Clearly Derek fails to have a proper sensitivity to Jane's need, or at least he fails to display it on this occasion. But this is a failure in having a proper attitude, not a failure to give Jane moral support. Does it not follow that, so far as the reason to give her moral support is concerned, he has done all that can be expected? Things are not that simple. Had he been sensitive to Jane's needs – had he been so sensitive on that occasion as he should have been – he would have been motivated by her need for moral support. Does it not follow that he had reason not only to give Jane moral support but also to do so because of her need for it?

I think that he had such reason. He had reason not only to conform with the reason there was to give Jane moral support, but also to comply with it. Jane's need, in other words, is a reason not only for conforming behaviour, but for complying behaviour as well. It is a reason to give her moral support and a reason to do so for the reason that she needs it. Her need is, if you like, a self-reflexive reason.

Text 6 – Talmud, Chullin 31a

If a knife fell and slaughtered an animal, even though it slaughtered it in the proper way, the slaughtering is invalid, for it is written, "And you shall slaughter and you shall eat" (Deuteronomy 27:7): that is to say, that which you slaughter may you eat. Now this is so only because it fell by itself, but if one threw it and it slaughtered an animal, the slaughtering would be valid, even if there was no intention to slaughter.

Text 7 – Talmud, Rosh Hashanah 27b

If one sounds a shofar into a pit, if the occupant of the pit clearly hears the sound of the shofar, they have fulfilled their obligation; but if they heard only the sound of an echo, they have not fulfilled their obligation.

And similarly, if one was passing behind a synagogue, or if their house was adjacent to the synagogue, and they heard the sound of the shofar, if they focussed their heart to fulfil their obligation, they have fulfilled their obligation; but if not, they have not fulfilled their obligation.

It is therefore possible for two people to hear the shofar blasts yet for only one of them to fulfil their obligation. Even though this one heard and also the other one heard, nevertheless, this one focused their heart to fulfil their obligation and has therefore indeed fulfilled it, but the other one did not focus their heart and so has not fulfilled their obligation.

Text 8 – Joseph Raz, 1986

The fact that an authority requires performance of an action is a reason for its performance which is not to be added to all other relevant reasons when assessing what to do, but should exclude and take the place of some of them.

5 All authoritative directives should be based on reasons which already independently apply to the subjects of the directives.

10 The normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to them if they accept the directives of the alleged authority as authoritatively binding and try to follow them, rather than by trying to follow the reasons which apply to them directly.

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