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THESIS REPORT
THE HALAKHIC DEFINITION OF KAVOD

PAULA GOLDBERG

Ms. Goldberg's thesis analyzes the use of the term kavod as it appears in halakhic frameworks pertaining to human beings of regular or "low" social status. Her introduction frames the parameters of the thesis by listing the term's use in a variety of halakhic frameworks, e.g., kevod shabbat, kevod ha-torah, kevod ha-briyyot. She then eliminated those uses which did not apply to human beings and further limited the field to persons of regular or "low" social status, e.g., the indigent. Her work finally covers kevod ha-briyyot, kevod rabbim, kevod zibbur, and the kavod of society's disadvantaged. In four chapters Ms. Goldberg presents Palestinian and Babylonian Talmudic sources dealing with legal prescriptions and proscriptions which define the halakhic behavior demanded by kavod. In two final chapters she analyzes kavod as a Biblical term and proposes that the laws governing kavod are rooted in the Rabbis' understanding of zelem Elokim.

Her chapter on kevod ha-briyyot shows the historical development of limitations on R. Zera's statement that "human dignity overrides prohibitions in the Torah." Palestinian Talmudic sources take this statement literally and permit temporary abrogation of pentateuchal prohibitions where observance of them would embarrass or degrade a person. Though this view is still preserved in a single Babylonian Talmudic source, the general thrust of that Talmud is to limit abrogations of law for the sake of kevod ha-briyyot to rabbinic laws. Thus, we see how different rabbinic circles maintained independent views regarding the application of R. Zera's statement and how each center developed and changed his statement's meaning over time.

Ms. Goldberg also showed that the term kevod rabbim had different meanings in the two Talmudim. In the Palestinian Talmud it was used to indicate kevod ha-briyyot, human dignity, and kevod zibbur. In the Babylonian Talmud it took on another meaning, namely, "the honor due a huge crowd or mass of people." In its Babylonian form it was the means by which sages maintained a respectful relationship with the people and maintained the masses' respect for Torah and its scholars.

As might be expected, kevod zibbur, a distinctly Babylonian Talmudic term, touched primarily liturgical settings and their participants. The Talmud never clearly defines the term. Rather, it offers four different situations in which certain activities are prohibited "for the sake of kevod zibbur. A dual definition of the term emerges: a respectful approach to a congregation by liturgical functionaries and acting in such a fashion as to maintain a decorous and dignified congregational ambience.

Ms. Goldberg's addressed the issue of maintaining the kavod, honor or dignity, of the dead, mourners, indigent, and women. She finds these to be subsets of the more general kevod ha-briyyot. In these cases the law seeks to reduce or obliterate class distinctions where they would hurt or embarrass a disadvantaged group.

After a general inspection of kavod's use in th Bible, Ms. Goldberg concluded that, in its construct form, God is the usual referent. On this basis she suggests that the source of all rules protecting kavod is the idea that human beings are like God having been created in God's image. Thus, kavod is inherent in every human being. On the basis of this view, Ms. Goldberg reviews all her categories and finds that there are very few, if any, positive actions which the laws of kavod demand. Most kavod halakhah either abrogates certain requirements or actions or prohibits them. She contends that these regulations are "passive" because there is no requirement to create kavod in a person. It already exists. Rather, rabbinic regulations demand recognition of this inherent human characteristic through resistance to any attempt to minimize or damage it.

Ms. Goldberg's thesis is an example of good use of both critical-historical and traditional Tlamudic methods as research tools for defining a term in Talmudic literature. Though she was looking for a uniform legal meaning of kavod, she did not find one. This gives some support of Kadushin's view that terms of "value concepts" are colored by their frameworks. The thesis might have investigated this point in greater depth, but the author felt that the number of rubrics studied did not warrant a full endorsement of Kadushin's view. she also felt that adding rubrics would vitiate her study of kavod as it relates to ordinary or disadvantaged society members. I believe Ms. Goldberg's work is thoughtful, well-researched, appropriately circumscribed and clearly presented.

Respectfully Submitted,

Dr. Michael Chernick

THE HALAKHIC DEFINITION OF KAVOD

PAULA R. GOLDBERG

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

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היודע בחבירו שהוא גדול ממנו אפילו בדבר אחד
שחייב לנהג בו כבוד

"One who knows that his fellow is greater than he,
even in a single matter, is required to honor him."
(B.T. Pesachim 113b)

My deepest appreciation and respect to all of those greater
than I in so many ways:

to my husband, Harvey, and my sons, Steven and Joshua,
whose patience, understanding and support seems to know no
limits,

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Paula R. Goldberg
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INTRODUCTION

The word כבוד, in one form or another, is ubiquitous throughout rabbinic writing, both aggadic and halakhic. It can be translated as "honor" or "respect," but it defies simple definition. Expressions with the term כבוד are used to refer to a wide variety of things, people, and situations, the meaning and impact differing depending on the context in which the word appears. Consider the following passages from the Mishnah:

מסכת אבות ו,ג
 הלומד מחבירו...אפילו אות אחת צריך לנהוג בו כבוד...
 ואין כבוד אלא תורה

Tractate Avot 6,3
 He that learns from his fellow...even a single letter ought to render him honor...and 'honor' is naught but 'the Law'

מסכת אבות ו,ו
 ...והתורה נקנית בארבעים ושמונה דברים ואלו הן...
 ...אוהב את-המקום, אוהב את-הבריות...ומרחק
 מן-הכבוד

Tractate Avot 6,6
 ...and the Law is acquired by 48 qualifications and [among them] are loving the Omnipresent, loving humankind...and by keeping oneself far from honor.

In the first statement, כבוד is clearly positive, even being equated with the Torah itself. In the second statement, which appears only a few paragraphs later, כבוד is negative, an obstacle between a person and the acquisition of knowledge. However, within each statement, the meaning is not ambiguous.

Max Kadushin uses the expression "value-concepts" to

refer to individual words or short phrases which communicate a constellation of abstract ideas and values. He explains:

"We shall find that the value-concepts are not only undefined but non-definable...Being non-definable, the value-concepts are extremely flexible, and they can, therefore, respond to and express the differentia of human personalities...At times they can allow for shadings in belief, for an attitude which is neither complete assent nor complete dissent."*

This study did not attempt to prove whether כבוד fits the exact criteria of a value-concept. It is useful to keep Kadushin's construct in mind, however, as we try to discern meaning in the wide variety of expression and diverse applications in which כבוד occurs.

Particularly prevalent in legal literature are references to כבוד שבת and כבוד תורה, two of the foundations of Jewish life. Other references to special times and things include כבוד יום טוב, כבוד שמים, and כבוד בית אביר. This study, however, did not focus on those expressions which referred to places, times, or objects.

Many expressions using כבוד refer to personalities, including God, named individuals and particular groups. In legal writings, many of the citations referring to God are actually biblical quotes or formulations related to liturgical settings. In Chapter Five, the biblical uses of כבוד are examined, with particular attention to expressions

* Max Kadushin, The Rabbinic Mind, (New York: Jewish Theological Seminary of America, 1952), pps. 2,7.

such as כבוד ה'.

In the Talmud, the uses of כבוד for people include references to particular individuals, such as כבוד למשה and כבוד לרבה בר חנה. In these cases, כבוד refers to the high esteem with which these people were regarded because of their accomplishments or wisdom.

Several categories of כבוד refer to people with special titles, for example כבודו דכהן גדול. In these cases, כבוד refers to the consideration due these people because of the title they hold. It is not dependent on the merit of the individual, but rather on the position indicated by the title, often inherited. For others with titles, such as כבוד הרב and כבוד חכם, the respect is based on personal achievement and behavior. Other rubrics of כבוד encompass groups with titles, such as כבודן של ישראל. The consideration in these cases depends on membership in the group.

Finally, there are rubrics of כבוד of people with no particular title, in no membership group, and with no special merit. These categories refer to human beings in general, or people in situations which others might be in at some time. This study focuses on the meaning of כבוד in these groups because they are so encompassing. All people come under the rubrics of כבוד בריות and, eventually, כבוד המת regardless of title, merit, power or position.

In the first four chapters, the textual references to

these categories are examined. Chapter Five, in addition to examining linguistic and biblical considerations, explores the divine-human relationship. This is a prelude to the discussion, in Chapter Six, of the concept of כבוד in the light of that relationship. Finally, Chapter Seven examines the common factors in all the categories of כבוד considered in this study, drawing a conclusion about the way in which כבוד operates in the legal system.

CHAPTER ONE

KEVOD HABRIYOT - HUMAN DIGNITY

The expression כבוד הבריות literally means "respect of creatures," but is used exclusively to refer to humans, and is best translated as "human dignity." A tannaitic statement brings this idea to the realm of halakha, where it becomes a principle which first explains, and later helps to decide, issues of law. The impact of this concept evolves, its scope depending on the generation and location of the amoraim who use it.

Early Legal Understanding of the Concept of Human Dignity

The earliest legal use of the concept of כבוד הבריות, human dignity, is found in the Tosefta Baba Kama 7:10. An essentially identical version is found in the Babylonian Talmud, Baba Kama 79b. In a discussion between Rabbi Meir and Yochanan ben Zakkai, the latter offers his explanation for the harsher penalty for the theft of an ox compared with the theft of a sheep:

בבא קמא דף ע"ט/ב
אמר רבן יוחנן בן זכאי בא וראה כמה גדול כבוד הבריות
שור שהלך ברגליו חמשה ש' שהרכיבו על כתיפו
ארבעה:

Baba Kamma 79b

Rabban Yochanan ben Zakkai said: Come and see how great is human dignity. For an ox which walks on its own feet one must pay fivefold, but for a sheep which he bears on his shoulders, one pays only fourfold.

According to Rabbi Yochanan, the lower payment is partial compensation for the loss of dignity due to the fact that the thief must carry sheep on his shoulders. Rashi states:

שה שהרכיבו: הננב על כתיפו וזלזל את עצמו בו לפיכך
היקל הקב"ה עליו בתשלומין.

The thief carries the sheep on his shoulders and degrades himself with it, therefore the Holy One lessens the required payment."

The dignity of the individual is so important that even a thief, who breaks societal rules, is entitled to consideration for the embarrassment he suffers as a result of his having to carry the animal.

According to Rabbi Yochanan's reasoning, the concern for human dignity is part of the fabric of the law, a "built-in" rationale for seemingly arbitrary differences in legal responsibility.

Expansion of Legal Implications of Human Dignity

Rabbi Yochanan's expression "(how) great is human dignity..." is repeated in an expanded form with important legal implications in several talmudic discussions. The earliest occurs in the Palestinian Talmud in a discussion about ritual impurity:

נזיר דף לד/א
מהו שיטמא אדם לכבוד הרבים¹ תני היו שני דרכים
מתאימות אחת רחוקה וטהורה ואחת קרובה ושמאה אם היו
הרבים הולכים ברחוקה הולך מהן ואם לאו הולך בקרובה

¹ To be discussed below.

מפני כבוד הרבים עד כדון בטומאה שהוא מדבריהן ואפי'
 בטומאה שהוא מדבר תורה מן מה דאמר ר' זעירא
 גדול כבוד הבריות שדוחה למצוה בלית שעה אחת
 הדא אמרה ואפי' בטומאה שהיה מדבר תורה

P.T. Nazir 34b

May a person defile himself out of respect for the community? It was taught: There are two alternative paths, one longer and ritually pure, the other shorter but ritually impure. If the group goes on the longer, he goes with them, but if not, he goes on the shorter out of respect to the community. Thus far we have discussed impurity which is rabbinic, but [the same ruling holds] even with impurity which is a matter of Torah, based on what Rabbi Zeira said, "So great is human dignity that it sets aside a negative precept of the Torah for a short while." This is said even with impurity which is a matter of Torah.

When returning from a cemetery, the community is obliged to follow along with the mourner on whatever path he chooses, even one on which a person would incur ritual impurity. The ruling allows for an individual to knowingly defile himself rather than embarrass the mourner, even if the impurity is of a sort specifically stated in Torah. There is no exemption mentioned for a nazir or a priest, who are normally prohibited from such defilement. Rabbi Zeira's statement is understood literally. Human dignity does not merely explain law, it affects law, allowing scriptural prohibitions to be set aside to preserve the dignity of an individual.

In the Babylonian Talmud, there are several discussions in which Rabbi Zeira's words are brought as support or explanation of an amoraic ruling. Some amoraim agree with the literal interpretation of Zeira's statement and allow

scriptural prohibitions to be set aside for the sake of human dignity. In tractate Megillah, Rava explains which takes precedence when a person is faced with two simultaneous obligations:

מגילה דף ג/ב
בעי רבא מקרא מגילה ומת מצוה הי מינייהו עדיף מקרא מגילה
עדיף משום פרסומי ניסא או דלמא מת מצוה עדיף משום כבוד
הבריות בתר דבעיא הדר פשטה מת מצוה עדיף דאמר מר גדול
כבוד הבריות שדוחה את לא תעשה שבתורה

Megillah 3b

Rava asked: Between the reading of the megillah and the obligation to bury an unclaimed corpse, (מת מצוה)² which of them takes precedence? [Perhaps] the reading of the megillah takes precedence because it is the publicizing of a miracle, or perhaps a מת מצוה takes precedence because of the concern for human dignity. After he asked, he went back and explained: A מת מצוה takes precedence as a master said, "So great is human dignity that it sets aside a negative precept of the Torah."

In the preceding paragraphs of the discussion, Rava had argued that the reading of the megillah takes precedence over the priestly service, using a statement of Yossi bar Chanina who said that priests should leave the temple service to hear the reading of the Megillah. Then, Rava argued that a מת מצוה took precedence over the priestly service. As support for the latter, he used a midrashic understanding of Numbers 6:7 which prohibits a nazir from defiling himself for the dead, even for a close relative. The midrash, focusing on the word "ולאחותו" - or for his

² An unclaimed corpse. Everyone is obligated to assist in the burial if there are no relatives or friends to attend to it. This obligation takes precedence over most other religious obligations.

sister," suggests that while a nazir may not defile himself even for his sister, he must defile himself for a **מת מצוה**. Since the requirements for a nazir in this regard are even more strict than for a priest, Rava concluded that the **מת מצוה** takes precedence over priestly service.

From these two arguments Rava concludes that the **מת מצוה** takes precedence over the reading of the megillah. He uses the formulaic statement of Rabbi Zeira (although unattributed) as an explanation. On the one hand, the reading of the megillah is so important that priests should leave the temple service to hear it. On the other hand, even the reading of the megillah is superseded by the necessity to bury the unclaimed corpse. Human dignity continues to be a concern even after a person is dead. Even a criminal who has been hanged has the right to a timely and proper burial.³ It is a great disgrace to the deceased, to the community, and to God to allow a corpse to remain unburied and unclaimed. If the responsibility falls to a priest or a nazir, the scriptural prohibitions against their incurring impurity are set aside for the sake of human dignity.

Evolution of the Legal Impact of Human Dignity

Rabbi Zeira, a third generation amora, lived in Eretz

³ Deuteronomy 21:23.

Yisrael. His attitude about the importance of human dignity and its impact on legal obligations might have reflected an attitude remaining from the time of Yochanan ben Zakkai, or it might have been a widely held position in Eretz Yisrael. In Babylon however, there was not agreement about the force of considerations of human dignity. While some agreed with the literal interpretation of Zeira's ruling, others argued that scriptural law must always be upheld, even at the expense of human dignity. Rabbi Yehudah takes such a position, quoting his teacher, Rav:

ברכות דף יט/ב
אמר רב יהודה אמר רב המוצא כלאים בבגדו פושטן
אפילו בשוק מאי טעמא אין חכמה ואין תבונה ואין עצה
לנגד ה' כל מקום שיש חלול השם אין חולקין כבוד לרב

Brachot 19b:

Rav Yehudah citing Rav said: If one finds prohibited mixtures[such as linen and wool] in his garment, one must remove it, even in the marketplace. What is the reasoning? "There is no wisdom, nor understanding nor counsel against the Eternal." (Prov.21:30) In any place where there is profanation of the Name, one does not pay respect [even] to a teacher.

Wearing clothing which contains mixtures of linen and wool is expressly prohibited in the Torah (Deut. 22:11). Rav Yehudah argues that as soon as a person becomes aware that he is wearing such a garment, he must remove it immediately to comply with the prohibition, even in a situation where doing so will cause extreme embarrassment. The verse from proverbs is brought to support the position that there is no mitigating factor nor consideration which can override the scriptural prohibition. The next statement

emphasizes the strictness of Rav Yehudah's position. Students are usually required to accord the utmost respect to their teachers, following the teacher's rulings and not adding to nor correcting a teacher publicly. However, in order to stop what is considered an act of disrespect to God, the student must inform his teacher if he sees that the teacher is wearing a forbidden mixture. The teacher would be required to remove the garment regardless of the embarrassment. The upholding of scriptural law necessitates the possible affront to human dignity, even that of a sage.

The next two paragraphs of the discussion indicate that there was disagreement with the strictness of Rav Yehudah's teaching. Cases are mentioned in which legal prohibitions are set aside out of concern for human dignity, in apparent opposition to Proverbs 21:30. The first situation is exactly the one to which Rabbi Zeira's statement was originally applied, i.e. returning from a gravesite, one is required to follow the mourner, even if that means walking along a path on which one will incur ritual impurity. In this argument, however, a new explanation is brought:

תרגמה רבי אבא בבית הפרס דרבנן דאמר רב יהודה
אמר שמואל מנפח אדם בית הפרס והולך ואמר רב
יהודה בר אשי משמיה דרב בית הפרס שנרש טהור
Rabbi Abba interpreted it as a בית הפרס which is
rabbinical. As Rav Yehudah citing Shmuel said: A
person blows at the בית הפרס and proceeds. And
Rav Yehudah bar Ashi said in the name of Rav:
A בית הפרס which is well-trodden is ritually pure.

A בית הפרס is a place of possible contamination, such

as a field which contained a grave that was plowed up. By decree of the rabbis, a large area is declared to be impure when there is doubt about the presence of a grave or bone fragments, even though the whole area may not be impure according to scriptural law. Even Rav Yehudah allows for a person to walk through such an area, providing he checks the path to avoid contact with bone fragments. Following a mourner on such a path out of concern for human dignity would violate rabbinic, but not scriptural law.

Another case is brought which would seem to uphold the literal interpretation of Rabbi Zeira's statement:

תא שמע דאמר רבי אלעזר בר צדוק מדלגין היינו על גבי
ארונות של מתים לקראת מלכי ישראל ולא לקראת מלכי
ישראל בלבד אמרו אלא אפילו לקראת מלכי עובדי
כוכבים שאם יזכה יבחין בין מלכי ישראל למלכי עובדי
כוכבים

Come and learn: As Rabbi Elazar ben Tzadok said:
We used to leap on the tops of coffins in order to
greet the kings of Israel, and not to greet only
the kings of Israel, they said, but even to greet
the kings of gentiles...

Elazar ben Tzadok, a priest, is scripturally forbidden from contact with the dead, except close relatives. Yet he says that he violated this law to pay respect to the kings. According to Rashi, greeting kings is a matter of human dignity. Rashi explains:

הרי לכבוד הבריות עוברים על נפש לא ישמא
Out of concern for human dignity, he transgressed "none shall defile himself for any person" (Leviticus 21:1.)

This seems to be a clear case where scriptural law is set aside out of concern for human dignity. However,

according to a ruling of Rava, impurity from contact with the dead does not always occur when one steps on a coffin. Most coffins contain enough space within them to prevent the transfer of such impurity, but a rabbinic decree declares all coffins a source of impurity. In stepping on the coffins therefore, Rabbi Elazar ben Tzadok violated a rabbinic, but not a scriptural prohibition.

Finally Rabbi Zeira's words are juxtaposed with Proverbs 21:30, and the discussion focuses on reconciling the two apparently opposing views:

תא שמע גדול כבוד הבריות שדוחה [את] לא תעשה
 שבתורה ואמאי לימא אין חכמה ואין תבונה ואין עצה
 לנגד ה' תרגמה רב בר שבא קמיה דרב כהנא בלאו דלא
 תסור אחיכו עליה לאו דלא תסור דאורייתא היא אמר
 רב כהנא נברא רבה אמר מילתא לא תחייכו עליה כל
 מילי דרבנן אסמכינהו על לאו דלא תסור ומשום כבודו
 שרו רבנן

Come and learn:[So] Great is human dignity that it sets aside a negative precept of the Torah. But why? Let us say, "There is no wisdom, nor understanding, nor counsel against the Eternal." Rav bar Shabba interpreted it before Rav Kahana that it refers to the negative precept of "you shall not deviate..." (Deut.17:11) They laughed at him [saying]: The negative precept, "you shall not deviate..." is from the Torah! Rav Kahana said: If a great man says something, do not laugh at him. All the words of the rabbis rely on the negative precept of "you shall not deviate..." but in the matter of his [a human being's] honor, the rabbis allow [some acts].

Deuteronomy 17:8-13 provides a mechanism for making rulings for legal situations which are not explicitly covered in scripture or are very complex, granting authority to local officials. Verse 17:11 states the specific prohibition "...you must not deviate from the words they

tell you either to the right or to the left." This verse is interpreted as the authority for the rabbis to make and enforce legal rulings.

According to Rav bar Shabba, a third generation Babylonian amora, the ruling of Rabbi Zeira is not to be understood as a generality. There is only one specific negative precept to which it refers, the one on which rabbinic authority is based. Concern for human dignity can set aside rabbinic, not scriptural, prohibitions according to this interpretation.

In the course of a couple of generations, or because of the different views in Babylon, the literal meaning of Rabbi Zeira's words was modified and limited. The concern for human dignity can indeed affect legal matters, but, according to some, only with respect to rabbinic law.

Editorial Limitation of Legal Impact of Human Dignity

A case from the seventh generation of amoraim indicates that the argument may not have been completely settled. The concept of human dignity plays an important role in the outcome of a case involving the wearing of a garment with invalid tzitzit:

מנחות דף לז/ב-לח/א
 רבינא הוה קא אזיל אבתריה דמר בר רב אשי בשבתא
 דריגלא איפסיק קרנא דחוטיה ולא אמר ליה ולא מידי כד
 מטא לביתיה אמר ליה מהתם איפסיק אייל אי אמרת לי
 מהתם שדיתיה והא אמר מר גדול כבוד הבריות שדוחה
 את לא תעשה שבתורה

B.T. Menachot 37b-38a

Ravina was walking behind Mar bar Rav Ashi on one of the sabbaths preceding a festival.⁴ A thread (i.e. a ritual fringe) of his garment was torn off, but he (Ravina) did not say anything [about it] to him. When he arrived at his house, he said to him, "It tore off back there (out in the street)." He (Mar) said to him, "If you had told me back there, I would have cast it off." But didn't a Master say, "So great is human dignity that it sets aside a negative precept of the Torah." ?

When one of the fringes of Mar's garment rips, it is rendered invalid. Ravina does not inform him immediately, however, in order to avoid embarrassment to Mar. Although Mar seems to agree with Rav Yehudah's strict position in such a matter, the talmudic editor (the stam) tells us that Ravina is justified by Zeira's ruling, interpreted literally. Another version of the incident appears in the passage:

ואיכא דאמרי מהתם א"ל וא"ל מאי דעתך למישדייה
והאמר מר גדול כבוד הבריות שדוחה את לא תעשה
שבתורה

There are those who say [it happened this way]: Ravina told him [that the fringe had ripped fringe] back there (out in the street), and he (Mar) said to him, "What do you think -- that I will cast it off? Didn't a Master say, "So great is human dignity that it sets aside a negative precept of the Torah."

In this version, Ravina informs Mar immediately, following Rav Yehudah's ruling. This time it is Mar who

⁴ The two amoraim mentioned were attending or participating in a **שבתא דרגילא**, a special lecture or sermon delivered by scholars on the shabbat preceding a festival or on the occasion of the opening session of a season.

uses Rabbi Zeira's words to allow him to return home before removing the garment. In each version, one of the amoraim supports the idea that human dignity can set aside ritual prohibitions, even biblical ones, while the other seems to support Rav Yehudah's ruling that such prohibitions must be upheld despite personal embarrassment. However, the outcome is similar in both versions; Mar does not remove his garment in public and is spared embarrassment.

From this it appears that Zeira's viewpoint was understood literally by some amoraim into the seventh generation, while others had adopted Rav Yehudah's strictures. The talmudic discussion is clarified by an editorial addition to the two versions of the story. Commenting on Rabbi Zeira's statement:

תרגומה רב בר שבא קמיה דרב כהנא בלאו דלא תסור
 ...Rav bar Shabba explained before Ray Kahana: [it refers to the] prohibition of "לא תסור."

This argument, explained previously, limits Rabbi Zeira's words to rabbinic prohibitions. In the talmudic passage, another editorial comment further clarifies the position:

הכא נמי כרמלית דרבנן היא:
 "Here also, it is a karmelit, which is rabbinic."

A karmelit is a rabbinic construct, an area which is neither private nor public domain. Certain rulings which apply in public domains were extended by the rabbis to apply in the karmelit, such as, in this case, wearing ritually

invalid clothing. Therefore, wearing such a garment in the karmelit would violate rabbinic law, but not scriptural law.

The other talmudic discussions which bring Rabbi Zeira's statement as a justification for the violation of a prohibition concern sabbath laws. In Eruvin 41b, someone who is restricted to a four cubit sabbath limit may violate that limit to go to the bathroom. In Shabbat 81b, a person may carry stones used for personal hygiene to a rooftop privy. In these two cases, concern for human dignity overrides the prohibitions of sabbath limits and restrictions on unnecessary carrying, even in a private domain, both of which are generally understood to be rabbinic extensions of law.

The earlier, literal understanding permitted scriptural law to be set aside for considerations of human dignity. By the time of the redaction of the Babylonian Talmud, that understanding has been replaced by an interpretation which limits the legal impact of human dignity to rabbinic law only.

Limited Legal Meaning is Codified

In a comment to B.T. Menachot 38a (discussed above), Rashi further explains Rav bar Shabba's interpretation of Zeira's ruling:

בלאו דלא תסור כגון שלטול איסור דרבנן ואבנים
מקורזלות מותר להכניס לבית הכסא משום כבוד הבריות
אבל לשאת משא דכתיב בהדיא לא דחי כבוד הבריות.

[The ruling applies] to the prohibition of "do not deviate," for example, carrying [which is] a rabbinic prohibition, or smooth stones which one is permitted to bring into a privy because of concern for human dignity, but [as for] carrying a burden which is expressly written, concern for human dignity does not set aside [such a prohibition, which is scriptural].

Rashi emphasizes that considerations of human dignity can set aside only rabbinic rulings, but such considerations cannot override clearly stated scriptural prohibitions.

This limited interpretation was restated unequivocally by Maimonides in his Mishneh Torah, Hilchot Kilayim, 10:29:

רמב"ם הלכות כלאים פרק י הלכה כט
הרואה כלאים של תורה על חבירו אפילו היה מהלך
בשוק קופץ לו וקורעו עליו מיד ואפילו היה רבו שלמדו
חכמה שאין בבוד הבריות דוחה איסור לא תעשה המפורש
בתורה

If one sees [a garment with] scripturally forbidden mixtures on his friend, even if they are walking in the marketplace, he should leap and rip it off of him immediately, even if it is his teacher who taught him wisdom, because concern for human dignity does not set aside a prohibition which is explicitly stated in the Torah. (emphasis mine)

There are some cases, however, where scriptural prohibitions are set aside in consideration of human dignity. Maimonides gives an explanation for these exceptions in the same halacha:

ולמה נדחה בהשב אבדה מפני שהוא לאו של ממון ולמה
נדחה בשומאת מת הואיל ופרט הכתוב ולאחותו מפני
השמועה למדו לאחותו אינו משמא אבל משמא הוא למת
מצוה.

So why does it (human dignity) set aside [a prohibition] with regard to the return of a lost thing? - Because that prohibition is monetary. And why does it set aside with regard to defilement by the dead? Because it [Torah] specifies "nor his sister." They learned by

tradition that for his sister he may not defile himself, but he must defile himself for a **מת מצוה**.

There are two circumstances in which scriptural prohibitions are set aside for concerns of human dignity. One, that of a priest or nazir defiling himself to bury a **מת מצוה**, we have discussed previously. Maimonides says that the midrashic explanation is based on a citation directly from the Torah itself.

The other exception, concerning the return of lost property, also relies on a midrashic explanation.

Deuteronomy 22:1 and 3 state:

לא תראה את-שור אחיך או את שיו נדחים והתעלמת מהם, השב תשיבם לאחיך...וכן תעשה לכל אבדת אחיך אשר תאבד ממנו ומצאתה, לא תוכל להתעלם.

You shall not see your kinsman's ox or his sheep gone astray and hide yourself from them, you shall surely return them to your kinsman...similarly with every lost thing of your kinsman which he might lose and you find, you may not hide yourself.

The simple meaning is that, if one sees lost property, one is prohibited from ignoring it, and must return it to its owner. In B.T. Brachot 19b, however, there is a midrashic interpretation of the word "והתעלמת":

תא שמע והתעלמת מהם פעמים שאתה מתעלם מהם ופעמים שאין אתה מתעלם מהם הא כיצד אם היה כהן והוא בבית הקברות או היה זקן ואינה לפי כבודו או שהיתה מלאכתו מרובה משל חברו...דכתיב והתעלמת מהם וליגמר מינה איסורא מממונא לא ילפינן.

Come and hear: "And hide yourself from them." Sometimes you may hide yourself from them and sometimes you may not hide yourself from them. How is it? If he was a priest and it was in a cemetery or he was an elder and it was beneath his dignity or if his work was more important than his

friend's...therefore it is written "and hide yourself from them;" we learn from it that we do not infer from monetary cases to ritual prohibitions.

The isolated word "והתעלמת" can be read as a positive command. The midrash explains that the Torah tells us that there are circumstances under which it is acceptable to "hide yourself" from the obligation to return a lost animal. A person of special status or an old person need not compromise their dignity, and may ignore the obligation. As Maimonides notes, the law about lost property involves a monetary loss. In such a case the scriptural prohibition can be ignored for the more important concern of human dignity.

Maimonides continues with a reassertion of the limitations of human dignity on the legal system:

אבל דבר שאיסורו מדבריהם הרי הוא נדחה מפני כבוד
הבריות בכל מקום ואע"פ שכתוב בתורה לא תסור מן
הדבר הרי לאו זה נדחה מפני כבוד הבריות לפיכך אם
היה עליו שעטנז של דבריהם אינו קורעו עליו בשוק ואינו
פושטו בשוק עד שמגיע לביתו ואם היה של תורה פושטו
מיד:

But anything which is prohibited by their words (i.e. rabbinic decree) can be set aside because of concern for human dignity in all cases; and even though it is written in the Torah, "do not deviate from the word," this prohibition is set aside because of respect for human beings, therefore if a forbidden mixture which is prohibited by the rabbis were on him, one would not tear it off in the market place nor strip him in public. [He should wait] until he arrives at his house, but if it is from the Torah he strips him immediately.

Human dignity is a powerful halakhic concept. Respect for the individual is so important that it can actually

override rabbinic decrees, despite the Torah's injunction to "not deviate" from such laws. He also reminds us once more that prohibitions directly in the Torah are not to be set aside, despite the potential damage to an individual's dignity.

Summary

The concept of human dignity begins within the structure of the law itself, assuring every person, even criminals, some measure of respect. The impact of human dignity in the Palestinian Talmud, as expressed by Rabbi Zeira, is quite profound, even setting aside certain Toraitic prohibitions. In the Babylonian Talmud, Rav Yehudah is the proponent of the position that laws stated in the Torah, being God's commands, cannot be abrogated or postponed even for a principle as important as human dignity. Over time, modifications evolved which limited the impact of human dignity to the setting aside of rabbinic laws, with one or two exceptions. The limitation was codified by Maimonides.

Nevertheless, human dignity is a principle having a powerful impact on halakhah, despite the modification and limitation of its meaning over time.

CHAPTER TWO

KEVOD RABIM - SEVERAL MEANINGS

In the Palestinian Talmud, this expression is used to express the meaning of both כבוד הבריות, human dignity and כבוד העבור, respect for the congregation. In the Babylonian Talmud, a new definition is created in the single occurrence of כבוד הרבים.

The Palestinian Usage as Human Dignity

The clearest example of this usage comes from a discussion about the wearing of prohibited mixtures:

כלאים דף מ/ב
 הרי שהיה מהלך בשוק ונמצא לבוש כלאים. תרין
 אמוראין חד אמר אסור. וחרנה אמר מותר. מאן דאמר
 אסור דבר תורה. מאן דאמר מותר כההיא דאמר רבי
 זעירא גדול כבוד הרבים שהוא דוחה את המצוה בלא
 תעשה שעה אחת.

P.T. Kilayim 40b

What if one were walking about in the marketplace and found that he was clothed in a prohibited mixture. Two amoraim [discussed this]. One said it is forbidden (i.e. he must remove his clothes in public); the other said it is permitted (i.e. he could wait until he was home to remove his clothes.) The one who said it is forbidden [bases it on] scriptural law; the one who says it is permitted [bases it] on that which Rabbi Zeira said --So great is respect for the many (כבוד הרבים) that it sets aside a negative precept for a short while.

We have encountered the issue of wearing prohibited mixtures in our discussion about human dignity. There were two trains of thought, both of which are preserved here without a final decision. One says that scriptural law must

be upheld regardless of the embarrassment it might cause to an individual. The other says that considerations of human dignity can override certain laws. The argument uses an alternative reading of Rabbi Zeira's ruling, the same we have seen, except for the use of the word רבים instead of בריות. Since Rabbi Zeira's words are used to exempt an individual from personal embarrassment, it is clear that the two different expressions have the same meaning, i.e. human dignity. While כבוד הרבים literally means "respect of the many," it has a functional definition which might be translated as "respect for everyone." Like the plural בריות, which is used to mean any person, רבים is used to refer to any individual.

Palestinian Usage as Respect for the Congregation

There is an extended examination below of the expression כבוד הציבור, the more common expression for "respect for the congregation." Although this expression does not occur in the Palestinian Talmud, the concept of respect for the congregation does appear, using the expression כבוד הרבים.

מגילה דף כז/ב
 מהו לעמוד מפני ס"ת ר', חלקיה ר', סימון בשם ר' לעזר
 מפני בנה הוא עומד לכ"ש מפני תורה עצמה זה שהוא
 עומד לקרות בתורה מפני מה הוא עומד מפני כבודה או
 מפני כבוד הרבים אין תימר מפני כבודה אפי' בינו
 לבינה אין תימר מפני כבוד הרבים אפי' בינו לבין עצמו
 מפני כבודה הוא עומד אם אומר את כן אף הוא מתעצל
 ואינו קורא

P.T. Megillah 27b

Must one stand in the presence of a Torah scroll?
 Rabbi Hilkiah, Rabbi Simon in the name of Rabbi
 [E]leazar: One stands in the presence of "her son"
 (a scholar) - shouldn't it be all the more so in
 the presence of the Torah itself? One who stands
 to read in the Torah - for what reason is he
 standing? Is it because of respect for it (the
 Torah) or it is because of respect for the
 congregation. If you say it is because of its
 respect, then even when it is between him and it
 (i.e. when he is alone) [he should still stand].
 And if you say it is because respect for the
 congregation, then when he is by himself, he would
 stand because of respect for it; if you say thus,
 then when he shirks and when he is not reading [he
 would still have to stand.]

This discussion asks whether the requirement that one
 stand when reading the Torah is out of respect for the Torah
 itself, or out of respect for the people before whom it is
 being read. While it might be posited that רבים could mean
 any group of people, it can be seen from the surrounding
 discussions that the setting for reading the Torah is within
 the structure of a synagogue service. Also, this is not a
 situation in which individual human dignity is at stake.
 Without going into great detail about the decision, it is
 clear that the expression כבוד הרבים means "respect for the
 congregation."

The Babylonian Talmud Creates a New Meaning

In a discussion about mourning customs, a story about
 Rabbi Akiva is cited:

מועד קטן דף כא/ב
 חנו רבנן אבל שלשה ימים הראשונים אסור בשאילת
 שלום... שלשה ימים הראשונים אסור בשאילת שלום והתניא
 מעשה ומתו בניו של רבי עקיבא נכנסו כל ישראל
 והספידום הספד גדול בשעת פטירתו עמד רבי עקיבא על
 ספסל גדול ואמר אחינו בית ישראל שמעו אפילו שני בנים
 חתנים מנוחם הוא בשביל כבוד שעשיתם ואם בשביל
 עקיבא באתם הרי כמה עקיבא בשוק אלא כך אמרתם
 תורת אלהיו בלבם וכל שכן ששכרם כפול לכו לבתיכם
 לשלום כבוד רבים שאני

T.B. Moed Katan 21b

Our rabbis taught: A mourner, in the first three days, is forbidden from greeting...Forbidden from greeting in the first three days?! But we were taught: It happened that the sons of Rabbi Akiva died. All Israel came and lamented them greatly. When they were leaving, Rabbi Akiva stood on a big bench and said, "Our brothers, the House of Israel, listen! Even though my two sons were bridegrooms - I am comforted because of the respect you have shown. And if you had come because of Akiva - look, there are many "Akivas" in the marketplace. Instead, you said, "The Torah of the Lord is in his heart," and so your reward is doubled. Go to your homes in peace." Respect for the multitude is different.

In response to the ruling that a mourner may not extend greetings in the first three days of mourning, the Talmud tells a story about Rabbi Akiva. A very large crowd had come to lament the death of his sons and comfort Akiva. When the time came for the crowd to leave, Akiva addressed them, and sent them on their way in peace, thereby extending a kind of greeting. Since this is assumed to have happened within the first three days of mourning, this case is cited as an argument against the stated ruling.

The talmudic editor inserts a comment which indicates that the rule is valid because the particular case cited is exceptional in some way. The justification for the

exception in this instance is כבוד רבים, "respect for the multitude," a new meaning for this expression.

The other meanings - "human dignity" and "respect for the congregation" - do not fit the particulars of this case, since there is no individual's embarrassment at stake, nor is this a formal liturgical setting. It is the magnitude of the group which provides basis for the legal exception.

This does not mean that it is merely the size of the group which makes this situation different; a large crowd in a marketplace or a public square would not provide the basis for an exception to the prohibition against mourners giving greetings. The multitude assembled in this case, however, came out of respect for the scholar Akiva who has "the Torah of the Lord in his heart." In his parting words to them, Akiva deemed it necessary to acknowledge both the effort the people had made to come to be with him, and also their respect for Torah and its representatives. The talmudic editor agrees that, even though Akiva was mourning, in this case the greeting was necessary to assure and strengthen continued devotion to Torah and continued respect for scholars.

Further support for this understanding of כבוד רבים can be found in another discussion of prohibitions for the mourner. In B.T. Moed Katan 21a, there is a list of activities which are forbidden to the mourners during the initial mourning period. In addition to activities

involving physical comforts, prohibitions are placed on the study of sacred texts, an activity of mental and spiritual comfort. The reason, although not explicitly stated, is assumed to be respect for the deceased. The mourners are expected to show the effect of their loss, and their respect for the deceased, by refraining from pleasurable activities. An exception is stated to this ruling:

מועד קטן דף כא/א
...ואם היו רבים צריכין לו אינו נמנע

B.T. Moed Katan 21a

...but if many need him, he does not refrain.

Rashi says that this refers to the need of the public to be taught by scholars. The explanation which follows in the talmudic discussion tells of two scholars whose child died, but they nevertheless went to teach at the Beit Midrash. The above ruling is restated by Rav, with some alterations in teaching patterns to acknowledge the fact that the scholar is in mourning.

The expression כבוד רבים is not used here, but it is clear that the requirement of the "multitude" to be taught overrides the prohibition of text study on the scholar. Although generally such study would be pleasant, the demands of teaching are an extra burden to the scholar at the time of a loss. Nevertheless, the importance of the preservation of the relationship of the people to the Torah and its representatives outweighs the individual's needs.

The Legal Impact of כבוד רבים

The principle of human dignity and the principle of respect for the multitude, both expressed by כבוד רבים, have similar effects on the legal system. Both are used to justify not obeying a prohibition which would normally be in effect. In the first case, prohibitions are set aside to avoid embarrassment or personal distress. In the latter, the prohibition is set aside to protect the relationship between people in general and the Torah and Torah scholars.

Summary

In the Palestinian Talmud the expression כבוד רבים means either "human dignity" or "respect for the congregation," depending on the context. In the Babylonian Talmud, another meaning, "respect for the multitude," is created. A scholar is responsible to protect the relationship between the people and the Torah. When a large group is involved, certain prohibitions may be ignored to uphold that relationship.

CHAPTER THREE

KEVOD TZIBUR - RESPECT FOR THE CONGREGATION

This expression occurs in the Babylonian Talmud in discussions concerning behavior in a formal liturgical settings, in most cases the public reading of the Torah. "ציבור" refers to the people specifically gathered for the liturgical event, i.e. the congregation. "כבוד" can be understood either as an attitude toward the congregation, i.e. "respect", or an attribute of the congregation itself, i.e. "dignity." The principle of כבוד ציבור is used to limit behavior which does not accord with the rabbinic requirements necessary for prayer, but for which there is no specific legal injunction.

The Rabbinic Requirements for Praying Properly

In B.T. Brachot 30b-31a there is a discussion of the requirements for the proper approach to, and behavior during prayer:

ברכות דף ל/ב - לא/א
 משנה: אין עומדין להתפלל אלא מתוך כבוד ראש חסידים
 הראשונים היו שוהין שעה אחת ומתפללין כדי שיכוונו לבם
 לאביהם שבשמים אפילו המלך שואל בשלמו לא ישיבנו
 ואפילו נחש כרוך על עקבנו לא יפסיק: (גמרא)...תנו
 רבנן אין עומדין להתפלל לא מתוך דין ולא מתוך דבר
 הלכה אלא מתוך הלכה פסוקה...תנו רבנן אין עומדין
 להתפלל לא מתוך עצבות ולא מתוך עצלות ולא מתוך
 שחוק ולא מתוך שיחה ולא מתוך קלות ראש ולא מתוך
 דברים בטלים אלא מתוך שמחה של מצוה...תנו רבנן
 המתפלל צריך שיכוין את לבו לשמים...

B.T. Brachot 30b-31a

Mishnah: One mustn't rise to pray except in a solemn mood. The early pietists used to delay an hour, then pray in order to focus their intent on their Father in heaven; even if the king greets him, he mustn't respond and even if a snake is wound on his heel he mustn't stop.

(Gemara)... Our rabbis taught: One mustn't rise to pray immediately after judging nor in the midst of a discussion about law, only after a legal decision [is rendered]... Our rabbis taught: One mustn't rise to pray in a mood of sadness, nor a mood of indolence, nor amidst levity, nor amidst chatter, nor in a mood of irreverence, nor amidst idle matters, but only in the joy of the commandment... Our rabbis taught: One who prays must focus his intent toward heaven...

The mishnah tells us that the proper mood for prayer is solemn. The gemara goes on to list several other stipulations for appropriate prayer, mostly prohibitions. While these requirements are understood to apply to each individual, since they are phrased in the plural, they can be used as guidelines to understand the appropriate mood and behavior of the congregation as a unit.

The central requirements are a solemn mood and the focusing of intent toward heaven. The mishnah indicates that one's concentration must not be broken by distractions. The prohibitions listed are designed to prevent a person from being distracted or coming to the liturgy in an inappropriate mood which could affect focus and concentration. If one were feeling sad, lazy, or frivolous, some time would be necessary to dispel that mood and enter the appropriate frame of mind required. The rabbis also thought that it would be difficult to concentrate on prayer

immediately after sitting in judgement or in the midst of a legal argument.

A person or a group at prayer must be mentally and emotionally at ease, able to concentrate without distraction or disruption. Each individual in the group who maintains his own dignity adds to the dignified composure of the whole group. Inversely, anyone who falls into inappropriate behavior, or creates a distraction, detracts from the dignity of the entire group.

Each of the limitations of liturgical form discussed below was imposed by the rabbis in an effort to prevent the congregation from being treated in a way which disregards the requirements for the congregation to be mentally and emotionally focused.

Limits on Who May Read Torah

A statement in tractate Megillah demonstrates how an otherwise legal behavior is limited by כבוד ציבור:

מגילה דף כג/א
תנו רבנן הכל עולין למנין שבעה ואפילו קטן ואפילו אשה
אבל אמרו חכמים אשה לא תקרא בתורה מפני כבוד צבור

Megillah 23a

Our rabbis taught: Anyone [can] go up in the group of seven [who read from the Torah on Shabbat] and even a minor and even a woman, but sages said, a woman should not read in the Torah out of respect for the congregation.

Within the bounds of halakha, women and minors apparently could be called up to read Torah. While this was considered less desirable, it was not forbidden. The sages,

imposing a limit on the basis of "respect for the congregation," do not unequivocally prohibit women and minors from being called up. However, if the expectation of the congregation is that adult males are the public participants, then the appearance of a woman or a minor would be a distraction sufficient to disrupt the appropriate mood. This expectation, stated by the rabbis, eventually carries the force of law.

There is at least one situation, however, in which it would be preferable to call women up. That is the case of a city made up only of priests.⁵ On shabbat, when seven are called up to read, the first honor is given to a priest, the second to a Levite, or if there are none, to the priest who has been called, and the rest are given to Israelites. It is not considered dignified for a priest to come up in place of an Israelite. In such a situation, "respect for the congregation" makes it necessary to call women for the remainder of the readings.⁶

In this special case, "כבוד ציבור" refers to the attention and consideration owed to this particular congregation. It might be assumed that, in a regular congregation, it would be dismissive or demeaning to call women, and "respect for the congregation" would have a

⁵ Addressed in responsum by Meir of Rothenberg.

⁶ David Feldman, "Woman's Role and Jewish Law," Conservative Judaism 26 (Summer 1972): 29-39.

similar meaning.

Another discussion questions whether a minor dressed in rags may read from the Torah:

מגילה דף כד/ב
פוחח פורס על שמע וכו': בעא מיניה עולא בר רב
מאביי קטן פוחח מהו שיקרא בתורה אמר ליה ותיבעי לך
ערום ערום מאי טעמא לא משום כבוד צבור הכא נמי
משום כבוד צבור:

Megillah 24b

A person in rags may repeat the Shema etc: Ullah bar Rav asked Abaye: May a minor in rags read in the Torah? He said to him: You might have asked about a naked person. [Concerning] a naked person, what is the reason [he is] not [permitted]? Because of respect for the congregation. So here too, out of respect for the congregation.

The mishnah allows for a minor to read from the Torah, but not to lead other parts of the service. Even though it was considered less desirable, as seen in the previous discussion, it was permissible, and not considered disrespectful of the congregation. Perhaps, since the distinction between a minor and an adult is somewhat arbitrary, the appearance of a minor on the bema was not as noticeable as the appearance of a woman to read Torah. The mishnah also allows for a person in rags to lead parts of the service, but not to read from the Torah. Abaye reasons that anyone who is exposed, partially or totally, regardless of age, may not read Torah out of respect for the congregation.

One might wonder why an adult dressed in rags is permitted to lead parts of the service without the same concern for the congregation. It might be that for other

parts of the service, the congregation is itself occupied reciting the blessings. For the reading of Torah, however, the congregation would be looking up and listening, focused on the reader. Someone partially exposed would be noticed at this point. The congregation might be embarrassed or moved to comment to one another. כבוד ציבור, the "dignified concentration of the congregation," would thus be disrupted.

The original question implied that there might be a difference if the one in rags is a minor. Rashi explains that an adult is forbidden on the basis of Deut. 23:15:

כי יהיה אלהיך מתהלך בקרב מחנך... והיה מחנך קדוש
ולא יראה בך ערות דבר...

"Since the Lord your God moves about in your camp...let your camp be holy; let Him not see anything unseemly⁷ in you..."

Since a minor is not bound by the prohibition, a clarification is needed. Abaye's answer indicates that, with regard to someone in rags reading the Torah, the mishnah did not intend to differentiate between minors and adults. No one who is half-naked, minor or adult, may read from Torah. It is of interest that respect for the Torah is not given as the reason, but rather respect for the congregation.

Whether they were a cause of emotional distress, anger or embarrassment for the congregation, or even merely surprise, the rabbis sought to limit such situations out of

⁷ Literally, "any naked thing."

respect for the congregation.

Limits on How the Torah May be Read

Sometimes, a Torah was written in five sections, each book on its own separate scroll. A question arises about the permissibility of using such a single-book scroll for the purpose of public Torah reading:

ניטין דף ס/א
שלחו ליה בני גליל לרבי חלבו מהו לקרות בחומשים
בבהב"נ בציבור לא הוה בידיה אתא שייליה לר' יצחק
נפחא לא הוה בידיה אתא שאל בי מדרשא ופשטוה מהא
דאמר רב שמואל בר נחמני אמר רבי יוחנן ספר תורה
שחסר יריעה אחת אין קורין בו ולא היא התם מחסר
במילתיה הכא לא מחסר במילתיה רבה ורב יוסף דאמרי
תרוייהו אין קוראין בחומשין בבית הכנסת משום כבוד
צבור

Gittin 60a

The Galileans sent to Rabbi Helbo: What is the ruling about reading from single-book scrolls in the synagogue in the congregation. He didn't know the ruling. He went to ask Rabbi Yitzchak Nafcha. He didn't know the ruling. He went to inquire at the study-house, and they explained it from what Rabbi Shmuel bar Nachmani said Rabbi Yochanan said: One may not read from a Torah scroll which is missing one sheet. But isn't something missing in that case? And in this case nothing is missing. Rabbah and Rav Yosef - both of them said: One may not read from single-book scrolls in the synagogue out of respect for the congregation.

There was apparently no obvious, well-known ruling about this situation. After several inquiries, an analogy is drawn between a single-book scroll and a scroll which is defective; the analogy is rejected, however, because single-book scrolls are complete in themselves. The ruling and reason is provided by two amoraim who agree that single-book scrolls may not be used because of כבוד ציבור.

The congregation would surely notice if a smaller-than-usual scroll were taken out. Their attentiveness would be disrupted because of insult or anger, therefore, the use of anything other than a complete Torah scroll for public reading was prohibited.

The next discussion concerns Yom Kippur liturgy:

יומא דף ע/א
ובעשור של חומש הפקודים קורא על פה: אמאי נגלול
וניקרי אמר רב הונא בריה דרב יהושע אמר רב ששת לפי
שאין גוללין ספר תורה בציבור מפני כבוד ציבור

Yoma 70a

And [the section] "on the tenth," from the Book of Numbers, one recites from memory. Why shouldn't it be rolled and read? Rav Huna son of Rav Yehoshua said Rav Sheshet said: Because one doesn't roll the Torah scroll in the congregation out of respect for the congregation...

On Yom Kippur, the high priest is instructed to read one section from the Torah scroll, then to close it and recite another section from memory. The reason for this unusual procedure is given as the general rule that the Torah scroll isn't rolled to its proper place during the service out of respect for the congregation. Rashi explains:

שהיו מצפין ודוממין לכך

"Because they would have to wait in silence for this."

Being required to wait, standing in silence might not have been a great burden on the congregation, however the rabbis did not want to take the chance that people would begin idle chatter or become uncomfortable while waiting.

Maimonides codifies both of the preceding restrictions

about reading the Torah in the same halakha:

רמב"ם הלכות תפלה פרק יב הלכה כג
אין קוראין בחומשין בבתי כנסיות משום כבוד ציבור ואין
גוללין ספר תורה בציבור מפני טורח הציבור שלא יטריח
עליהם להיותן עומדין עד שיגלול ספר תורה לפיכך אם
יצטרכו לקרות שני ענינים מוציאין שני ספרי תורה...

Maimonides Mishneh Torah,
Laws of Prayer, Chapter 12, Halakha 23
One may not read from a single-book scroll in
synagogues out of respect for the congregation;
and one may not roll a Torah scroll in the
presence of the congregation because of the
trouble for the congregation, for one must not
weary them with standing until one rolls the Torah
scroll, therefore if it is necessary to read two
sections, one takes out two Torah scrolls...

The first section is an exact restatement of the ruling
of Rabbah and Rav Yosef. Maimonides uses a different term,
טורח ציבור, as the reason for the second restriction. In
his explanation, it is clear that this concept has a similar
impact to that of כבוד ציבור. One must not place burdens on
the congregation which would disrupt their concentration or
be demeaning for them.

Other Synagogal Limitations

There are two other activities upon which restrictions
are placed because of the principle of כבוד ציבור. The
first makes reference to the ornamental fabrics which were
hung on the ark to beautify it:

סוטה דף לט/ב
ואמר רבי תנחום אמר רבי יהושע בן לוי אין שליח צבור
רשאי להפשיט את התיבה בצבור מפני כבוד צבור

Sotah 39b
...and Rabbi Tanchum said that Rabbi Joshua ben
Levi said: The leader of the congregation does not
have the right to strip the ark in the presence of

the congregation out of respect for the congregation...

It was customary for the ark to be ornamented with fabric before the service and stripped at the conclusion of the service. The congregation was required to wait until the Torah scrolls were removed from the ark to be returned to their place of safe-keeping before they could leave the synagogue. This ruling insists that the congregation not be made to wait while the ornamentation is removed. Rashi explains:

...שטורח צבור לעכב שם עם ס"ת אלא מוליך ס"ת
לביתו ומניחו והעם יוצאים אחריו ואח"כ הוא בא ומפשיט
את התיבה

"...because it burdens the congregation to be detained there with the Torah scroll, rather he should take the Torah scroll and put it in its place and the people can go out after him, and afterwards he returns and strips the ark."

Rashi interprets respect for the congregation here in terms of limiting the burdens placed on the congregation. Since stripping the ark was not part of the service, but rather housekeeping, it is demeaning to both the Torah scroll and the congregation to strip the ark before taking the scroll to its safe place.

The following passage discusses a restriction placed on the priests who came before the congregation to bless it:

סוטה דף מ/א
רבנן אמרי מהבא דאין הכהנים רשאים לעלות בסנדליהן
לדוכן וזהו אחת מתשע תקנות שהתקין רבן יוחנן בן זכאי
מאי טעמא לאו משום כבוד צבור

Sotah 40a

...The priests do not have the right to go up to bless the people with their shoes on, and this is

one of nine reforms that Rabban Yochanan ben Zakkai decreed. What is the reason [the priests are] not [to wear shoes]? Because of respect for the congregation.

The Talmud mentions the possibility that while ascending, a priest might stop to retie a broken sandal strap and thereby cast doubt on his own status. Rashi supposes that when the priest raises his arms to bless the congregation, the people would see his mud-covered sandals. In either case, the congregation would be distracted at this very solemn moment, so out of respect, the priests ascend barefoot.

Legal Impact of כבוד ציבור

In the cases cited, the principle of "respect for the congregation" is given as support to justify limiting behaviors which are deemed to be distracting, dismissive, or insulting to the people assembled for worship. The limitations are not based on scripture, nor are they stated as unequivocal prohibitions. Rather, the limitations reflect the overall attitude of the rabbis concerning the appropriate mood for prayer. Anything which detracts from, or disrupts that mood prevents the congregation from maintaining its dignified concentration and is prohibited or modified by the rabbis.

CHAPTER FOUR

KAVOD OF THE DISADVANTAGED IN SOCIETY

In discussions of mourning customs and laws, there are several references to respect of members of the society who are considered disadvantaged in some way. For example, the poor, women and the deceased have in common that they are unable to participate on an equal footing in the social, economic or ritual life of the community. In addition to the already noted concern for human dignity, there are considerations of protection from embarrassment, and insistence on dignified behavior in connection with the dead, the mourners, and the community in general.

Respect for the Poor

A discussion in B.T. Moed Katan places restrictions on the behavior of the community when they come to comfort mourners:

מועד קטן דף כז/א
משנה: אין מוליכין לבית האבל לא בטבלא ולא
באסקוטלא ולא בקנון אלא בסלים...

Moed Katan 27a

Mishnah: One may not take [food] to the house of the mourner either on a board or on a platter or in a reed basket, but in [plain] baskets...

It is customary for members of the community to bring food when they come to pay a consolation visit to the mourners. The mishnah limits the manner in which such gifts may be brought. The gemara gives the reasoning behind the

restriction, and adds other restrictions in a similar vein:

מועד קטן דף כז/א
 נמרא: תנו רבנן בראשונה היו מוליכין בבית האבל עשירים
 בקלתות של כסף ושל זהב ועניים בסלי נצרים של ערבה
 קלופה והיו עניים מתביישים התקינו שיהו הכל מביאין
 בסלי נצרים של ערבה קלופה מפני כבודן של עניים

Moed Katan 27a

Gemara: Our rabbis taught: Previously, the rich used to take [food] to the house of the mourner in fine baskets of silver and gold and the poor [took food] in plain baskets of stripped willow branches, and the poor were ashamed. They (the rabbis) instituted that everyone should bring in baskets of stripped willow twigs out of respect for the poor.

The gemara explains that at one time wealthy people visiting mourners would bring gifts in fancy carriers. Since paying a visit of comfort to mourners is an obligation incumbent on the whole community, the poor were forced by necessity to come to the mourners home with their gifts in plain, simple baskets. This discrepancy was a source of embarrassment to the poor, an apparently intolerable situation in the opinion of the rabbis. They decreed that in order to avoid the distress to the poor, everyone should use plain baskets, rich and poor alike. The expression כבודן של עניים indicates the dignity which is due to the poor in the community, not because they are poor, but because they are human beings. It has a similar meaning to כבוד הבריות. In this, and the other cases in this gemara, the decrees were instituted in order to avoid a situation in which one person or group was seen to be "better" or "more worthy" than another. Although the poor were a

disadvantaged group, the rabbis saw the necessity to protect them from suffering from their economic status in communal settings. There are three other cases concerning the poor in this gemara:

מועד קטן דף כז/א, ב
 תנו רבנן בראשונה היו משקין בבית האבל עשירים
 בזכוכית לבנה ועניים בזכוכית צבועה והיו עניים
 מתביישין התקינו שיהו הכל משקין בזכוכית צבועה מפני
 כבודן של עניים בראשונה היו מגלין פני עשירים ומכסין
 פני עניים מפני שהיו מושחרין פניהם מפני בצורת והיו
 עניים מתביישין התקינו שיהו מכסין פני הכל מפני כבודן
 של עניים בראשונה היו מוציאים עשירים בדרגש ועניים
 (כז/ב) בכליכה והיו עניים מתביישין התקינו שיהו הכל
 מוציאים בכליכה מפני כבודן של עניים

Moed Katan 27a-b

Our rabbis taught: Previously, the rich used to offer drink at the house of the mourner in white glass and the poor in colored glass, and the poor were ashamed. They instituted that everyone should offer drink in colored glass out of respect for the poor. Previously, they used to expose the faces of the rich [who died] and cover the faces of the poor, because their faces had become darkened because of lack of provisions, and the poor were ashamed. They instituted that they should cover the face of everyone out of respect for the poor. Previously, they used to bring out the rich [who died] on an ornate couch, and the poor (27b) on a plain bier, and the poor were ashamed. They instituted that everyone should be brought out on a plain bier out of respect for the poor.

These three cases all attempt to protect the dignity of the poor in the community, whether they are among the comforters or the deceased. The decree against using expensive glass is similar to the one prohibiting fancy platters for carrying food to the mourners. The other two cases prohibit distinctions to be made between rich and poor in the way the deceased person is brought to the grave for

burial. Although we must assume that there were differences in the standard of living for the rich and poor of a community, the rabbis insisted that these differences be obliterated when a person died. Everyone had the right to be spared embarrassment. The important factor was the humanity of the individual, not wealth.

Respect for Women

In the same talmudic discussion examined above, there is a restriction during the festival weekdays concerning the setting down of the funeral bier in the street on the way to the gravesite.

מועד קטן דף כז/ב
אין מניחין את המטה ברחוב שלא להרגיל את ההספד ולא
של נשים לעולם מפני הכבוד:

Moed Katan 27b

One does not set the bier down in the street so as not to cause lamentation, and [the biers] of women, never, out of respect.

During the week of a festival, there is a general restriction against setting down the bier in the street. This is explained as an attempt to prevent lamentation, which is prohibited during the festival week. An entirely different reason is given for the ruling that the bier of women must never be set down on the way to the gravesite. In this case it is because of כבוד. The gemara explains further:

מועד קטן כז/ב - כח/א
ולא של נשים לעולם מפני הכבוד: אמרי נהרדעי לא
שנו (כח/א) אלא חיה אבל שאר נשים מניחין ר' אלעזר

אמר אפילו שאר הנשים דכתיב ותמת שם מרים ותקבר שם
סמוך למיתה קבורה

Moed Katan 27b-28a

And of women, never, out of respect: The Nehardeans said this was only taught about (28a) a woman [who died] in childbirth but [the biers of] the remainder of women may be set down. Rabbi Eleazar said: Even [the biers of] the rest of the women [must not be set down] as it is written, "Miriam died there and was buried there;" her burial was close to [the place of] her death.

One opinion says that this rule is true only of women who died during childbirth. In comments on the original mishnah and on this gemara, Rashi says that women might have a discharge. Certainly, a woman who died in childbirth would be bleeding. Delays in the funeral procession might cause the blood to stain the shrouds or in some way become visible. This would be a great embarrassment to the woman, and to her mourners. Rabbi Eleazar, however, is of the opinion that the rule must apply to all women, regardless of their status at death. He uses a biblical verse about the death of Miriam for support, using Miriam as the paradigm for all women. The repetition of the word "there" indicated that she was buried in close proximity to where she died.

Protection of women from embarrassment is the concern in another portion of this gemara:

מועד קטן דף כז/ב
בראשונה היו מטבילין את הכלים על גבי נדות מתות
והיו נדות חיות מתביישות התקינו שיהו מטבילין על
גבי כל הנשים מפני כבודן של נדות חיות

Moed Katan 27b

Previously, they used to immerse the utensils used by dying menstruants, and living menstruants felt shamed. The rabbis decreed that they should immerse [utensils] of all [dying] women out of

respect for living menstruants.

A menstruant woman is considered to be ritually impure. This impurity can be transmitted to clothing and utensils, which must be ritually immersed to purify them, just as the woman herself must immerse at the appropriate time in her cycle to repurify herself. The immersion of the utensils after the death of a woman made it common knowledge that she was a menstruant at the time of death. The emphasis on this status of impurity caused living women who were menstruants to feel ashamed. The rabbis instituted the practice of immersing the utensils used for all dying women regardless of their status of purity. This spared both the living women and the mourners from embarrassment by insuring privacy in this delicate matter.

One last example of a ruling which is made out of respect for women concerns the tear made in the garment of mourners:

מועד קטן דף כב/ב
על כל המתים כולן שולל לאחר שבעה ומאחה לאחר
שלשים על אביו ועל אמו שולל לאחר ל' ואינו מאחה
לעולם והאשה שוללתו לאלתר מפני כבודה

Moed Katan 22b

For all [other] deceased, [the mourner] may baste [the tear] after seven days and may sew it after thirty. For his father or mother he may baste after thirty, but he may never sew it. But a woman may baste it immediately, out of respect for her.

Mourners, on hearing of the death of a relative are required to tear their garments. There are a number of regulations concerning this tear, such as when it must be

made, how big it should be, with what it may be made and so on. The regulations are stricter when the relative is a parent. The minimum time the tear must remain is seven days. The garment must be torn in the upper front, over the chest area. The ruling was made that women mourners are permitted to baste the tear immediately, out of concern for their dignity, in order to spare them the embarrassment of being exposed.

Respect for the Dead

While a complete investigation of mourning customs is beyond the scope of this paper, it can be generalized that the reason for rituals surrounding the death of a person is respect for either the deceased, the mourners or both.⁸ The mourners, often referred to in rabbinic texts as "the living," are required to show respect for the deceased by tearing their clothing, refraining from pleasures such as bathing, shaving and studying, and enduring other discomforts.⁹ Respect is also the factor in the prohibitions on eating or reciting blessings in the presence of a corpse, leaving a corpse alone, and wearing tefillin or carrying a Torah scroll in a cemetery.

⁸ Maurice Lamm, The Jewish Way in Death and Mourning (New York: Jonathan David Publishers, 1969), p.28.

⁹ B.T. Moed Katan, chapter 3, various sections.

The rationale for these and other restrictions is given in B.T. Brachot 18a:

ואם עושה כן עובר משום "לועג לרש חרף עושהו"
(משלי יז, ה)

And if he does so, he transgresses because [of what is written], "One who mocks the poor blasphemes his Maker." (Proverbs 17:5)

Since the dead are unable to participate in the rituals, it is as if one were taunting them.¹⁰ Even though they are no longer living, the fact that were created by God, lived and had feelings is sufficient to warrant the restrictions. An affront to the dead is taken as an affront to God.

The specific term כבוד with reference to the dead appears in only a few passages. One comments on behavior in a cemetery:

מגילה דף כט/א
תנו רבנן בית הקברות אין נוהגין בהן קלות ראש אין
מרעין בהן בהמה ואין מוליכין בהן אמת המים ואין
מלקטין בהן עשבים ואם ליקט שורפן במקומן מפני כבוד
מתים אהייא אילימא אסיפא כיון ששורפן במקומן מאי
כבוד מתים איכא אלא ארישא:

B.T. Megillah 29a

Our rabbis taught: One must not behave disrespectfully in cemeteries. One may not graze cattle in them nor divert a water channel through them; and one may not pluck grass in them, but if one does pluck [grass] one should burn it on the spot, because of respect for the dead. About which [clause does this last statement apply]? If we say [it applies to] the last [statement], if it is burned on the spot, how is that respect for the dead. It refers rather to the first clause.

Although not generally prohibited, these acts are

¹⁰ Lamm, op.cit., p.30.

forbidden in the cemetery because of כבוד מתים, respect for the dead. The clarification is added that this statement refers to the bringing of cattle to graze, diverting water channels, or plucking the grass in a cemetery. All of these acts would indicate a disregard for the solemnity and respect required in the resting place of human remains.

One of the basic rules concerning the dead is the requirement to bury quickly. This is derived from Deuteronomy 21:22-23:

וכי יהיה באיש חטא משפט-מות והומת ותלית אתו על עץ: לא תלין נבלתו על העץ כי קבור תקברנו ביום ההוא כי קללת אלהים תלוי...
 If a man is guilty of a capital offense and is put to death and you hang him from a tree, you must not let his corpse remain on the tree overnight, but you must bury him the same day, for the hanged [body] is an affront to God.

The rabbis used this text about the hanged criminal to derive a general rule for all dead. Rabbi Meir first discusses the "affront to God."

משנה סנהדרין פרק ו
 (ה) אמר רבי מאיר, בזמן שאדם מצטער, (שכינה) מה הלשון אומרת (בביבול) קלני מראשי, קלני מזרועי. אם כן המקום מצטער על דמם של רשעים שנשפך, קל וחומר על דמם של צדיקים.

Mishnah Sanhedrin 6:5

Rabbi Meir said: When a person suffers (for his sins) what does the God say, as it were? "My head is in pain, my arm is in pain."¹¹ If God is thus troubled over the blood of the wicked which has been shed, then how much more so [is God pained] over the blood of the righteous.

A criminal is entitled to a speedy burial because his

¹¹ Literally, "I am lighter than My head, I am lighter than My arm."

exposed body would be an affront to the Creator. The nature of the affront will be examined in the next chapter. Rabbi Meir makes it clear that the death of the criminal is the extreme, from which a generalization can be made. Since the death of every human being is an "affront to God," the righteous, even more so than the criminal, are entitled to the dignity of a timely burial. The mishnah goes on to state the general rule that forbids a delay in the burial for all deceased:

ולא זו בלבד (אמרו), אלא כל המלין את מתו עובר בלא תעשה.

And they said not only this, but anyone who allows his dead to remain overnight transgresses a negative command.

It is the responsibility of the survivors to bury their relatives without delay, within a day of the death. The negative command, "You shall not allow his corpse to remain overnight," in reference to the hanged criminal is considered to be applicable to all deceased. Burial without delay is a sign of respect. The mishnah goes on, however, to mention an exception to this ruling:

הלינו לכבודו להביא לו ארון ותכריכים, אינו עובר עליו.
If one allows [his dead] to remain overnight out of respect for him, to obtain a casket or shrouds, he does not transgress because of this.

It is considered permissible to delay the burial if the delay is necessitated by respect. Obtaining proper shrouds and a casket for the deceased are matters of respect for which a delay is permitted. In the talmudic discussion of

this mishnah the ambiguity of the word "כבודו" is considered:

סנהדרין דף מז/א
 תא שמע הלינו לכבודו להביא לו ארון ותכריכין אינו
 עובר עליו מאי לאו לכבודו של מת לא לכבודו של חי
 ומשום כבודו של חי מבית ליה למת אין כי אמר רחמנא
 לא תלין נבלתו על העץ דומיא דתלוי דאית ביה בזיון
 אבל הכא כיון דלית ביה בזיון לא תא שמע הלינו
 לכבודו לשמע עליו עיירות להביא לו מקוננות להביא לו
 ארון ותכריכין אינו עובר עליו שכל העושה אינו אלא
 לכבודו של מת הכי קאמר כל העושה לכבודו של חי אין
 בו בזיון למת

B.T. Sanhedrin 47a

Come and hear: One who allows his dead to remain overnight out of respect for him to obtain a casket or shrouds does not transgress because of this. Does this apply to the respect of the deceased. No [it refers] to the respect of the mourner (lit. "living"), so because of respect for the mourner, the dead may remain overnight? Yes. The Merciful One said, "His corpse shall not hang on the tree..." for cases similar to hanging in which there is an element of disgrace, but here, where there is no element of disgrace, it doesn't apply. Come and hear: One who allows [the deceased] to remain overnight for his own respect, in order to inform [other] cities, to bring lamenting women, to obtain a casket or shrouds does not transgress by this because all that is done, is only out of respect for the dead. What he is saying is that anything that is done out of respect for the mourners does not entail any disgrace for the dead.

An opinion is stated that delaying the burial to obtain a casket or shrouds can be for the honor of the mourners whose responsibility it is to provide for the burial. The discussion indicates that the example of the hanged criminal is the extreme, where any delay in burial adds to the disgrace already suffered. For others, not criminals, a delay with a purpose, such as announcing the death, bringing lamenters, obtaining proper burial attire and so on, is

considered to be כבוד המת, respect for the dead. The question is settled by the statement which indicates that anything which is done out of respect for the mourners does not detract from the respect for the dead. Since the mourners are responsible for protecting the honor of their dead, their own honor is at stake in providing properly for the burial. Although this reasoning might seem somewhat circular, the rabbis understood that respect for the dead is primarily the responsibility of the mourners, and that their own honor is related directly to their treatment of the deceased.

Summary

Faced with societal inequities, the rabbis provide protection to members of society who are at some disadvantage. The focus of this protection is not the assuring of legal, economic or ritual equality. The basis of the rabbinic rulings is the equality of all human beings as creations of God. In this way, all of the above situations can be seen as subdivisions of the principle of כבוד בריית, human dignity. The focus of the rulings is the preservation of each individual from the experience of shame or disgrace, and concurrently, the upholding of the respect due to each person regardless of position in society.

CHAPTER FIVE

RELATIONSHIP OF KAVOD TO TZELEM ELOHIM

Kavod in the Bible

The basic meaning of the verbal root כ-ב-ד is "to be heavy, or weighty." A secondary meaning is "to honor."¹² The relationship is explained by the metaphorical use of the word "weight" to mean "importance or seriousness."¹³ To honor someone is to give that person serious consideration. כבוד, the noun, means "abundance, honor, glory." (The first may be related to the literal meaning of "weight.")

There are many instances of the word כבוד in the Bible, both in absolute and construct forms, referring to a wide variety of things and people, and to God. With reference to humans, כבוד can indicate external attributes, such as wealth, as in Psalm 49:16-17:

אל-תירא כי-יעשר איש, כי ירבה כבוד ביתו: כי לא
במותו יקח הכל לא ירד אחריו כבודו:

Do not be afraid when a man becomes rich, when his household good increase; for when he dies, he can take none of it along; his goods cannot follow him down.

The word כבוד can also refer to internal endowments, being synonymous with the self or soul, as in Psalm 16:9

¹²Francis Brown, S.R.Driver and Charles A. Briggs, eds., A Hebrew and English Lexicon of the Old Testament, (Oxford:Clarendon Press, 1906), pp.458-9.

¹³ From a discussion with Dr. David Sperling.

לכן שמח לבי ויגל כבודי, אף בשרי ישכון לבטח:
 So my heart rejoices, my whole being exults and my
 body rests secure.

The most prevalent usage, however, is in reference to God. Specific phrases such as 'כבוד ה' and כבוד אל, and words such as כבודו and כבודך referring to God, account for at least sixty percent of all biblical references in which כבוד appears.

With reference to God, כבוד is almost always translated in English as "glory." It often refers to a fiery, physical manifestation which can be seen, the verbal root ר-א-ה, "to see," often being used in one form or another. This visual manifestation is an indication of the Presence of God. The word "glory" is used in translation because it means both "praise, honor" and also "dazzling light, radiance."¹⁴

כבוד as an absolute noun is often equated with praise, as in Isaiah 42:12:

שימו ליהוה כבוד, ותהללו באיים יגידו.
 Let them give honor to the Lord, and tell of his
 praise in the islands.

This verse is an example of poetic parallelism, in which the second half is a repetition in different words of the first half. תהללו is the equivalent of כבוד.

The use of the construct form of כבוד with reference to God is indicative of an aspect of the Presence of God.

¹⁴ Websters Third New International Dictionary, 1981.

Accounts of the experience of 'כבוד ה', as a radiant light, can be found in the prophets and psalms. Ezekiel 1:1-27 describes a dazzling vision in detail. Verse 28a summarizes:

כמראה הקשת אשר יהיה בענן ביום הגשם כן מראה הנגה
סביב הוא מראה דמות כבוד יהוה...

Like the appearance of the bow which is in the clouds on a day of rain, such was the brilliance roundabout; it was a vision of the semblance of the glory of the Lord...

The 'כבוד ה' is described as being within a cloud hovering over Mount Sinai, as in Exodus 24:16:

וישכן כבוד-יהוה על-הר סיני ויכסהו הענן ששת ימים
ויקרא אל-משה ביום השביעי מתוך הענן.

The glory of the Lord dwelled on Mount Sinai and the cloud covered it six days, and He called to Moses on the seventh day from the midst of the cloud.

The cloud seems to be an indicator of the 'כבוד ה' associated with the desert sanctuary, as in Exodus 40:34:

ויכס הענן את אהל מועד וכבוד יהוה מלא את המשכן.

The cloud covered the Tent of Meeting, and the glory of the Lord filled the tabernacle.

In some instances, the difference between the 'כבוד ה', the Presence of God, and the "self," as it were, of God seems to be almost indistinguishable, as in Exodus 33:22-23:

והיה בעבר כבדי ונקרת הצור ושכתי כפי עליך עד עברי:

As My glory passes by, I will put you in a cleft of the rock and shield you with My hand until I have passed by.

Here, 'כבדי', "My glory" is essentially synonymous with "I" referring to God.

It was mentioned earlier that 'כבוד', with regard to humans, can refer to the "self" of a person, and now it is

seen that, in the Bible, כבוד refers most often to the "self" or Presence of God. In order to explore how the rabbis understood the concept of human כבוד in legal literature, it will be helpful to explore the relationship of human כבוד to divine כבוד. To do this, it is useful to examine the relationship between God and humans.

Biblical Basis of the Relationship Between God and Human

The basis for understanding the relationship of God to humans is found in the biblical statement concerning the origins of humans, Genesis 1:27:

ויברא אלהים את האדם בצלמו בצלם אלהים ברא אתו זכר ונקבה ברא אתם.

And God created man in His own image, in the image of God He created him, male and female He created them.

God is Creator, and humans, along with all else in the universe, are created. The crucial factor and the essential difference between humans and all other creations is that humans are created בצלם אלהים, "in the image of God." God, has a different relationship with humans than with any other living creature. In Genesis 9:3 and 6, a distinction is made between the lives of all other living things and the life of a human being:

כל-רמש אשר הוא-חי לכם יהיה לאכלה, כירק עשב נתתי לכם את-כל...שפך דם האדם באדם דמו ישפך, כי בצלם אלהים עשה את-האדם.

Every creature that lives shall be yours for food; as with the green grasses, I give you all these...Whoever sheds the blood of man, by man

shall his blood be shed; for in the image of God did He make man.

All living creatures, plant and animal, may have their lives taken by humans to be used as food. But human life itself requires special consideration because a human being, unlike any other creature, is an "image" of God in some way. This "image" or "likeness" is understood not to be a physical attribute, but some other endowment. Human beings, fashioned with this likeness, occupy a unique, elevated place in the created world, noted in Psalm 8:5-6a:

מה-אנוש כי תזכרנו, ובן-אדם כי תפקדנו: ותחסרהו מעט
מאלהים...

What is man that You have been mindful of him,
mortal man that You have taken note of him; for
You have made him little less than the angels...

The last half of Psalm 8:6 tells of the special attributes given to humans by their Creator which explain their proximity to the divine:

...וכבוד והדר תעטרהו.
...and crowned him with glory and majesty.

Glory and majesty, attributes associated with the divine, are placed as "finishing touches" on human beings. Human כבוד, while not the same as divine כבוד, is in some way derived from the divine, and thus provides at least one possibility for explaining the "image" in which humans were created. One might say that humans possess a reflection of divine כבוד, a matter is which explored below.

The Divine-Human Relationship in Rabbinic Writing

The rabbis understood the relationship between God and humans to be based on the biblical concept of **בצלם אלהים**, explored above. Rabbi Akiva expressed the nature of the relationship in Pirke Avot 3,14:

הוא היה אומר חביב אדם שנברא בצלם; חבה יתירה נודעת לו שנברא בצלם שנאמר בצלם אלהים עשה את האדם.

He used to say: Beloved [of God] is man for he was created in the image [of God]; still greater was this love in that it was made known to him that he was created in the image [of God], as it is said (Gen.9:6), "For in the image of God He made man."

To the rabbis, the creation of humans in the divine image was a sign of God's love, an indication of the unique and elevated position held by humans in comparison to all other creatures. The expression of this love was amplified when God permitted humans to know this information. Humans occupy a place at the pinnacle of creation, of unique and unequalled importance in the order of the universe:

מסכת סנהדרין פרק ד
ה) לפיכך נברא אדם יחיד, ללמדך, שכל המאבד נפש אחת מבני אדם, מעלה עליו הכתוב כאילו אבד עולם מלא. וכל המקים נפש אחת מבני אדם, מעלה עליו הכתוב כאילו קים עולם מלא. ומפני שלום הבריות, שלא יאמר אדם לחברו אבא גדול מאביך.

Mishna Sanhedrin 4,5

Therefore man was created singular, to teach you that if anyone destroys a single human being, scripture charges him as though he had destroyed a whole world, and if anyone saves a single human being scripture credits him as though he had saved a whole world. And [man was created singular] for the sake of peace in the human race, that no man can say to his fellow, "My ancestor was greater than your ancestor."

Human beings are created with inherent sanctity,

unparalleled value and underlying equality. In rabbinic thinking, this impacts not only the way that human beings relate to directly God, e.g. through prayer or ritual, but also the way in which humans are obligated to relate to one another. Rabbinic reasoning holds that interpersonal behavior is a reflection of the human attitude toward the divine. In explaining the arrangement of the Ten Commandments, the Mekhilta d'Rabbi Ishmael (on Exodus 20:13) says:

חמשה על לוח זה וחמשה על לוח זה כתיב אנכי ה'
אלהיך ובנגד כתיב לא תרצח מגיד הכתוב שכל מי שהוא
שופך דמים מעלין עליו כאילו ממעט בדמות.

Five [are] on the one tablet and five on the other. [On one] is written, "I am the Lord your God." And opposite it [on the other] is written, "You shall not murder." The scripture tells that if anyone sheds blood, it is considered as if he diminished the [divine] image.

Human beings are so unique and valued that harm done to person is equated with harm done to God. Interpersonal relationships should reflect the relationship between humans and the divine, since humans are themselves a reflection of the divine. This is true not only for the case of murder, but for cases in which a person is shamed or disgraced. In tractate Baba Metzia, the rabbis express the gravity of public embarrassment:

בבא מציעא דף נח/ב
תני תנא קמיה דרב נחמן בר יצחק כל המלבין פני חבריו
ברבים כאילו שופך דמים.

B.T. Baba Metzia 58b

A tanna taught before Rav Nachman bar Yitzchak:

Anyone who shames¹⁵ his fellow in public, [is considered] as if he has shed blood.

Earlier, it was seen that murder was considered an offense to the divine image. Here, it is stated that putting a person to shame is the equivalent of murder. By logical extension therefore it can be deduced that shaming a person is an affront to God, whose image humans bear.

A discussion in Genesis Rabbah, 24,7 elaborates:

בן עזאי אומר זה ספר תולדות אדם זה כלל גדול בתורה.
ר' עקיבא אומר ואהבת לרעך כמוך זה כלל גדול
בתורה. שלא תאמר הואיל ונתבזיתי יתבזה חבירי עמי
הואיל ונתקללתי יתקלל חבירי עמי. אמר ר' תנחומא אם
עשית כן דע למי אתה מבזה. בדמות אלהים עשה אתו:

Ben Azzai said: "This is the book of the descendants of Adam" (Gen. 5:1) is a great principle of the Torah. R. Akiba said: "And you shall love your neighbor as yourself" (Lev.19:18) is a greater principle of the Torah. Hence (referring to Ben Azzai's statement) you must not say: Since I have been put to shame, let my neighbor be put to shame, since I have been cursed let my neighbor be cursed. Rabbi Tanchuma said: If you do this, know whom you put to shame [for] "in the image of God He created him."

Ben Azzai disagrees with Akiba's choice of the greatest principle in the Torah. There are two possibilities for his objection. When read in the context of the whole verse and surrounding verses, the word רעך in Leviticus 19:18 probably refers to other Israelites, not to people in general.¹⁶ Love of "the stranger among you" is demanded in other verses. Ben Azzai's choice emphasizes the

¹⁵ Literally, "whitens the face."

¹⁶ A. Cohen, Everyman's Talmud (New York: Schocken Books, 1975), p.213.

universal sanctity of human beings, all created in the divine image.

The other possibility is that Leviticus 19:18, even if applied to all people, might be interpreted to allow for retaliation if someone is put to shame or cursed. The verse does not demand that we love others more than ourselves.¹⁷ Ben Azzai's choice implies what Rabbi Tanchuma states outright: since humans are created in the divine image, an insult to another person is an insult to God.

This is the essence of the relationship between כבוד and צלם אלהים. Human כבוד is derived from God, originating in the act of creation itself. God "...created man in His own image..."¹⁸, and "...crowned him with glory and majesty."¹⁹ The next chapter will examine how כבוד functions in halakhah based on this understanding.

¹⁷ Midrash Rabbah, 3rd ed., trans. I Friedman, (London: Soncino Press, 1983), Vol. 1, p.204n.

¹⁸ Genesis 1:27.

¹⁹ Psalm 8:6.

CHAPTER SIX

THE FUNCTION OF KAVOD IN HALAKHA

Commonalities of Human Kavod in Legal Literature

The relationship discussed in the previous chapter is expressed in rabbinic legal literature under various rubrics of כבוד. The term כבוד בריית, for example, is used in rabbinic writings to refer exclusively to human beings, even though בריית literally means "creations" or "creatures." The rabbis understood that the only creature endowed with the attribute of כבוד was the human being.

There is no standard meaning for כבוד which is applicable to all categories or cases. In different situations כבוד can refer to individual dignity, inner worth, mutual respect, or valued esteem. This study has not revealed a single "halakhic definition." However, by noting common factors in the cases studied, it is possible to discern a functional definition of כבוד.

The rabbis do not legislate any obligation to create or give כבוד, but rather to recognize and uphold it. Rabbinic legislation does demand that each person avoid behaving in a way which would damage or diminish כבוד in others. Certain behaviors are prohibited or abrogated when כבוד is at stake. This supports the underlying assumption that כבוד is an attribute which exists inherently in all human beings, regardless of current status or behavior.

The rubrics of כבוד examined in this study reveal a pattern of preventative legislation, rather than requirements of positive action. A brief review of a few examples will be helpful.

Rubrics in which laws are abrogated:

a) The development of כבוד הבריות centered around the abrogation of existing law, biblical and/or rabbinic. Biblical laws prohibiting defilement by contact with the dead are disregarded for the sake of כבוד בריות, in order to accompany a mourner or bury an unclaimed corpse.

b) Laws prohibiting mourners from studying Torah and giving greetings are disregarded under the principle כבוד רבים in order to accommodate special needs of a group.

Rubrics in which behaviors are limited or prohibited:

c) It is forbidden, on the principle of כבוד ציבור, for a person to read from a single-book scroll, or while dressed in rags.

d) It is forbidden to use expensive trays bringing food to a mourner, or to use ornate burial couches for the rich because of כבודן של עניים.

e) It is forbidden to set the bier of a woman down, or to indicate in any way the purity status of a woman because of considerations of כבוד.

f) It is forbidden to allow a corpse to remain unburied overnight because of the principle of כבוד המת.

Based on the assumption that כבוד is an inherent human attribute, there is little positive action which must be legislated. On the contrary, the rabbinic concern is the **prevention** of affronts to dignity and the **protection** of respect. In some cases, the principle of כבוד exerts a correcting influence on biblical or rabbinic laws which, if obeyed in certain situations, would be damaging to esteem or dignity.²⁰

In Chapter One, a disagreement between the view of Rabbi Zeira and Rav Yehudah was noted with regard to the impact of כבוד הבריות on law. Rabbi Zeira allowed for the abrogation of biblical law in order to protect human dignity. Rav Yehudah demanded that biblical law be upheld, even at the expense of human dignity. Rav Yehudah's reasoning was based on the concept that biblical law directly represents the will of God. Violation of biblical law is tantamount to חלול ה', the defamation of God's name, a direct affront to the "self" of God. Their difference of opinion may be based on how they each perceive חלול ה'.

In Leviticus 18:21 the prohibition is stated:

ולא תחלל את שם אלהיך אני יהוה

Do not profane the name of your God; I am the Lord.

The section following this injunction is the Holiness Code (Leviticus 19), a series of laws beginning with the

²⁰ Eliezer Berkovits, Not in Heaven: The Nature and Function of Halakha, (New York: Ktav Publishing House, 1983), p.22.

statement, "You shall be holy, for I the Lord your God, am holy." (Lev.19:1) The laws in this section are mostly prohibitions regulating interpersonal behavior. These laws provide for the protection of life, property, reputation and dignity, correlating this protection with "holiness." They form much of the basis on which the rabbis legislate human כבוד. In the midst of this section, the warning against profanation of God's name is repeated.

To Rav Yehudah, any abrogation or deviation from laws specifically written in the Torah constitutes a defamation of God. To Rabbi Zeira, any assault on or erosion of human dignity diminishes the "divine image" and therefore constitutes a defamation of God. They agree in the necessity to avoid חלול ה', but disagree about whether, or to what degree, affronts to human dignity fall into that category.

A Functional Definition of Kavod

It can be said that כבוד of humans functions as a medium of protection in halakhah. This protective function is particularly noted with regard to individuals who are outside the mainstream of society. The disadvantaged-- as the poor, the deceased who are permanently outside the framework of interpersonal relationships, even the thief who disregards societal norms--are all entitled to the protection of their כבוד under the various provisions of

halakhah. This entitlement emphasizes the universality of human כבוד and underscores its divine origin.

That this protection is expressed in the negation and of certain behaviors does not diminish its impact. Leo Baeck, in discussing Hillel's negative maxim, "Do not do unto others that which you would not have them do unto you," ²¹ makes the following observation:

"In the realm of ethics, it is the negative which has the hardest limits, the most definite demands; by recognizing and attending to what we ought not to do we learn what morality demands that we should do...To do no wrong is the first decisive step on the way to doing right. We can, too, always discover more easily what is not God's will, what impurity, immorality, and injustice are. All education starts, therefore, with forbidding...Hence the constant, imposing, 'thou shalt not' of the Bible." ²²

In the realm of legislating human relationships, the rabbis recognized the power of the negative. In its various forms, legislation of human כבוד provides a "societal lubricant" preventing erosion of individual dignity and group respect. It can be reasoned that since humans are entitled to the legal protection of their כבוד, the Source of that attribute is entitled all the more so to the recognition and upholding divine כבוד.

²¹ B.T. Shabbat 31a.

²² Leo Baeck, The Essence of Judaism (London: MacMillan, 1936), p.217.

Conclusion

Given the wide variety of situations and conditions under which כבוד is subject to legislation, it is not possible to state a unified halakhic definition. The common factors which inform rabbinic legislation, however, do allow for the suggestion of an operational definition, that is, how כבוד functions in the framework of halakhah. This study has concluded that כבוד, with regard to human beings with no specific titles, functions as a protective mechanism. It prevents the diminution of the dignity or respect which is an inherent human quality. This is true regardless of the status, behavior or condition of the human being. Human beings possess כבוד because they are created in the divine image and were endowed with inherent dignity by the Creator.

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