

BEIN ADAM L'CHAVEIRO

by Rabbi Doniel Neustadt

Being that this is a time of mourning for the talmidim of Rabbi Akiva who did not - on their level - show sufficient respect for each other, this is the time of the year when we can all strengthen ourselves in this sensitive area. The following Discussion focuses on halachic issues of bein adam l'chaveiro:

Question: What are the halachos regarding the mitzvah min ha-Torah of rising for an older person — mipnei seivah takum?

Discussion: The Torah commands that one give honor to any frum Jew — man or woman[1] — over the age of seventy[2] by rising to one's full height when the older person comes within four amos (approximately 6-8 feet)[3], until the older person leaves the area of his four amos[4]. Although the older person is not necessarily a learned or distinguished person, we still recognize and pay tribute to him "because in his great number of years he has seen and recognized a bit of the workings of Hashem and His wonders, and he is thus worthy of honor[5]."

Although the halachah clearly obligates one to rise to his full height when honoring an older person, it is true that many people are not careful to fulfill this mitzvah properly and rise only slightly when an older person approaches. While some poskim attempt to justify this custom on halachic grounds[6], it does not change the basic halachah that obligates one to stand fully in order to perform this mitzvah properly.

Question: Under which circumstances is one exempt from fulfilling the mitzvah of mipnei seivah takum?

Discussion: In the following cases the mitzvah of mipnei seivah takum, which requires one to rise to his full height, does not apply. Instead, the mitzvah is merely to show some measure of respect, such as rising slightly from one's seat:

- When the "younger" person is also over seventy[7].
- When the younger person is a greater talmid chacham than the older person[8].
- When the younger person is an employee and standing up will require wasting his employer's time[9].
- When the older person specifically forgoes the honor that is due to him[10].
- When the younger person is in the middle of davening and standing will disturb his kavanah[11].
- When the younger person is ill, or a mourner during shivah[12].

Question: How mandatory is Chazal's advisory that a guest should not change his customary lodging place?

Discussion: Rashi[13] explains that there are two reasons behind this advisory:

- Switching lodgings discredits the guest, since he will be considered hard to please or disreputable in some way.
- Switching lodgings harms the host's reputation, since it gives the impression that his lodgings were unsatisfactory[14].

If a guest has a bona fide reason to change his lodging place, however, the halachah will not restrict him from doing so. For example, if a guest customarily lodged at a certain home, but came to town for a simchah and wants to stay at the home of the ba'al simchah, that would be permitted. If a guest customarily lodged at a certain home, but upon his return visit the original host was out of town or indisposed, or no longer had the space for guests, the halachic advisory would not apply and the guest could stay elsewhere[15].

Question: Reuven, whose time is precious, asks Shimon for his opinion about a speaker whose lecture Reuven is thinking of attending. Is it permitted for Shimon, who has a negative opinion of the speaker's abilities, to advise Reuven that, in his opinion, he should not attend the lecture? If Reuven presses Shimon for a reason, may Shimon make specific remarks about the speaker, e.g., "he is boring," "he doesn't present any new ideas," etc.?

Discussion: The Chafetz Chayim rules that it is prohibited to ridicule a Torah lecture even if it is true that the delivery was poor or that the content was lacking depth. By ridiculing the lecture, serious harm can result to the reputation and effectiveness of the speaker. Sometimes a monetary loss can result. This action, therefore, is prohibited and is considered lashon ha-ra[16].

The Chafetz Chayim does not, however, discuss a situation such as the one described above. Reuven honestly needs to know if it is worth his time to attend the lecture. The information he is seeking from Shimon is pertinent to a decision he must make. Generally, the halachah is that one may, and should, speak the truth about another when beneficial information is requested. Since Reuven deems this information to be beneficial to him, it seems that it is permitted for Shimon to tell Reuven that, in his opinion, there is no good reason for Reuven to attend the lecture. Although Shimon would not be allowed to ridicule or belittle the speaker himself, he would be permitted to advise Reuven that it may not be beneficial for him to attend. We must, however, stress several points:

- Although Shimon may be permitted to divulge this information, Reuven should not accept the information as the absolute truth. Reuven may only be suspicious enough to guard himself.
- Shimon should remember that what may seem boring to him, may very well be interesting and enlightening to Reuven, etc.

- Shimon should voice his opinion only if he has no ulterior motive, e.g., a grudge against the speaker, jealousy of the speaker, etc.

Question: Can one fulfill mitzvas nichum aveilim over the telephone?

Discussion: The Rambam[17] says that there are two facets to mitzvas nichum aveilim: The first is to comfort the mourners who are distraught over the death of their loved one, and this is done by expressing one's sympathies and condolences. A personal visit to a house of mourning is a show of respect and a source of comfort to the mourners in their time of sorrow[18].

The second part of the mitzvah is for the sake of the deceased. By visiting the home of the deceased during the Shivah period and consoling the mourners who are sitting there, one is performing a chesed with the soul of the departed individual[19]. It is possible that the text recited in the house of mourning is worded in the plural—ha-makom yenachem eschem—even when consoling a single mourner, because one is consoling the soul of the deceased as well as the mourner himself[20].]

Rav M. Feinstein rules[21] that while it is possible to console a mourner over the telephone, it is not possible to do chesed with the soul of the deceased unless one actually comes to the house of mourning. Nor does one accord the full honor due a mourner through a mere phone call[22]. Thus, if one can, he must be menachem avel in person[23]. If, however, he truly cannot come in person, he should still call the mourner on the phone to console him and thereby fulfill at least part of the mitzvah.

The mourner may come to the phone and accept a caller's words of condolence. He may not, however, speak about other matters or ask about the welfare of the caller, even if the caller is a child or close relative[24].

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1. Sefer Chasidim 578, quoted by Beis Yehudah, vol. 1, Y.D. 28; Chida (Bris Olam on Sefer Chasidim); Minchas Chinuch 257:3. Yechaveh Da'as 3:72. See, however, Ben Ish Chai, Ki Seitzei 16, who quotes the Arizal who seems to hold that one need not rise for an older woman.
 2. According to Kabbalah, the mitzvah begins at age 60, and several poskim rule that one should follow this opinion; see Sho'el u'Meishiv 3, 1-110; Minchas Chinuch 257:9 and Ben Ish Chai, Ki-Seitzei 12.
 3. Y.D. 255:1 and Aruch ha-Shulchan 2, 4. When in doubt whether or not the individual is seventy years old, one should be stringent and rise; Tosafos Chayim on Chayei Adam 69:2; Harav Y.S. Elyashiv (Mevakshei Torah, vol. 4, pg. 249).
 4. Ruling of Harav Y.S. Elyashiv (Mevakshei Torah, vol. 4, pg. 249).
 5. Sefer ha-Chinuch 257.

6. See Meiri, Kiddushin 32b, s.v. zaken, who writes that the mitzvah of mipnei seivah takum (unlike standing up for a talmid chacham) does not require one to rise to his full height. See also Teshuvos Kenesses Yechezkel 7 and Aruch ha-Shulchan 244:10-12, who attempt to justify the prevalent custom.
7. Y.D. 244:8.
8. Y.D. 244:7.
9. Y.D. 244:5.
10. See Teshuvos Radvaz 8-167, who rules that even when the older person forgoes his honor, one should still respect him by rising slightly. Harav Y.S Elyashiv, however, rules that this is unnecessary (Mevakshei Torah, vol. 4, pg. 249).
11. Harav Y.S. Elyashiv (Mevakshei Torah, vol. 4, pg. 250).
12. Rama, Y.D. 376:1. On Tishah b'Av, too, this mitzvah does not apply; Rav Akiva Eiger, ibid. See Badei ha-Shulchan, ibid.
13. Arachin 16b.
14. Accordingly, one should not change even from one Jewish-owned hotel to another unless he has a bona fide reason for doing so as it discredits the hotel where he stayed.
15. See Piskei Teshuvos 170:6, quoting Ohalecha b'Amisecha.
16. Chafetz Chayim, Lashon ha-Ra, 2:12.
17. Hilchos Avel 14:7.
18. Based on the Talmud (Moed Katan 21b) which quotes Rabbi Akiva's expression of gratitude to the multitudes of people who came to console him. See Ahavas Chesed 3:5.
19. Based on the concept brought in the Talmud (Shabbos 152a, quoted by Rambam Hilchos Avel 13:4) that ten people should sit shivah in the house of the deceased even if the deceased left no mourners behind. One explanation for this is given by the Shibulei ha-Leket, quoted in Badei ha-Shulchan, Y.D. 376:3, biurim, s.v. meis.
20. Divrei Sofrim, Y.D. 376, Eimek Davr 9).
21. Igros Moshe, O.C. 4:40-11.
22. It can be argued, however, that a phone call from an distinguished person can be considered as showing honor to the mourners.
23. See also Igros Pachad Yitzchak 33, for another reason why one does not fulfill the mitzvah of

nichum aveilim properly through the telephone.

24. Igros Moshe, O.C. 4:40-11.

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