

MD Torah WEEKLY

	ירושלים	בית שמש	בני ברק
הדלקת נרות	4:43	4:42	4:57
צאת השבת	5:57	5:57	5:58

Parshas Terumah - תרומה
Feb 8, 2003 – ו' אדר א' תשס"ג – Vol. 4 No. 16

Talking Business

Everyday Jewish Business Law



Under The Roof

Question

Yehudah lives on the top floor of an apartment block which has a tiled roof. For a long time he alone has been using the area beneath the tiles for storage. He now wishes to construct rooms in this space, arguing that it belongs to him. Can the other apartment owners object to his building?



Answer

Our first task is to define the ownership rights of the individual apartment owners in an apartment block. Each owner receives his own apartment and often a storeroom as well. Not only is the length and the width of each apartment clearly listed in the land registry, but also its height. Whatever is above or below this level does not belong to the individual, but he may possibly be a partner in this area. What parts of the

building are jointly owned? Clearly, the ground on which the building stands is joint property. In addition, writes the *Emek Hamishpot* (3:58), according to the local civil law in Israel (Section 52) all sections of the building which have not been designated as private property are considered to be joint property. Apart from the land on which the build-

ing stands, this would include the roof, the external walls, the foundations, the bomb shelter, stairways, lobbies, the elevator and any joint water or heating appliances. Thus, since the space under the roof tiles has not been registered in the name of Yehudah or any other individual owner, we must consider this area as joint property. In other words, when each individual apartment owner bought his apartment, he became a partner in the building on the understanding that this area

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Rav Leff Speaks

Free Will and The Fools of Rome

The Gemora in *Avoda Zara* says that in the future G-d is going to take a Sefer Torah in His arms, so to speak, and proclaim that whoever has fulfilled what is written in it should come forward to claim his reward. So the nations gather, and the Romans come in first:

He asks them, "For what do you think you deserve reward?"

They answer, "We built market-places, bathhouses, bridges...all so that *Klal Yisrael* should learn Torah."

"You are fools," G-d tells them. "All that you built was for your own pleasure...Only those with the merit of Torah will be rewarded." Then the other na-

tions, the Persians and Babylonians, come in, and they, too, are turned away.

The Brisker Rav asks: Why did G-d call them fools? He should call them liars. They didn't build what they built so that the Jews should learn Torah. It's an out-and-out lie. And how could they have the brazenness to stand in front of G-d and lie like that?

The Brisker Rav answers that the Romans were not liars; they were absolutely right. *HaShem* runs the world; and everything that happens is part of His plan for it. So whatever the Romans built was utilized by *Hashem* for the fulfillment of His plan that *Moshiach* will come and *Klal Yisrael* will be able to sit and learn Torah and enjoy *Olam HaBa*. The Romans had their own purposes;

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Living Education

Principles of Education Gleaned from the Weekly Parsha

Complimenting a Child: When and How?

The Mishkan was a symbol of honor, of wealth and of royalty. Many of its vessels were made of gold and silver, while the curtains were woven with fine wool. The grandeur of the Mishkan gave Bnei Yisroel themselves a feeling of grandeur; a feeling of self-respect and self-worth; a feeling that their Torah and their actions could effect the world.

Today, the Yeshivos take the place of the Mishkan and the Beis Hamikdash, which, with G-d's help, will be speedily rebuilt. It is the job of the Rebbes and the staff of the Yeshiva to bring the light of Torah and its wisdom to their pupils and to fill them with a sense of self-worth and self-confidence in their abilities to succeed in Torah learning and to grow in *middos*—control, *derech erez* and *yire Shamayim*.

In educational terms, this approach is called *encouragement*—עידוד. One way to express encouragement is with compliments. However, for a compliment to be effective, it must be given in the right manner, at the right time and place and in the right dosage. Just as it is not always beneficial to give reproof to another person as it may cause him to commit an even worse sin, so too, it's not always beneficial to give a compliment to a child. And, although the adult giving the compliment does so to strengthen the spirit of the child, sometimes we find that the compliment is either ignored, or worse, it disturbs the child and causes him to desist from doing that which brought him the compliments in the first place.

When we feel this may be the case, it is advisable to follow the path of Rabbi Shimon Ha'amsoni (*Gemora Pesachim* 22b), who, after making numerous *drashos*—talmudical analysis—discovered that his approach was faulty. He immediately retracted all his *drashos* and proclaimed, "Just as I have received merit for my learning, so too, I will receive merit for my retraction."

There are a number of factors to take into account before giving a compliment to a child. Here are a number of important ones. A child's:

1. Social standing
2. Level of confidence
3. Self-pride
4. Level of maturity
5. Concern for evil eye
6. Need for support
7. Need for space
8. Need for self-expression
9. Desire to give
10. Level of sensitivity

Let's review these points one by one and see what the best type of compliment is for each child.

1. Social Standing:

There are children who don't like attention focused on them. They like to feel anonymous in

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Parsha Points to Ponder

Your Own Mikdash

They shall make a sanctuary for Me so that I may dwell among them. (Shemos 25:8)

The message we learn from this posuk is that when the Jewish People make a sanctuary for G-d, He dwells among them even outside the sanctuary they made for Him. For the sanctuary is the center of kedushah for the Jewish People as a whole, but corresponding to that collective center of kedushah, each individual Jew should establish a personal center of kedushah in his life, a sanctuary, a dwelling place for the Presence of G-d. This is done by dedicating oneself on a regular basis to learning, to meditation and to contemplation that draw the soul into the Presence of G-d.

Based on sefer Prinei Daas

Moshe is Always with Us

The Midrash points out that some-

times a person can acquire something not being entirely sure of its value. What should he do? He would look to the one through whom he got it. If a person would have any doubts about the Torah, let him consider for a moment the nature of the man through whom we received it: Moshe Rabbeinu, the man of G-d, who connects time with eternity, this world with the next, Heaven and earth, G-d with His creatures. And it was not just in the historical moment of the giving of the Torah that Moshe Rabbeinu fulfilled the role of the middle man. Whenever the Jewish People gather together, the Torah is with them as their heritage, and Moshe Rabbeinu is with them, too. And because Moshe Rabbeinu gave of his soul for us, we are helped by him throughout the generations. The enduring presence of Moshe Rabbeinu is suggested by the very fact that the Torah is called by his name: Toras Moshe, the Torah of Moshe.

Based on sefer Sefas Emes MD

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be jointly owned. The fact that he alone is making use of this area for storage does not confer ownership rights upon him. The *Chasam Sofer* writes clearly (note to *Choshen Mishpot* 155:4) that the area under the tiled roof which is used for storage purposes, as opposed to residential use, is considered to be owned equally by all apartment owners. He adds that they are all therefore equally responsible for the upkeep of this tiled roof.

Accordingly, we can conclude that Yehudah has no right to build in this jointly owned space since he would thereby be limiting the use of this area by the other owners. Indeed, the *Shulchan Oruch* rules (*Choshen Mishpot* 161:5) that it is forbidden for any partner in a courtyard to use it in any way which limits the space available to the other partners. For this reason raising chickens or allowing animals to stand

in the courtyard is subject to the unanimous consent of all the partners (see also Responsa of the *Mabit* 2:96). However, in our case, storing articles in the jointly owned area does not constitute an infringement of the other partners' rights since these items can easily be removed. Thus, they are not limiting the space available to the others. The *Emek Hamishpot* adds that it is common for tiled roofs to be removed to make way for building additional apartments on then roof. As mentioned in the article entitled "Building on the roof" (two weeks ago), any building on the roof by an individual owner effectively removes this option.

Yehudah's claim that unchallenged usage of the space under the tiles makes him owner of this area is totally invalid. Unchallenged use of a property is not enough to confer ownership. It is necessary for the person claiming title to this property to explain how it came into his hands (see Tractate *Bovo Basro* 41a). Did he buy it, did he inherit it, did he receive it as a gift? Failure to provide such explanation renders the fact of unchallenged use worthless. Furthermore, in our case the other owners could argue that they were unaware of what was happening under the roof. Unchallenged use is only a sign of ownership if it could reasonably have been challenged. Out of sight, out of mind. MD

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(Living Education—Continued from page 1)

the classroom. For them, to be singled out puts them in a spotlight they would like to run away from. (This usually signifies a lack of self-confidence and self-worth.) A compliment to this child can have a positive effect, but only if it is said in private for only the ears of the student to hear. It may be that some children will also shy away from a compliment said in front of other members of the teaching staff, while other children would be happy if other teachers heard their praise. If the teacher chooses to compliment this type of child, he must choose the right time and place if his compliment is to fall on appreciative ears. Otherwise, it may make him shrivel up and actually feel worse, for he sees himself in general as lacking worth and certainly feels less important and successful than his classmates. It turns out, that although the adult intended to raise the child's spirits, in reality, he lowered them.

2. Level of confidence:

Children who lack confidence will react to a compliment in one of two ways. Either they will dismiss it as irrelevant or inappropriate, or it will remind them of their lackings. This type of child certainly needs sincere compliments. However, it would be best to intersperse the compliment with a reminder that the child still has a way to go until he can be satisfied with his development. This will give the child the balance he needs to continue to improve. Another possible reaction of children who lack confidence is to criticize the giver of the compliment for having singled out the fact that until now he (the child) did not learn or behave as well as was expected to.

3. Self-pride:

A familiar problem which arises when a child receives a compliment or a prize is that he feels elated. If this feeling has a limited life span, then the child's reaction is considered acceptable. However, some children let the compliment or prize get to their head and begin to feel detached from the other boys in the class, feeling above and beyond them. This self-pride can easily lead to haughtiness, which can activate a number of negative traits, including disrespect of teachers and parents and belittlement of peers. This happens because the child's accomplishments dislodged him from his true level. Whereas a more balanced child will use a compliment to improve his level of accomplishments or behavior, a less balanced child will lose his balance completely and react as we mentioned above.

4. Level of maturity:

Maturity, in definition, is a state of being which enables a person to relate to that which he has been confronted with in an objective, rational manner. An immature person is unable to relate to that which has been said or done to him or his surroundings in the same context in which it was meant to be delivered.

Each child develops at his own pace. If a compliment is given to a child it must match his maturity level, for if not, the child will either belittle the compliment or try and use it for his own advantage. Children have been known to respond as follows, after being given an untimely compliment: "Rebbe, since I was so good in Mishnah class, can I skip math class?" Or, "Principal, since I got a 95 on my last test, can I leave 15 minutes early today?" These children use compliments as ammunition in order to get what they want.

A child who will answer in the above manner should be given only limited compliments, followed with additional expectations, leaving him with a feeling that not only is he not deserved of extra benefits, but he is expected to achieve even more. On the other hand, a child who belittles compliments, should not be complimented at all. Rather, his belittling attitude should be dealt with in a non-compromising manner, as this type of attitude can uproot all the Torah he has learned and the education he has received within no time at all. In addition, it can cause great pain to his fellow students.

5. Concern for ayin horah - evil eye:

Some students, although they may want to receive a compliment, would rather not hear it in public for fear of *ayin horah*-evil eye. The idea of *ayin horah* is that when something good becomes known to many people, the prosecuting forces above are awakened in order to check and see if the receiver of this good is not the carrier of lackings as well, for which he deserves to be punished. When a compliment is given in private, this possibility is avoided. On this, Chazal say, "אין הברכה "אין הברכה"—"A blessing only falls on something which is hidden from sight."

If a teacher or parent feels it is necessary to give a compliment in public, and the child would preferably not receive one, he should first inform the child that he intends to give him a compliment, and if possible, give him

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the compliment in an indirect manner.

6. Need for support:

Some children are in constant need of compliments. For them, each and every word of support and encouragement is like oxygen to the lungs. Without it, they feel inferior and incapable. Compliments put smiles on their faces and light in their eyes. They remove the weight on their shoulders and the heaviness in their hearts and give a great lift to their confidence. With it they can achieve and without it they fail. For many of these children, it's not enough to give a compliment once a week, or even once a day. They need to be constantly reminded of their good points and for their achievements to be highlighted.

7. Need for Space:

Still other children are very private people. They don't like to bother others and talk about their business, and in return, they don't like when people talk about them. They like to live within their own *four amos* (personal space). When one compliments them, they feel intruded upon, and whether the compliment is in place or not, they reject it. This type of child should not be complimented in a way which causes him to feel that his private space has been intruded upon.

8. Need for self-expression:

Some children are blessed with great intelligence, curiosity and understanding. These traits develop in a child a tremendous desire to search out, discover, think and compare, all on his own. When someone, even someone they respect, gives them a compliment, they see it as an attempt to smother their motivation and block their self-expression.

The best approach with children of this nature is, instead of complimenting them on past accomplishments, to ask them if they have something interesting or even original they would like to say. Helping them generate new thoughts and reach new horizons will be more valuable to them and more respected than any direct compliment.

9. Desire to Give:

From Rav Dessler (*Michtav M'Eliyahu* Book 1 p. 32) we learn that giving is the source of all good. Some children are either taught this lesson at a young age or naturally or independently understand it. They categorically reject all presents and compliments as well. They have a powerful desire to give to others and receiving compliments is considered in their eyes as accepting a gift from others which uproots their fundamental obligation, which is to give. Any compliment given to these children should include an opportunity or encouragement for them to give even more on their own.

10. Level of sensitivity:

Before one gives a compliment, he should estimate whether it will actually be taken as a compliment by the child. If the child feels the compliment is given for something which took little investment on his part, he may read the compliment as an insult. A parent or teacher needs to be in tune with the maturity level of the child and his level of sensitivity and think what the child would consider a true compliment and what not, before he gives it. When in question, it is advisable to refrain from giving the compliment and to give encouragement instead.

Besides taking the personality of the particular child into account, the adult needs to be sure that he is the correct person to be giving the compliment. As a rule, the more respectable the adult is in the eyes of the child, the more value his compliment will have.

Even regarding children who find it difficult to receive a compliment, there are a number of ways to effectively use the power of complimenting. One, is to give a compliment about the child to another teacher at a time when the child himself is able to overhear the conversation. Another, is to ask another person who has heard the compliment to go over to the child and relay that the principal or the teacher has given him a compliment. A third way is to give the compliment in the middle of a dialogue with the child in a matter-of-fact way, stating it as a fact to be accepted without need for discussion and without surprise or excitement. "מספר 'אני והנער'. 'עמ' נ'ט-הרב אברהם יעקב לו שליט'א-מחנך בירושלים)

In conclusion, on one hand, a compliment can be an extremely effective tool in stimulating a child, building up his confidence and filling him with a desire to succeed in his learning and to grow in *yiras Shamayim*. On the other hand, an untimely or misplaced compliment, or one given not in accordance with the wave-length of the child, can have a negative effect. Therefore, an adult should first examine whether it is an appropriate situation and time to give a compliment. If not, refraining from giving a compliment may be the best advice. MD

Thoughts on the Midrash

Our Guardian, Our Shepherd, Our Father

You are My sheep and I am the Shepherd... You are a vineyard and I am the Guard... You are My sons and I am your Father... (Midrash Rabbah 34)

G-d is our guard, our shepherd and our Father. As our guard, He limits and subdues the forces that would pull us away from Him. As our shepherd, He provides us with our livelihood. And the purpose of our lives is to cling to him with the love of a son for his Father.

The three main sections of the sanctuary, the *chatzer*, the *heichal* and the *kadosh hakadoshim* suggest these three

dimensions of our relationship to G-d. The *chatzer* was the location of the altar on which animal and grain sacrifices were offered. The *chatzer* reminds us that G-d watches over and protects us, for, as the Baalei Tosephos say (Megilla 3a), the sacrifices protect us. The *heichal* contains the table of the *lechem hapanim* and the Menorah, the sources of our material and spiritual sustenance. It reminds us that G-d is our shepherd. The *kadosh hakadoshim* contains the *luchos*, the *aron*, the *kaporus* and the *keruvim*, all of which signify the deep bond between the Jewish People and their Father in Heaven.

Based on sefer *Shem Mishmuel* MD

(Rav Leff—Continued from page 1)

but in the end it really was for the sake of the Jewish people. Even though people are free to choose between right and wrong, the outcome, whether their aims are realized or not, is not up to them.

But the Romans were fools, because they did what they did for their own benefit, not for Israel. Since the outcome was never in their control, they were judged only on their decisions and their intentions. Had they really intended it for the benefit of Israel, they would have deserved the reward; but since they didn't, they are fools and unworthy of reward.

We can see this principle at work in the laws of *eidim zomemim*, conspiring

witnesses. Two witnesses testify falsely that Reuven killed Shimon. In fact, they weren't even at the scene of the crime the day it was committed. Then, after the verdict is announced, two more witnesses come and testify that the first pair of witnesses were actually with *them* in another place at the time the crime was committed, and therefore could not have witnessed the crime to which they testified. The first witnesses are called *eidim zomemim* and are liable for whatever

punishment they had conspired to mete out to the accused. However, this is on condition that Reuven had not been punished yet. If he was already punished, the conspiring witnesses do not receive the punishment they had intended to inflict on the vindicated person.

At first glance, this seems absurd. Logic dictates just the reverse: If they are

punished for their false testimony when the accused was not yet punished, all the more so should they be punished if the accused was actually punished. The Rambam explains that HaShem would not permit *beis din* to execute an innocent person. If the punishment was carried out, then he must have deserved it. True, they were lying and their testimony is invalid; but that does not mean that the person was innocent. Thus, their crime is mitigated. When, however, the witnesses are exposed before the accused is punished, this indicates that he really was innocent, and so HaShem arranged for him to be saved. In such a case, the conspiracy of the *eidim zomemim* is uncovered in its full wickedness. It emerges, then, that their crime is the conspiracy itself, the intention to incriminate, not in having the punishment carried out. For that, indeed, is the limit of free will; to decide, to intend. The result is not in our control, and therefore we are judged on the decision rather than the act.

The Rambam says that we have a *mitzvah* to anticipate the coming of *Moshiach*, so that we will be able to sit and learn Torah and enjoy *Olam HaBa*, the ultimate purpose of creation. Whatever the designs

of man may be, this is *HaShem's* master plan, and it will come to be in the end. Whatever happens in the world happens only in order to further *HaShem's* design. Therefore, whatever the *goyim* have done throughout history—and not only the Romans—was only in order that *Klal Yisrael* should sit and learn Torah. They had their purposes, *HaShem* has His. MD

Even though people are free to choose between right and wrong, the outcome, whether their aims are realized or not, is not up to them.

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Halacha L'Maase
by HaGaon R' Shammai Kahas Gross

Halachos Pertaining to Working Men in a Torah Class

1. Make every effort to get to class on time so that you will learn the full hour and have a clear understanding of the subject being taught. Sometimes it is hard to get out on time, but the hardship is itself a source of great merit. When a person attends a regular Torah class conscientiously, he finds that it brings relief from matters which may be weighing heavily on his mind.
2. Try to come to class refreshed and ready to learn, but even if you are tired, don't skip the class. Even if you don't learn much, you will have the merit of attending and benefit from the atmosphere of learning.
3. If, for some reason, you are delayed and can't get to class on time, don't hesitate to walk in late, even if it is a bit embarrassing. The discomfort you may feel is itself a source of merit, and the little you may learn will be valued by Hashem as though you had learned much more.
4. Don't leave class until the end. If you are forced to leave early, don't fail to go because you know that you won't get to stay the full hour.
5. If you don't understand something, ask—even a few times, if necessary. A person who is embarrassed to ask doesn't learn.
6. Don't ask questions of the Rav until he settles down to teach and until you settle down to learn. And don't ask the Rav questions that do not pertain to the subject of the class.
7. Students should relate to their teacher with respect and gratitude for the effort he has made to prepare his classes and teach them. MD