

DECREE OF KING (*GEZERAT MELEKH*) AND DECREE OF SCRIPTURE
(*GEZERAT HA-KATUV*) IN TALMUDIC LITERATURE

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Gezerat Melekh ('decree of king') and *Gezerat ha-Katuv* ('decree of scripture') are key terms in the halakhic tradition. This is so because of the theological and meta-halakhic significance associated with them. *Gezerat Melekh/ha-Katuv* constitutes a kind of crux, where basic philosophical and jurisprudential concepts and issues meet. Hence, examination of its meaning and purpose may well reveal patterns of theological thinking and legal-philosophy underlying the *halakhah*.

The central goal of the present article is to analyze the meaning and manner of functioning of the terms *Gezerat Melekh* and *Gezerat ha-Katuv* in Talmudic literature. Underlying the interpretation is a distinction between two basic senses of *Gezerat Melekh/ha-Katuv*: the theological sense and the jurisprudential-halakhic sense. In its theological sense, *Gezerat Melekh/ha-Katuv* indicates a *mitzvah* or *halakhah* for which there is no rationale or whose rationale is unknown. The jurisprudential-halakhic meaning of the term is rooted in the basic lexical or philological meaning of the term, i.e., the commanding and coercive power of God the lawgiver (*Melekh*) or 'Scripture' (*ha-Katuv*). Typically, in the jurisprudential sense, *Gezerat Melekh/ha-Katuv* does have a reason. The characterization of a given commandment (or *halakhah*) as *Gezerat Melekh/ha-Katuv* in this sense is concerned with stating that the *mitzvah* is imperative; it is rooted in His authority and power to impose obligations and prohibitions.

A secondary jurisprudential sense of *Gezerat Melekh/ha-Katuv*, which is derived from some aspects of political-jurisprudential authority and its manner of operation, is a version of legal formalism involving the demand for a 'mechanical'-literal reading of the language of Scripture, as against interpretation based upon the rationale of the commandment or *halakhah* and its purpose and/or context. In the article I analyze most of the appearances of *Gezerat Melekh/ha-Katuv* in Talmudic literature and show that almost all of them hold this secondary jurisprudential sense.