

INTERNET PARSHA SHEET
ON VAESCHANAN Shabbos Nachamu - 5760

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PENINIM ON THE TORAH

BY RABBI A. LEIB SCHEINBAUM

Parshas VaEschanan

Honor your father and mother Bso that your days of your life will be lengthened. (5:16)

Who is lengthening the days? Ostensibly, Hashem; who grants life, is the one who determines the length of one's days. The pasuk should have read, "Lemaan yaarich," "so that He lengthens" (your days). The plural "yaarichun," seems to imply another approach. The Viznitzer Rebbe, zl, the Imrei Chaim, asks how we are to understand this. The story is told that in 1910, shortly after the Rebbe came to Vilchovitz, members of a family whose father had recently passed away approached the Rebbe to render judgement regarding the division of their father's estate.

The Rebbe was aware that while their elderly father lay sick on his deathbed, some of the heirs had given him prepared cards to sign. These cards divided up the properties according to the heirs' preferences. Now it was after the fact, and there were differences about the division of properties. The Rebbe listened to their statements and said, "I will render my judgement on Shabbos during Seudas Shlishis."

The Rebbe's response was enigmatic, astonishing the members of the community. First, before one renders judgement, he should listen to each of the litigants claims. Second, Shabbos, especially during Seudas Shlishis, was certainly not an appropriate time to render an opinion. What was the young Rebbe planning?

The answer to their query soon became clear. During Seudas Shlishis, the Rebbe asked the above question: Why does the Torah employ the plural form for "lengthening the days?" If it is a reference to Hashem, it should be written in the singular. The answer is that, in accordance with the course of nature, people grow old and feeble. They become sick, and someone must care for them. A person is very fortunate to have children who care about his health, not his death. These children turn to a physician; they purchase the medicines necessary to provide for their father. When a father sees this overwhelming love, this devotion to his health and well-being, he is encouraged; he is given succor to go on to fight his illness, to continue living. The grandchildren who observe this display of Kibud Av v'Eim and its consequences are inclined to follow suit when the time comes to respond to their parents' needs.

In the tragic circumstance, however, when instead of calling a doctor, children react in haste to divide up their parents' possessions, to take advantage of their parents' incapacitating illness, they catalyze their parents' premature death. From where should a parent's will to live emanate? Witnessing their children fighting over their possessions surely is not a motivating factor for longevity. We can well imagine what the unsuspecting grandchildren will glean from their parents' Kibud Av v'Eim. Indeed, they will encourage them to take as much property as they can, so that they will have more to inherit when their Kibud Av shortens their own parent's life.

"We now understand," said the Rebbe, "the meaning of the pasuk. If you honor your parents in such a manner that increases their longevity,

B'S'Dhen your reward will be that your own children will increase your life-span. Obviously, a blemished attitude towards honoring one's parents will generate the opposite: a shortened life-span. We must always remember that our children watch and observe the way we relate to our parents. Our greatest reward or punishment will occur when their treatment of us coincides with what they have perceived from our behavior."

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RABBI ZVI SOBOLOFSKY

The Sanctity of Life ϕ The Message of the Beit Hamikdash

In Parshas V'etchanan the three arei miklat, the cities of refuge for the unintentional murderer, are designated on the east side of the Yarden (Jordan River). Upon the Jewish people's entering Eretz Yisroel proper, another three cities were to be set up on the west side of the Jordan. Chazal note that it is strange that the cities were divided evenly between both sides of the Yarden even though there were 9.5 shevatim (tribes) on one side and only 2.5 on the other. Chazal, in explaining this phenomenon, note that there were more murders that occurred on the east side of the Yarden, thereby necessitating a higher ration of arei miklat to people. What caused this phenomenon? What was it about this half of Eretz Yisrael that led to a laxity of concern for human life which led to unintentional murders being more rampant?

The halacha is that a rotzeach beshogeg must remain in the ir miklat until the death of the kohen gadol. The Torah is telling us that there is some connection between the chet of retzicha beshogeg and the kohen gadol.

We find in other areas of halacha that the Beit Hamikdash embodies the antithesis of disregard for human life. For example, the Torah prohibits using stones touched by iron for the mizbeach because iron, which is used to form weapons, is responsible for loss of human life. If even an unintentional murder takes place it indicates that the Beit Hamikdash is not fulfilling its role. The kohen gadol, the guardian of the Beit Hamikdash is also at fault to a certain degree, and he too shares in the punishment of rotzeach beshogeg.

It is this role of the Beit Hamikdash- the preserving of human life ϕ that may account for the laxity of attitude towards human life that existed on the east side of the Yarden, in that the Beit Hamikdash was on the far side of the river. The 2.5 shevatim that lived on the east side always felt a lack of closeness to the Beit Hamikdash because of the geographical separation that existed. In Sefer Yehoshua, residents of the east side of the Yarden constructed a mizbeach to remind their children of the mishkan and later the Beit Hamikdash that would be built on the western side. This sense of distance led to deterioration in the value of human life, and carelessness that ultimately resulted in a higher rate of unintentional murder.

Furthermore, the Beit Hamikdash teaches us about the sanctity of life. The Ramban understands the aspect of korbanot as kaparah being the greatest affirmation of life. Based on strict justice, a person who sins should die. Hashem gives us a second chance at life upon entering the Beit Hamikdash. For this reason the kohen must be synonymous with life and distance himself from all contact with death. One who understands the inner message of the Beit Hamikdash has a greater appreciation of life, and learns to value it and treat it with greater care.

From: RABBI ELIYAHU HOFFMANN

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Olas Shabbos beShabbato - Va-eschanan

Taking the Tefillin Test

"Hear, O Israel, Hashem is our G-d; Hashem, the One and Only...

And these words, that I command you today, shall be upon your heart...

Bind them as a sign upon your arm, and let them be a 'totafos' between your eyes." [6:4-8]

One of the Jew's most basic expressions of faith is reading the Shema twice daily, once when we rise, and once before we lay down. The Shema, then, is apparently not the place for "fringe" mitzvos or time-specific messages. Rather, one would rightly assume that each word of the Shema contains some timeless lesson and fundamental aspect of Judaism. Why, then, does the verse stress that, "these words, that I command you today, shall be upon your heart?" And in what way is the donning of tefillin such a basic tenet of Judaism - to the extent that it merits appearing twice in the Shema, once here, and once in the second parsha (section)? [Devarim 11:18]

Rashi comments on the words, "that I command you today,":

"They [the mitzvos] should not be in your eyes like an old statute, which has ceased to have meaning and importance. Rather, they should be like a new law - which everyone is anxious to study and perform."

"Today" in the verse does not refer to the day on which the parsha (section) of the Shema was given. After all, the process of giving the Torah had been an ongoing project over the past forty years. Rather, it implies that whenever we approach a mitzvah, we should do so with the same interest and enthusiasm we would have if it had been given that very day.

Even without foreknowledge, it's not difficult to pick out a just-turned bar mitzvah bachur putting on tefillin for one of his first times. Just look at the reverence with which he removes the tefillin from their sack, and the time he takes to slowly and lovingly unravel the straps. Observe the look of anticipation and trepidation on his face, as he places the tefillin shel-yad carefully on his arm, making sure to find just the right place. Notice the way he gazes into his siddur and locates the berachos [blessings], which he then recites slowly and with great concentration. Watch how long he lingers over his shel-rosh, making sure it sits in just the right place. And when he's finished davening, see how carefully and painstakingly he packs his tefillin away, taking care that when he takes them out tomorrow, he will find them just as he left them.

Contrast this to how most of us look when we put on our tefillin. How quickly do we murmur the "Hineni mechaven..." [declaration of intent] prayer? How briskly do we wind the retzuos (straps) around our arms? Oh, and are you sure you made the berachah, "Al mitzvas tefillin?" [I speak here from experience...]

Tefillin, by nature of its being a day-in-day-out mitzvah, is likely to fall prey to the apathetic, ho-hum type of performance that the Torah is warning against in its admonition, "And these words, that I command you today, shall be upon your heart." Unlike lulav and esrog, which come only once a year, or even Shabbos which comes only once a week, tefillin is a true litmus-test with which to judge the extent that our service of Hashem and mitzvah performance has become "mitzvas anashim mi-lumada [performance by rote]."

Perhaps this is one reason (of which there are many) that tefillin belongs in the Shema. If "freshness" and vigour are a fundamental aspect of our avodah (service of Hashem), then there is no better way to judge ourselves than by examining the forethought and excitement with which we put on our tefillin daily.

The Bobover Rebbe zt"l once met up with a certain doctor to whom the Rebbe often referred petitioners who came to seek his advice and blessings. The Rebbe questioned him as to his success rate with a certain procedure. "Rebbe," the doctor said, "I've done that procedure so many times - I could do it with my eyes closed!" The Rebbe smiled.

After they parted ways, the Rebbe turned to his son and said, "Believe me; I've donned my tefillin far more times than the doctor has performed his procedure, yet I can say, Baruch Hashem, that I could not do it with my eyes closed! To the contrary - every day when I take out my tefillin, I try to don them with the same excitement and anticipation I

had the very first time I put them on."

Anyone who ever had the occasion to observe the Rebbe zt"l lay tefillin would attest that this was no exaggeration. Each and every morning, at exactly 7:50, the Rebbe would enter the Beis HaMidrash and begin putting on tallis and tefillin. The Rebbe zt"l donned tefillin over 20,000 times in his life. Yet every day, he did so with the freshness and pure anticipation of one who was doing so for the very first time. Seeing this was greater than any mussar sefer.

While the calendar-based mitzvos each carry with them their own excitement and anticipation, it is the enthusiasm with which we perform our daily mitzvos - tzitzis, tefillin, birkas hamazon, tefilah, etc. - which truly indicate how close we are to reaching the ideal of "that I command you today."

Have a good Shabbos.

***** This week's publication has been sponsored by Mrs. Pauline Rubinstein, in memory of her mother Elka bas R' Pinchas HaLevi, and in memory of her father Binyamin Ze'ev ben R' Hirsch Tzvi HaLevi. *****

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Torah and Personal Benefit

RABBI JOEL DOMB

Chapter 4 of Pirkei Avot addresses one of the most strongly disputed issues in the history of halakhah: the subject of accepting material benefits in return for Torah study.

The Mishnah states unequivocally (Avot 4:5):

"Rabbi Tzadok says: '...Do not use her (the Torah) as a crown with which to aggrandize yourself, nor as a hoe with which to dig.' Similarly Hillel used to say: 'Whoever uses the crown (of Torah) will depart.' This teaches you that whoever derives benefit from the words of Torah, forfeits his life in the world."

The Mishnah's harsh criticism of anyone who uses the Torah for personal benefit seemingly leaves no room for divergent opinions on the subject. Similarly Rambam writes in his Mishneh Torah (Hilkhot Talmud Torah 3:10):

"Whoever decides to study the Torah and not do any other work, supporting himself from charity, this person has desecrated G-d's name, debased the Torah and has extinguished the light of the Law, since it is forbidden to derive benefit from the words of Torah."

Rambam elaborates on this topic at length in his commentary on our Mishnah, showing that the Sages never asked for money from the community to support their Yeshivot or other Torah endeavors, occupying themselves even with menial, low-paying jobs rather than accepting the community's largesse. Many of these rabbis would certainly have been supported by the people if they had so desired, but they perceived this as a desecration of G-d's name, since "people would view Torah as a profession like any other one, and it would be degraded in their eyes." Rambam dismisses the notion that the prophets received money from the people, at most they accepted other people's hospitality and respect, but not their financial support.

Rambam concedes that Torah scholars are entitled to certain limited benefits from their position: 1) They can give money to others to invest for them and receive the profits. 2) Their goods should be sold before anyone else's. 3) They are exempted from certain community taxes. Rambam sees this as analogous to the tithes which the Kohen and Levi receive from their brethren. Parenthetically we should add that Rambam himself benefited from this arrangement until his brother David tragically drowned in the Indian Ocean with all his merchandise and Rambam was forced to practice medicine henceforth.

Despite the clear and unequivocal position adopted by Rambam in interpreting the Mishnah, a majority of later scholars have vigorously defended the right of Torah scholars to receive sustenance from the community. Foremost among these are the views of Rashbatz (R. Shimon ben Tzemach of Duran) and R. Yosef Karo, author of the Shulchan Aruch. Before discussing their opinions, let us take a closer look at the Mishnah. The first prohibition, against using the Torah as a "crown to aggrandize oneself," implies that a person is using his Torah scholarship to further his social status. How about someone who is already at the pinnacle--he is recognized as a leading Torah scholar by his peers--may he then benefit from Torah? He deserves the status of one who is supported by the community, indeed it is an honor for them to provide him with his material needs.

Based on this concept we can comprehend a Gemara in Chulin (134b). The Gemara tells how a sack of coins was brought to the Bet Midrash of R. Ami, who promptly acquired them for himself. The Gemara ponders how he could take the money for himself, since the Torah allows him only to accept priestly tithes presented to him by others, and not to take of his own accord.

The Gemara answers 1) R. Ami wanted to give the money to charity 2) Alternatively, R. Ami was an important personage, and such a person should be made rich, as we find regarding the high priest, where the Torah emphasizes "the priest above his brothers," which the Sages interpreted to mean "if he is not wealthy, make him wealthier than his brothers." The analogy to a high priest is somewhat problematic, as Rabbi Y. Levi points out in his book "Shaarei Talmud Torah", since a high priest receives his riches for divine service and not for Torah, but the inherent idea is the same: The individual is not taking extra money because of himself but because of what he represents--the honor of Torah and the honor of G-d. In such circumstances receiving the money sanctifies G-d's name rather than desecrating it, since it enhances his status as a leader in the eyes of the people. Moreover, says Rashbatz (Magen Avot 4:5, Teshuvot Tashbatz 1:147), who initiated this idea, the rabbis in the Gemara who did not take money from the community did so out of extreme piety, in order not to derive benefit from this world, but not because they are not entitled to it.

This reasoning, however, will only suffice to explain why the great leaders of the community can receive a salary for disseminating Torah. What about students of Torah, or lower level teachers--how are they allowed to receive monetary benefit from their holy pursuit? Rashbatz refers us to the next part of the Mishnah: "Nor (use Torah) as a hoe to dig therewith."

When one digs a hole, one can derive benefit from that hole, and similarly if one actually gained materially from Torah study--that is "benefit." However if one is just recouping one's losses it cannot be defined as "benefit", and thus teachers of Torah, and those who study it for its own sake, should be permitted to take "sechar batalah", or a salary which recompenses them for not being able to work while they are studying (rather like unemployment benefits). This surely does not qualify as benefit, as it is not taken for the study itself but rather for the inability to do any other labor. There is a catch here, however--it must be clear that they are capable of working, otherwise why should they deserve compensation? The source of this idea is the Gemara in Ketubot (105a), which refers to Karna, a judge who used to take money for his

judgements. The Gemara explains that even though one may not take money for sitting on the court, Karna worked as a wine expert in the vineyard and the money served to compensate him for lost worktime.

Abarbanel (Nahalat Avot 4:5) and R. Yosef Karo (Kesef Mishneh, Talmud Torah ibid) take a different approach. They maintain that even if ideally one should not take money to study Torah, changes in circumstances have made it imperative that people receive money, otherwise Torah study will seriously decline. Similarly many later authorities have endorsed and even encouraged Torah study for money, since it is impossible nowadays to achieve stature in Torah while preoccupied with earning a living (see Chatam Sofer 164, Igrot Mosheh YD 2:116, 3:82). According to this view, if a person could maintain an adequate level of Torah study while not supporting himself from it, that would be an ideal situation.

The Shulchan Aruch (Yoreh Deah 246:21) brings all the above opinions and does not decide between them. Apparently this is a 'Machloket shesofpa lehitkayem', a debate which is destined to continue into posterity without being resolved, as all these opinions are legitimate Torah viewpoints, representing eternal truths. Ultimately the optimal way for the individual is best expressed by another Mishnah in Avot (2:12) "all your actions should be for the sake of G-d".

RABBI JOEL DOMB

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HASHAVUAH

The Parasha Shiur is now written by RAV MOSHE GANZ, Rosh Kollel and RaM at Yeshivat Sha'alvim. Along with his many impressive credentials, Rav Ganz is a talmid of Rav Tzvi Yehuda Kook, and this shiur, which was originally given as a *sicha* in the Yeshiva, reflects the depths of insight and wisdom of a true ba'al machshava.

Please send any questions or comments about this shiur, or any of Yeshivat Sha'alvim's shiurim or services to shaalvim@shaalvim.org

Parashat Va'etchanan: Haftarah - Nachamu

RAV MOSHE GANZ

Translated by Rachel Azriel

Shabbat Nachamu is the response to Shabbat Chazon. If last week we read in the Haftarah a prophecy of chastisement and destruction, then this Shabbat we are hearing a prophecy of consolation and redemption. These Haftorot are always read respectively with Devarim and Va'etchanan, so it is interesting, therefore, to note that the Parshiot Devarim and Va'etchanan also stand one versus the other. In Parashat Devarim we hear about the sin of the Meraglim, who detested the beautiful land, foiled with Moshe's plea to enter the land in Va'etchanan. There is actually a connection between the issues of these Parshiot and their respective Haftorot.

In Tehillim 106, it says concerning the Meraglim, "They scorned the desirable land, they believed not his word; And they murmured in their tents. They hearkened not unto the voice of the Lord. Therefore he swore concerning them that he would overthrow them in the wilderness; And that he would cast out their seed among the nations. And scatter them in the lands."

We learned from these verses that not only did the Chet Hameraglim cause the wandering of Bnei Yisrael in the wilderness, but that this sin was also the first reason for the exile, as it is written above, "and scatter them in the lands." The same idea is expressed in the words of Chazal, "G-d said to them: You have cried in vain, and so I will fix for you a cry for generations."

It seems strange that in Tehillim it should say, "they scorned the

desirable land," when according to the text, they did not scorn it at all, but were afraid of war with the seven nations. These two issues, however, are one and the same. Whoever recognizes the land's virtues and sanctity, whoever desires it from the depths of his soul will make the effort to attain it, even if it seems impossible. They should depend G-d's promised salvation. Whoever sees the good of the Land of Israel only in the blessed fruit that it bears, and does not realize the holiness of Eretz Yisrael, will not have the strength to stand beside it during trying times. "And they scorned the desirable land" is the psychological interpretation of, "But the people that dwell in the land are fierce."

In this Parasha, we see Moshe begging and pleading to enter the land. Chazal said, "Is it the fruit that he needs to eat? Rather, Moshe said, 'Bnei Yisrael were commanded many mitzvot that can be carried out only in the land. I will enter the land and be able to perform them.'" This warrants no explanation. Such a strong desire to enter the land cannot be based on a desire for material benefit; there must be a strong spiritual basis that creates this level of devotion to Eretz Yisrael.

Here we return to the consolation and the redemption. Thus Rabbi Yehuda Halevi concluded his book, *The Kuzari*, "For indeed Jerusalem will be rebuilt when Bnei Yisrael will yearn for it as the goal of all yearnings. As it is written, "You will arise and have compassion on Zion; For it is time to be gracious unto her, for the appointed time has come. For your servants take pleasure in her stones, and love her dust." Here is the deep, rooted connection to Eretz Yisrael - the goal of all yearnings. When the land is still barren, when there is no fruit, are no proper economic conditions, only stones and dust, and yet Bnei Yisrael love these stones and dust, then it is a sign that the time has come - the time for grace and compassion.

Shabbat Shalom

<http://www.shaalvim.org/parasha.htm> < www.shaalvim.org/ < aweiss@shaalvim.org About This List: The Parasha Shiur is written by Rav Moshe Ganz, RaM at Yeshivat Sha'alvim. Among his many other impressive credentials, Rav Ganz is a talmid of Rav Tzvi Yehuda Kook, and this shiur, which was originally given as a sicha in the Yeshiva, reflects the depths of insight and wisdom of a true ba'al machshava. Language: English Period: Weekly during the yeshiva session Written by: Aaron Weiss

RABBI JONATHAN SCHWARTZ Subj: Internet Chaburah -- Parshas VaEschanan/Nachamu From: jschwrtz@ymail.yu.edu To: chaburah@hotmail.com Prologue: A wise old saying is known to have recognized the secret of life as the time where the world and all its inhabitants know their place. Oceans need to know their breaking point and thus, not overflow the earth. Seasons need to know their places in order to know their places in order not to fall out of sync or place and keep seasonal temperatures as expected. Snow in the summer or 90 degree weather in the winter can have devastating effects on the climate of the world as well as on the people who are ill equipped for the seasonal abnormality. Animals need to know their places in order to understand when and where their particular environment are, or risk overtaking areas not designated to them. God gave supreme power over these places on earth to man. Yet he too, is given that power as long as he is in place, and alive, sticking to the law of Torah. Once the place is lost, he loses his place and literally goes under the earth.

It seems interesting that the very blueprint for everyone's place, the Torah, seems out of place in the hands of man. The Yalkut Shimoni (Berashis 27) notes that Moshe went up and brought the Torah to man. The Alter from Kelm (Daas Chochmo U'Mussar II:9) notes that Moshe wanted to foster a connection between the holy and the mundane. This connection cannot be understood by the mere seeing eye and the hearing ear. It was only with the benefits of a Torah life that allowed us to connect to God on a level that is truly lively and full of life (Devarim

4:4). Once we can connect in place, we can run the world from that place.

The Alter continues by noting how hard one must work to foster that connection with God (as it is literally life-giving) even when one cannot learn and study Torah. It is during these critical times, when one must remember his place --- that he is totally in the place and presence of God.

Rav Yisroel Salanter among others, noted that in the period following Tisha Bav we should begin to prepare ourselves for the upcoming Yamim Nora'im season. Shuls already begin to sell seats and seating committees in those Shuls begin to hear about everyone's rights to HIS place. In the extreme, many fights have broken out between shul members about rights to MY place. This week's Chaburah focuses on seating committee nightmares highlighting Moshe Rabbeinu's call to remember that when we stick to God we remain in his presence, and that is our TRUE place. The Chaburah is entitled:

THE SEATING COMMITTEE'S HEADACHE:NACHAMU AMI??

The Talmud (Berachos 6b) notes that if a person sets up a specific place for Davening (conventionally known as a Makom), then the God of Abraham will help him out. The implications of the Gemara seem to be in the stressing of having assigned seats or places for sitting in Shul. Rabbeinu Yona in his commentary (3b Rif pages) explains that the reason for this Halacha is that having a set seat shows that a person is diligent in his Davening. Having a set seat will allow a person to properly focus upon his Tefillos without having to get used to his surroundings. The Shulchan Aruch (Orach chaim, Siman 90) assumes that this is the Halacha.

The various commentaries on the side of the Shulchan aruch note the great importance in having set seats in Shul. They unanimously agree that one should try not to change his seat. (Though, like Abraham who did not always Daven in his same spot, one can occasionally daven outside the Makom if need be.) The Aruch HaShulchan notes that a permanent change in Makom should be avoided except in cases of great need or Mitzva (Siman 90:22).

The question arises as to how far a person's rights over his Makom extend. The Kaf HaChaim (90:121) notes that one cannot extend his rights to a Makom to his children upon death. Thus, once he is terminated, so are his rights to a Makom.

However, what happens when his rights to his ordinary Makom are relinquished because of construction? What happens when a Shul is rebuilt? Do people have a right to reclaim their old Makom or is it first come first served?

The Shemen Rokeach (Vol. II:2) notes that a shul that is rebuilt is like new and those with old rights to seats have relinquished those rights. No explanation fore his Psak is provided. The Lomzer Rov (Shut Birkas Moshe I:1) offered a possible explanation. He claimmed that those who acquire rights to a Makom in Shul, do not acquire the actual land (Kinyan B'Guf HaKarka) that the seat is on. Rather, the individual acquires the right to sit upon the land. That right is relinquished when the seat is destroyed even when it is later rebuilt. (This is similar to a Psak of the Rema in Choshen Mishpat Siman 312:17 concerning one who rents a house that is later destroyed and rebuilt, the renter does not have rights to the new house.) Thus, the seats in a rebuilt shul can be given out by the seating committee according to this Psak, because rights to old seats were clearly given up.

The Chasam Sofer (Shut Orach Chaim 29) clearly disagrees. He maintains that a person who acquires a Makom in a Shul also acquires rights to the land (Guf HaKarka Kanui) the seat is upon and even if the seat is destroyed, the land it is upon never is. Thus, upon rebuilding, the ownership of the Makom reverts to the previous seat holder and the Seating Committee cannot claim title to his Makom for Tefilla. (See also TAZ Choshen Mishpat 194 who supports this position.)

A question is raised as to why personal ownership of seats should

be possible if the Gemara (Nedarim 48a) notes that a Shul belongs to its members as a partnership? The Beis Shmuel (Even HaEzer 30:9) explains that this is only true in matters concerning Gittin and Kiddushin. But for ownership purposes, personal ownership should be Shayach on seats in a Shul. The Ktzos (2:10) suggests that the issue of belonging to everybody is only true concerning unclaimed Mikomos. Alternatively, the Mishna Berurah claims (193:25) that the Talmud was dealing with a Shul of partners, that was set up not to allow personal Mikomos. But our case is clearly different.

L'Halacha, the Nesivos (192) notes that a Makom in a shul is an individual's only for the purposes of Yeshiva. Thus, if it were to be knocked down, it would revert to the ownership of the Shul and the individual would lose his rights to claim it as his. Others disagree as to this reading of the Nesivos. Additionally, the Chasam Sofer and his followers argue. The prevailing Minhag is to extend this Machlokes which seems to continue today fueling many high holiday seating headaches for seating committees world-wide.

From: Kenneth Block [SMTP:kenblock@att.net] Subject: NCYI Weekly Divrei Torah - Va'etchanan - Shabbat Nachamu Parshat Va'etchanan; Shabbat Nachamu
RABBI PESACH LERNER
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11 Menachem Av 5760 Daf Yomi: Nedarim 24

"Let me now cross and see the good land that is on the other side of the Jordan, this good mountain and the Lebanon." (Devorim 3:25)

"Expounded Rav Simlai: Why did Moshe desire to enter the land of Israel? Did he need to eat from her fruits? Did he need to be satisfied from its good produce? Rather, Moshe said: There are many mitzvot that the Jewish nation was commanded which can only be fulfilled in Eretz Yisrael. I will enter the land in order that I fulfill them." (Talmud Bavli, Sotah 14a)

The Ksav Sofer asks why is the focus of the Talmud's question "need". Did he need to eat from the fruits? Did he need to be satisfied from its good produce? Shouldn't the question have been - did he want to eat from the fruits. We can understand that Moshe wanted to partake of the produce of Eretz Yisrael, but why did he need to?

Within the blessing we recite after the eating of grain products (not bread), certain fruits and/or wine - that blessing that is commonly referred to as "Al Hamichya" - we say (those words mentioned in the Talmud Sotah quoted above): Blessed are You, HaShem...for the...and the produce of the land, for the desirable, good and spacious land that You were pleased to give to our forefathers as a heritage, to eat of its fruit and to be satisfied with its goodness...on Jerusalem, Your city, and on Zion... rebuild Jerusalem, the city of Your holiness and gladden us in its rebuilding and let us eat from its fruit and be satisfied with its goodness..."

Why do we emphasize our wish to eat from the fruits of Eretz Yisrael, to be satisfied with its goodness? Didn't we learn from Rav Simlai that Moshe wanted to enter the land of Israel to fulfill the mitzvot, not to eat from her fruits?

Kabbalah teaches us that when one breathes the air of Eretz Yisrael, when one eats the fruits of Eretz Yisrael, that individual can grow spiritually, can "grow" in his yiras shamayim (fear of Heaven).

Asks Rav Simlai - did Moshe need to eat from the fruits of Israel? No, Moshe was already on the highest levels of spirituality, he had attained maximum yiras shamayim. He had no need to eat of the fruits; his wish was to fulfill those mitzvot that could only be fulfilled in Eretz Yisrael.

We, on the other hand, do need to grow spiritually, to enhance our fear of Heaven. We do need to breathe the air and eat the fruits of Eretz Yisrael. We do need, so to speak, the spiritual vitamins that the holy

environment of Eretz Yisrael provides.

Hence, our wish, as recited in the "Al Hamichya" blessing, is not for the physical enjoyment of Israel's fruits, but for its spiritual nourishment.

Allow me to share an anecdote, which I believe expresses how we should desire that air of Eretz Yisrael, those fruits of Eretz Yisrael.

A rabbi fundraising for an institution in Eretz Yisrael once came to visit me at my home in Far Rockaway, NY. As we discussed many issues I seemingly commented that I had worked for the Jewish day school in Denver, Colorado, some 10 years earlier. My guest asked me if I knew Dr. and Mrs. Werner Prenzlau (one of the founders of numerous Torah institutions of Denver), which I did.

Excitingly, my guest shared with me the following story. This rabbi had been a guest in the Prenzlau home some 40 years ago for Shabbat when the Prenzlau children, who are now grown with married children of their own, were young. At the Friday night Shabbat table, after the singing of Shalom Aleichem and Eishet Chayil, Dr. Prenzlau called his children to his side to give them the traditional "Birchat Habanim" - blessing of the children. The children returned to their places. The doctor went to the refrigerator to get the wine for kiddush, and to the surprise of his Israeli guest, once again called his children to his side, seemingly did nothing, sent them back to their seats, recited kiddush, washed for hamotz and the Shabbat meal continued.

His curiosity getting the best of him, the visiting rabbi asked his host the reason he recalled the children to the head of the table before reciting kiddush.

Dr. Prenzlau smiled and explained: when I went to the refrigerator to get the wine I noticed that the bottle was an unopened bottle of imported Carmel wine from Israel. When the wine company fills a bottle they do not fill it up to the maximum. They leave some empty space - which is obviously filled with Eretz Yisrael air. The Talmud tells us "avir d'Eretz Yisrael machkim" - the air of the Land of Israel makes one smart. I wanted my children to benefit from that holy air.

In concluding the story - this rabbi from Israel told me that after that Shabbat he began to appreciate what he had at home - the holiness of Eretz Yisrael - so much more.

May we all merit to eat from the fruits of Eretz Yisrael and to be satisfied with its goodness. Amen.

From: Rabbi Kalman Packouz [SMTP:packouz@aish.com]
Subject: Shabbat Shalom! Va'etchanan Aug. 12, 2000
AISH HATORAH'S Shabbat Shalom Weekly
DVAR TORAH: based on Growth Through Torah by RABBI ZELIG PLISKIN

In this week's Torah portion is part of the Shema prayer, "And you shall love the Lord, your G-d, with all your heart, and with all your soul and with all your might" (Deuteronomy 6:5). How does one actually love G-d?

The Talmud (Yoma 86a) states in reference to this verse that we must behave in a manner that will cause the Name of Heaven to be beloved. One should study Torah (G-d's instructions for living) and serve Torah scholars (Serving Torah scholars is perhaps a strange idea in this generation. I had as "Quote of the Week" recently, "Values are caught, not taught." By being in proximity to people who are wise and lead exemplary lives, one can learn much on how to lead his own life.), be honest in business dealings and speak pleasantly to others. Then people will say, "Fortunate is his father who taught him Torah. Fortunate is his teacher who taught him Torah. ... See how pleasant are the ways and how proper are the actions of this person who has learned Torah."

If, however, someone studies Torah and serves Torah scholars, but is not honest in business dealings and does not speak pleasantly to others, what do people say about him? "Woe to that person who learned

Torah. Woe to his father who taught him Torah. Woe to his teacher who taught him Torah. See how corrupt are the actions and how ugly are the ways of this person who learned Torah."

The goal of learning Torah is to perfect ourselves and to perfect the world. The world knows that G-d gave the Torah to the Jews on Mt. Sinai and in the Sinai desert. That is why they are constantly looking at how we behave. They expect more of us. It is interesting that some Jews have this same attitude towards Orthodox Jews, but exclude themselves from those same expectations of honesty and pleasantness. We are all in the same boat. We must all live our lives in a manner that causes respect for the Torah and for G-d and causes G-d to be beloved.

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Vaeschanan

BY RABBI DONIEL NEUSTADT

A discussion of Halachic topics related to the Parsha of the week.
For final rulings, consult your Rav.

COMPETITION FOR CLIENTS

QUESTION: How does the Halachah view an insurance or travel agent who tries to wrest away an established client from another Jewish agent? Is it proper for a Judaica store owner, a wig stylist or a kosher caterer to recruit the established clients of his Jewish competitor?

DISCUSSION: Many poskim maintain that it is prohibited to actively pursue a client or a customer, Jewish or non-Jewish, if the client has developed an ongoing business relationship with a competitor. The classic case quoted in Rama(1) is that of a medieval tailor who for many years had an exclusive account with a local non-Jew. When another Jewish tailor actively sought the non-Jew's business, the dispute between the two tailors was brought before the Rashba. The Rashba ruled that the second tailor was acting improperly and that the account should remain the exclusive right of the first tailor.

The Rashba explains that his ruling is based on the following halachic concept: The long-term business relationship and apparent commitment between the tailor and his client gives the tailor a certain sense of *semichus da'as*, a well-founded assumption and expectation that this particular account is his. Even though there was no explicit verbal or contractual agreement between them regarding future business, still it was clearly understood that he will continue to be the tailor for this non-Jew. No other Jew is allowed, therefore, to infringe on that existing relationship and understanding, and one who does so is acting improperly and should be censured(2).

Nevertheless, rules the Rashba, if by the time *bais din* was notified, the second tailor had already succeeded in wresting the account away from the first tailor, *bais din* is powerless to force him to relinquish it, since in a very literal sense, the second tailor did not actually take something which is not his. Technically speaking, the account was not sealed and delivered and, therefore, it was open to bidding from competition. [This is especially true when dealing with a non-Jewish customer, since more often than not, non-Jews do not have a sense of loyalty towards their Jewish tradesmen and will readily drop one business relationship in favor of another(3).]

Indeed, the Rama quotes opinions who disagree with the Rashba altogether and permit - or at the very least, do not object to - the second tailor's actively pursuing any account that he can, regardless of any long-term relationship his competitor may have had with an existing

account(4).

In the years since the Rashba's ruling, various customs evolved in European communities in regard to this issue. Some communities strictly forbade their members from pursuing each other's steady business accounts, going so far as to invalidate such contracts and returning the accounts to the original vendor or tradesman(5). Other communities prohibited such dealings but did not invalidate them if they already transpired, while yet others allowed such competition and did not restrict it in any way(6).

Although today a clear-cut custom does not exist, the opinion of the majority of the *poksim*(7) is to follow the middle-of-the-road ruling of the Rashba, which is to prohibit and discourage this type of competition whenever possible(8), but not to invalidate a business deal once it has been transacted.

Based on the above, the answer to our original question concerning the insurance or travel agent, Judaica store owner, wig stylist and caterer should be very clear: If a Jewish vendor or tradesman has a long-term(9) steady customer with whom he assumes and expects to continue doing business, another Jew is not allowed to lure that customer away. If, however, the competitor was ignorant of - or disregarded - this rule and was successful in collaring the account, he cannot be forced to give it up, nor is one allowed to refer to him as a *rasha*, a wicked person.

There are, however, two very important considerations which may drastically affect the halachah in several of the cases mentioned above.

It is obvious that one is restricted from soliciting another person's steady business only if all other competitors will also restrict themselves from soliciting established accounts. If, however, the particular business field is full of non-Jewish or non-observant salesmen who will not restrict their customer-baiting activities, then the restriction is lifted(10).

The insurance field, for instance, is filled with agents who are constantly attempting to lure established accounts from other agents or agencies. This is a legal procedure and considered normal business practice. There is no restriction, therefore, on an observant Jewish agent soliciting business from another agent's established accounts, since, as explained, even if he will not solicit the account, others surely will. There is no requirement for the observant agent to place himself at a disadvantage.

The halachah is different, however, in regard to Judaica store owners, wig stylists or kosher caterers. These types of businesses are generally run by observant Jews who follow the dictates of the halachah. Consequently, when a particular vendor regularly assumes and expects that a steady long-term account will remain his for the foreseeable future, one may not pursue that account.

In the final analysis, therefore, there is no blanket answer. The halachah will depend on the type of business and on the general business climate in that particular field. If - as is the case in many service-type of businesses - customers are generally not pursued by others in the field and are usually loyal to their service provider, then the observant businessman may not chase after their business. On the other hand, a type of business where competition is the norm (e.g., commission-based businesses), is unrestricted to the observant businessman.

Another important point to remember is that the restriction applies only to a competitor soliciting or enticing a client to buy his product over his competition's. It is permitted, however, for the client or customer to solicit a different provider or agent, even though he has been doing steady business with a particular concern business for a long period of time(11).

NOTE: As in all matters of halachah, one should consult a *rav* before deciding how to approach a questionable situation. Especially in regard to business related issues, where it is almost impossible for one to be completely objective as it is his livelihood which is at stake, the halachic perspective of a competent authority is imperative.

FOOTNOTES: 1 C.M. 156:5, based on Teshuvos Rashba 6:259 2 Rashba offers two

Talmudical sources for this ruling: a) Bava Basra 21a, concerning fish which were almost netted by a fisherman and then swept away at the last moment by a competing fisherman; b) Gitin 30a, concerning the laws of Makirei kehanah, which give a kohen the right to claim his steady stipend from the yisrael because of the assumption that they are his, based on their long-term relationship. 3 Indeed, some poskim are of the opinion that the Rashba's ruling applied only to competitors pursuing a non-Jew's business, as in the case of the two tailors. If the tailors were competing for a Jewish customer, the first tailor would have an even stronger case, since Jewish customers have a greater degree of loyalty and commitment to their service providers, tradesmen, etc., and the first tailor would have had a firmer assumption that the account would remain his; Chasam Sofer C.M. 79; Beis Efrayim 29; M'harsham 1:151. See Seridei Eish 3:66 for a different approach 4 The logic behind this view may be explained in one of two ways: a) Semichus da'as, assumptions and expectations, are not legally nor halachically binding (Beir ha-Gra C.M. 156:5; Aruch ha-Shulchan C.M. 156:); b) In a fiercely competitive business world, there are no assumptions and expectations since the threat of competition is always present (Teshuvos Mahrshal 36). 5 Teshuvos Mahrshal 36 as explained in Ma'asas Binyamin 27 and Chasam Sofer C.M. 61. 6 The various views are quoted in Rama and Be'er Heitev ibid. See also Teshuvos Chavos Yair 42. 7 Chasam Sofer C.M. 61; Beis Efrayim 27; Yeshuos Malko C.M. 19; M'haril Diskin (pesakim 1); Minchs Yitzchak 2:94; 3:127. See also Shulchan Aruch Harav (Hasogas Gevul 13) that a G-d fearing person should be stringent in this. 8 Even if the competitor is offering the potential client a lower price, still he may not pursue a client who "belongs" to his competitor; Teshuvos Lechem Rav 216. See also Teshuvos Beis Shelomo Y.D. 19. 9 The exact length of the relationship is not clearly defined, although some poskim suggest three years (or three deals) as a rule of thumb, see Chavos Yair 42. 10 See Teshuvos Kol Aryeh 135 and Yeshuos Malko C.M. 19 for an explanation of this issue. 11 Sma C.M. 386:10.

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From: RABBI YAAKOV BERNSTEIN [SMTP:yaakovb@torah.org]
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Parshas Va'eschanan, 11 Av, 5760

The Ancient Mourning

Yom Kippur and Tisha B'av have certain similarities in their practices, yet they are essentially different. Although both are full day fasts and have similar prohibitions, they stand for different ideas. Laws which illustrate the differing functions of the two days include the following:

On Tisha B'av, learning Torah is basically not allowed, and we sit on the ground as mourners. Yom Kippur, on the other hand, represents the day in which the Torah was given the final time (following the Eigel Hazahav -- the Golden Calf).

The reason for similarity of practices of Yom Kippur and Tisha B'av is that both are days of introspection and self-improvement or "Teshuva;" however, Tisha B'av is a time of mourning over the past, while Yom Kippur is a time of rejoicing over the future.

Since the Gemara says that the first Bais Hamikdash was destroyed because they did not say the brocha for the Torah properly, it is fitting that Torah learning would be forbidden at the time commemorating the destruction. This is not a time of connection, of spiritual attachment, but a time to reflect and consider our ways.

Yom Kippur, on the other hand, is the greatest time of connection and spiritual attachment -- the day the Torah was finally given to Yisrael.

The Past

In the recorded lectures of Rav Yerucham Levovitz, we find that Tochacha -- ethical reproof -- deals with past events. The worst thing is for a person to see himself as righteous. He should learn to constantly see his errors, until he realizes that he is not the tzadik (righteous leader) that he thinks he is.

Moshe reproved the people, time and again, without break. He had nothing positive to say about them. In reality, over the course of many years, they made very few mistakes. However, Moshe would not give them the benefit of the doubt, but constantly reminded them of their errors. This is the goal, actually -- to constantly remember our mistakes, as Dovid Hamelech (King David) said: "My sin is always before me."

The Medrash states: "One who reproves a person, will afterwards find favor, more so than one of smooth speech..." The verse is praising Moshe, who reproved Yisrael and kept them from haughtiness. The opposite is true of Bilam, who praised the people sweetly, and brought them to pride and carelessness.

Midos Chamura Me'veiros

Nesivos Shalom described why Pirke Avos is studied. People think that the main requirements of the Torah are its mitzvos. Although we often hear about the middos -- qualities of character -- these seem to be too subtle for the common man.

It is enough to work on the basic Torah requirements.

This is what people feel, but it is not so. Just as we will be judged for fulfilling the mitzvos, so, too, we will be judged for our qualities of character. In fact, the Rabbis were more stringent with middos than with mitzvos. So we find, "Anyone who becomes angry, it is as if he served idols." "Regarding someone who is haughty, Hashem says, 'There is not room for both of us.'" Such strong statements were not said in relation to mitzvos.

The Daas Torah has an entire section on this subject (end of Bamidbar). Rav Moshe Cordevero showed that the Torah is addressed to the intellectual soul; therefore, it mainly discusses mitzvos. The character qualities are based on the animal soul. However, the animal soul is more fundamental; hence, character qualities are more stringent than mitzvos. The Daas Torah compares it to a house.

We normally look at the house by the external aspects visible to the eye. However, a beautiful house with poor foundations is not very valuable. Damage to the surface may destroy the entire house. Correcting flaws in the foundation will be costly, difficult work. However, a house with a strong foundation will withstand damage and continue to be useful for generations.

Similarly, the animal soul and the character qualities are the foundation, and are more basic than performing the commandments.

The Daas Torah advances an idea as to why the Torah rarely commands character qualities. The Torah is essentially needed for those things that we would not have thought of on our own. However, character attributes are common sense. There is no need to make commandments for them. In a similar manner, the people of the world are judged for character qualities, even though most of the Torah does not apply to them. If they are not warned, how can they be punished? The answer is that moral qualities are common sense, logical matters, and everyone is obligated to be aware of them.

The second Bais Hamikdash was destroyed because of "sinas chinom" -- baseless hatred. Such a horrible tragedy occurred, because of faults of character.

Rabbi Yaakov Bernstein Beis Medrash Chofetz Chayim Kiryas Radin

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From: Mordecai Kornfeld [SMTP:kornfeld@netvision.net.il] Subject: Insights to the Daf: Nedarim

INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim daf@dafyomi.co.il, http://www.dafyomi.co.il

NEDARIM 6 (Tamuz 22) - dedicated by Zvi and Tamara Sand of Har Nof, Yerushalayim, for the Yahrzeit of Tamara's father, Shlomo Zevulun ben Yakov Tzvi Ben-David. *Ask questions on the Daf to the Kollel! (daf@dafyomi.co.il)* Please send donations to: 140-32 69 Avenue, Flushing NY 11367, USA YOSEF DAAS...DAF-INSIGHTS... DAF-BACKGROUND... DAF-POINTS... DAF-REVIEW

Nedarim 6b

"YAD L'KIDUSHIN" QUESTION: The Gemara discusses whether the laws of Yados apply to Kidushin. Pe'ah, Tzedakah, Hefker, and Beis ha'Kisei, just as they apply to Nedarim. What is the Gemara's doubt whether Yad can make Kidushin take effect? In the case of Nedarim, we know that a Neder cannot take effect unless it is verbally articulated (as opposed to being just thought in one's mind; Shevuos 26b). A Yad, since it is not a fully articulated statement, might not suffice, and therefore a verse is needed to teach that a Yad can create a Neder. In contrast, there is no source that says that Kidushin must be created through speech, so of course Yad should work!

ANSWERS: (a) RAV BARUCH BER LEIBOWITZ (in Birkas Shmuel, beginning of Kidushin) cites the words of his mentor, RAV CHAIM SOLOVEITCHIK. He explains that Kidushin indeed must be made with speech. The reason for this is because the verse says "Ki Yikach Ish Ishah" (Devarim 22:13), which teaches that the man must do an action of taking the woman (as opposed to her doing an action to the man; Kidushin 2b). This verse teaches that not only must he give her Kesef or Shtar for Kidushin, but he must also make clear through his speech or his action that he is being Mekadesh her.

(b) There is an important difference between the Kinyan of Kidushin and all other Kinyanim. Normally, a Kinyan takes effect even if there are no witnesses who see the Kinyan. As long as both the buyer and seller consent, the Kinyan takes effect. In contrast, Kidushin must be done in front of witnesses, and if not done in front of witnesses, the Kidushin is not valid at all (Kidushin 65b). The witnesses cause the Kidushin to take effect; their presence is an intrinsic part of the Kidushin process. Consequently, if the man does not clearly articulate that he is performing Kidushin in order to be Mekadesh the woman, then the witnesses do not know for certain that a Kidushin is being made and therefore the Kidushin will not take effect. It is not enough that there are witnesses watching; the witnesses must also know that they are witnessing a Kidushin being performed. Even if both the man and woman later say that they had intentions for the Kidushin to take effect, the Kidushin is not valid unless the husband announces such at the time that he makes the Kidushin.

Why, though, should Yados not suffice to reveal his intentions? When one makes a statement that is a Yad Mochi'ach, it should reveal his intention, and the only thing lacking is an explicit speech showing his intention. The answer is that Yad Mochi'ach does not make his intention absolutely clear; if his partial statement would be absolutely clear, then it would not

be a Yad Mochi'ach, but rather a complete expression (it would just be a different form of expression). Every Yad -- even a Yad Mochi'ach -- retains some aspect of ambiguity. The Halachah of Yados teaches that although it is not absolutely clear, his speech is clear enough that it is considered as though he stated his intention explicitly. Therefore, when it comes to Kidushin as well, we can only consider his statement to be clear enough for the witnesses if the Torah tells us that we judge the partial statement as if he had clearly stated his intention.

NEDARIM 19 & 20 (7 Av) - has been dedicated to the memory of Dr. Simcha Bekelnitzky (Simcha Gedalya ben Shraga Feibush) of Queens N.Y., by his wife and daughters. G-dfearing and knowledgeable, Simcha was well known in the community for his Chesed and Tzedakah. He will long be remembered.

Nedarim 16b

A NEDER TO UPROOT A MITZVAH QUESTION: The Gemara says that a Neder to transgress a Mitzvah takes effect, but a Shevu'ah to transgress a Mitzvah does not take effect. When a person makes a Neder, he creates a prohibition on the object, while a Shevu'ah is a prohibition upon the person. A Shevu'ah cannot take effect to uproot a Mitzvah, since the person himself is obligated by the Torah to do the Matzah and he cannot override that obligation. In contrast, a Neder can take effect to uproot a Mitzvah, since the Neder is not directly opposing the obligation upon the person, for he is not prohibiting his *self* from the item, but he is prohibiting the *item* from himself.

Practically, though, why should there be a difference between a Neder and a Shevu'ah? In both cases, one is trying to prohibit himself from doing a Mitzvah, and thus not even a Neder should take effect!

ANSWERS: (a) The Gemara (15b) explains that a man can prohibit himself from marital relations with his wife -- even though he is obligated by the Torah to provide her with her needs -- by prohibiting on himself any Hana'ah from her. Since the Mitzvah is for him to provide her with Hana'ah, and his Neder prohibits *her* Hana'ah on him, the Neder therefore takes effect. Once it takes effect to prohibit her Hana'ah on him, consequently he becomes prohibited to have marital relations with her. In contrast, if he says that his Hana'ah is prohibited on her, then the Neder cannot take effect because the Neder is in direct opposition to the Mitzvah.

Similarly, the RAN and others (see RAMBAN in Milchamos in Shevuos, end of Perek 3) explain that in this case, when a person makes a Neder prohibiting the object of a Mitzvah on himself, the Neder is not in direct opposition to the Mitzvah, because the Neder was made on the Cheftza and not the Gavra. Once the Neder takes effect on the Cheftza, consequently the person cannot do the Mitzvah. A Shevu'ah, on the other hand, is on the Gavra, and thus it cannot override the pre-existing obligation on the Gavra to do the Mitzvah.

(b) The SHITAH MEKUBETZES suggests that when a person makes a Neder, an Isur Cheftza, it looks like he is making the object of the Mitzvah (such as a Sukah) prohibited to him because it is not comfortable, but when he makes a Shevu'ah, an Isur Gavra, it seems that he is saying that *he* personally finds doing the Mitzvah undesirable and not because of the Sukah itself, and that is why the Shevu'ah does not take effect, for it is trying to override the Mitzvah directly.

(c) The AVNEI NEZER (YD 294) infers from the SEFER HA'CHINUCH (Mitzvah #30) a different line of reasoning. The Mitzvah of Sukah can be fulfilled by sitting in any Sukah. Therefore, if a person makes a Neder prohibiting himself from having Hana'ah from any Sukah, the Neder must take effect on all Sukos. On each individual Sukah there is no reason for the Neder not to take effect, since the Mitzvah could be fulfilled with any other Sukah. Since the Neder takes effect on each Sukah individually, the person is left with no Sukah with which to fulfill the Mitzvah.

A Shevu'ah, on the other hand, is an Isur Gavra, and thus the Isur takes effect on him and at once it prohibits him from sitting in any Sukah. Therefore, the Shevu'ah cannot take effect because it is in direct opposition to the Mitzvah.

The Avnei Nezer suggests that there are practical differences between the Ran's logic and his logic. What will be the Halachah if a person makes a Neder prohibiting himself from covering the blood (Kisuy ha'Dam) of a bird that was just slaughtered? According to the Ran, the Neder takes effect on the blood and therefore he is not allowed to cover it. According to the Chinuch, though, the only time the Neder takes effect is when the Mitzvah can be observed with another object. In the case of Kisuy ha'Dam, there is only one object with which to fulfill the Mitzvah (the blood of that bird), and therefore the Neder should not take effect.

The Avnei Nezer's practical difference could be debated. First, even though the Ran says that a Neder could prohibit an act that does not involve Hana'ah and therefore a person can prohibit a stone from being thrown into the sea, that logic might not allow a person to prohibit Kisuy ha'Dam, which is not an act done *with* the blood, but an act done *to* the blood. Therefore, an Isur Cheftza on the blood cannot prohibit doing something *to* the blood (covering it with dirt), but only doing something *with* it. Second, it is not necessary to cover all of the blood to fulfill the Mitzvah; one fulfills the Mitzvah by covering just part of the blood (Shulchan Aruch YD 28:15). Therefore, the Neder could take effect on each drop of blood, just like it could take effect on each and every Sukah according to the Avnei Nezer.

However, a different practical difference could be in a case where a person makes a Shevu'ah that he is going to eat an entire loaf of bread, and then he makes a Neder prohibiting himself from eating any of the bread. Since the Shevu'ah obligates him to eat every single k'Zayis of the bread, the Neder (according to the Avnei Nezer) should not take effect since there is no k'Zayis of the bread on which it can take effect. The Ran and the other Rishonim (18a) follow their reasoning that a Neder can take effect to override a Shevu'ah in such a case.