

ON THE REJECTION OF REASONS IN HALAKHIC DISCOURSE:
THE DEBATE ON THE REASON FOR THE PROHIBITIONS ON
MARRING THE CORNERS OF THE HEAD AND THE BEARD

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The role of reasons for laws is a key question in jurisprudence, which has occupied philosophers and lawyers through the ages. There are essentially two schools of thought: one sticks to the words of the rules, while marginalizing the role of their reasons and justifications ('Jurisprudence of rules'), while the other emphasizes the role of the reasons for laws rather than applying them literally ('Jurisprudence of reasons'). While these approaches are also present in the history of Halakhah, the question of the role of reasons in halakhic discourse has unique aspects that are anchored in the difficulty of halakhists, at least in some periods, to ascribe reasons and justification to the commandments. Unlike lawyers in secular legal systems, for Jewish thinkers and adjudicators, from the late middle ages and on, the very legitimacy of ascribing reasons to commandments and to halakhic rules is highly problematic theologically. Some argued that one cannot possibly know the reasons for the commandments since they are beyond human apprehension. This rejection of reasons I call: Halakhic religiosity of mystery and transcendence. Others think that discussion of reasons and justifications undermines absolute subordination to the 'yoke of the kingdom of heaven', creating doubt as to whether one fulfills a commandment because God decreed it or rather because it's good for ethical, social or spiritual purposes. I call this rejection of reasons: Halakhic religiosity of servitude and obedience. It should be emphasized that these two types of rejection of reasons, though profoundly different, are not mutually exclusive. Indeed, they are often intertwined. In the first part of the article I describe different versions of them.

The main focus of this article is an ongoing debate among central halakhists, from the beginning of the fourteenth century, about the nature and status of the reason Maimonides offered for the prohibitions of the Torah on rounding (marring) the corners of the head and the beard. In this debate took part, among others: Tur (R. Jacob b. Asher), Beit Yosef (R. Yosef Karo), Rama (R. Moshe Iserlish), Bah (R. Yoel Sirkis), Derisha (R. Joshua Falk-Katz), Taz (R. David Ha-Levi Segal) and Panim Me'ivot (R. Meir Eisenstadt). In their comments, these halakhists related not only to Maimonides' reason for these prohibitions but offered principled views and arguments about offering reasons as such. In fact, all major

English Abstract

halakhists are reluctant to ascribe reasons to the commandments and hence to halakhic rules, and more importantly – to accord them halakhic validity. This article shows that they reject reasons because they adhere either to halakhic religiosity of mystery and transcendence, or to halakhic religiosity of servitude and obedience, or to a combination of the two.