

Study Session On Human Dignity

Human dignity, or *Kevod Ha'adam* in Hebrew, is a central value deeply embedded in the democratic world. All political thinkers see human rights as stemming from the concept of human dignity. Therefore, if an individual is deprived of a human right, e.g. freedom of speech, it is an offense against his/her dignity. However, there is a difference of opinion as to whether human dignity has a secular or a religious basis.

Those that believe human dignity is a secular concept, place humans and their achievements at the center of the moral value system. However, others claim that human dignity stems from the religious notion that man is created in the image of God (*B'Tzelem Elohim*), and without this religious basis, man cannot claim entitlement to human dignity.

In the text below, we will examine the concept of human dignity as presented in some of the teachings of the Talmudic Rabbis.

I. Talmudic Rabbis

In the Jerusalem Talmud, Tractate *Nedarim* 9:3 (41c), the Rabbis discuss the biblical passage that commands us how to live with others in society:

תלמוד ירושלמי, נדרים פ"ט ה"ג; דף מא ע"ג
"ואהבת לרעך כמוך." (ויקרא, יט: יח')
רבי עקיבה אומר: זהו כלל גדול בתורה!
בן עזאי אומר: זה ספר תולדות אדם. ביום ברא אלהים אדם בדמות אלהים עשה אותו
(בראשית, ה: א') - זה כלל גדול מזה!

"Love your fellow as yourself." (Lev. 19:18)
Rabbi Akiva says: This is a great principle of the Torah!
Ben Azzai says: This is the book of the descendants of Adam; on the day that God created man, in the likeness of God He made him (Gen. 5:1). This is a greater principle!

The *Midrash Bereshit Raba* (24:7) analyzes Ben Azzai's opinion:

בראשית רבה, כד: ז'
...שלא תאמר: הואיל ונתבזיתני - יתבזה חבירי עמי, הואיל ונתקללתי - יתקלל חבירי עמי.
אמר רבי תנחומא: אם עשית כן, דע למי אתה מבזה - "בדמות אלהים עשה אותו".
...Do not say, since I was degraded, I will degrade my fellow together with me, since I was cursed I will cause others to be cursed with me.
Said R. Tanhuma: Know whom you degrade - "in the likeness of God He made him."

Discussion:

- What is the "great principle" according to Rabbi Akiva?
- What is the "great principle" according to Ben Azzai?
- What is the difference in their reasons as to why we shouldn't degrade other people?

Ben Azzai gives us the basic moral justification for human dignity: Every human being was created *B'Tzelem Elohim*, in the image of God. Offending someone's dignity is, in fact, an offence to the God-like attributes in that person. The Divine presence in everyone gives him or her infinite importance, deserving of honor.

Kevod Ha'adam or human dignity is not only a philosophical concept, descriptive of human nature, it also dictates how we should behave. Thus, the Bible prohibits murder because human beings are created in the image of God:

בראשית, ט: ו'

ושפך דם האדם, באדם דמו ישפך; כי בצלם אלהים, עשה את האדם.

Whoever sheds man's blood, by man his blood shall be shed, for in the image of God He made man (Gen. 9:6).

Similarly, the Torah commands that we bury the corpse of a criminal that has been hanged because he, too, is entitled to be treated with dignity:

דברים, כא: כב'-כג'

וכי יהיה באיש חטא משפט מות והומת, ותלית אותו על עץ; לא תלין נבלתו על העץ, כי קבור תקברנו ביום ההוא. **כי קללת אלהים תלוי**, ולא תטמא את אדמתך אשר ד' אלהיך נתן לך נחלה.

*If a man has committed a capital crime and is put to death, and you hang him on a tree, you must not leave his corpse on the tree, but must bury him that same day. **For a hanged man is a curse to God**, and you shall not defile your land, which the Lord your God is giving you as an inheritance (Deut. 21:22-23).*

In his commentary to the above text, *Rashi* states:

רש"י (דברים, כא: כב'-כג')

"כי קללת אלהים תלוי" - זלזולו של מלך הוא; שאדם עשוי בדמות דיוקנו, וישראל הם בניו. משל לשני אחים תאומים שהיו דומין זה לזה; אחד נעשה שר, ואחד נתפס לליסטיות, ונתלה. כל הרואה אותו אומר: "השר תלוי..."

"For a hanged man is a curse to God": It is an affront to the King (i.e., God); because human beings are created in the image of His likeness and Israel are His children. This is like the case of identical twin brothers; one became a (government) minister, while the other was taken as a thief and hanged. Everyone who sees him (on the gallows) says, "The minister has been hanged..." (Deut. 21:22-23).

Discussion:

- What is the principle that *Rashi* sees as the basis for the precept that one must bury a hanged man on the same day?

Rabbi Meir Simcha from Dvinsk, who was known as the *Meshech Hochma* explains the concept of *Tzelem* (Divine image) in a unique way in his commentary to Genesis, *Bereshit Raba* (8:3):

משך חכמה, בראשית רבה, ח: ג'
"נעשה אדם בצלמנו" (בראשית א, כו') – הצלם האלקי הוא הבחירה החופשית, בלי טבע מכריח; רק מרצון ושכל חפשי, שהשי"ת מניח מקום לבוראיו לעשות כפי מה שיבחרו. ולכן אמר "נעשה אדם בצלמנו" (בראשית רבה, ח: ג'). שהתורה מדברת בלשון בני אדם. שאמר: נניח מקום לבחירת האדם, שלא יהא מוכרח במפעליו ומחויב במחשבותיו, ויהיה בחירי – חפשי לעשות טוב או רע כאשר יחפוץ נפשו, ויוכל לעשות דברים נגד מזגי טבעו, ונגד הישר בעיני ד'.

"Let us make man in our image" (Gen. 1:26): The Divine image is free will, without the compulsion of nature, but exclusively a matter of volition and free intellect. For God, may He be blessed, allows His creatures the possibility of doing as they choose. This is why He said: "Let us make man in our image" (Bereshit Raba. 8:3). The Torah speaks in human terms. He said: Let us leave room for human choice, that their deeds need not be coerced and their thoughts not be compelled. Rather, let them be voluntary, with the freedom to do good or evil as their hearts desire, and able to act against their innate temperament and against what is pleasing to the Lord.

Discussion:

- How does the *Meshech Hochma's* explanation of the Godly dimension in man differ from that of Ben Azzai discussed above?

II. Jewish precepts and Israeli law

Study the following excerpts from an article written by Aharon Barak, president of the Israeli Supreme Court that appeared in the Israeli newspaper *Haaretz* on June 3, 1994:

אהרון ברק כבוד האדם כזכות חוקתית
... בבסיסו של כבוד האדם כמושג משפטי אופרטיבי עומדת ההכרה כי האדם הוא יצור חפשי המפתח את גופו ואת רוחו על פי רצונו... ביסוד כבוד האדם עומדת האוטונומיה של הרצון הפרטי, חופש הבחירה וחופש הפעולה של האדם. כבוד האדם היא החרות של האדם לעצב את חייו ולפתח את אישיותו כרצונו... כבוד האדם מניח אדם בן חורין שהוא מטרה בפני עצמה ולא אמצעי להשגת מטרות של הכלל או של פרטים אחרים.

...Human dignity, as a legal concept, is based on the recognition that man is a free being who may develop his body and his soul as s/he wishes. At the foundation of human dignity stands individual autonomy, freedom of choice and freedom of action. Human dignity provides each person with the freedom to live their life and develop their personality as they wish... Human dignity assumes that being a free person is the end goal and not a means for achieving the aims of the public or of other individuals.

Discussion:

- In what way is Aharon Barak's justification for dignity similar to, and in what way does it differ from, that of the *Meshech Hochma*?

In Israel, the “Basic Law: Human Dignity and Liberty” (1994) plays a key role in the discourse on human rights. In fact, this law has a special constitutional status, giving the Supreme Court the authority to strike down legislation that offends human dignity, a right that has been used more than once by the Supreme Court:

The basic rights of a human being in Israel are based on the recognition of the value of man, the sanctity of life and freedom. These shall be respected in the spirit of the principles that proclaimed the establishment of the State of Israel.

1. Purpose

The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law, the values of the State of Israel as a Jewish and democratic State.

2. Preservation of life, body and dignity

There shall be no violation of life, body or dignity of any person.

3. Protection of property

There shall be no violation of the property of any person.

4. Protection of life, body and dignity

All persons are entitled to protection of their life, body and dignity.

5. Personal liberty

There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise.

6. Entering and Exiting Israel

- (a) All persons are free to leave Israel;*
- (b) Every Israeli national has the right of entry into Israel from abroad.*

7. Privacy

- (a) All persons have the right to privacy and intimacy;*
- (b) Entry into private premises of a person is only by consent;*
- (c) No search shall be conducted on the private premises of a person, neither on the body, in the body or in personal effects;*
- (d) There shall be no violation of the confidentiality of conversation, or of the writings or records of a person.*

Discussion:

- What rights and duties are derived from the human dignity principle in the Basic Law?
- Compare the Basic Law with the paragraph on “hanging criminals” in Genesis cited above.
- Why does the law stress the liberty of man in addition to dignity?

III. Conclusion

In this unit we explored the religious basis for the dignity of human beings. We have seen that dignity is an inherent part of human existence and derives from the fact that people were created in the image of God. We have also learned that the Jewish religious approach has many points of contact with modern concepts of human dignity and human rights as exemplified in the Basic Law of the State of Israel.