Is There an Obligation to Go Lifnim Mishuras Hadin?

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Question: In a case where the basis for severance is to go *lifnim mishuras hadin,* can that be enforced by beis din?

Answer: There is a major dispute about whether bais din is authorized to enforce *lifnim mishuras hadin.* It might be assumed that, by definition, one cannot be compelled to go *lifnim mishuras hadin;* however, some Poskim do say that bais din can force someone to pay *lifnim mishuras hadin* if they believe it is warranted. Others say that they cannot literally enforce it, but they can induce the individual through public shaming or by other means. One may ask: If bais din can force a person to go *lifnim mishuras hadin*, what is the difference between that and actual *din*? Rav Zalman Nechemya Goldberg says that *din* is a broad set of rules that are not subjective. *Lifnim mishuras hadin* is more subjective and depends on the context and position of the litigants. The rules are not as fixed and bais din can decide how and when to apply them. Still and all, it can be enforced as an obligation. Other Poskim disagree and say that *lifnim mishuras hadin* cannot be enforced at all.

There is another opinion that although *lifnim mishuras hadin* cannot be enforced on everyone, it can be enforced on an *odom chashuv.* The Gemara tells the story of an Amorah who hired workers to transport barrels of wine for him. The workers broke the barrels during transport and the Amorah asked a *dayan* if he could demand payment from them. The *dayan* told him that not only should he not demand payment, but he also should pay the workers their wages. When asked if that was the halacha, the *dayan* said that it is. Many Poskim understand that this Gemara is saying that a distinguished person can be obligated to conduct himself according to the standards of *lifnim mishuras hadin* because for him that is considered *din*. Others further apply this concept to a community, as *kehillah* is held to a higher standard. Thus, a community may be compelled to pay severance to a public official.