

PARSHAS ACHAREI MOS & KEDOSHIM - LAWS AND DECREES, DECREEES AND LAWS

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Laws and Decrees, Decrees and Laws¹

Perform all My laws and safeguard My decrees to go in them. I am Hashem your G-d. Safeguard My decrees and My laws, which man shall perform and live by them. I am Hashem.

Confusion reigns! First the order is laws followed by decrees. That changes to decrees and laws in the very next verse. In the first pasuk, we are asked to "go" in the decrees; there is no such demand regarding the laws. We could object even more strongly regarding the latter pasuk. Not only is the order changed, but we are hard pressed to find a reason for stating it altogether. What does it add that was left unsaid by the first pasuk?

Customary wisdom (reflected here in Rashi on the first pasuk) tells us that mishpatim/laws refers to rules that are rationally appealing and self-evident. Chukim/decrees are rules that have no such appeal, and which therefore upset our "rational" selves. We obey them out of respect and devotion to the King, Who has the right to command whatever He wants, whether it makes sense to us or not. In fact, this approach fits our first pasuk rather nicely. It explains why we are only told to "perform" the rationally-accessible mitzvos, while we are asked to "go in" the chukim. This last phrase asks us to turn some behavior into the custom of the land. Chukim have to be artificially turned into an accepted way of life, a customary way in which the community acts and "goes" in. Mishpatim do not require such regimentation. Because they appeal to us, we must simply see to it that we follow our natural inclination to observe them, and not fall prey to the meretricious arguments of our lusts and desires.

So far, so good. But what will we make of the second pasuk, with its curious reversal? We must conclude that here, "decrees" and "laws" mean something quite different. The usual explanation holds true when mishpatim are placed first. When the order changes, as it does in the second verse, we can see no reason why the Torah would assign pride of place to those mitzvos whose understanding troubles us, putting them before mitzvos whose logic we find compelling.

We must conclude that in the second pasuk, the terms mean something quite different. They do not refer to the practical observance of the mitzvos, but to the way Torah is learned and processed - in

effect, to the mechanics of the Oral Law. Chukim are the fixed rules of derivation, whereby new laws are derived from the text, even though they are not part of the plain meaning of the text. Mishpatim are those laws that are uncovered through the use of the chukim. When used this way, it makes perfect sense that chukim should come before mishpatim! (In fact, it is not only when the words "chukim" and "mishpatim" are used together - and in that order - that they refer to the process of Torah she-b'al-peh. Even when used alone, the two terms sometimes do not refer to types of practical mitzvos, but to the rules and process of derivation. When Moshe explains his judicial role to his father-in-law, "And I make known the chukim of G-d and His teachings[2]," he means the ways Hashem wanted Torah studied to yield new halachic conclusions. When the Torah speaks of "the Torah they will teach you and the mishpat that they will say to you[3]," Rambam[4] explains mishpat as "things that are learned by derivation, using one of the principles of derivation.")

Certainly when the two terms are used together, and "chukim" is placed first (such as our second pasuk), we cannot explain them as mitzvos whose meanings are remote, as opposed to those whose meaning seems apparent. In fact, however, we see that Chazal applied both sets of meanings to our second pasuk! Some of their derashos treat the terms as referring to Torah study; others see them as dealing with performance of mitzvos.

(The reason for this is not difficult to discern. One of the principles of derivation that we have been discussing is context. The shape that a derashah takes must sometimes be determined by the context in which it is embedded. Our psukim are sandwiched between others that deal entirely with practical observance - the laws of forbidden relations. This hints to us that the derashos from our pasuk should be applied, in part, to practical issues.)

So we find, on the one hand, that Chazal[5] see an endorsement of Torah study in the phrase "which man shall perform and live by them." (By speaking of "man" rather than Jew, we can see that a non-Jew who studies the parts of Torah appropriate to him is as praiseworthy as a High Priest.) Clearly, the reference is to study of Torah, not to the performance of mitzvos. On the other hand, the same phrase is the source of halachah regarding practical observance of the mitzvos. The gemara[6] derives from it that a person need not sacrifice his life in order to comply with the mitzvos (with the exception of the three cardinal sins of idolatry, forbidden relations, and murder).

We must emphasize, however, that the primary meaning of chukim and mishpatim (when they are used in that order) refers to Torah study, not to performance of mitzvos. The gemara's derashah that puts life before mitzvos does not flow from the plain meaning of the text, but is a secondary allusion. Indeed, it must be so. Our pasuk comes after a parshah speaking about forbidden relations, which is one of the mitzvos for which a person must indeed sacrifice his or her life!

This leads to another observation. If we are correct that the primary meaning of the second pasuk tells us about Torah study, the reference to "living" by them must refer to an elevated quality of life. The Torah clues us in that if we want to experience life as it was meant to be lived - life in which the

soul delights in spiritual connection - we need to learn Torah seriously. But why would such a lesson be planted in the middle of a section dealing with arayos?

The pasuk before the two we have considered here contains a clue. "Do not act according to the practice of the land of Egypt in which you lived. Do not act according to the practice of the land of Canaan to which I bring you. Do not follow after their decrees." People can come to transgress the most serious sins of the Torah as a consequence of the practices and decrees of their neighbors. This pasuk warns against the effects of living in the midst of a morally loose people. Some will tend to follow along with the fixed behavior patterns of their host cultures.

We have to admit, however, that not everything can be blamed on the external environment. People succumb to eruptions of desire within them. To protect against such failure, our pasuk offers a suggestion. Learn Torah in a manner that enriches your life, and leaves you feeling spiritually fulfilled. When your thoughts are full of Torah, there will be little room for thoughts of lust.

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1. Based on Ha'amek Davar, Vayikra 18:4-5
 2. Shemos 18:16
 3. Devarim 17:11
 4. Mamrim 1:2
 5. Toras Kohanim, and Sanhedrin 59A
 6. Yoma 85B
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