

LIFNIM MI-SHURAT HA-DIN
AS HALAKHIC CRITICISM

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Abstract

The halakhic category of *li-fnim mi-shurat ha-din* (often rendered as “beyond the letter of the law”) is frequently understood as referring to supererogatory behavior, which, of its very nature, is voluntary and not obligatory. Various halakhic authors, however, consider *lifnim mi-shurat ha-din* as obligatory (at least in some cases), and some even go as far as to maintain that it should be compulsory by court. Such a stance is surprising and paradoxical, for if one is expected, indeed demanded, to retract the law and to adopt a different norm in its stead, does not this imply a negative evaluation of the law? This paper seeks to consider such a possible conclusion. Its point of departure is Rabbi Shlomo ben Aderet’s (known by his acronym Rashba) interpretation of the Talmudic saying, that Jerusalem was destroyed (by the Romans) because rabbinic authorities of Second Temple times followed the laws of the Torah (לא חרבה ירושלים אלא על שדנו בה דין תורה [TB Bava Metzia, 30b]), as suggesting that *under certain circumstances one should not follow the Torah*, and Rabbi Joshua Falk’s (16th century, Poland) similar view, in his *Derisha u-Perisha* commentary on the halakhic code of Rabbi Yaakov ben Asher, *Arb’a Turim*. Following that view it discusses two Talmudic narratives, in which the halakhic norm is criticized by a rabbinic sage, claiming that one should adopt a higher moral standard, thus implying that the moral standard of the Halakha is at times problematic, and hence it is not always the appropriate path to follow.