

Going Beyond What is Required: Good Idea or Obligatory?

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In every society there are those special individuals who are super-ethical and who try not to merely live by what the law obligates them to do, but they constantly seek to go beyond the letter of the law. Even in the non-legal frameworks of life, these people spend their lives giving to others, putting the needs and desires of other people above their own. These kind individuals often dedicate their lives to living altruistically, and are not so much concerned about what is required of them, but rather about the maximum they can do in whatever realms that they consider to be "doing the right thing." In Judaism, too, there are Jews who strive to live beyond the letter of the law and maximize their actions, both in the man-to-man framework as well as the man-to-G-d obligations. This chapter will examine this general attitude, and show how Judaism differs from all other societies in regard to this important value. The sources will also reveal that what seems to be a very straightforward concept is actually much more complicated and subtle in Judaism.

IS A CHASID THE SAME AS HE WHO GOES BEYOND THE LETTER OF THE LAW?

Long before the Chassidic movement which began in the 1700's, the term "*Chasid*" connoted in Judaism an individual full of *Chesed*-kindness, who naturally went beyond the letter of the law in all areas of Jewish mitzvot. In fact, G-d, as the ultimate role model for all Jews to aspire to, is called both a *Tzadik*-Righteous and also a *Chasid*-Kind.¹ And if we follow the view of Maimonides, the individual who is a *Chasid*, who constantly seeks to further his or her observance, is synonymous with the concept of *Lifnim Meshurat Hadin*-going beyond the requirement of Jewish law.

When Rabbi Meir states that he who learns Torah for its own sake is fit to be a *Tzadik*-Righteous person and a *Chasid*-Kind individual, Maimonides specifically explains the word and concept of "*Chasid*" as the Jew who acts *Lifnim Meshurat Hadin*-goes beyond the requirement of Jewish law.² Maimonides elaborates upon this concept in his book of Jewish law³ when he explains his ethos of following the Golden Mean. The ideal is to follow the middle path of any ethical value, and not to veer to any one extreme. However, when a person has a natural inclination to go further in one direction regarding a certain character trait such as a person who is haughty and immodest, for example, the way to correct this imperfection is to go to the opposite direction for a time and become very self-deprecating in order to eventually follow the Golden Mean. People who always want to self-correct by going to a more extreme side of any value are called *Chasidim*, and this method of behavior to maximize one's values and actions is called *Lifnim Meshurat Hadin*-going beyond the requirements of Jewish law. In another of his writings, Maimonides explains this type of behavior further and says that this path of ethical conduct, is a means of

¹ Psalms 145:17

² Mishna Avot 6:1 with commentary of Maimonides

³ Maimonides, Hilchot Deot 1:3-5

putting a “fence” around improper conduct and guarding against going to the wrong extreme and giving in to one’s nature. Once again, Maimonides calls this behavior *Lifnim Meshurat Hadin*-going beyond the requirement of Jewish law.⁴

In referring to a Torah scholar or a noted pious person, Maimonides says that there are times when such a person does nothing technically wrong or against Jewish law, but because of this person’s notoriety and expected greatness, a small miscue even within the parameters of Jewish law may often lead to a desecration of G-d’s name in the eyes of others. To avoid this, such great Jews should be careful to go beyond the letter of Jewish law and do what is “right” – i.e., what will cause other people to think better of Judaism because of this person’s actions. He gives as examples taking an item for purchase without paying now (but paying later), which is legal but not “proper,” or excessive laughter when eating with non-learned Jews, which is not against Jewish law but appears improper.⁵ In all of these examples, Maimonides describes behaviors that are clearly optional, that certain Jews decide to take on for various reasons, and seems to equate pious behavior with that of going beyond the letter of Jewish law.

However, contrary to this view of Maimonides, there is a verse in the Torah which seems to obligate such behavior. The verse states, “You shall do that which is good and upright in the eyes of G-d,” which Rashi explains as an obligation by the Jew to go beyond the letter of the law, and to try to arrive at a compromise in any disagreement with others, even when the law does not say it is required.⁶ Based on this verse, therefore, this type of behavior is not optional and reserved for the few truly pious individual Jews, but it seems to be a general requirement for all Jews.

Nachmanides describes this obligation in a slightly different manner from Rashi’s commentary, but certainly in the same vein. He states, “The intent of this is as follows: At first he [Moses] stated that you are to keep His statutes and His testimonies which He commanded you, and now he is stating that even where He has not commanded you, give heed to do what is good and right in His eyes, for He loves the good and right. Now this is a great principle, for it is impossible to mention in the Torah all aspects of man’s conduct with his neighbors and friends, and all his various transactions, and the ordinances of all societies and countries. But since He mentioned many of them, he reverted to state in a general way that, in all matters, one should do what is good and right, including even compromise and going beyond the letter of the law...thus a person must seek to refine his behavior in every form of activity, until he is worthy of being called ‘good and upright’.”⁷ Thus, Nachmanides believes that this verse is an overriding commandment to act justly and “do the right thing,” even when a specific Jewish law does not mandate a specific action. Since the Torah could not enumerate every case of acting in the proper manner, this verse demands that Jews act this way even when their deeds are not enumerated specifically in the Torah or by the Rabbis. This is very similar to Nachmanides’ commentary on the verse commanding each Jew to be holy. On this verse, Nachmanides also says there is a general commandment to act holy, even when the technical Jewish law might permit certain activities, such as eating like a glutton while observing all the technical laws of keeping Kosher. Even though it is not specifically prohibited by the Torah, this general commandment would forbid such an

⁴ Maimonides, Introduction to Shmoneh Perakim 4

⁵ Maimonides, Hilchot Yesodai HaTorah 5:11

⁶ Deuteronomy 6:18 with Rashi commentary

⁷ Nachmanides commentary on Deuteronomy 6:18

activity (i.e., being gluttonous). Nachmanides calls it “being a scoundrel with the Torah’s sanction,” which is forbidden, and Nachmanides compares the command to be holy with our verse commanding the Jew to “do the right thing” by going beyond the letter of the law.⁸ Thus, unlike the view of Maimonides, this law seems mandatory for all Jews. The Magid Mishne commentary on Maimonides does indeed combine both these concepts and verses in describing that the goal of the Jew is to develop the proper ethical values and behavior, and that since different circumstances in each generation could not be covered in detail by the Torah, we have these overarching commandments to require Jews to act properly at all times.⁹

Therefore, it now seems that going beyond the letter of the law is an obligation. This is clearly the implication of the Talmudic passage that states that the reason for the destruction of the (Second) Temple was that the Jewish people “only” kept the Torah laws and did not go beyond what the Torah commanded.¹⁰ This powerful statement implies that not only are Jews required to go beyond the letter of the law, but also that its omission is a great sin deserving of the ultimate punishment of the Temple’s destruction. When Tosafot inquires about the fact that this statement seems to go against the classic Talmudic statement that the Temple was destroyed because of baseless hatred, he answers that both sins contributed equally.¹¹ The specific “requirement” for every Jew to go beyond the law is also derived from another verse in Exodus.¹²

We now come to the crux of the issue, and the dilemma: If there is a general corpus of Jewish law that is commanded to all Jews, then how can there also be a commandment to “go beyond that which is required?” If this is also obligatory upon Jews who follow Jewish law, then that too becomes part of Jewish law! It would be impossible for a Jew to “go beyond” Jewish law, if Jewish law commands him or her to do so. How can going beyond the law ever be an obligation? It is not logical. This inherent contradiction makes it impossible for Jew to go beyond the law if this is part of the law. Thus, this chapter will attempt to define this concept further and demonstrate what the deeper meaning of this idea is really all about. There are those who try to eliminate this incongruity by claiming that the obligation to go beyond the letter of the law applies only to the righteous, based on a verse in Proverbs which seems to limit this requirement only to *Tzadikim*-righteous individuals.¹³ Another complication involves a Torah prohibition forbidding Jews from adding to Jewish law, which seems to forbid the Torah observant Jew from going beyond the laws stated in the Torah, i.e., beyond the letter of the law.¹⁴ However, some commentaries such as Rashi and Sifri, explain that this prohibition refers to adding a number onto a Mitzvah-commandment that already has a specified number (for example, putting Tzitzit on five corners instead of the specified four, or adding a fifth species on Sukkot when the Torah commands to take only four species). Others explain this prohibition to forbid a Jew from adding any new commandment to the existing six hundred and thirteen.¹⁵ Therefore, this verse and prohibition would not necessary conflict with the obligation of a Jew to go beyond the letter of the law. But

⁸ Leviticus 19:19 with Nachmanides commentary

⁹ Magid Mishne commentary to Maimonides, Hilchot Shechainim 14:5

¹⁰ Bava Metzia 30b

¹¹ Tosafot commentary on Bava Metzia 30b, s.v. “*Lo Chorva*”

¹² Bava Metzia 30b

¹³ Proverbs 2:20

¹⁴ Deuteronomy 4:2

¹⁵ Nachmanides commentary to Deuteronomy 4:2

what exactly is behind this obligation to go beyond Jewish law, and how could it be an obligation while still remaining “beyond” Jewish law?

TORAH OR RABBINIC EXAMPLES MANDATING ALL TO GO BEYOND THE JEWISH LAW

Before delving into how the later Rabbis understood this “law” to go beyond the law, it is important to show that the Torah itself, and subsequently the early Rabbis, stated what “should have been” Jewish law, but then changed it and required all Jews to go beyond this law. A pattern will develop to show the reasoning behind this change and help guide today’s Jew regarding what this law and concept truly requires and why. This may also help us understand what G-d desired when he commanded Jews to “do what is just and right.”

One example involves a fundamental Jewish activity between man and G-d. While praying three times a day is required according to Jewish law (for women, it is one or two times daily), Rabbi Yochanan stated that he wished that human beings would pray all day if they could. This idea is codified as part of Jewish law.¹⁶ Therefore, while Jewish law requires a minimum of prayer, a Jew should try to go beyond this minimum and occupy his day, if it is possible, with prayer.

Another example relates to a Jewish servant who goes free after six years of service, the Torah requires that the “master” give parting gifts from his produce, in order for the servant to remember that actual slavery, as experienced in Egypt, is prohibited in Jewish law.¹⁷ Maimonides discusses the amount that should be given to the servant. He concludes that while there is a certain minimum amount that must be given, nevertheless, Jewish law “requires” the master to give more than that, even if the household did not profit during the six years of service.¹⁸ This would be analogous to a tip given to a waiter in a restaurant. Certain societies and countries include a certain (lower) amount of the tip in the bill, while other countries do not. Judaism says that the “tip” to the servant should always be above the minimum amount. Thus, Jewish law recognizes that the masters should go beyond the minimum in giving “gifts.”

Another example involves a loan obtained by a poor person. In order to guarantee that the loan will be repaid, the borrower usually has to give something to the lender as security. But if the borrower is very poor and the only thing he has to give is the blanket that he uses every night when he goes to sleep, then the Torah requires the lender to return the blanket each evening to the poor person (and get it back the next morning).¹⁹ The Talmud explains that technically this “security blanket” belongs to the lender. That being the case, the lender would not have to return it to the poor borrower each night. Yet the Torah requires this action, calling it an act of Tzedaka-charity.²⁰ Once again, we see a Torah requirement for a Jewish law that goes beyond the original letter of the law but nevertheless obligates each Jewish lender to go further than what would normally be required.

The entire concept of lending also falls into this category. All economists show that an economy cannot function properly unless people lend money to the poor as well as to the wealthy. Normally, the incentive to lend money is the interest paid. But taking any interest on a

¹⁶ Berachot 21a, Maimonides, Hilchot Tefilah 10:6

¹⁷ Deuteronomy 15:13-15

¹⁸ Maimonides, Hilchot Avadim 3:14

¹⁹ Deuteronomy 24:12-13

²⁰ Bava Metzia 82a

loan is clearly forbidden in Judaism.²¹ What, then, is the incentive for a Jew to lend money to those in need? Lending is not obligatory in Jewish law. But the Midrash says that G-d calls anyone who refuses to lend money, when the person is in a position to do so, an evil person.²² Thus, Judaism “strongly urges” lending money, though such an act is technically beyond Jewish law. In fact, the Rabbis enacted many laws specifically to encourage Jews to lend money (interest free).²³ Shulchan Aruch codifies this “law” that urges everyone to lend money.²⁴ This is another example of a moral action that is clearly above the framework of Jewish law. Another illustration of this concept involves the Jewish servant who has a wife and children living with him. Although technically Jewish law does not require the master to pay for the expenses of the wife and children, Nachmanides explains that this is an “obligation” of the master that shows his “compassion.”²⁵

In general, Jews’ treatment of the poor as deserving of compassion, often requiring wealthier Jews to go beyond the letter of the law, has two distinct paths in Judaism. Unlike in Western society, when a Jew finds a lost object, he or she is compelled by the Torah to return it (as one of the 613 commandments).²⁶ However, when a Jew finds two lost objects at the same time, his or her needs take precedence and he or she can return that found object to himself or herself before returning anyone else’s found object. But if the other lost item clearly belongs to a poor person, the Talmud “demands” that the Jew return it to the poor person first, lest the finder ultimately wind up poor as well. This Jewish law comes under the obligation to go beyond the letter of the law.²⁷ Thus, Jewish law clearly favors putting the needs of the poor first. Yet when it comes to a Jewish courtroom, this same behavior is prohibited. One is forbidden to favor the poor person over the rich man when both are litigants in the courtroom. The judge may not say to himself that since society must financially support the poor person anyway (and the wealthy litigant will not miss the funds), I will decide in favor of the poor person. This is forbidden by the Torah.²⁸ Sefer HaChinuch explains that the Jewish value of maintaining absolute objectivity and integrity in the Jewish courtroom supersedes compassion for the poor person.²⁹ (See chapter about [Truth and Lying](#) for an expansion of this theme.) Maimonides and Shulchan Aruch codify this concept and rule that a person’s financial status may never affect a Jewish judge’s ruling.³⁰

What emerges from all these cases is a general Jewish value that when a specific Jewish law does not wind up being “fair” or equitable to all parties involved, then a “meta” Jewish law obligates a Jew to go beyond the legal outcome and “do the right thing” so that justice and fairness will prevail. This is the essence of “going beyond the letter of the law” in Judaism. How this plays out in certain Talmudic cases will be demonstrated below.

²¹ Leviticus 25:35-37

²² Midrash, Shemot Rabbah 31:15

²³ Yevamot 122b, Gittin 50a, Bava Kama 8a, Bava Metzia 68a, Bava Batra 176a, Sanhedrin 3a, 32a, 32b, Bechorot 10b

²⁴ Shulchan Aruch, Choshen Mishpat 28:12

²⁵ Nachmanides commentary to Exodus 21:3

²⁶ Deuteronomy 22:1-3

²⁷ Bava Metzia 33a with Rashi commentary

²⁸ Leviticus 19:15 with Rashi commentary

²⁹ Sefer HaChinuch, Mitzvah 79

³⁰ Maimonides, Hilchot Sanhedrin 20:4, Shulchan Aruch, Choshen Mishpat 17:10

SPECIFIC TALMUDIC CASES WHICH HELP DEFINE THIS CONCEPT

There are a few specific incidents that occurred in the Talmud, usually regarding workers and employers, where what would have been normative Jewish law is not followed, and a “new” Jewish law emerges because of the idea of going beyond Jewish law in order to be equitable and fair.

The first Talmudic passage involves a series of cases concerning found objects, which generally require Jews to return them to their owners, but in certain specific situations, Jews are exempt from returning those found objects and may keep them.³¹ When the majority of the townspeople are not Jewish (and, thus, not bound by Jewish law), a Jew is not required to return a found item. Similarly, if twelve months have passed after finding the object with no one claiming it, then a Jew may keep the object. Rabbi Judah asked Samuel what is the ruling in such situations when a Jew gives all the proper signs (to demonstrate ownership of the object), but the twelve months have passed or the city is mostly non-Jewish. Samuel rules that in both these cases, the finder should go beyond Jewish law and return the object to the owner, even though the Jewish law regarding lost objects would not require this person to do so. In this case, returning the objects is the fair and equitable thing to do.

The Talmud illustrates a case where Rabbi Yishmael met a man resting from carrying a load of wood. The man asked Rabbi Yishmael to reload the wood onto his back. Rather than do so, which he felt was beneath his dignity as an elderly sage and therefore halachically exempt, he compensated the man for the wood, following the prescription to go beyond the letter of the law.³²

When some porters working for Rabbah were negligent and broke his wine barrels, Rabbah seized their garments as payment for their damage. However, Rav ruled that although Rabbah was acting within his legal right, these poor workers needed their garments, so Rabbah should return them and not take any payment for their unintentionally negligent actions. This was part of Rabbah’s obligation to go beyond the letter of Jewish law. When these same workers then came to Rabbah to ask, additionally, for their wages for that day’s work, which they needed as poor workers (though Rabbah had no intention of paying them after they caused him much financial loss), Rav once again ordered that Rabbah pay their wages, thereby “going beyond the letter of the law.”³³ In this case, as in the previous case, it was the “right” thing to do, especially since Rabbah was wealthy, and would not miss the loss nearly as much as the poor workers would have if they had been forced to pay for the damage.

In Talmudic times coins were made by hand, and some coins were not “good enough” or did not have enough metal to pass for usable money. Thus, experts were known to validate coins, but laymen also often passed judgments on the serviceability of coins. If a person asked another Jew whether a certain coin would “pass” as usable, and this Jew opined that it was a valid coin but it was later found to be unusable, there is an argument about whether or not the owner of the coin can then go back to the “evaluator” and ask him to pay for the loss. One opinion says that only experts who passed judgment need pay, while others say all Jews who passed judgments on a coin had to pay. It then happened that Rabbi Chiya was asked by a woman about the validity of a certain coin. He said it was a good coin, but later it was found to be unusable and it was confiscated. Even though Rabbi Chiya held that non-experts were not liable in that case, he gave

³¹ Bava Metzia 24b

³² Bava Metzia 30b

³³ Bava Metzia 83a with Rashi commentary

the value of the coin to the woman, since he was wealthy and she was poor. He said it was his obligation under “going beyond the letter of Jewish law.”³⁴

In analyzing all these cases, Tosafot commentary differentiates between two types of “going beyond the letter of the law.”³⁵ When the perpetrator has some culpability, even very minor, logic dictates that he or she should go beyond the letter of the law in compensating the aggrieved party, since there was some fault involved. These were the cases cited above regarding Rabbi Chiya and the coin, or Rabbi Yishmael charging exorbitantly to move the load. The judgments in these cases were logical, and payment could be required since there was some fault, no matter how small. But in cases where there was no fault at all, as in the case of Rabbah, the owner of the wine barrels, a special Torah verse is required to compel the person to pay in order to make the resolution equitable, since we could not extrapolate this special obligation based on logic. Another Tosafot differentiates between three different types of cases which all require “going beyond the letter of the law.” The first is a case where others are obligated in a certain specific situation (returning a lost object), but one person is not (due to age). Obligating the older person also in that case is “going beyond the letter of the law.” The second case takes place when no one is obligated in a specific situation (returning the object after twelve months or in a non-Jewish city), but no one loses money by going beyond the letter of the law (and returning the object) since it was never the finder’s to begin with. The third and highest level is when everyone agrees no one is obligated to give the money (Rabbah’s workers broke the barrels of wine), and not making the workers pay for damages causes an actual financial loss (to Rabbah). Even in this case, one is obligated to go beyond the letter of Jewish law.³⁶

THE RABBIS WHO “FORCE” JEWS TO GO BEYOND THE LETTER OF THE LAW

After all of the precedents in the Torah and the Talmud cited above, one might ask how the later Rabbis rule with regard to not only obligating a Jew to go beyond the letter of the law, but actually “forcing” an observant Jew to do so. There are Rabbis and Jewish law experts who do not obligate such behavior, while others emphatically do so for the reasons cited above. In general, it was the Ashkenazic Rabbis who took the stricter approach in forcing Jews to go beyond normative Jewish law when the situation required it, while, in general, the Sephardic Rabbis were more “lenient” in not obligating Jews to go beyond the letter of the law. The more stringent view is taken by the Ashkenazic Rabbis Mordechai ben Hillel (1250-1298), Eliezer ben Natan (1090-1170) and Eliezer ben Yoel HaLevi (1140-1220).³⁷ Maimonides, although he was Sephardic, also seems to obligate Jews to go beyond the letter of the law, especially in returning lost objects.³⁸ Shulchan Aruch quotes Maimonides word for word, but his Ashkenazi counterpart, Rabbi Moshe Isserles, brings both views – i.e., that some say we compel Jews to go beyond the law, and some say we do not.³⁹ Later Rabbis continue to be split on this issue, but Rabbi Yoel Serkes (1561-1640) is emphatic that we indeed compel, through a Jewish court, all Jews to go beyond the letter of the law. Rabbi Avraham Eisenstadt (1813-1868), however, disagrees and says that at most we can compel by urging, but not taking any action (like excommunicating Jews who refuse to comply).⁴⁰

³⁴ Bava Kama 99b

³⁵ Tosafot commentary on Bava Metzia 24b s.v. “Lifnim”

³⁶ Tosafot commentary on Bava Kama 100a s.v. “Lifnim”

³⁷ Mordechai commentary on Baba Metzia 357

³⁸ Maimonides, Hilchot Gezaila Ve-avaida 11:17

³⁹ Shulchan Aruch, Choshen Mishpat 263:3

⁴⁰ Pitchei Teshuva commentary on Shulchan Aruch, Choshen Mishpat 12:6

Rabbi Yitzchak Yosef of Courville (13th century) lists the obligation to go beyond the letter of the law as one of the actual six hundred and thirteen Torah commandments obligatory upon each Jew.⁴¹

RABBIS WHO DON'T "FORCE" JEWS TO GO BEYOND THE LETTER OF THE LAW

Before presenting which Rabbis disagree with the above position, it is important to answer the overriding source which seems to point to going beyond the letter of the law as a requirement. If the Second Temple was destroyed because Jews did not do this, then this failure cannot simply be a "suggestion" or be intended for special individuals who want to take upon themselves to go beyond that which is required. How would the Rabbis who believe in this interpretation of going beyond the Jewish law justify this statement in the Talmud? Ben Ish Chai (1834-1909) gives one plausible explanation to understand this statement. The Jewish people committed severe sins and were deserving of having the Temple destroyed in previous generations as well as in the generation when it was actually destroyed. But the previous generations also went beyond the law in fulfilling many of the commandments in the Torah. Therefore, G-d, in turn, went "beyond His law" and did not destroy the Temple, even though they deserved it in years past. But when that generation only fulfilled the letter of the law while continuing to violate serious sins, it was then that G-d destroyed the Temple because "they only fulfilled the letter of the law and did not go beyond that."⁴²

Unlike the Rabbis who insist that Jews should be forced to go beyond the letter of the law, Rabbeinu Asher (1250-1327), who lived in both Ashkenaz and Sephardic countries, maintains that Jews are not obligated to go beyond the letter of the law, but are urged to do so in certain situations.⁴³ Rabbi Yosef Caro seems to agree with this view in his Beit Yosef writings.⁴⁴ And although this same author seems to oppose this view in one source quoted above,⁴⁵ in two other places Shulchan Aruch supports the idea that one cannot force a Jew to go beyond what is required in Jewish law. Therefore, Rabbi Yosef Caro writes that while it is noble to return a lost object in a city whose population consists mostly of non-Jews, it is not obligatory, especially if the finder is poor and the original owner is wealthy.⁴⁶ In addition, an old man whose dignity might be compromised need not help unload an animal with a burden, even though it would be considered commendable and beyond the Jewish law requirement to do so.⁴⁷ Even Rabbi Isserles, who brought both views earlier, states in a different context that the main directive is that a Jewish court cannot force an individual Jew to go beyond the letter of the law, while he continues and says that others argue with this idea⁴⁸ (this is the reverse order of the previous statement by Rabbi Isserles). Thus, it is clear that both sides on this controversial issue had many Rabbis who voiced strong opinions. What then, are we to do today? What do Jews do when a Jewish law controversy such as this one continues from Talmudic times even after the writing of the Shulchan Aruch, the Code of Jewish law? What do later Rabbis and today's Rabbis say on this issue?

⁴¹ Sefer Mitzvot Katan, 49

⁴² Ben Yehoyada commentary on Bava Metzia 30b

⁴³ Rabbeinu Asher commentary on Bava Metzia, chapter 2:7, 21

⁴⁴ Beit Yosef on Tur, Choshen Mishpat 12

⁴⁵ Shulchan Aruch, Choshen Mishpat 263:3

⁴⁶ Shulchan Aruch, Choshen Mishpat 259:5

⁴⁷ Shulchan Aruch, Choshen Mishpat 272:3

⁴⁸ Rema on Shulchan Aruch, Choshen Mishpat 12:2

RESOLVING THE ISSUE AND PRACTICING THE CONCEPT TODAY

Many later Rabbis tried to resolve this deep philosophic and practical conflict by differentiating between the cases wherever possible. Thus, Rabbi Eisenstadt (Bayit Chadash), the leading protagonist to absolutely compel every Jew (even through a Jewish court) to go beyond the letter of the law, tries to distinguish between himself and the Rosh (Rabbeinu Asher) who has the opposite view. He says that even Rabbeinu Asher would agree with him that it is compulsory to go beyond Jewish law and return a lost object, for example, in cases when the finder is not poor or when the person going beyond the letter of the law would not lose any money (as Tosafot above tried to distinguish between the cases).⁴⁹

The third Lubavitcher Rebbe (1789-1866) wrote that although we do generally compel Jews to go beyond the letter of the law in the cases mentioned above, when the finder of the object is poor and the original owner is wealthy (in a city of mostly non-Jews), we do not force the poor person to return the found object.⁵⁰ The author of the Sdei Chemed (1833-1905) writes that when the Jewish community “forces” a Jew to go beyond the letter of the law, it is only with words, but not through actions like excommunication. Further, he writes that just as with regard to positive commandments, when a Jew should spend up to one third more than he normally would in order to do the mitzvah with more “beauty,” so too in these cases should a Jew do more to go beyond the minimum requirement of Jewish law.⁵¹ Rabbi Yitzchak Yaakov Weiss (1901-1989) limits the “requirement” to go beyond the letter of the law to cases of retuning found objects. He also states that when both the original owner and finder have the same financial status (either poor or wealthy), we compel the finder to return the object, even though he is not required to do so in a city that is mostly non-Jewish. But if the finder was poor and the owner wealthy, we do not require him to return the object in this case.⁵² Rabbi Yaakov Reicher (1661-1733) said that we never compel Jews in these cases by garnishing their wages. Sometimes we can excommunicate Jews who refuse to go beyond the law’s requirement, and we certainly can and should try to compel them to “do the right thing” and go beyond the letter of the law with encouraging words.⁵³ A contemporary Jewish law expert, Rabbi Shmuel Monk, summarized all the rulings and stated that a Jewish court today cannot compel a Jew to act beyond the letter of the law, even when they feel it should be done. However, a Jewish court can compel a Jew by publicly urging him or her to go beyond the letter of the law, shaming him or her into the “right action.”⁵⁴

One might have thought that this would conclude the discussion. But this argument has continued unabated, even reaching the Israeli court system. In two well-publicized rulings, one Supreme Court judge of the State of Israel, Menachem Elon (an observant Jew) ruled that Israelis cannot be compelled to go beyond the letter of the law, even when doing so would generate the “right” outcome in the case.⁵⁵ Another Supreme Court judge disagreed and ruled that an Israeli citizen can be compelled to go beyond the letter of the law when justice would be served.⁵⁶

⁴⁹ Bayit Chadash on Shulchan Aruch, Choshen Mishpat 12:4

⁵⁰ Responsa Tzemach Tzedek 89

⁵¹ Responsa Sdei Chemed, Lamed, 29

⁵² Responsa Minchat Yitzchak 5:121

⁵³ Responsa Shevut Yaakov 1:168

⁵⁴ Responsa Pe-at Sadcha 1:155

⁵⁵ השופט מ' אֶלוֹן, ע"א 350/77 כיתן נ' וייס, פ"ד לג(2) 785, קליינמן, בע' 472 (מתוך מאמר של מיכאל ויגודה "לפנים משורת הדין")

⁵⁶ פרשת כיתן עמ' 811 לגישת השופט אֶלוֹן בכללה, ראה קליינמן, עמ' 475-472 (מתוך מאמר של מיכאל ויגודה "לפנים משורת הדין")

In a related idea, one of the great decisors of the twentieth century, Rabbi Moses Feinstein, would sometimes rule a certain way, and then add that someone who is a *Baal Nefesh*-a truly spiritual person should go beyond this ruling and be more stringent.⁵⁷ This might be comparable to “going beyond the letter of the law,” but it was never obligatory.

After all is said and done, the matter seems to come down to attitude: If a person wishes to truly do the right thing in life, he or she should strive to go beyond any requirement and satisfy all parties in every situation. This is at the heart of this “requirement” to go beyond the letter of the law. Rabbi Yisrael Meir Kagan gave us an added incentive to follow this path. He argues that if we want G-d to go beyond the strict letter of the law when we are judged by Him, then we should do no less for others whenever life presents us with similar opportunities. G-d will only behave towards us as we behaved towards others.⁵⁸ When the Talmud says that G-d also prays, they ask, “What does G-d pray for?” It answers that G-d prays that He will treat people not according to what they deserve, but with kindness and mercy, thereby going beyond the letter of the law and giving people beyond what they actually deserve.⁵⁹ How can we do anything less, therefore, with regard to our own behavior?

Rabbi Dr. Nachum Amsel currently works with Rabbi Berel Wein and the Destiny Foundation as the Director of Education, whose mission is “to bring Jewish history to life in an exciting, entertaining and interactive way.” Rabbi Amsel has also served as a teacher, a school principal, and an adjunct professor. He has also taught over 2000 educators how to teach more effectively. Rabbi Amsel has worked in all areas of formal and informal Jewish education and has developed numerous curricula including a methodology how to teach Jewish Values using mass media. Recently, he founded the STARS Program (Student Torah Alliance for Russian Speakers), where more than 3000 students in 12 Russian speaking countries learn about their Jewish heritage for five hours weekly. Rabbi Amsel previously served as the Educational Director of Hillel in the Former Soviet Union. He lives in Jerusalem with his wife and has four children and four grandchildren.

⁵⁷ Responsa Igrot Moshe, Yoreh Deah 3:15, 4:5, Even Ha-ezer 2:13

⁵⁸ Sefer Shemirat Halashon, Shaar Hazechira, Chapter 2

⁵⁹ Berachot 7a