

# An introduction to the laws of חוקות הגוים

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We Jews who live in גלות find ourselves in the middle of the secular holiday season. Although we feel little or no ties to these celebrations, we certainly are affected by the spirit of the time. It is imperative that we realize that we are Hashem's קדוש וגוי כהנים, and that we were chosen from all of the nations in the world to live lives of קדושה. Thus, our תורה separates us from the general population and gives us מצות that we use to come close to הקב"ה. Included in those מצות, is a particular איסור that we not follow in the 'laws/customs of the non-Jews'. This מצוה is known as חוקות עכו"ם. The parameters of this מצוה are generally difficult to define and often misunderstood. Thus it is imperative that given our current place in society we attempt to delineate both the letter and spirit of this law. What follows is merely a brief introduction to the מצוה of חוקות עכו"ם.

## Sources for the איסור

The תורה has two places, both in ספר ויקרא where it mentions this מצוה. In פרק יח כמעשה ארץ מצרים אשר ישבתם בה לא תעשו וכמעשה ארץ כנען אשר אני " its פסוק says: "מביא אתכם שמה לא תעשו ובחקתיהם לא תלכו". The תורה warns us not to imitate the actions of Egypt from where we have just come and from Canaan where we are going. It then adds this איסור telling us not to follow their 'laws'. Later in פרק כ פסוק כח the תורה says: ולא תלכו בחקת הגוי אשר אני משלח מפניכם כי את כל אלה עשו ואקץ בם. Do not follow in the 'laws' of the nation whom I am sending from before you, because all who do this, I will be disgusted with them. The problem with understanding these sources is that the תורה doesn't tell us what חוקים are included. Obviously both Jew and non-Jew share many common everyday practices and require many of the same basic necessities. Thus we must look to the תורה שבעל פה to find a definition for what is a חוק and what is a harmless practice.

## Defining a חוק

The גמרא has two similar discussions in defining what constitutes חוקות עכו"ם. In סנהדרין נב: the משנה has a discussion concerning the proper manner to issue the penalty of הרג. The חכמים suggest that it should be done in the same way as the secular government, and רבי יהודה objects. The גמרא explains that the basis for his argument is that copying the secular method of execution would constitute an עבירה of חוקות עכו"ם. The חכמים respond that since הרג is already mentioned in the תורה, we are not copying the גוים in our practice. They offer proof from a ברייתא that explains that it is permissible to burn the possessions of a Jewish king at his funeral. (It was a common practice to destroy the possessions of the king in order that no one should ever use them again. This was a method of honoring the king.) The גמרא explains that this certainly should have been prohibited due to the איסור of חוקות עכו"ם (referred to here as דרכי האמורי), but since there is a source for this practice is found in the תורה (ירמיהו לד:ה), it is not אסור. The גמרא uses the phrase: קא גמרינן - לאו מינייהו קא גמרינן - we are not learning it from them. Thus it seems clear from this גמרא that only those practices that are learned from the גוים are forbidden, but if we can find a source for it in our own history, we can continue to follow our own practices and pay no attention to what others are doing.

The second time this מצוה is discussed is in מסכת עבודה זרה יא. The גמרא discusses this same ברייתא of burning the king's objects but concludes that it is permissible for a completely different reason. The גמרא here writes: שריפה לאו חוקה אלא חשיבותה - burning is not a 'law' rather it is merely a way of showing respect. Therefore it is not subject to the laws of חוקות עכו"ם. These two sources are in obvious contradiction. The first גמרא seems to acknowledge that this practice is indeed a חוק that would have been prohibited had it not been found that we ourselves conceived of such a custom, while the second states clearly that the practice itself is permissible. In other words, one גמרא ignores the nature of the custom and only concentrates on who invented it, and the other analyzes the practice itself.

(ע"ז שם ד"ה ואי, סנה' שם ד"ה אלא) תוספות addresses this problem and explains that there are two levels of violation. The first is a true act of idol worship which would be prohibited for a Jew to perform even if a similar act had also been found in the תורה. The second is a simple custom that the גוים have taken upon themselves which Jews want to copy. In this case, it is אסור to copy them, but if there is a source in our heritage for such a הנהגה, it is מותר for Jews to do it as well. Simply put, the גמרא in סנהדרין takes for granted that שריפה is not a true form of idol worship, and permits it since it is found in the נביא, whereas the גמרא in עבודה זרה assumes that one knows that שריפה is not being copied from the non-Jews and merely seeks to prove that it is not an idolatrous practice.

The ר"ן (בדפי הרי"ף) explains these גמרות differently. In his opinion, the only time one violates חוקות עכו"ם is when he actually performs an act that is based in idolatry. However, many practices and customs find their roots in עבודה זרה, but have been adapted by the masses. Thus, one must avoid adopting any customs and practices to which he does not know the reason, because he must be afraid that they began as idolatry. Thus, each גמרא is explaining the practice of שריפה in its own way. סנהדרין explains that שריפה is found in the נביא and is obviously not an idolatrous practice, and the גמ' in עבודה זרה is teaching that since we know the reason for שריפה, we need not refrain from doing it. This is referred to as a מנהג איסור - a practice for which the reason is known and is therefore not subject to any איסורים.

A third opinion in ראשונים is that of the מהרי"ק (ש"ת: שורש פח). He writes in a ר"ן תשובה that the איסור of חוקת עכו"ם is limited to two types of practices. The first is, as the ר"ן writes, a מנהג whose reason is unknown. These practices are not prohibited out of fear that they stem from עבודה זרה, rather because in performing such actions, a Jew can offer no other explanation other than that he is imitating the non-Jewish practice. Thus, in the מהרי"ק's opinion, the main איסור is to imitate גוים in ways that aren't practically beneficial to oneself. The second type of איסור is performing immodest acts that one has seen practiced in non-Jewish circles. He learns this from the מדרש (ספרי פרשת ראה פיסקא כט) that states that one should not look at גוים who dress and act in an immoral and immodest way, so to I will do the same. This particular category is difficult to define and the מהרי"ק leaves the responsibility for maintaining the high Jewish standards of צניעות up to the communities in which the Jews live. The מהרי"ק does stress that there is no particular obligation to be openly 'different' than גוים, merely we are required to live by our holy תורה's morals and ethics, and not to imitate non-Jewish practices.

This approach is opposed directly by the רמב"ם. According to his understanding (הלכות) (עכו"ם יא:א) of this מצוה, one is commanded to be different from גוים in his dress and his actions just as he is different in his mindset'. (It is interesting to note that the רמב"ם takes for granted that Jew's mentality is inherently different from his non-Jewish counterpart's.) This רמב"ם is cited verbatim in the שולחן ערוך (יו"ד קעח:א) who explains that one should not have his hair or clothing styled in a manner unique to a non-Jew, and should even refrain from building structures that have a specific non-Jewish appeal. The רמ"א adds on the ideas of the ר"ן and מהרי"ק, that if one sees a non-Jewish practice that is both reasonable and practical, he need not refrain from doing it due to its lack of a Jewish origin. Rather the only types of behavior which are prohibited are those whose reason is unknown and therefore constitute an outright imitation of non-Jewish behavior for its own sake. In addition, as mentioned, one must refrain from practices that abandon the תורה's code of צניעות regardless of how rampant these rituals may be among our Gentile neighbors.

There are literally hundreds of practical שאלות that stem from this איסור, many of which affect our daily lives. Among them include: wearing secular styled clothing, males covering their heads with a yarmulke, imitating popular hairstyles, celebrating secular holidays, giving secular names etc. This essay is merely an introduction to the basic premises and definitions of the מצוה. Regardless of the technical application of the איסור itself, it is clear that the תורה is demanding from us that we maintain a higher code of moral behavior than that which we see practiced around us, and that we embrace our status as the עם הנבחר. It is through this type of 'Jewish pride' that we set ourselves apart and strive to be an אור לגוים.