

Kevod Hamet as Kevod Habriyot Session One: Kevod Habriyot Sources Are All About Death

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<p>1. Talmud Bavli Brachot 17b Mishnah: One whose deceased relative is laid out unburied before him is exempt from the recitation of <i>Shema</i>, from the <i>Amida</i> prayer, and from the mitzva to don phylacteries, as well as all positive mitzvot mentioned in the Torah, until the deceased has been buried. With regard to the pallbearers and their replacements and the replacements of their replacements, those located before the bier who have not yet carried the deceased and those located after the bier. Those before the bier who are needed to carry the bier are exempt from reciting <i>Shema</i>; while those after the bier, even if they are still needed to carry it, since they have already carried the deceased, they are obligated to recite <i>Shema</i>. However, both these and those are exempt from reciting the <i>Amida</i> prayer, since they are preoccupied and are unable to focus and pray with the appropriate intent. After they buried the deceased and returned, if they have sufficient time to begin to recite <i>Shema</i> and conclude before they arrive at the row, formed by those who attended the burial, through which the bereaved family will pass in order to receive consolation, they should begin. If they do not have sufficient time to conclude reciting the entire <i>Shema</i>, then they should not begin. And those standing in the row, those in the interior row, directly before whom the mourners will pass and who will console them, are exempt from reciting <i>Shema</i>, while those in the exterior row, who stand there only to show their respect, are obligated to recite <i>Shema</i>.</p>	<p>תלמוד בבלי מסכת ברכות יז: מתני' מי שמתו מוטל לפניו — פטור מקריאת שמע ומן התפלה ומן התפילין, ומכל מצות האמורות בתורה. נושאי המטה וחלופיהן, וחלופי חלופיהן, את שלפני המטה, ואת שלאחר המטה. את שלפני המטה צורך בהם — פטורין, ואת שלאחר המטה צורך בהם — חייבין. ואלו ואלו פטורים מן התפלה. קברו את המת וחרזו, אם יכולין להתחיל ולגמור עד שלא יגיעו לשורה — יתחילו. ואם לאו — לא יתחילו. העומדים בשורה, הפנימיים — פטורים, והחיצונים — חייבים.</p>
<p>2. יכין על המשנה ברכות ג:ב. (Rabbi Yisrael Lipschitz 1782-1860 Germany) ואם לאו לא יתחילו דתנחומי אבלים הו"ל ג"ח דאו'. ואפילו לרמב"ם דס"ל דרבנן. נ"ל דעכ"פ גדול כבוד הבריות שדוחה ל"ת בשב ואל תעשה [כברכות ד"כ]. מיהו באין שהות לקרות אח"כ. חייב:</p>	
<p>3. Talmud Bavli Brachot 19b We learned in the mishna that those standing in the row, those in the interior row, are exempt from reciting <i>Shema</i> and the others are obligated. The Sages taught this more expansively in the <i>Tosefta</i>: The consolers standing in a row from which one sees inside the area where the mourners are passing are exempt, and those standing in a row from which one does not see inside are obligated. And Rabbi Yehuda elaborates and says: The consolers standing in the row who come on account of the bereaved are exempt, while those who come on account of their own curiosity are</p>	<p>תלמוד בבלי מסכת ברכות יט: העומדים בשורה וכו'. תנו רבנן: שורה הרואה פנימה — פטורה, ושאינה רואה פנימה — חייבת. רבי יהודה אומר: הבאים מחמת האבל — פטורין, מחמת עצמן — חייבין.</p>

obligated to recite *Shema*.

We learned that some who come to console the bereaved are exempt from *Shema* as a means of honoring the deceased. The Gemara expands the discussion to raise the general question: To what degree does preserving human dignity takes precedence over mitzvot enumerated in the Torah? **Rav Yehuda said that Rav said: One who discovers diverse kinds [kilayim], i.e., a prohibited mixture of wool and linen, in his garment, must remove them even in the public marketplace.** He may not wait until he reaches home. **What is the reason** for this? As it is stated: **"There is neither wisdom, nor understanding, nor counsel against the Lord"** (Proverbs 21:30). From here, the general principle: **Anywhere that there is desecration of the Lord's name, one does not show respect to the teacher,** is derived.

The Gemara cites several sources to challenge this principle. The Gemara **raised an objection** from a *baraita*: **After they buried the deceased and returned, and on their way there are two paths before them, one ritually pure and one ritually impure, e.g., it passes through a cemetery, if the mourner comes on the pure path, they come with him on the pure path; if he comes on the impure path, all of the funeral participants accompany him on the impure path in order to show him respect. Why would they do this? Let us say here too that, "There is neither wisdom, nor understanding...against the Lord!" Rabbi Abba explained** that the *baraita* is referring to a path that passes **through an area where there is uncertainty with regard to the location of a grave or a corpse [beit haperas]**. For example, with regard to a field in which there is a grave that was plowed and no longer intact, the entire field is deemed impure due to concern that the plow scattered bones throughout the field. The field is impure only **by rabbinic law** but not according to Torah law. Since it is only prohibited by rabbinic law, one is permitted to walk through the field to show the mourner respect.

The Gemara cites additional proof with regard to the extent to which human dignity overrides mitzvot in the Torah. **Come and hear, as Rabbi Elazar bar Tzadok the priest said:** I and my fellow priests **would jump over coffins of the deceased** in order to hurry **towards kings of Israel** to greet them. **And they did not say this only towards kings of Israel, but they said this even towards kings of the nations of the world, so that if one will be privileged to witness the redemption of Israel, he will distinguish between kings of Israel and kings of the nations of the world.** The priest violated the Torah prohibition to become ritually impure through contact with the dead, in order to show respect for a king. And **why** is this? **Let us say here too: "There is neither wisdom, nor understanding, nor counsel against the Lord."** The Gemara responds to this challenge by saying that it must be understood **in accordance with the opinion of Rava, as Rava said: By Torah law, a tent over a corpse, as long as there is a handbreadth of space between the corpse and**

רשי: מחמת עצמן – ולא מחמת כבוד שלא באו לנחם אלא לראות את המאורע:
אמר רב יהודה אמר רב: המוצא פלאים בבגדו — פושטן אפילו בשוק. מאי טעמא: "אין חכמה ואין תבונה ואין עצה לנגד ה'", כל מקום שיש חלול השם אין חולקין כבוד לרב.

מתיבי: קברו את המת וחרו, ולפניהם שתי דרכים, אחת טהורה ואחת טמאה, בא בטהורה — באין עמו בטהורה, בא בטמאה — באין עמו בטמאה משום כבודו. אמאי? לימא "אין חכמה ואין תבונה לנגד ה'"! תרגמה רבי אבא בבית הפרס דרבנן...

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 אומות העולם, שאם יזפה, יבחין בין מלכי ישראל למלכי אומות העולם. אמאי? לימא "אין חכמה ואין תבונה ואין עצה לנגד ה'"!

the tent over it, **constitutes a barrier before** the spread of **impurity** and nothing above the tent can become ritually impure due to impurity imparted by the corpse. **And when there is not a handbreadth of space** between the corpse and the tent over it, the tent **does not constitute a barrier before** the spread of **impurity** and the “pressed” ritual impurity, can reach the heavens. **Most coffins have a handbreadth of space.** Consequently, their impurity does not spread above the coffin. However, the Sages **issued a decree regarding coffins in which there is** a handbreadth of space **because of** those coffins **in which there is not.** Nevertheless, **due to respect for kings,** the Sages **did not issue a decree** in a case involving **them** and the priests were permitted to jump over the coffins, as it is permitted by Torah law. Therefore, there is no proof from here regarding the question of whether or not human dignity overrides Torah law.

The Gemara cites an additional proof from a *baraita*: **Come and hear: Great is human dignity, as it overrides a prohibition in the Torah.** The Gemara asks: **Why? Let us also say here: “There is neither wisdom, nor understanding, nor counsel against the Lord.” Rav bar Shaba interpreted this prohibition,** which is overridden by human dignity, **before Rav Kahana** as referring to **the prohibition of:** “According to the Torah taught to you and the ruling handed down to you, you shall do, **you shall not deviate** to the left or the right from that which they tell you” (Deuteronomy 17:11). The Yeshiva students **laughed at him,** as the **prohibition of “you shall not deviate” is by Torah law,** like all other Torah prohibitions. Why should human dignity override it any more than any other Torah prohibition? **Rav Kahana replied** to them: **A great man has spoken, do not laugh at him.** The Sages **based all rabbinic law on the prohibition of “you shall not deviate”;** however, **due to** concern for human dignity, **the Sages permitted** suspension of rabbinic law in cases where the two collide. All rabbinic decrees are predicated on the mitzva in the Torah to heed the judges in each generation and to never stray from their words. Therefore, when the Sages suspend a decree in the interest of preserving human dignity, human dignity is overriding a Torah prohibition. In any case, it only overrides rabbinic decrees.

פְּדָרְבָא. דְּאָמַר רַבָּא: דְּבַר תּוֹרָה,
אֵהָל, כֹּל שֵׁישׁ בּוֹ חֲלַל טַפַּח —
חוֹצֵץ בְּפָנֵי הַטּוּמְאָה. וְשֵׁאִין בּוֹ חֲלַל
טַפַּח — אֵינוֹ חוֹצֵץ בְּפָנֵי הַטּוּמְאָה.
וְרֹב אַרְוֹנוֹת יֵשׁ בָּהֶן חֲלַל טַפַּח.
וְגָזְרוּ עַל שֵׁישׁ בָּהֶן מִשּׁוּם שֵׁאִין
בָּהֶן. וּמִשּׁוּם כְּבוֹד מְלָכִים לֹא גָזְרוּ
בָּהוּ רַבָּנָן.

תָּא שְׁמַע: גְּדוֹל כְּבוֹד הַבְּרִיּוֹת
שְׂדוּחָה [אֶת] לֹא תַעֲשֶׂה שְׁבַתְוָרָה.
וְאִמַּאי? לֵימָא “אֵין חֻקָּמָה וְאֵין
תְּבוּנָה וְאֵין עֶצָה לְנֶגְדַּי הִי!”
תְּרַגְמָה רַב בַּר שָׁבָא קָמִיה דְּרַב
כְּהֵנָא בְּלֹאוּ דְ”לֹא תִסּוּר”. אֲחִיכוּ
עֲלֵיהּ, לֹאוּ דְ”לֹא תִסּוּר” דְּאוּרֵייתָא
הִיא!? אָמַר רַב כְּהֵנָא: גְּבַרָא רַבָּה
אָמַר מִלְתָּא, לֹא תַחֲיִכוּ עֲלֵיהּ. כֹּל
מִלֵּי דְרַבָּנָן אֲסַמְכִינְהוּ עַל לֹאוּ
דְ”לֹא תִסּוּר”, וּמִשּׁוּם כְּבוֹדוֹ שְׁרוּ
רַבָּנָן.

4. Talmud Bavli Shabbat 93b

MISHNA: One who carries out foods less than the measure that determines liability for carrying out food **in a vessel** on Shabbat **is exempt, even for** carrying out **the vessel, because the vessel is secondary** to the food inside it. Since one is not liable for carrying out the food, he is not liable for carrying out the vessel either. Similarly, one who carries out a **living person on a bed**

תְּלִמּוּד בְּבַלֵּי שַׁבַּת צ”ג:
מִתְּנִי״ הַמוֹצִיא אוֹכְלִין פְּחוֹת
מִכְּשִׁיעוֹר בְּכָלֵי — פְּטוֹר אָף עַל
הַכָּלֵי, שֶׁהַכָּלֵי טְפִלָּה לוֹ, אֶת הַחַי
בַּמָּטָה — פְּטוֹר אָף עַל הַמָּטָה,

<p>is exempt, even for carrying out the bed, because the bed is secondary to the person. One who carries out a corpse on a bed is liable. And similarly, one who carries out an olive-bulk of a corpse, or an olive-bulk of an animal carcass, or a lentil-bulk of a creeping animal, which are the minimal measures of these items that transmit ritual impurity, is liable. And Rabbi Shimon deems him exempt. He holds that one is only liable for performing a prohibited labor for its own sake. One who carries out an object in order to bring it to its destination is liable. However, people carry out a corpse or an animal carcass only to be rid of them.</p>	<p>שְׁהַמְטָה טְפִלָּה לּוֹ. אֶת הַמֵּת בַּמָּטָה — חַיִּיב, וְכֵן כְּזִית מִן הַמֵּת וְכִזְיִית מִן הַנְּבֵלָה וְכַעֲדָשָׁה מִן הַשָּׂרֵץ — חַיִּיב, וְרַבִּי שְׁמַעוֹן פּוֹטֵר.</p>
<p>5. Talmud Bavli Shabbat 94b The Gemara relates: There was a corpse in the city of Derokera and Rav Nahman bar Yitzhak permitted carrying it out into a <i>karmelit</i> on Shabbat because, for some reason, it could not remain where it was. Rabbi Yohanan, brother of Mar, son of Rabbana, said to Rav Nahman bar Yitzhak: In accordance with whose opinion did you permit moving the corpse to the <i>karmelit</i>? If it was in accordance with the opinion of Rabbi Shimon, say that in that case Rabbi Shimon exempted one from the obligation to bring a sin-offering. However, there remains a rabbinic prohibition. Rav Nahman bar Yitzhak said to him: By God, have you entered into an understanding of the matter? Even according to the opinion of Rabbi Yehuda it is permitted to carry out the corpse, as did I say they may carry it out to the public domain? I said that it may be carried out into a <i>karmelit</i>, which is only prohibited by rabbinic law. With regard to prohibitions by rabbinic law, the principle states: Great is human dignity, as it overrides a prohibition in the Torah: “You shall not deviate from that which they tell you to the right or to the left” (Deuteronomy 17:11).</p>	<p>תלמוד בבלי שבת צ"ד: ההוא שִׁכְבָּא דְהוֹה בְּדְרוֹקֶרֶת, שָׂרָא רַב נַחְמָן בַּר יִצְחָק לְאַפּוֹקִיָּה לְכַרְמְלִית. אָמַר לִיה רַבִּי יוֹחָנָן אָחוּה דְמַר בְּרִיָּה דְרַבְנָא לְרַב נַחְמָן בַּר יִצְחָק: כְּמָאן, כְּרַבִּי שְׁמַעוֹן? אִימַר דְּפִטְר רַבִּי שְׁמַעוֹן מִחַיִּיב חֻטָּאת, אִיסוּרָא דְרַבְנָן מִיָּהָא אִיכָא! אָמַר לִיה: הָאֱלֹהִים, דְּעִילַת בִּיה אַתָּ? וְאַפִּילוּ לְרַבִּי יְהוּדָה שָׂרִי, דְּמִי קְאָמִינָא לְרִשׁוּת הַרְבֵּיבִים? לְכַרְמְלִית קְאָמִינָא, גְּדוּל כְּבוֹד הַבְּרִיּוֹת שְׂדוּחָה אֶת "לֹא תַעֲשֶׂה" שְׁבִתוֹרָה. רשי: לאפוקיה לכרמלית - שהיה מוטל בבזיון או בדליקה או בחמה ואי משום טלטול מניח עליו ככר או תינוק:</p>
<p>6. Talmud Bavli Shabbat 30b What did David do? Every Shabbat he would sit and learn all day long to protect himself from the Angel of Death. On that day on which the Angel of Death was supposed to put his soul to rest, the day on which David was supposed to die, the Angel of Death stood before him and was unable to overcome him because his mouth did not pause from study. The Angel of Death said: What shall I do to him? David had a garden [<i>bustana</i>] behind his house; the Angel of Death came, climbed, and shook the trees. David went out to see. As he climbed the stair, the stair broke beneath him. He was startled and was silent, interrupted his studies for a moment, and died.</p>	<p>תלמוד בבלי שבת ל: כָּל יוֹמָא דְשַׁבְּתָא הוֹה יְתִיב וְגָרִיס כוֹלֵי יוֹמָא. הוֹהוּ יוֹמָא דְבַעֲי לְמִינַח נְפִשְׁיָה, קָם מִלְּאָרְהַם הַמּוֹת קָמִיה וְלֹא יָכִיל לִיה, דְּלֹא הוֹה פּוֹסֵק פּוּמִיָּה מִגִּירָסָא. אָמַר: מֵאִי אַעֲבִיד לִיה? הוֹה לִיה בּוֹסְתָנָא אַחוּרִי בִּיתִיָּה, אֶתָּא מִלְּאָרְהַם הַמּוֹת סְלִיק</p>

Since David died in the garden, **Solomon sent** the following question **to the study hall: Father died and is lying in the sun, and the dogs of father's house are hungry.** There is room for concern lest the dogs come and harm his body. What shall I do? **They sent** an answer **to him: Cut up an animal carcass and place it before the dogs.** Since the dogs are hungry, handling the animal carcass to feed them is permitted. **And** with regard to **your father**, it is prohibited to move his body directly. **Place a loaf** of bread **or an infant on top of him, and** you can **move him** into the shade due to the bread or the infant. **And** is it **not appropriate** what **Solomon said: "For a living dog is better than a dead lion."**

וּבְחִישׁ בְּאֵילָנֵי. נִפְקַד לְמִיחְזֵי. הֲוֵהּ.
סָלִיק בְּדֶרֶגָא, אִיפְחִית דְּרָגָא,
מִתּוֹתִיהּ, אִישְׁתִּיק וְנַח נִפְשִׁיהּ.
שְׁלַח שְׁלֵמָה לְבֵי מְדַרְשָׁא: אֲבָא מֵת
וּמוֹטֵל בְּחֶמָה, וְכֻלְבִּים שָׁל בֵּית
אֲבָא רְעִבִים — מָה אַעֲשֶׂה? שְׁלַחוּ
לִיהּ: חֲתוּף נְבִלָה וְהִנַּח לִפְנֵי
הַכְּלָבִים. וְאַבִּיהּ, הִנַּח עָלָיו כֶּכֶר אוֹ
תִּינוֹק וְטִלְטְלוּ. וְלֹא יִפֶּה אִמֵּר
שְׁלֵמָה: "כִּי לְכָלֵב חַי הוּא טוֹב מִן
הָאֲרִיָּה הַמֵּת."

7. תוספות מסכת שבת צד:

גדול כבוד הבריות שדוחה את לא תעשה שבתורה - קשה לר"ת דגבי טלטול דהוי איסורא דרבנן לא שרינן משום כבוד הבריות אלא ע"י ככר או תינוק כדאמר בפרק במה מדליקין (לעיל שבת דף ל:): ובפרק כירה (שבת דף מג:): ויש לומר דשאני טלטול דאפשר על ידי ככר או תינוק לכך לא התיר בענין אחר:

8. Talmud Bavli Megillah 3b

Rava said: It is obvious to me that if one must choose between Temple service and reading the Megilla, reading the Megilla takes precedence, based upon the exposition of **Rabbi Yosei bar Ḥanina** with regard to the phrase "every family" (Esther 9:28). Similarly, if one must choose between **Torah study and reading the Megilla, reading the Megilla takes precedence, based upon** the fact that the Sages of **the house of Rabbi Yehuda HaNasi** relied on **Rabbi Yosei bar Ḥanina's** exposition to rule that one interrupts Torah study to hear the reading of the Megilla. Furthermore, it is obvious that if one must choose between **Torah study and tending to a corpse with no one to bury it [met mitzva]**, the task of burying **the met mitzva** takes precedence. This is derived **from that which is taught** in a *baraita*: **One cancels his Torah study to bring out a corpse** for burial, **and to join a wedding procession and bring in the bride.** Similarly, if one must choose between the Temple **service and tending to a met mitzva**, tending to the *met mitzva* takes precedence, based upon the *halakha* derived from the term "**or for his sister**" (Numbers 6:7). **As it is taught** in a *baraita* with regard to verses addressing the laws of a nazirite: "All the days that he consecrates himself to the Lord, he shall not come near to a dead body. For his father, or for his mother, for his brother, or for his sister, he shall not make himself ritually impure for them when they die" (Numbers 6:6–7). **What** is the

תלמוד בבלי מגילה ג:
אמר רבא פשיטא לי עבודה
ומקרא מגילה מקרא מגילה עדיף
מדרי' יוסי בר חנינא תלמוד תורה
ומקרא מגילה מקרא מגילה עדיף
מדסמכו של בית רבי
תלמוד תורה ומת מצוה מת מצוה
עדיף מדתניא מבטלין תלמוד
תורה להוצאת מת ולהכנסת כלה
עבודה ומת מצוה מת מצוה עדיף
(במדבר ו, ז) מולאחותו דתניא
ולאחותו מה ת"ל הרי שהיה הולך
לשחוט את פסחו ולמול את בנו
ושמע שמת לו מת יכול יטמא
אמרת לא יטמא יכול כשם שאינו
מיטמא לאחותו כך אינו מיטמא
למת מצוה ת"ל ולאחותו לאחותו
הוא דאינו מיטמא אבל מיטמא
למת מצוה

meaning when **the verse states “or for his sister”**? The previous verse, which states that the nazirite may not come near a dead body, already prohibits him from becoming impure through contact with his sister. Therefore, the second verse is understood to be teaching a different *halakha*: One **who was going to slaughter his Paschal lamb or to circumcise his son, and he heard that a relative of his died**, one **might** have thought that **he** should return and **become ritually impure** with the impurity imparted by a corpse. **You said: He shall not become impure**; the death of his relative will not override so significant a mitzva from the Torah. One **might** have thought: **Just as he does not become impure for his sister, so he does not become impure for a corpse with no one to bury it [met mitzva]**. **The verse states: “Or for his sister”**; he **may not become impure for his sister**, as someone else can attend to her burial, **but he does become impure for a met mitzva**.

On the basis of these premises, **Rava raised a dilemma**: If one must choose between **reading the Megilla and tending to a met mitzva, which of them takes precedence?** Does **reading the Megilla take precedence due to the value of publicizing the miracle, or perhaps burying the met mitzva takes precedence due to the value of preserving human dignity?** **After he raised the dilemma, Rava then resolved it** on his own and ruled that attending to a *met mitzva* takes precedence, as the Master said: **Great is human dignity, as it overrides a prohibition in the Torah**. Consequently, it certainly overrides the duty to read the Megilla, despite the fact that reading the Megilla publicizes the miracle.

בעי רבא מקרא מגילה ומת מצוה
 הי מיניהו 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