Sanctity Beyond the Law[1]

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How should a religious Jew go beyond the letter of the law in the pursuit of sanctity? Even after affirming the desirability of such an endeavor, how does he or she then determine an appropriate course of action? *Halakhah* provides concrete guidelines for proper behavior within the realm of what is required according to Jewish law, but gray areas not covered by *halakhah* depend upon more subjective judgments—which may or may not accord with Torah ideals. What can committed Jews do to ensure that their attempts to go above and beyond the strict demands of the law remain faithful to Jewish values?

A close reading of the most famous traditional source on this topic provides insight and guidance. Leviticus 19:2 contains the general mandate to "be holy," *k'doshim tihyu*; and Ramban[2] interprets this as a call to pursue sanctity even when not explicitly mandated by Jewish law, and to thus avoid becoming a "scoundrel with the Torah's permission"—that is, someone who lives a dissolute lifestyle while adhering to every jot and tittle of the law. A person could eat glatt kosher meat and drink rabbinically approved wine, while still speaking coarsely and cohabiting indecorously with one's spouse—and such a person would not be in technical violation of a single halakhic norm. Yet, such a lifestyle lacks sanctity. The Torah's mandate to be holy charges us to strive for more.

How do we go about extending Torah values beyond that which is clearly set forth as our minimum responsibilities? Granting validity

to our human reasoning and ethical intuitions makes the path easier. Assuming that Judaism instructs us to rely upon our capacity for ethical reasoning, we have adequate means for making good decisions. Even when not given definitive halakhic direction, we can rely upon our own analysis and intuitions to select ways in which we might strive to exceed the minimum requirements of our religious obligations.

Ramban himself does give such credence to human ethical intuitions. When explaining why the sin of *ḥamas* ("lawlessness"[3]) specifically brought about the deluge in the time of Noah, Ramban writes: "Because it [i.e., the prohibition of *ḥamas*] is a rational commandment that does not need a prophet's command."[4] The generation of the flood was guilty of sins of theft and violence, whether or not prior divine revelation had expressly cautioned them against engaging in such behavior, because human reasoning alone is sufficient to arrive at the conclusion that such behavior is wrong. Having accepted the validity of human reasoning in this case, Ramban could have continued in the same vein and said that we should utilize the same human reasoning to guide our determination of what constitutes appropriate religious striving beyond the minimum requirements of the law. Interestingly, he does not do so; rather, Ramban highlights resources within the tradition that offer guidance in this regard. After outlining his interpretation of *k'doshim tihyu*, Ramban explains how to undertake this crucial enterprise:

> Therefore, after having listed the matters that God prohibited altogether, Scripture followed them up by a general command that we practice moderation even in matters that are permitted. One should minimize sexual intercourse, similar to that which the rabbis have said, "So that the disciples of the sages should not be found together with their wives as often as roosters [with hens]" (B. Berakhot 22a), and one should not engage in it [i.e., intercourse] except as required in fulfillment of the commandment thereof. One should also sanctify oneself [i.e., by exercising self-restraint] by using

> wine in small amounts, just as Scripture calls a nazirite[5] "holy" (Numbers 6:8), and one should remember the evils that the Torah mentioned as following from [drinking wine] in the cases of Noah and Lot. Similarly, one should keep oneself away from impurity, even though we have not been admonished against this in the Torah, similar to that which the rabbis have said: "For the *p'rushim*, the clothes of the unlearned are considered as if trodden upon by a *zav or zavah*[7]" (B. Hagigah 18b), and just as nazirites are called "holy" because of guarding themselves from the impurity of the dead. Likewise, one should guard one's mouth and tongue from being defiled by excessive food and by lewd talk, similar to what Scripture states: "And every mouth speaks wantonness" (Isaiah 9:16). Moreover, one should purify oneself in this respect until one reaches the degree known as [complete] self-restraint, as the rabbis said concerning Rabbi Hiyya, that he never engaged in idle chatter.[8]

A close reading of this passage reveals four sources of instruction regarding Torah ideals put forward by Ramban as guides to helping us determine the scope of any supererogatory behavior: (1) the worldview espoused in various rabbinic statements, (2) extrapolation from existing *halakhot*, (3) value judgments set forth in prophetic passages, and (4) helpful instruction gleaned from biblical narratives.

Let us begin with the first category. Ramban cites three different rabbinic sayings in his presentation. Rabbinic praise of Rabbi Ḥiyya for always avoiding idle chatter conveys an important Jewish value, irrespective of the fact that *halakhah* does not specifically prohibit such discourse. Along similar lines, rabbinic statements instruct us to not overindulge in marital relations and to avoid ritual impurity—neither of which practice is actually required by *halakhah*; these are both examples of going above and beyond the minimal requirements of the law. This method (namely, scrutinizing rabbinic dicta to uncover the values underlying the texts) works, but it raises the question: how did the sages themselves know which

ideals to promote? The problem may be solved if we assume they had well-developed traditions regarding these matters. On the other hand, if we think that they relied on their best human ingenuity to independently make religious evaluations, then we must return to our opening quandary: how do religious people, even those of great stature, decide precisely how to approach going beyond the letter of the law?

Ramban also extrapolates from the corpus of existing *halakhah* (i.e., the second category in the enumeration above). Calling a nazirite "holy" (as the Torah does) implies that these practices deserve emulation. Thus, we can infer that it is ideal to minimize wine intake and to avoid defilement by corpses. Clearly, this kind of halakhic inferencing does not fully circumvent the need for human judgment. Is the ideal to avoid alcohol altogether, or simply to minimize its consumption? Should all forms of ritual impurity be avoided, or only those that derive from contact with a corpse? More fundamentally, the analysis depends upon our understanding of the status of the nazirite. If we view this institution as a concession to human weakness more than an ideal, we certainly cannot hold up its details as models for emulation. Ramban here, however, tends to see the nazirite as an ideal: in his opinion, the nazirite brings a sin offering upon completing the term of the vow because of leaving this exalted state and returning to mundane reality (and not because there was anything inherently problematic about having assumed the role of the nazirite in the first place).[9] Though Ramban's analysis is cogent, the fact remains that extrapolating from *halakhot* depends upon our analysis of the teleology of the *mitzvot*—that is, our human reasoning does come into play. Learning from the commandments mandates an approach that abandons religious formalism and makes assumptions about reasons for the commandments.[10]

Prophetic utterances also offer guidance (cf. Ramban's third item), as do passages from biblical wisdom literature. Isaiah declares: "Therefore the Eternal shall have no joy in their young men, neither shall God have compassion on their orphans and widows; for every

one is ungodly and an evildoer, and every mouth speaks wantonness. For all this God's anger is not turned away, but the divine hand is stretched out still" (9:16). The prophetic critique of wanton speech emerges clearly, whether or not such discourse violates the formal requirements of Jewish law. Of all biblical books, perhaps Proverbs has the most potential in this regard. The judicious advice contained in numerous proverbs directs the pursuit of sanctity and ethics above and beyond halakhic norms.

Finally, we have biblical narratives (the last item on Ramban's list). No verse specifically forbids drunkenness, but various scriptural stories effectively convey the dangers of inebriation. For example: Noah gets drunk and suffers some form of humiliation at the hands of his son (Genesis 9:20–27); Lot drinks too much and ends up committing incest with his daughters (Genesis 19:30–38). These stories effectively convey a cautionary approach toward alcohol consumption. In analogous fashion, we can utilize this methodology to argue that the Torah is critical of both anger and polygamy. The Torah may not prohibit anger but that trait seems to repeatedly get Moshe into trouble. Similarly, although the Torah does allow polygamy, its stories suggest that marrying multiple wives invariably leads to significant family tension.[11] Thus, reading between the lines of biblical stories provides an effective way to convey Torah principles, as we may infer from those stories underlying values—which we may then choose to emulate in our striving to go beyond the letter of the law in our religious lives.

The four methods discussed by Ramban bear strong resemblance to a similar list found in David Shatz's review of Walter Wurzburger's *Ethics of Responsibility*.[12] According to Shatz's reading of Wurzburger, when we use our ethical intuitions (as informed by Torah values) in order to go beyond halakhic norms, we must rely upon: (1) the study of specific laws, (2) moral conduct in conformity with Torah norms, (3) *aggadah* and biblical narratives, and (4) personal contact with Torah scholars. The second item on this list highlights a point not mentioned in Ramban's presentation. We do not simply analyze

mitzvot intellectually, in the hope of extracting themes that can apply beyond a given set of laws; crucially, a lifetime of practicing the commandments helps us to cultivate the refined character traits that enable us to then apply those values to additional situations. We shall also examine the last factor in Shatz's list—encountering role models—which is not explicitly articulated in Ramban.

Having explored Ramban's various methods for expanding religious commitment, we may wonder why it is even necessary for us to do so. Instead of leaving it up to us to strike out beyond the limits *halakhah* on our own, God could have given us a more expansive, extensive legal code that codifies all of our responsibilities as formal obligations; why was this not done? In a different passage, Ramban implies that the problem is quantitative. According to Ramban, the verse "And you shall do what is right and good in the eyes of the Eternal" (Deuteronomy 6:18) commands us to suffuse all of our interpersonal interaction with an extra measure of kindness, even when not specifically delineated in specific *halakhot*. He explains:

> Now this is a great principle, for it is impossible to mention in the Torah all aspects of a person's conduct with one's neighbors and friends, and all of one's various transactions, and the ordinances of all societies and countries. But since God mentioned many of them—such as "you shall not go about as a talebearer" (Leviticus 19:16), "you shall not take vengeance, nor bear any grudge" (Leviticus 19:18), "neither shall you stand idly by the blood of a neighbor" (Leviticus 19:16), " you shall not curse the deaf" (Leviticus 19:14), "you shall rise before the elder" (Leviticus 19:32), and the like—God reverted to state in a general way that, in all matters, one should do what is right and good, including even compromise and going beyond the requirements of the law.[13]

Note how Ramban lists several interpersonal commandments explicitly included in the Torah. Apparently, here too we extrapolate from the data offered by explicitly enumerated *mitzvot*, to extend beyond

those *mitzvot* and encompass additional behaviors not explicitly commanded. Furthermore, he explains that it would be impossible for the Torah to address every possible scenario demanding ethical behavior. Human social interactions include too much variety; no law code could hope to cover each and every case in a specific fashion. Therefore, God chose to delineate some specifics, from which we can then infer an overarching moral mandate.[14]

Perhaps there are other factors in play that led to the *halakhah* specifically *not* encompassing all principles in concrete and detailed law. We all experience a wide variety of interpersonal encounters in a lifetime; moreover, many issues are not clear-cut and do not allow for a one-size-fits-all response. The list of forbidden foods is the same for every Jew; however, the amount considered appropriate for any individual to consume depends upon time, place, and personal inclination. Accordingly, it would be impossible to craft a comprehensive code to apply to all situations that could possibly arise. Rabbi Isaiah Horowitz (165–1630)[15] offers just such an explanation of Ramban. Different times and circumstances generate different standards; people themselves change over the course of a lifetime; and character and inclination differ from person to person. The Torah could not give universal guidelines determining what constitutes overeating, excessive indulgence in marital relations, or too much idle chatter; instead, it simply commands us to pursue a life of holiness—and this pursuit demands personalized work in all those areas of life.[16]

Rabbi Naftali Zvi Yehudah Berlin (1816–1893)[17] uses a parallel idea to solve a textual problem. The verse commanding holiness begins with the unusual phrase *dabbeir el kol adat b'nei yisrael* ("Speak to the entire nation of the Israelites," Leviticus 19:2). This phrase appears five times in the Torah but only once as the introduction to a specific commandment. Berlin explains that the Torah needs to emphasize the inclusion of all Israel precisely because this commandment includes a "sliding scale." Universal objective commandments obviously apply to every Jew and thus do not need

a formal introduction. However, commandments that are dependent upon context and individual constitution do not clearly pertain to all, and the Torah therefore stresses how this subjective command applies to each Jew according to his or her own situation.

Strikingly, Rabbi Yehonatan Eybeschütz (1690–1764) interprets the phrase in a diametrically opposing manner.[18] He expresses concern about people who take on ascetic practices beyond the Torah's obligations, noting that the Pharisees objected to ascetic practices of other Second Temple sects. According to Eybeschütz, the phrase *kol adat b'nei yisrael* in Leviticus 19:2 actually informs us that one should only take on aspects of *p'rishut* (that is, ascetic behavior) that the whole community can follow. In this way, those seeking to expand their religious commitments will not cut themselves off from their community. Whereas Berlin and Horowitz see this *mitzvah* as setting forth a scale with varying applications, Eybeschutz sees here a commandment with a more fixed standard.

Rabbi Eybeschütz's position serves as an important counterbalance to the other view. If we assert both that we need to go beyond the law and that this demand works differently for each person, then we open the danger that select individuals may adopt extreme practices in their striving for supererogatory behavior. For example, someone might adopt a severe form of asceticism as a purported fulfillment of *k'doshim tihyu*. We need to balance the idea of varying and individual obligations, on the one hand, with the good judgment necessary to prevent wild and harmful applications, on the other.[19]

The Mishnah commentary of Rabbi Israel Lipschitz (1782–1860)[20] further develops the approach of Rabbis Horowitz and Berlin. According to the Mishnah, "Anyone not involved with *mikra, mishnah,* or *derekh eretz* is not part of civilization" (Kiddushin 1:10). Those who contribute to society, according to this text, need to be engaged in study of Scripture (*mikra*), study of the Oral Law (*mishnah*), and acts of kindness and decency (*derekh eretz*). Lipschutz explains that these categories represent the three realms of human obligation—belief,

action, and character. Beliefs emerge from Scripture: although the Bible never states a list of fundamental beliefs, the idea of a single, benevolent, and just God running the universe is implicit in almost every biblical book. Actions commanded by *halakhah* are found in the Mishnah and Talmud. Character finds expression in *derekh eretz*, the realm of our interactions with others, and does not receive legal treatment in the Bible or in the Talmud: no commandments specifically forbid arrogance, anger, laziness, or gluttony, and no *mitzvot* instruct people to be merciful, sympathetic, patient, and kind.

Why did the Torah not include clear commandments regarding *middot* (that is, the personal character traits that inform our conduct in the realm of *derekh eretz*)? Lipshcutz writes that no law can give precise directives regarding these matters, since they vary based on time, place, generation, and the matter at hand. These matters require a subtlety and complexity that a set of laws cannot fully address. Could we imagine a legal code outlining exactly when it is appropriate to get angry? Would the challenge of appropriate pride play out identically for a king and a tailor? We can learn more about these matters by spending time with people of upstanding character than we can by reading a rule book. For this reason, the rabbis prized the practice of *shimmush talmidei ḥakhamim*, "attending the sages"—which speaks to direct personal interactions, and not merely attending their classes or lectures. Only a live model of refined character can help us navigate the nuance and variety of ethical challenges that we are likely to encounter in our lives.[21]

Thus, it was not merely a penchant for brevity that precluded the Torah from including a rule book for every situation; some things simply do not allow for encapsulation in law. Knowledge and insight of such matters can only be acquired via encountering the rich texture of the human personality in the crucible of life. In addition to flesh-and-blood experience, narratives present us with even more examples of human interaction—and provide us with the opportunity to draw upon their nuances and complexities, as we

distill from those narratives the values we will then seek to pursue in our own lives. Rather than telling us exactly how much to eat or precisely how much pride to exhibit, the Torah asks us to reflect deeply about the individuals in its narratives, in order to find there both positive and negative role models. Ultimately, this sets the groundwork that allows us to pursue our own path toward excellence in ethics and sanctity, more powerfully than would be possible from exclusive reliance on a rule book.

While arenas of action that depend on individual temperament and circumstance prove more resistant to legal precision, it would be a mistake to draw a sharp dividing-line between interpersonal commandments (*mitzvot bein adam la-ḥaveiro*) and commandments treating the relationship between ourselves and the Divine (*mitzvot bein adam la-makom*). *Halakhah* certainly includes concrete demands in the realm of the former; it also calls for going beyond the law in our attempt to fulfill the spirit of the latter. Ramban says that the commandments regarding sacred rest are intended to ensure that Shabbat and the festivals are true days of rest. According to biblical law, a Jew could spend all of Shabbat moving heavy items around the house or engaging in business dealings, without technically violating the prohibition against performing work (*m'lakhah*) on the Sabbath; yet, such behavior would hardly constitute a sanctified day of rest. Therefore, the Torah directs us with a general command to create a *shabbaton*.[22] Why did the Torah employ a generality here, rather than a more detailed directive? We could answer this by returning to the quantitative problem of the difficulty of covering every scenario, as described above. Alternatively, it may be that determining the "spirit of Shabbat" also depends upon contextual and individual factors, which make it too complex to be treated comprehensively in an itemized rule book.[23]

Before concluding with the implications of this analysis, I want to add one more possible reason why the Torah does not codify every Jewish ideal into binding law. In an important letter, Rabbi Avraham Yitzḥak Kook (1865–1935)[24] writes that the Torah purposely left

certain items to be fulfilled as middat ḥasidut (that is, supererogatory piety) or as behavior specifically characterized as being li-f'nim mi-shurat ha-din (that is, above and beyond the strict requirements of the law), because there is great value in the voluntary exercise of free will not present in obedience to command.[25] Obviously, Rav Kook does not minimize the value of adhering to divinely given directives. Yet something would be amiss if a religious person never felt inspired to act beyond the strict confines of the law's demands. God left us an incomplete world and asks us to perfect it; in the same way, God did not locate all goodness in the Torah and therefore asks us to complete the picture on our own.

Of course, this still leaves open the question why God chose to codify particular demands while leaving specific others open for human initiative to fill in. The distinction between that which is codified and that which is discretionary points to an advantage of the approach described above. If we can successfully show that certain issues within religious life lend themselves to codification whereas others do not, we may be able to point to a logical basis for understanding when God made specific demands and when God did not. On the other hand, Rav Kook's approach leaves us without a clear method for explaining the distinction between the two realms.

According to Ramban, the directives to "be holy" and to "do the right and the good" both demand that we go beyond the law in our pursuit of sanctity and ethical decency. What provides the necessary guidance that enables us to do so? Careful investigation of Ramban's commentary on *k'doshim tihyu* reveals four sources of guidance: the insight of our sages, prophetic wisdom, biblical narratives, and the data provided by concrete *halakhot*. These last two sources each carry particularly interesting implications.

Narrative points to the subtle quality of human experience necessary for accumulating wisdom. While legal works provide enormous guidance, there is no substitute for existential encounter—mostly in real-life situations, but also expanded through the world

of imaginative literature. We can gain greater understanding into ambition from Macbeth, and jealousy from Othello, than we would by reading a work entitled "The Code of Character Traits." Thus, it would be a mistake to convert these areas of religious life into subjects fit for their own Shulhan Arukh. Laws are necessary insofar as they lay out a basic rubric for what is expected of us in general terms, but they cannot teach precisely when to get angry or what constitutes overindulgence.

Applying the implicit ideals of the laws also carries philosophical assumptions. As noted, we can only use the data of *halakhah* if we can rely on our analysis of the purpose of specific *mitzvot*. For example, the underlying message of the nazirite depends on whether we view this institution as a religious ideal or as necessary concession to someone struggling with their inclinations. Pure halakhic data will at times prove insufficient, without an accompanying ideology. This point needs to be addressed by those emphasizing the need to develop a Jewish philosophy purely from within the *halakhah*.

Acknowledging our reliance upon an ideology of halakhah, biblical narratives, and aggadic teachings in order to achieve a more robust spiritual life forcefully highlights the need to supplement *halakhah* in the fulfillment of religious aspirations. While Judaism may be most defined by its law, rigorously defined statutes do not constitute a complete, all-encompassing system. "Being holy" and "doing the right and the good" remind us that the pursuit of sanctity and ethical excellence depend upon thinking beyond the *halakhah*. Ramban's classic commentary provides various models for how to accomplish this.

NOTES

[1] The author thanks Dr. David Shatz for his helpful comments in discussing this essay.

[2] Rabbi Moses ben Naḥman, also known as Naḥmanides (Spain, 1194–1270).

[3] NJPS translation.

[4] Ramban, commentary on Genesis 6:13, s.v. *ḥamas*.

[5] A nazirite is a person who voluntarily decides, for a limited period of time, to abstain from drinking alcoholic beverages and consuming grape products, to not get haircuts, and to avoid all contact with the dead; see Numbers 6:1–8.

[6] The Hebrew *p'rushim*, sometimes anglicized as "Pharisees," denotes a class of Jewish persons in late antiquity given over to a range of supererogatory pietistic practices, some of which went far beyond the simple requirements of the law.

[7] *A zav* (male) and *zavah* (female) are those who have become ritually impure due to ongoing discharge, and they must separate themselves from the community until they undergo a purification ritual; see Leviticus 15.

[8] Ramban, commentary on Leviticus 19:2. The translation, with minor changes, is taken from Charles B. Chavel's translation (New York: Shilo, 1971–1976).

[9] Ramban, commentary on Numbers 6:14.

[10] On the broader question of utilizing *taamei ha-mitzvot* for halakhic analysis, see my "*Taamei Ha-mitzvot*: Halakhic Analysis and Brisker Conceptualization," in Reuven Ziegler, ed., *That Goodly Mountain* (Yeshivat Har Etzion: Alon Shevut, 2012), pp. 97–108.

[11] Two examples: (1) After she encourages Abraham to marry Hagar, Sarah ends up resenting her former maid-turned-rival and drives her out of the house. (2) Due to Laban's deception Jacob ultimately marries four wives, setting up a pattern of competition, jealousy, and enmity that spills over to the next generation and has serious consequences for the well-being of the family.

[12] David Shatz, "Beyond Obedience: Walter Wurzburger's *Ethics of Responsibility*," in Tradition 30:2 (Winter 1996), p. 80; commenting especially on Walter Wurzburger, *Ethics of Responsibility: Pluralistic Approaches to Covenantal Ethics* (Philadelphia: Jewish Publication Society, 1994), pp. 37–38.

[13] Ramban to Deuteronomy 6:18; translation is based on Charles B. Chavel (see note 8 above).

[14] For a parallel analysis, see the famous comments of Rabbi Vidal of Tolosa in his *Maggid Mishneh*, to M.T. Hilkhot Shekheinim 14:5.

[15] Also known as the Shelah or the Shelah Hakadosh (after his best-known work, *Sh'nei Luḥot Ha-b'rit*), Horowitz lived in Prague and later in Jerusalem and was an important influence on the Hasidic movement.

[16] Isaiah Horowitz, *Sh'nei Luḥot Ha-b'rit*, *Asarah Maamarot, Maamar* 7.

[17] Also known as the Netziv. Rabbi Berlin led the Volozhin yeshiva in Lithuania

from 1854 to 1892. See his *Ha·ameik Davar* to Leviticus 19:2.
[18] See his Torah commentary, *Tiferet Y'honatan*, to Leviticus 19:2.
[19] I thank David Shatz for pointing out the danger of extremism in this context.
[20] Also known as the Tiferet Yisrael, after the title of his well-known commentary to the Mishnah.
[21] Yisrael Lipschitz, *Tiferet Yisrael* commentary to M. Kiddushin 1:10, *Yakhin*, no. 79.
[22] Ramban, commentary to Leviticus 23:24.
[23] David Shatz also uses the Ramban on *shabbaton* to minimize a sharp distinction between ethical law and ritual law regarding going beyond the law; see Shatz, "Beyond Obedience," p. 86.
[24] Rav Kook was the Ashkenazic Chief Rabbi of British Palestine from 1921 through his death in 1935.
[25] See Rav Kook's *Ig'rot Ha-ra·ayah* (Jerusalem: Mosad Harav Kook, 1985) vol. 1, p. 97.