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CORPORATE SOCIAL RESPONSIBILITY AND THE TALMUDIC PRINCIPLE OF GOING BEYOND THE REQUIREMENTS OF THE LAW: THE CORNERSTONE OF ETHICS

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Abstract

The Talmud blamed the destruction of Jerusalem and the Second Temple on the Romans because people insisted on following the strict letter of Torah law and not doing more than the law required. This paper will demonstrate the importance of stressing going beyond the requirements of the law — *lifnim mishurat hadin* — if an individual or organization is genuinely concerned about ethical values. There has been much discussion in the literature about corporations engaging also in activities that further social good, referred to as Corporate Social Responsibility, and not focusing exclusively on maximizing shareholder wealth. In this paper, we present an argument for an ethical framework, for individuals as well as corporations, that entails acting beyond the strict requirements of the law.

Keywords: corporate social responsibility, going beyond the strict letter of the law, rule-driven ethics, value-driven ethics, morality and law, moral judgment in law.

Introduction

The nature and extent of firms' responsibilities to stakeholders other than its shareholders, such as employees, customers, and society, has long been a subject of much debate. Corporate Social Responsibility (CSR) activities entail a firm engaging in activities that appear to further some social good, sometimes seemingly above the interests of the firm (Mir & Shah, 2018). Proponents of CSR, which takes a broader view of the stakeholders that firms have a responsibility to, argue that companies pursuing CSR initiatives will gain a competitive advantage over their competitors and generate higher profits and return on investment. Opponents of CSR, in contrast, argue that a firm's obligation is solely to enhance shareholders' profits (Barauskaite & Streimikiene, 2021).

Milton Friedman, a renowned economist, was a vocal opponent of a firm engaging in CSR activities. He stated that "there is one and only one social responsibility of business—to

use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.” He did not believe it to be the responsibility of the corporation to do anything but serve the shareholders and act in their best interests. Rather it is the individuals who reap the rewards of corporate profits who should determine how and when to contribute towards social and philanthropic needs. (Friedman, 1970).

Likewise, for many years The Business Roundtable, an association of chief executive officers of America’s leading companies, in its Principles of Corporate Governance had consistently endorsed a focus on “shareholder primacy – that corporations exist principally to serve shareholders.” However, in 2019, the Business Roundtable issued a Statement of Purpose of the Corporation which moves away from shareholder primacy. Specifically, the group of CEOs stated, “While each of our individual companies serves its own corporate purpose, we share a fundamental commitment to all of our stakeholders.” The stakeholders include customers, employees, suppliers, the communities in which they work, and finally the shareholders (Business Roundtable, 2019). This viewpoint, that a company has a responsibility not only to the owners of capital, the stockholders, but also to the employees, suppliers, customers, government agencies, and other stakeholders has become increasingly popular (Bahar et al., 2021). Likewise, proponents advance various theories that in fact corporate social responsibility is necessary to sustain corporate financial performance of firms (Tanggamani et al., 2018).

The empirical evidence between CSR activities and firm performance has been mixed. Some recent studies including Saad and Belkacem (2022) find that CSR has a significant positive association with financial performance. Saeed et al. (2023) likewise finds that socially responsible firms have a competitive edge over their rivals that leads to higher profitability. Other studies, however, report mixed results when testing the relationship between CSR and firm performance. Nollet et al. (2016) find that while there is a significant negative short-term relationship between CSR activities and return on capital, in the longer run CSR activities’ effects are positive. Maqbool (2019) finds that a positive relationship doesn’t persist between corporate social responsibility and future stock returns. Brower and Dacin’s (2020) suggest that while early corporate social performance adopters are more likely to experience both greater firm profitability and increased stock market valuation, however, as corporate social performance has become more institutionalized, corporate social performance is becoming a weaker driver of both firm profitability and stock market valuation.

Many studies find only neutral results when aiming to link CSR and firm performance. The findings of Lee et al. (2018) support neutrality between corporate responsibility and corporate financial performance at the firm and industry levels, implying that a firm’s corporate responsibility involvement neither penalizes nor improves its corporate financial performance. Adamkaite et al. (2023) examine the impact of CSR activities on companies' financial performance for select companies in the energy sector and show a dominating neutral relationship between CSR and financial performance.

Milton Friedman's view is no longer widely accepted. Instead, the public seems to align more with the views of another Nobel laureate in economics, Robert Fogel. Fogel (2000) emphasizes the role of spirituality in the evolving economy. He cites a sense of purpose, opportunity, and community as necessary for capitalism to thrive. Approximately 77% of consumers and 73% of investors state that they prefer dealing with companies that are socially and environmentally responsible. Approximately 90% of S&P 500 companies published a corporate social responsibility (CSR) report in 2019 (only 20% in 2011).

Companies that are unethical face a "zero tolerance" policy from 25% of consumers (referred to as "values-driven consumers") and 22% of investors (Stobierski, 2021).

It is important to note that while recognizing the importance of all stakeholders, an organization should recognize that some stakeholders have a greater "stake" in the organization than other stakeholders. For many employees, for example, their livelihood depends on the organization. Likewise, for many customers, an organization may be its primary source of essential goods and services. One can imagine a series of concentric circles of different stakeholders and the obligations of the organization to those in the inner circles should be prioritized. In fact, there is some empirical evidence that corporations do prioritize their CSR activities in this manner and that the capital markets reward these priorities. Zielinski and Jonek-Kowalska (2020) find that enterprises focused their CSR activities on primary stakeholders, such as customers and employees, and that firms benefitted financially (in terms of profitability) when their CSR activities were directed to primary stakeholders. Havlinova and Kukacka (2023) analyze the relationship between corporate social responsibility and stock market performance in the post-global financial crisis period. Their results show a positive and statistically, as well as economically, significant impact of those strategic activities directed to employees and product responsibility, on the corporate stock market performance of companies. This impact is much higher when compared to the remaining secondary activities.

In this paper, we present an alternative approach. Firms should engage in CSR activities because it is the right thing to do. There is an ethical motivation to go beyond what is required to benefit others and society. We cite from Talmudic sources the obligation that is incumbent on individuals, as well as organizations, to go beyond the requirements of the law.

The Talmud sees obeying the strict letter of the law as insufficient; therefore, one must go beyond the requirements of the law — *lifnim mishurat hadin* (literally, inside the line of the law). Indeed, the Babylonian Talmud (Bava Metzia 30b) declares that Jerusalem was destroyed for following the strict letter of Torah law and not doing more than the law required. The Semak (Sefer Mitzvot Katan, Mitzvah 49) considers the principle of going beyond the requirements of the law as one of the 613 precepts of the Torah, but there is no consensus regarding this. Lord Moulton's maxim that "obedience to the unenforceable is the keystone of ethics" (cited in Cohen, 1959, p. 220) is consistent with the view that society requires more of individuals than simple obedience to the laws that can be enforced.

Obeying the Spirit of the Law: Rules vs. Ethics

There are many ways that individuals and corporations may follow the letter of the law but violate its spirit. For example, many feel it is unfair that a considerable number of the wealthiest Americans pay nothing or relatively little in federal income taxes. This happens when a tax code focuses on labor income rather than wealth (Rappeport, 2021). Many multinational corporations take advantage of the tax code by using innovative accounting techniques to claim that their profits accrue to subsidiaries in countries like Ireland and Luxembourg, where the corporate tax rates are low (Krugman, 2021). This rigs the system so that it is unfair to laborers and overly generous to corporations. This is why finance ministers from the G-7 countries have agreed to set a minimum 15% tax rate on foreign subsidiaries of multinational enterprises. There is great concern that private equity firms have learned how to game the tax system using partnerships to avoid paying taxes. Several whistleblowers have informed the I.R.S. about various aggressive tax-avoidance schemes, but the I.R.S. does not have the staff with the expertise to perform audits of these highly complex partnerships (Drucker & Hakim, 2021).

The American Institute of Certified Public Accountants (AICPA) revamped its Code of Professional Conduct (Code) in 1989. The AICPA was concerned that the previous code,

which was rules-based, made it too easy to find loopholes to avoid the spirit of the code. Accountants focused more on following GAAP (generally accepted accounting principles) than being ethical. This allowed accountants to behave in an unethical manner, e.g., to use inventory valuation methods to make financial statements look better and not be in violation of GAAP. It was understood that it was virtually impossible to create a code based on rules that could be wide-ranging and comprehensive enough to ensure ethical accounting practices; this is why the AICPA switched to a code based on broadly stated principles and rules (AICPA, 2002, 51.02). Today's code consists of both principles and rules (<https://www.aicpa.org/research/standards/codeofconduct.html>).

There is something unfair about the compensation system when the gap between C.E.O. pay and median employee pay at a company continues to widen; the ratio of CEO pay to median worker pay is now 274, according to a survey conducted by Equilar of the 200 highest-paid executives. Eight executives made more than \$100 million in 2020. Jeff Bezos, C.E.O. of Amazon, is one of the wealthiest people in the world and is almost worth \$200 billion; the median pay of a typical worker at Amazon is \$37,930. C.E.O. pay increased by 14.1% in 2020, while the median salary for workers only rose by 1.9% (Eavis, 2021).

Hamel (2009) posits that rules do not suffice to improve corporate ethics. If an organization is genuinely concerned about ethics, it should follow what the V.A. is doing and take a three-pronged, systems-focused model that considers "decisions and actions, systems and processes, and environment and culture." Organizations using the Integrated Ethics approach adopted by the V.A. provide an *ethical consultation service* so employees and others know where to turn when a difficult decision must be made. These firms are also concerned with *preventive ethics*, which means a proactive approach is taken, and work processes may be restructured to preclude unethical behavior. The organization's culture is changed so that there is an ethical environment concerned with ethics as much or more than costs or profit. Ethics must be value-driven, not rule-driven. As Fox notes:

Rules usually define prohibited behavior or minimal standards, instead of inspiring exemplary or even good practices. A rules-based culture tends to emphasize compliance with "the letter of the law" as opposed to fulfilling "the spirit of the law." From an ethics perspective, overemphasizing rules can lead to "moral mediocrity"—or worse, unethical practices, if employees equate "no rule" with "no problem" or if they "game the rules" by developing ethically problematic workarounds (Fox et al., 2007, p. 3).

Ultimately, the key responsibility lies with leaders to create a "workplace culture based on integrity, accountability, fairness, and respect" (Fox et al., 2007, p. 8).

The number of executives who went to prison after the Global Financial Crisis of 2008 was one (Really!). Contrast this with what occurred after the savings-and-loan crisis of the 1980s, when more than 1,000 bankers were incarcerated. The Great Recession of 2008 demonstrated quite convincingly what happens when bankers, auditors, lawyers, C.E.O.s, hedge fund managers, and many others commit highly unethical behaviors without breaking the law: trillions of investors' dollars funds were lost, and many people lost their jobs and homes. The fines and settlements paid due to the crisis were \$190 billion and may seem impressive. However, the money was paid by shareholders (and was tax-deductible), not the individuals responsible for causing the Great Recession (Cohan, 2015). Many believe that we will probably have to deal with another financial crisis in the future because the lesson learned from 2008 is that greed and corruption pay, not the importance of ethics.

[T]he root cause of the crisis was the gradual but ultimately complete collapse of ethical behavior across the financial industry. Once the financial industry came unmoored from its ethical base, financial firms were free to behave in ways that were

in their – and especially their top executives' – short-term interest without any concern about the longer-term impact on the industry's customers, on the broader American economy, or even on the firms' own employees (Greycourt, 2008, p. 1).

The above examples demonstrate what can happen when only rules are stressed, and little regard is paid to the spirit of the law. The Talmudic idea of encouraging individuals to go beyond the requirements of the law is one way to encourage people to think about whether a behavior is morally right or wrong, regardless of what the law states. Due to the time lag, one cannot rely solely on the law to solve problems. The law reacts to a problem, and it may take years to pass new legislation. Much damage may occur by the time a law is finally approved (Pava, 1996).

While it may seem ideal to legislate ethical behavior and CSR activities, this can be difficult to do. Legislation and regulation will understandably need to reflect the ethical priorities of a majority of the public. Because ethical priorities vary and are diverse, it would not be very practical to select and prioritize by legislation and/or regulation some ethical behaviors over others. Doing so may even have unintended consequences, such as backlash, as well as behavior that will simply comply with the letter and not spirit of these laws.

Our paper, although it focuses on corporations and CSR, applies to all members of society as we will demonstrate below. These include employees, suppliers, and the general community. Thus, employees should engage with their employers ethically, and customers should behave ethically when shopping. Unfortunately, we often read of instances of misappropriation of resources by employees, or unethical shopping practices that some consumers engage in. Employees, customers, and all members of society should endeavor to go beyond the letter of the law as well. We will discuss the responsibility of ethical behavior by individuals in this paper as well.

Justice, Righteousness, and Lovingkindness

The Hebrew Bible speaks of *mishpat*, *tzedek*, and *chesed*. Sacks (2005, p. 51) highlights the difference between *mishpat* (justice) and *chesed* (lovingkindness). *Chesed* "exists only in virtue of emotion, empathy, and sympathy." It requires "not detached rationality but emotional intelligence." Justice, on the other hand, is "best administered without emotion." The correct way to administer justice is by being detached, disinterested, disengaged, and impartial. Sacks (2005, p. 33) observes that *mishpat* means retributive justice; *tzedek* means distributive justice. Thus, "A law-governed society is a place of *mishpat*." A decent, caring society requires more than that; it must also incorporate *tzedek*. The prophet Hosea described an ideal community in the following terms (Hosea 2: 19-20): "I will betroth you to Me in *tzedek u'mishpat* (righteousness and justice), in *chesed ve'rachamim* (lovingkindness and compassion). I will betroth you in faithfulness, and you will know the Lord."

Tzedek is similar to Aristotle's idea of equity. Aristotle says the following about equity:

This is the essential nature of the equitable: it is a rectification of law where law is defective because of its generality..." Equity does not nullify the law. It upholds the law; it 'corrects' it; it refines it; it brings it closer to perfection. It does not contradict the law. Rather, it claims to fulfill the true intention of the legislator (Kirschenbaum, 1991: xxiv, xxxv).

The Babylonian Talmud (Sanhedrin 6b) raises a problem with the following verse concerning King David. The verse states (II Samuel 8:15): "[King David] administered justice (*mishpat*) and righteousness (*tzedaka*) for all his people." The Talmud has an issue with *mishpat* and *tzedaka*. The Hebrew word *tzedaka* is translated as righteousness but also means charity and hints at both. The Talmud questions how King David performed both

when acting as a judge. In the words of the Talmud (Babylonian Talmud, Sanhedrin 6b): "Where there is strict justice, there is no charity, and where there is charity, there is no strict justice." One answer provided by the Talmud was that David was indeed impartial in his role as judge. If, however, he decided on a case against a poor person, he would pay the claimant with his own money. In this manner, David was able to practice both *mishpat* and *tzedaka*.

The concept that justice must be "blind" and not confused with charity is essential. One may feel sorry for an impoverished mother who lost her child because of, say, a harmful side effect of a drug she had been warned of before its administration. The pharmaceutical company may make billions in profits. Still, justice may not be served if the family wins a lawsuit solely because the jury feels sorry for the victim and the company can afford to pay.

Is there an Ethic Beyond Halacha (Jewish law)?

There is an exciting disagreement between Rabbis Aaron Lichtenstein and J. David Bleich as to whether Judaism recognizes an ethic beyond halacha (Lichtenstein, 1975; Bleich, 1985). Lichtenstein states:

Quite apart from the severity of the obligation, therefore, there is a fundamental difference between *din* [law] and *lifnim mishurat hadin*. One, at a more minimal level, imposes fixed objective standards. The demands of the other evolve from a specific situation; and, depending upon the circumstances, may vary with the agent (Lichtenstein, 1975, p. 79).

He also propounds:

Which of us has not, at times, been made painfully aware of the ethical paucity of his legal resources? Who has not found that fulfillment of explicit halakhic duty could fall well short of exhausting clearly felt moral responsibility? (p. 68)

Pava (1996) suggests that the limitations of halacha could just as well apply to American law. He agrees with Lichtenstein that "the designation of supralegal conduct as purely optional or pietistic is a disservice to Halakha and ethics alike" (p. 83). Pava (1996), citing Novak (1993), agrees that the church can only embrace capitalism if it integrates ethics and law. The beauty of the principle of *lifnim mishurat hadin* is that it effectively incorporates ethics into the law (Pava, 1996).

Lichtenstein concludes: "Does the tradition recognize an ethic independent of halacha? You define your terms and take your choice" (p. 83). Bleich (1985) admits that there is definitely an ethic beyond the *recorded halacha*, which is why halacha is "an art rather than a science." He asserts that the ethical behavior required by the verse (Deuteronomy 28:9), "And you go in His [God's] ways," signifies the idea of *imitatio Dei*. Evidently, this principle must be relative and varies from individual to individual.

And it is precisely because the contents of this ethic is not amenable to precise formulation that it is expressed in figurative, metaphorical language and often couched in hyperbole (Bleich, 1985, p. 59).

Korn (2019) posits that Jewish law and ethics are independent. The Midrashic statement (Midrash Leviticus Rabbah 9:3) that "*Derekh erez kadmah L'Torah*" (exemplary character precedes Torah) implies that civility and uprightness existed before God gave the Torah. Indeed, the Midrash states that it preceded the Torah by 26 generations, from Adam to Moses. The following is the complete Midrash:

Rabbi Yannai once walked along the road and saw an extremely well-dressed man. Rabbi Yannai said to him: Would you like to come to my house? The man replied: Yes. Rabbi Yannai brought him into his home and gave him food and drink. As they were eating and drinking together, he examined him in his knowledge of the Bible and found out that he had none; examined his knowledge of Mishnah and realized

that he had none; his knowledge of legends and saw that he had none; his knowledge of Talmud and saw he had none. Rabbi Yannai then told him: Wash and recite grace. Said the guest: Let Yannai recite grace in his own home. Seeing that he could not even recite a blessing, Yannai asked him: Can you at least repeat what I say? Said he: Yes. Said Rabbi Yannai: repeat the following: 'A dog has eaten Yannai's bread.' Offended, the man stood up and grabbed Rabbi Yannai by the coat! He then said: My inheritance is with you, and you are withholding it from me! Said Rabbi Yannai with puzzlement: What legacy of yours is there with me? He replied: Once I passed by a school, and I heard the voices of the little children saying: 'Moses gave us the Torah, the inheritance of the congregation of Jacob.' They did not say 'the inheritance of the congregation of Yannai,' but the 'congregation of Jacob.' Rabbi Yannai asked, "How then are you worthy of eating at my table?" The guest replied, "Never have I heard an evil word spoken against me, and returned to argue with the person who spoke it. Never have I seen two people arguing without making peace between them." Rabbi Yannai then said, "You have so much *Derech Eretz* and I called you a dog."... Rabbi Ishmael son of Rabbi Nachman said: *Derech erez* precedes Torah by 26 generations since it is written, "and to guard the way to the Tree of Life" (Genesis 3:24). "Way" is *derech erez*, and only after that comes "Tree of Life" which is Torah (Midrash Leviticus Rabbah 9:3; based on a translation by Sefaria.org).

Barer (2018, para.1) describes two approaches to interpreting the concept of *lifnim mishurat hadin*. It may be seen as a "waiver of rights model" because "moral considerations guide legal decision making and cannot be separated from it." The second way of seeing *lifnim mishurat hadin* is as a "superegoation model." Those who follow the latter opinion believe that "law and ethics are independent (if closely related) systems within rabbinic thought." She concludes that if a law is categorized as *lifnim mishurat hadin*, it is based on the discretionary judgment of the Sage, not rule-based decision-making. Thus, one cannot generalize from these decisions and develop a general principle applicable to all.

Lifnim Meshurat Hadin

This principle of Jewish law that demands that one be ethical and even go beyond the legal requirement is homiletically derived from the verse (Exodus 18:20) "And you shall instruct them about the statutes and the laws, and you shall make known to them the way in which they must walk and the work they must do" and (Deuteronomy 6:18): "You shall do that which is fair and good in the sight of the Lord" (Babylonian Talmud, Baba Metzia 30b, 16b). The concept of doing what is "fair and good" provides the Talmudic sages with the legal ability to use their judgment and demand more than the strict letter of the law requires.

Thus, the verse "You shall do that which is fair and good" is used, for example, to allow a debtor to buy back land from his creditor that the court awarded to the latter for nonpayment of a debt. Technically, according to the letter of the law, once the court grants the land to the creditor, it belongs to the creditor, who should be under no obligation to give up the field. The Sages, however, understood that the debtor might feel attached to his land and therefore ruled that the creditor must allow the former to redeem the property taken from him in payment of the debt (Babylonian Talmud, Bava Metzia 16b, 108a). In the Talmud, this is known as "*shuma hadar*."

This is reminiscent of the system in old English law known as "equity." Compared to courts of common law, courts of equity dealt with the unfairness and injustices that arose because of the strict application of traditional law.

Nachmanides (1195 – 1270), a foremost Spanish Medieval commentator on the Torah, believes that the verse "And you shall do that which is right and good" (Deuteronomy 6:18) is a general commandment that complements the specific, detailed precepts of the

Torah. This is necessary because the Torah cannot list every injustice someone could commit against another. Therefore, the Torah states a general principle of "doing that which is right and good." It includes situations not mentioned in the Torah, such as going beyond the law's strict requirements. Nachmanides notes that the Torah commandment to be holy prohibits acts and behaviors that are not explicitly specified by Torah law but whose commission would render their protagonist a *naval bereshut haTorah* (vile person within the permissible realm of the Torah) (Nachmanides, Leviticus 19:2).

The above verse of "doing that which is right and good" also includes situations that are not mentioned in the Torah, such as going beyond the law's strict requirements and trying to achieve a compromise. Compromise is sometimes superior to following the letter of the law. The Babylonian Talmud (Sanhedrin 6b) notes that when both parties in a lawsuit compromise and give up something they might be entitled to by law, it is easier to preserve a friendship. Unfortunately, the price of strict justice can be eternal hatred between the defendant and the plaintiff.

How the Phrase of *Lifnim Mishurat Hadin* is Used in the Talmud

The phrase "*lifnim mishurat hadin*" is used in several places in the Talmud. Sometimes, it is inferred, but the actual term is not used (e.g., the case of the porters, which will be discussed infra). The first case highlights a somewhat different, nonjuristic use of the phrase and suggests that going beyond the requirements of the law is connected to being merciful.

The Gemara asks: What does God pray? Rabbi Zutra bar Tovia said that Rav said: God says: May it be My will that My mercy will overcome My anger towards Israel for their transgressions, and may My mercy prevail over My other attributes through which Israel is punished, and may I conduct myself toward My children, Israel, with the attribute of mercy, and may I enter before them *lifnim mishurat hadin*.

Similarly, it was taught in a Baraita that Rabbi Yishmael ben Elisha, the High Priest, said: Once, on Yom Kippur, I entered the innermost sanctum, the Holy of Holies, to offer incense, and in a vision, I saw Akatriel Ya, the Lord of Hosts [one of the names of God], sitting upon a high and exalted throne (see Isaiah 6). And He said to me: Yishmael, My son, bless Me. I said to Him: "May it be Your will that Your mercy overcomes Your anger, and may Your mercy prevail over Your other attributes, and may You act toward Your children with the attribute of mercy, and may You enter before them *lifnim mishurat hadin*." The Holy One, Blessed be He, nodded His head and accepted the blessing.

This event teaches us that you should not take the blessing of an ordinary person lightly. If God asked for and accepted a mortal's blessing, all the more so that a man must value another man's blessing (Babylonian Talmud, Berachos 7a; based on a translation by Sefaria.org and ArtScroll).

There is a similar Midrash (Deuteronomy Rabbah 4:3) in which God's behavior towards the Jews is described as *lifnim mishurat hadin*. Shilo (1978) sees the *aggadic* use of the term as acting above and beyond what the law would require but not necessarily in the context of a legal decision concerning civil matters. One might disagree with Shilo and point out that there is an element of justice when God judges the world. If God judges the Jewish people *lifnim mishurat hadin*, he can use *chesed* to evaluate them rather than *din*. Perhaps if people are willing to overlook strict justice and be munificent to others, God will do the same when judging humanity. The Babylonian Talmud (Avodah Zarah 4b), in discussing the issue of the ideal time to pray, declares, "with regard to judgment (*din*), to which it is not written:

Truth, but it is a process that involves mercy and compromise, the Holy One, Blessed be He, can act in a manner that is *lifnim mishurat hadin*."

Zimmun are special additional opening lines recited collectively that are an invitation to say the grace after meals. Three who dine together are obligated to join in a *zimmun*.

Rava said: This is a statement that I said, and it was stated in the name of Rabbi Zeira in accordance with my opinion: Three people who ate as one but did not conclude their meals together, one interrupts his meal in order to join the other two in a *zimmun*, but two do not interrupt their meal to join the other one in a *zimmun*. The Gemara challenges: And do two really not interrupt their meal to join the other one in a *zimmun*? Didn't Rabbi Pappa interrupt his meal to enable Abba Mar, his son, to recite the *zimmun* blessing; and, in that case, it was Rabbi Pappa and one other person? The Gemara responds: The case of Rabbi Pappa is different, as he acted *lifnim mishurat hadin* (Babylonian Talmud, Berachot 45b; based on a translation by Sefaria.org).

A dilemma was raised before the scholars: If someone sold properties because he needed money for a particular purpose and in the end he did not need the money for that purpose, is this considered a sale conducted in error, so that the seller can renege on the deal and the sale is reversed? Or, is the sale not reversed and what is done is done? The Gemara suggests: Come and hear a proof: There was a certain man who sold land to Rabbi Pappa because he needed money to buy oxen. Ultimately, he did not need the money and regretted selling the land, and Rabbi Pappa returned his land to him. The Gemara rejects this: This is not proof, as Rabbi Pappa acted *lifnim mishurat hadin* (Babylonian Talmud, Ketubot 97a; based on a translation by Sefaria.org).

[The Gemara continues the discussion of an expert who erred, thereby causing a loss.] It was stated: With regard to one who presents a dinar to a money changer to assess its value or authenticity and the money changer declares it valid, and it is found to be bad, i.e., invalid, causing its owner a monetary loss, it is taught in one *Baraita* that if the money changer is an expert, he is exempt, while if he is an ordinary person he is liable. And it is taught in another *Baraita* that irrespective of whether he is an expert or whether he is an ordinary person, he is liable to pay for the owner's loss.

To reconcile the *Baraitot*, Rabbi Pappa said: When the *Baraita* teaches that an expert is exempt from liability, it refers to renowned experts such as the money changers Dankhu and Issur, whose expertise is so great that they do not need to learn about assessing currency at all. The Gemara asks: But if they are so proficient, in what did they err? The Gemara answers: They erred concerning a coin from a new press, which at that time was leaving the press, and they did not know its value.

The Gemara relates: A certain woman presented a dinar to Rabbi Chiya to assess its authenticity. He said to her: It is a good coin. The next day she came before him and said to him: I presented it to others, and they told me that it is a bad dinar, and I cannot spend it. Rabbi Chiya told Rav: Go exchange it for her [for a good coin] and write it down on my register as a loss.

The Gemara asks: But what is different about Dankhu and Issur, who are exempt because they do not need to learn about assessing currency? Rabbi Chiya did not need to learn, as he was also an expert. The Gemara responds: Rabbi Chiya was also not required to return a dinar to this woman, but when he did so, he acted *lifnim mishurat hadin* (Babylonian Talmud, Bava Kama 99b-100a; based on a translation by Sefaria.org and Barer, 2018).

The Meiri on this Gemara (Bava Kama 100a) postulates that a Sage should act *lifnim mishurat hadin* in his dealings with others and should compensate anyone who lost money because of him.

The Gemara relates: Rabbi Yehuda was moving along behind Mar Shmuel in the market where pounded grain was sold. Rabbi Yehuda asked Shmuel: If one found a purse here, what is the halakha? Shmuel told him that the halakha is as the Mishna states: These belong to him. Rabbi Yehuda asked him: If a Jew came and provided a distinguishing mark to describe it, what is the halakha? Shmuel said to him: The finder is obligated to return it. Rabbi Yehuda asked: These are two contradictory rulings. Shmuel said to him: By law, it belongs to him. When I said the finder is obligated to return it if he learns the owner's identity, that was *lifnim mishurat hadin*. This is like that incident where Shmuel's father found these donkeys in the desert and returned them to their owner after the passage of twelve months of the year, as he acted *lifnim mishurat hadin* (Babylonian Talmud, Metzia 24b; based on a translation by Sefaria.org).

The precept of returning lost property is stated in the Torah (Exodus 23:4: Deuteronomy 22:1-3). However, the Sages exempt an elderly person from this precept when it would be beneath his dignity to tend to the lost item (Babylonian Talmud, Bava Metzia 30a). The same exception applies when an elderly person encounters an ox or donkey that has fallen and is lying under its heavy load. The Torah requires that a passerby help get the donkey or ox back on its feet. This precept is known as *perika u-te'ina* (helping one load or unload a burden) (Babylonian Talmud, Bava Metzia 32b).

The Gemara relates: Rabbi Yishmael, son of Rabbi Yossi, was walking on the road. A certain man encountered him, and that man was carrying a burden that consisted of sticks of wood. He set down the wood and was resting. The man said to him: Lift them for me and place them upon me. Since it was not in keeping with the dignity of Rabbi Yishmael, son of Rabbi Yossi, to lift the wood, Rabbi Yishmael said to him: How much are they worth? The man said to him: A half-dinar. Rabbi Yishmael, son of Rabbi Yossi, gave him a half-dinar, took possession of the wood and declared the wood ownerless. The man then reacquired the wood and again requested that Rabbi Yishmael, son of Rabbi Yossi, lift the wood for him. Rabbi Yishmael, son of Rabbi Yossi, yet again gave him a half-dinar, took possession of the wood, and once again declared the wood ownerless. He then saw that the man desired to reacquire the sticks of wood. Rabbi Yishmael, son of Rabbi Yossi, said to him: I declared the sticks of wood ownerless concerning everyone else, but I did not declare them ownerless concerning you.

The Gemara asks: But is property rendered ownerless in a case like this? But did we not learn in a Mishna (Pe'ah 6:1) that Beit Shammai state: Property declared ownerless for the poor is thereby rendered ownerless. And Beit Hillel say: It is not ownerless until the property is ownerless for the poor and rich, like produce during the Sabbatical Year, which is available for all. As the halakha is in accordance with the opinion of Beit Hillel, how could Rabbi Yishmael, son of Rabbi Yosei, declare the wood ownerless selectively, excluding the prior owner of the wood? Rather, Rabbi Yishmael, son of Rabbi Yossi, actually declared the wood ownerless to everyone without exception, and it was with a mere statement that he prevented him from reacquiring the wood, i.e., he told the man not to reacquire the wood even though there was no legal impediment to that reacquisition.

The Gemara asks: But was not Rabbi Yishmael, son of Rabbi Yossi, an elderly person, and it was not in keeping with his dignity to tend to the item? Why did he purchase the wood and render it ownerless in order to absolve himself of the obligation to lift the burden if he had no obligation to do so in the first place? The Gemara answers: In the case of Rabbi Yishmael, son of Rabbi Yossi, he conducted himself *lifnim mishurat hadin*, and he could have simply refused the request for help. The Gemara cites a source for going beyond the letter of the law in the performance of mitzvot. As Rabbi Yosef taught in a *Baraita* concerning the verse: "And you shall teach them the statutes and the laws, and shall show them the path wherein they shall walk and the action that they must perform" (Exodus 18:20). The *Baraita* parses the various directives in the verse. "And you shall teach them" refers to the structure of their livelihood, i.e., teach the Jewish people trades so that they may earn a living; "the path" refers to acts of kindness; "they shall walk" refers to visiting the ill; "wherein" refers to burial; "and the action" refers to acting in accordance with the letter of the law; "that they must perform" refers to acting *lifnim mishurat hadin* (Babylonian Talmud, Bava Metzia 30b; based on a translation by Sefaria.org).

Maimonides, a major codifier of Jewish Law, says the following (Mishnah Torah, Laws of Robbery and Lost Property 11:17): "Anyone who follows the good and upright path and does more than the strict requirement of the law, should restore lost property under all circumstances, even if the act detracts from his dignity" (Based on translation by Sefaria.org).

Sperber (2008) discussed the question posed by the Hidah (Haim Yosef David Azulai, 1724-1806). According to the Jerusalem Talmud (Berachos 2:9), "Anyone who is exempt from an obligation and performs it is called a *hedyot* (ignorant, simpleton)." If so, why does Maimonides encourage people to act beyond the requirements of the law when it comes to returning property? He answers that one is called a *hedyot* when he is stringent in dealing with laws between man and God (*bein adam lamakom*). When dealing with laws between man and man (*bein adam lachaveiro*), one should do more than is required by the strict letter of the law.

Eight Categories of Lifnim Mishurat Hadin

There is a question as to whether *lifnim mishurat hadin* is unique and in a class by itself or known under other names in the Talmud. Some equate it with *midat chasidut* [way of the pious]; others with *gemilut chesed* (deeds of lovingkindness); and some relate it to *latzet yedie shamayim* (fulfilling one's duty towards Heaven) (Shilo, 1978).

Bleich (1985, p. 56), citing Herzog (1936, pp. 381-386), finds eight distinct classifications of *lifnim mishurat hadin*, which he lists "in decreasing order of resemblance to normative law": *Dinei shamayim, nikra rasha, mi she-para, latzet yedie shamayim, mechusar amanah, ein ruach chachamim nocheh heimenu, ein lo alav ela ta'arumot, and midat chasidut* [each of these terms will be translated and explained in the upcoming sections]. Jewish law recognizes many shades of gray, which is why the Sages of the Talmud created all kinds of terms to describe gradations of ethical and unethical behaviors.

Dinei Shamayim (Laws of Heaven)

The Babylonian Talmud (Baba Kama 55b, 56a) lists numerous acts the "courts of mankind" cannot prosecute. However, the offender will be punished by the Heavenly Court (*b'dinei shomayim*). There is no question that the person who committed the offense has a moral obligation to pay compensation, although the courts cannot prosecute him/her. The following are two examples discussed in the Talmud.

Case 1: An individual does not come forward to testify on another's behalf. This individual is indirectly causing the other party a potential loss by not testifying (Babylonian Talmud, Bava Kama 55b-56a).

Case 2: Someone gave a hot coal (which would naturally extinguish itself if not tampered with) to an idiot or a child who caused it to flare up and thereby cause damage. The individual who gave the irresponsible party the coal is indirectly responsible for the damage (Babylonian Talmud, Bava Kama 56a).

According to Meiri, whenever a person is liable according to the laws of Heaven, the courts of humankind may be unable to make restitution. However, he is disqualified from serving as a witness until he reimburses the plaintiff for the damages he caused (Shimoni, 2016).

Nikra Rasha (He is Called a Wicked Person)

What is the law if one is in the process of negotiating for a particular property, and a newcomer offers a more attractive bid, snatching the property away from the first party? Some people might see this as shrewd business tactics; the Talmud, however, refers to this case as "*ani ha'mehapech b'chararah*" (literally, "If a poor person is engaging in the acquisition of a cake") and labels the second party wicked (a *rasha*). "Poor" refers to the aggrieved individual lacking something he wishes to acquire (Babylonian Talmud, Kiddushin 59a). The Talmud cites the story of one sage who abandoned a field he had just purchased after discovering that someone else had been negotiating for it before the purchase. Tosfos, a medieval commentary on the Talmud, asserts that it is ethically wrong for a businessperson to seize a competitor's chance to make a profit by jumping in. A decent person should look elsewhere to make a profit and not "poach" on another person's opportunity. More on this subject may be found in Friedman (2019).

Being a poacher is illegal not only in commercial transactions but also in marriage. In the case of one man who says to another: Go and betroth so-and-so to me, and the latter went and betrothed her to himself, she is betrothed to the second man. A Tanna taught concerning this issue: What he did is done; it is effective and the woman is betrothed to the second man, but he has treated him, i.e., the first man, in a deceitful manner, [and one should not act in this fashion] (Babylonian Talmud, Kiddushin 58b; based on a translation by Sefaria.org).

Other cases are discussed in the Talmud where the perpetrator is called wicked, but the aggrieved party has no legal recourse (See Friedman, 1985 for additional examples).

Mi she-para (The One who Punished)

There is a point at which the transaction is considered finalized, and the title changes hands in every legal system. Jewish law makes a distinction between movable objects and land. According to Jewish law, the title does not change hands for movable objects until the buyer performs a symbolic action to indicate legal acquisition. One major method of accomplishing this is '*meshichah*,' which means 'pulling,' pulling the object towards oneself. If one has purchased a movable object and paid for it but has not yet taken title, either party can legally change their mind about the purchase – even after money has changed hands. However, changing one's mind after the buyer paid for the item was not considered ethical. Thus, the party that withdrew from the transaction was subjected, in public, to the following curse known as a *mi she-para* [*Mi she-para* means "The One who punished"], administered by the one who was wronged (Babylonian Talmud, Bava Metzia 44a, 48a):

The One who punished the generation of the flood, the generation of the dispersion, the people of Sodom and Gomorrah, and the Egyptians who drowned in the sea,

should punish the person who does not stand by his word (Babylonian Talmud, Bava Metzia 48a).

Latzet Yedie Shamayim (Fulfilling One's Duty Toward Heaven)

The Talmud uses this phrase to describe situations where an individual may not be legally liable, but one who wants to please God should go beyond the requirements of the law.

Case 1. If someone says to two people: I stole a *maneh* (a unit of currency: one *maneh* = 100 *dinarim*) from one of you but I do not know from which of you I took the money. The two 'victims' did not even know they were robbed. In this case, the penitent thief is required to return to them one *maneh*, which they divide between themselves. However, if the thief wishes to fulfill his duty toward Heaven, he should pay each party a *maneh* (Babylonian Talmud, Bava Metzia 37a; Shulchan Aruch Choshen Mishpat 365:2).

Case 2: The same principle applies in the case of two people who have deposited money with one person for safekeeping. One deposited 100 *dinarim* and the other 200 *dinarim*. Suppose neither the watchman nor the depositors remember who gave which sum. If the custodian of the funds, who should have been more careful in keeping track of the money, wishes to fulfill his duty toward Heaven, he should give each of the two depositors 200 *dinarim* (Babylonian Talmud, Bava Metzia 37a; Shulchan Aruch Choshen Mishpat 300: 1).

Mechusar Amanah (Lack of Trustworthiness)

Herzog (1936, p. 384) sees the term "*mechusar amanah*" as a "relatively milder censure" than the above terms. Indeed, the perpetrator is not called wicked and is not deserving of a public curse.

The Talmud relates: Buyers gave money to Rabbi Kahana to purchase linen. Ultimately, the price of linen increased. Rabbi Kahana came before Rav to ask his opinion. Rav said to him: Give them a quantity of linen equivalent in value to the money that you received, and concerning the rest, your verbal commitment is merely a statement, and renegeing on a verbal commitment that was unaccompanied by an act of acquisition does not constitute a lack of trustworthiness.

The Talmud comments: For it was stated in reference to words [i.e., a verbal commitment]. There is an amoraic dispute concerning renegeing on a verbal commitment that was unaccompanied by an act of acquisition. Rav says: It does not constitute a lack of trustworthiness. Rabbi Yochanan says: It constitutes a lack of trustworthiness (Babylonian Talmud, Bava Metzia 49a; based on a translation by Sefaria.org and ArtScroll).

The dispute between Rav and Rabbi Yochanan is relevant when there is a valid reason for changing one's mind, e.g., if the market price has changed, as in the above case of the linen. If there is no legitimate reason for changing one's mind, one is not permitted to go back on their word. However, one who follows the "way of the pious" does not renege on a verbal agreement even if the market price changes.

Ein Ruach Chachamim Nocheh Heimenu (Not Pleasing to the Spirit of the Sages)

The expression "Not pleasing to the spirit of the Sages" is an even milder form of reprimand.

Case 1: An individual wrote his will leaving his estate to strangers instead of to his own children. His will is legally valid, but his actions are not pleasing to the spirit of the Sages (Babylonian Talmud, Bava Bathra 133b).

Sometimes, the Talmud uses this expression in the positive form and states that the act is "pleasing to the spirit of the Sages."

Case 2: An individual paid back his/her debt even though the Sabbatical (Shmittah) year had passed. The Sabbatical year, which automatically causes a remission of debts, is discussed in Deuteronomy 15:1-3. (Shevi'ith 10:9).

Ein Lo Alav Ela Ta'arumot [He has Nothing but Resentment Against the Other Party]

There are cases where nothing can be done for the plaintiff legally. However, the victim may have a grievance against the defendant. It is evident from the expression used by the Talmud that a decent person should not want to engage in an unethical practice that would cause another person such distress. This is why the Talmud uses the term *ta'arumot* (grievance or resentment). Righteous people find ways to ensure they do not cause others to complain about their actions.

Case 1: An employer instructed a worker (i.e., a foreman) to hire other workers at the rate of four zuz (a unit of currency) per day. The foreman found workers and, perhaps wishing to save his employer some money, informed them that the employer was only willing to pay three zuz per day. [it should be pointed out that the foreman did not pocket the difference.] The workers agreed to work for the three zuz wage. Should the employees discover their employer had been willing to pay four zuz, they would have no legal recourse except for the right to bear resentment against the foreman. Their argument to the foreman might be, "Do you disagree with the verse in Proverbs (3:27) that states, "Do not withhold good from those to whom it is due?" The workers' right to resentment is because the supervisor hired them at a lower salary than the boss's instructions provided for. The foreman should have been more considerate of the workers than his boss (Babylonian Talmud, Bava Metzia 75b-76a; based on a translation by Sefaria.org).

Case 2: Rava says: Concerning one who lent one hundred dinars to another and the borrower paid it back one dinar at a time, this is a valid repayment. But the lender has grounds for a grievance (*ta'arumot*) against him for repaying him in this manner, as he can say to him: You have caused me to lose out, as it is easier to use a lump sum than a few coins at a time (Babylonian Talmud, Bava Metzia 77b; based on a translation by Sefaria.org).

Case 3: If one rents a boat to transport his goods for an entire journey but then unloads it midway through the voyage. He subsequently rented the boat to another party for the second part of the journey, so there was no monetary loss for the boat's owner. Although the boat's owner has incurred no losses because of this transaction (i.e., the first party pays for the first part of the trip, and the second party pays for the second part of the trip), the owner has the right to bear resentment since the second party may not be a pleasant person to work with (Babylonian Talmud, Bava Metzia 79b; based on translations by Sefaria.org and ArtScroll; Shulchan Aruch Choshen Mishpat 311:6).

Case 4: One person gives money to another who is supposed to buy commodities with it and split the profit. If the other party (e.g., partner or agent) holds the money without using it, then the former has nothing against the latter except for resentment. The reason for the resentment is obvious. Instead of investing the money, the partner has left it idle and unused thus losing the opportunity to make a profit (Tosefta Bava Metzia 4:22).

Midat Chasidut [Way of the Pious]

Herzog (1936, pp. 384-385) posits that the "law aims at laying down a line of conduct for those who strive after the highest degree of ethical perfection." He contends that a Mishna existed in ancient times "particularly designed for the guidance of men of piety and virtue (*Chasidim*)." He underscores that "Men to whom the masses looked up for example and leading were, in particular, expected to rise to that higher standard, and failure on their part to do so would be regarded as an actual infringement of the law" (p. 385). The pious person (*chasid*) is described in Avot (5:10) as one who says, "Mine is yours and yours is yours."

The following narrative supports the above-stated view that the very pious had their own Mishna. Rabbi Yehoshua ben Levi used to converse with Elijah the Prophet regularly. According to ancient tradition, Elijah, who did not die but ascended to Heaven (see II Kings 2: 11-12), would visit truly pious people. One day, the Romans sentenced Ulla bar Kushav to death. He fled to the town of Lod, where Rabbi Yehoshua lived. The Romans threatened to destroy the entire city if the people did not deliver Ulla bar Kushav to them. Rabbi Yehoshua spoke to Ulla and convinced him to surrender himself to the Romans. Elijah was unhappy with this and stopped appearing to Rabbi Yehoshua. Rabbi Yehoshua fasted for several days until Elijah materialized to him. Rabbi Yehoshua asked Elijah why he stopped coming to him. Elijah told him he did not reveal himself to people who surrendered Jews to pagan rulers to be killed. Rabbi Yehoshua replied that he was following the law as stated in a *Tosefta*: When the authorities demand that a particular person be given to them to be executed, they were permitted to hand him over to save the entire town. Elijah responded: "Is this the law of pious people?" (Jerusalem Talmud, Terumot 8:4; 47a). Some commentaries say he should have asked someone else to do the distasteful deed. It is also possible that Elijah was not happy that Rabbi Yehoshua did not try to find another solution before resorting to this approach.

The following are some cases that describe how a pious person should behave.

Case 1: A fire breaks out on the Sabbath. Extinguishing a fire on the Sabbath, when there is absolutely no danger to life, is prohibited in Jewish law. Only a limited amount of possessions may be rescued by the household. If the homeowner declares his possessions 'ownerless' by renouncing his rights to them, then individuals other than the fire victims are permitted to rescue the property. With regard to the above case, the Talmud describes two types of ethical people. "Heaven-fearing" people save the ownerless property and

although they could legally take it home as their own) return it to the owner, not wishing to take advantage of another's misfortune. However, they expect to receive some money (i.e., the wage of a laborer) to compensate them for their trouble. One following "the way of the pious" will save and return the property but will not charge for the labor. A pious person relinquishes his fee and does not take advantage of another's misfortune (Babylonian Talmud, Shabbos 120a).

Case 2: The Babylonian Talmud (Baba Metzia 52b) discusses a case where one who has been given a deficient coin (i.e., currency in which the precious metal has been worn away through overuse) and wishes to return it to the person who gave it to him. One given a coin that legally qualifies as deficient has a certain amount of time to return it. Legally speaking, if the time limit has expired, the one who has passed the deficient coin is not required to take it back, and the recipient of the currency would not have a case against the other party aside from the right to b. A pious person, on the other hand, will take back the coin even after many months have elapsed. The Talmud thus teaches that a righteous person avoids acting in a way, albeit legal, that will result in people harboring resentment against him.

Case 3: One finds an object in such a place that it is presumed the owner gave up any hope of recovering it (e.g., from the bottom of the sea). According to the law, one is under no obligation to return it. However, one should go beyond the law and return it to its 'rightful' owner. This principle is derived from Exodus 18:20, "And thou shalt make known to them the way in which they must walk and the work they must do" (Babylonian Talmud, Bava Metzia 24b).

This is a classic case involving *lifnim mishurat hadin*.

Case 4: Some porters negligently broke a barrel of wine belonging to Rabbah bar Bar-Chana, who then confiscated the porters' garments as restitution. Rav, the judge, advised Rabbah to return the property belonging to the porters. Rabbah asked Rav whether this was indeed the law and was quoted the following verse from Proverbs (2:20): "In order that you may walk in the way of the good..." The porters then complained to Rav that they were poor, had worked all day without earning anything, and were in need. Rav told Rabbah to pay them. Rabbah again asked whether this was the law. Rav responded with the conclusion of the verse from Proverbs: "... and keep the paths of the righteous" (Babylonian Talmud, Baba Metzia, 83a).

Tosfos, a leading commentary on the Talmud (Bava Metzia 24b s.v. Lifnim), ponders a critical question relating to the above case: Why did Rav quote the verse from Proverbs as a means of telling Rabbah that he was obligated to go beyond the requirements of the law? Why not cite the passage from Exodus 18:20 that is usually used for this purpose? Tosfos concludes that the verse from Exodus, "and the work they must do," cannot be applied to a situation in which there is a substantial monetary loss. In the case of the porters, Rabbah suffered a considerable loss due to the workers' negligence. He went far beyond the law's requirements by paying the workers despite the loss of his wine barrel, much further than the verse from Exodus 18:20 suggests. Thus, Rav felt it was more appropriate to cite Proverbs "and keep the path of the righteous."

This suggests that a notable, distinguished person is legally required to go beyond the requirements of the law. The Mordechai (257) states that one who finds a lost object after the owner gave up on ever finding it (*ye'ush*) has a legal obligation to go beyond the requirements of the law. On the other hand, a poor person is not duty-bound to do more than the law requires if the owner is a person of substance.

The Talmud chronicles the behavior of pious individuals so that others will emulate them. For example, it relates that the pious of previous generations discarded their thorns and broken glassware by burying them in their property so deep in the ground that there was no chance that the plows would bring them back to the surface. Rava, a pious scholar of several centuries later, threw such waste materials into the Tigris River, and Rabbi Sheshes burned them (Babylonian Talmud, Baba Kama 30a). Rabbi Yehuda says: "One who wants to be pious should observe the words of tractate *Nezikin* [which deals with the laws of damages], to avoid causing damage to others." (Babylonian Talmud, Bava Kama 30a).

The above eight categories of *lifnim mishurat hadin* are not exhaustive. In some situations, the Sages of the Talmud felt so strongly about unfair or cruel behaviors that it forced the defendant to act in a kind-hearted manner.

Thus, the Babylonian Talmud (Baba Metzia 108a) uses the principle that one must go beyond the law's strict requirements to establish the right of pre-emption, *i.e.*, when one sells a field, the adjoining neighbors are given the right of first refusal. Every person was compelled to do that which is "fair and good"; *dina d'bar metzra* (An Aramaic term meaning the law of adjoining neighbors) became incorporated into Jewish law. Of course, in many situations, people are encouraged, but not required, to do more than the actual law mandates. Another indication that one must do more than simply obey the letter of the law is that "one

may be (legally) compelled not to act in the manner of Sodom." This refers to circumstances in which one party benefits and the other party loses absolutely nothing (this is known as *ze nehene v'ze lo chaser*). The courts can compel individuals to do the right thing (e.g., Babylonian Talmud, Baba Bathra 12b). Some situations involve *ze nehene v'ze lo chaser*, and the commentaries disagree on whether the courts can compel an individual to act righteously. One example would be the case of a property that the owner has no intention of ever renting out, and a squatter lives on it without causing any damage. The trespasser argues: "What did you lose? You never rent out these premises anyway, and I did not cause any damage." The owner's counterargument is, "You derived a benefit, for without my premises, you would have been forced to go elsewhere and pay rent" (See Babylonian Talmud, Bava Kama 20a-20b and Shulchan Aruch Choshen Mishpat 363:6-7).

Generally, spiteful selfishness is considered a behavior characteristic of Sodom and is not tolerated by Jewish law. For example, upon dividing an estate, two pieces of property may be of equal value to one heir, while one property has a definite advantage over the other (e.g., one heir may own an adjoining property). The former can be compelled to accede to the latter because the first party is indifferent about which property he receives (Babylonian Talmud, Baba Bathra 12b).

The following is another case involving "we force someone not to act in the manner of Sodom."

A person rents a mill and agrees to grind grain for the owner in lieu of paying rent. The owner becomes wealthy and wishes to have his grains ground elsewhere; he asks the tenant to begin paying rent. If the tenant has no customers to grind grain for, then he can insist that the mill owner stick to the original agreement. If, however, the leasee grinds for others and could easily grind grain for a paying customer in place of grinding the owner's grain, then using the principle of "we force someone not to act in the manner of Sodom", the court insists that the leasee charge other people for his service and pay the owner in currency (Babylonian Talmud, Kethuboth 103a; Shulchan Aruch Choshen Mishpat 318:1).

Way of the Ultra Pious

The Talmud relates stories of people who went beyond *midat chasidut*. Recounting the praiseworthy deeds of great people who went well beyond the strict letter of the law establishes them as role models to be emulated and hence stretches the aspirations of the student of the Talmud to aim for similar ethical greatness.

Rabbi Safra is described in the Babylonian Talmud (Maakoth 24a) as an individual who abided by the verse (Psalms 15:2) "who speaks truth in the heart." One day, while Rabbi Safra was praying, a man offered to buy some merchandise from him. He made an offer, but Rabbi Safra did not want to respond during a prayer. The prospective buyer assumed that Rabbi Safra was holding out for more and kept increasing the bid. After Rabbi Safra concluded his prayer, he informed the buyer that he would sell the merchandise at the first price because he had "agreed in his heart" to this price. Legally, one is not required to do as Rabbi Safra; this is the "way of the pious." Rabbi Safra held himself to a very high level of ethics and went far beyond the requirements of the law. This story demonstrates that, although abiding by the terms of an oral agreement may be sufficient for most people, there is a standard higher than following the strict letter of the law to which one should aspire.

Abba was a bloodletter/surgeon highly esteemed by the Talmud for his exemplary business practices. His patients paid as much of his fee as they could afford, leaving the money in a box in an outside room so that he could not see who had paid and who had not so as not to embarrass people experiencing poverty. In addition, when it was clear that a patient was impoverished, Abba would refuse payment and give the patient money for food. He did

this because he felt it was essential to eat a substantial meal after a bloodletting (Babylonian Talmud, Taanis 21b). According to the Babylonian Talmud (Taanit 21b), he was at such a high level of righteousness for how he conducted business that he would miraculously receive Heavenly greetings every day. Recording that Abba received daily Heavenly greetings as a reward for his outstanding practices is another device that encourages people to act more ethically than the law requires.

The Babylonian Talmud (Baba Bathra 90b) praised the father of Samuel, an eminent and wealthy Talmudic sage, who insisted on selling his produce at low prices (the prices prevailing immediately after the harvest), thereby keeping the market price stable all year long. This is the way a highly pious individual does business.

Abba Chilkiyahu was a day laborer who would not greet people while working since he did not want to waste time – even a few moments – that was not his (Babylonian Talmud, Maakoth 24a). The Talmud uses him as an exemplar of the virtue of "deals righteously," mentioned in Psalms 15.

The following narrative involving Elijah the Prophet teaches the ideal way to feed waiters. Undoubtedly, it is painful for waiters to serve food and not partake of it. The Babylonian Talmud (Kethuboth 61a) relates that there were two pious people: one gave the waiter a share of the served courses after the guests finished eating their meal (Rashi, a prominent Medieval French commentator, notes that he did provide the waiters with something to eat before working so they would not be famished); the other let the waiter have a share of each course as he served it. It is painful to provide people with food and then have to wait until the end of the meal before being allowed to taste it. It is not difficult to imagine a waiter serving something very savory and delicious and being miserable because he would have to wait until all the guests have been cared for before tasting the delicacy.

Most people would probably not give any extravagant food to the waiter; this is something only a pious person would do. In any case, Elijah conversed only with the one who allowed the waiters to eat from each course as it was being served rather than making him wait until the meal's conclusion. This is the Talmudic way of showing the ideal way to treat waiters if one wants the privilege of talking to Elijah the prophet. Elijah does not speak to people who are willing to cause even the slightest discomfort to another person.

The following story is also a classic *lifnim mishurat hadin* case. What is remarkable about this narrative is that it suggests that one who only follows the basic rules is a "barbarian" because a decent human being goes beyond the letter of the law.

Shimon ben Shetach was struggling in the flax business. His students said: Rabbi, abandon this business and let us buy you a donkey, and you will not have to work so hard. They went and bought a donkey from an Ishmaelite, which had a jewel hanging on its neck. They returned to him happily, saying, thanks to this good luck, you'll never have to work again! When he learned about the jewel, he asked his students whether the donkey's owner knew of it at the time of the sale. When they said no, he ordered them to return the jewel. [The voice of the Talmud's editor intervenes and asks:] But why should this be so?! For later, in Rabbi Yehuda HaNassi's time, it was ruled that although stealing from pagans is forbidden, one may keep an item that a pagan has lost. [So why did Shimon ben Shetach not permit himself to benefit from the pagan's mistake?]

Rabbi Shimon answered them: Do you think Shimon ben Shetach is a barbarian?! Shimon ben Shetach would prefer to hear the words "Blessed be the God of the Jews" than all the money in the world (Jerusalem Talmud, Bava Metzia 2:5; translation by Halberstadt, 2019 and Amital, 2016).

Conclusion

This paper demonstrates that the ancient sages of the Talmud saw the law as the floor to ethics. They understood that there are gradations of ethical and unethical behavior, and the objective is to motivate individuals to move up the ethics hierarchy. The ultimate goal was to ensure that the law was adhered to while, at the same time, people were taught to go as far beyond the requirements of the letter of the law as possible. Admittedly, it is much easier to convince people who believe in a final judgment and an afterlife to go beyond the simple requirements of the law than to convince those who do not subscribe to such a belief. Nevertheless, it is the job of educators in a secular society to point out the dangers of living in a world where all that matters is following the letter of the law. A responsible person or organization must strive to do considerably more than obey the law and adhere to a code of ethics. This is, in effect, what many ethicists believe.

A society in which obedience to the law is motivated merely by the fear of sanctions would scarcely rise above the jungle if it could exist at all. Obedience to the unenforceable which is the basis of every moral system and every good society may be best instilled by cultivating a reverence for God (which is a synthesis of love and fear) and a love for one's neighbor (Cohen, 1959, p. 222).

The American legal system cannot use moral judgments such as "liable under the laws of Heaven" or "not pleasing to the spirit of the sages"; it is, however, instructive for people to consider whether their behavior was morally right or wrong regardless of what the law states. Teachers of ethics and ethicists must stress the value of going beyond the basic requirements of the law. The Sages recognized the limitations of focusing exclusively on rules rather than values. We too must emphasize that ethics must be value-driven, not rule-driven.

Sperber (2006) cites the words of Maimonides to prove that there are fundamental foundational values such as compassion that underlie Jewish law. Referring to a law involving the Sabbath, Maimonides writes: "From this, you may infer that the laws of the Torah are not meant to wreak vengeance upon the world but to bestow on it mercy, kindness, and peace" (Maimonides Mishneh Torah, Laws of Shabbos 2:3). The same can be said for any legal system in a democracy. The laws are meant to make the world a kinder, safer, and more compassionate place. The best way to accomplish this is by underscoring the importance of going beyond the law's strict requirements.

We argue that these ethical considerations are a sufficient motivation for companies to engage in CSR activities. While it is possibly the case that CSR activities can benefit the firm's financial performance as well, there also exists an ethical and moral obligation for individuals, as well as organizations, to provide benefit to their communities and society.

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