Parshat Shoftim: The Torah Prohibits Wasteful Destruction

By Rabbi Norman Lamm

The biblical norm which most directly addresses itself to the ecological situation is that known as Bal Tashhit, “thou shalt not destroy.” The passage, which appears in this week’s Torah portion, reads:

“When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by wielding an ax against them; for thou mayest eat of them but thou shalt not cut them down; for is the tree of the field man that it should be besieged of thee? Only the trees of which thou knowest that they are not trees for food, them thou mayest destroy and cut down that thou mayest build bulwarks against the city that maketh war with thee until it fall.”

These two verses are not altogether clear, and admit of a variety of interpretations; we shall return to them shortly in elaborating the halakhah (Jewish law) of Bal Tashhit. But this much is obvious: the Torah forbids wanton destruction. Vandalism against nature entails the violation of a biblical prohibition. According to Sefer Ha-hinnukh, the purpose of the commandment is to train man to love the good by abstaining from all destructiveness. “For this is the way of the pious…they who love peace are happy when they can do good to others and bring them close to Torah and will not cause even a grain of mustard to be lost from the world….”

The Halakhic Perspective

Let us now return to the commandment of Bal Tashhit to see how the Biblical passage is interpreted in the halakhic [i.e., Jewish legal] tradition. At first blush, it would seem that the Biblical prohibition covers only acts of vandalism performed during wartime. The halakhah, however, considers the law to cover all situations, in peacetime as well as in war. The specific mention in the Biblical passage of destroying by “wielding an axe” is not taken by the halakhah as the exclusive means of destruction. Any form of despoliation is forbidden by Biblical law.

Similarly, the mention of “fruit trees” was expanded to include almost everything else. Says the Rambam: “And not only trees, but whoever breaks vessels, tears clothing, wrecks that which is built up, stops fountains, or wastes food in a destructive manner, transgresses the commandment of Bal Tashhit.”

Likewise, it is forbidden to kill an animal needlessly or to offer exposed water (presumed to be polluted or poisoned) to livestock.

1 Deut. 20:19-20.
2 Sefer Ha-hinnukh, Parshat Shoftim, on Bal Tashhhit. Sefer Hahinnukh is a medieval work that lists the 613 Torah commandments (based on the Rambam’s system of counting )and explains them from both a legal and moral perspective.
3 Indeed, while Maimonides forbids the destruction of fruit trees for use in warfare, other authorities such as Rashi and Nahmanides specifically exempt the use of fruit trees, for such purposes as bulwarks, from the prohibition; what the Torah proscribed is not the use of trees to win a battle, which may often be a matter of life and death, but the wanton devastation of embattled areas so as to render them useless to the enemy should he win, e.g., a “scorched earth” policy.
4 Maimonides, Sefer Ha-mitzvot, Positive Commandment 6.
Nature of the Commandment

In order to understand the relevance of the halakhah on Bal Tashhit to the problem of ecology, it is important to test certain underlying assumptions of the halakhic conception. First, then, it should be pointed out that there is present no indication of any fetishistic attitude, any worship of natural objects for and of themselves. This is obvious from the passage just cited, wherein other objects, including artifacts, are covered in the prohibition. Furthermore, nonfruit-bearing trees are exempt from the law of Bal Tashhit, as are fruit trees that have aged and whose crop is not worth the value of the trees as lumber. Also, fruit trees of inferior quality growing amidst and damaging to those that are better and more expensive may be uprooted.

What must be determined is whether the halakhah here is concerned only with commercial values, perhaps based upon an economy of scarcity, and possibly, even more exclusively, property rights; or whether there are other considerations beyond the pecuniary that, although they are formulated in characteristic halakhic fashion sui generis and without reference to any external values, nevertheless may point indirectly to ecological concerns.

Beyond Commercial Values

It is at once obvious that commercial values do play a central role in the law. Thus, the fruit tree may be destroyed if the value of the crop is less than its value as lumber, as mentioned above, or if the place of the tree is needed to build a house thereon. Such permission is not granted, according to the later authorities, for reasons of esthetics or convenience, such as landscaping. However, the economic interest is not overriding; it must yield to considerations of health, so that in case of illness and when no other means are available to obtain heat, fruit trees may be cut down and used for firewood. Even when the criterion is a commercial one, it is clear that it is the waste of an object of economic value per se that the halakhah considers unlawful; it is not concerned with property rights, nor does it seek, in these instances, to protect private property.5 We previously quoted the author of Sefer Ha-hinnukh who explains all of Bal Tashhit as teaching the ideal of social utility of the world, rather than of purely private economic interest: the pious will not suffer the loss of a single seed “in the world,” whereas the wicked rejoice “at the destruction of the world.” In his summary of the laws included in the rubric of Bal Tashhit, the author mentions that it certainly is proper to cut down a fruit tree if it causes damage to the fields of others.6

However, the law is addressed to all Israel, and hence it is negative in nature, prohibiting an outright act of vandalism, such as diverting a stream from a tree, but not making it incumbent upon one actively to sustain every tree. What we may derive from this is that the prohibition is not essentially a financial law dealing with property (mammon), but religious or ritual law (issur) which happens to deal with the

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5 The [Talmud] quotes Rabbi Joseph, who avers that Rabbi [Rabbi Judah the Prince], redactor of the Mishnah, intended a broader principle, which Rabbi Joseph phrases as: “One should not spill water out of his pool at a time when others need it,” i.e., one should never spoil an object or an opportunity, even where the gain or loss refers completely to another individual, and not to himself.

6 A most cogent point is made, in this respect, by the late Rabbi Abraham Isaiah Karelitz, author of Hazon Ish, Maimonides, codifying the law of the Sifre, decides that Bal Tashhit includes the prohibition to divert an irrigation ditch which waters a fruit tree. What, however, if the tree were watered manually, by filling a pail with water and carrying it to the tree: is the passive failure to do so considered a breach of Bal Tashhit? Hazon Ish decides that it is not in violation of the law, because all sources indicate that the commandment of Bal Tashhit is directed not at the owner of the tree or object, but at all Israelites. Were the law addressed to individual proprietors, one could then demand of them that they continue to irrigate their trees in any manner necessary, and the failure to do so would constitute a transgression.
aversion of vandalism against objects of economic worth. As such, Bal Tashhit is based on a religio-
moral principle that is far broader than a prudential commercial rule per se, and its wider applications
may well be said to include ecological considerations.

**Our Current Ecological Situation**

A profound opportunity to apply this principle faces us daily in our homes, schools and workplaces. In
2006, Americans produced 251.3 million tons of garbage (officially known as Municipal Solid Waste, or
MSW), up 66% from 1980, and nearly three times as much as produced in 1960. Much of this waste
has potential life after the garbage can. Paper comprises 34% of MSW, and compostable food waste and
yard trimmings over 25%. Even though recycling rates have more than doubled since 1960, only 32.5% of
those 251.3 million tons was recycled in 2006. In houses, schools, offices and restaurants across the
country, waste is being dumped rather than set aside for more productive and environmentally conscious
processing.

Local action can make significant impact towards reducing waste. One example is “Pay as you Throw”
programs (PAYT), which charge for non-recyclable waste removal above a set limit. PAYT programs
have reduced 4.6-8.3 million tons of MSW from landfills annually by encouraging households to
compost, recycle and alter consumption habits rather than pay for extra garbage removal. Unfortunately
at present, PAYT programs are only available to 25% of the American population. We must live the
mission of Bal Tashhit in our communities by demanding that such programs be implemented across the
board. To not do so would be to be partner to further waste, pollution and environmental harm.

In conclusion, Judaism—exegetically, halakhically, and theologially—possesses the values on which
an ecological morality may be grounded. The commandment of Bal Tashchit in this week’s Torah
portion reminds us of the moral imperative incumbent upon all humankind to curb its arrogant and
mindless devastation of nature.

**Suggested Action Items:**

- Learn to always consider if something you are about to destroy or throw away could be used by
  someone else.
- Reuse, recycle, compost!
- Encourage the founding of a Pay as You Throw program in your community.
- Shop at second-hand stores and reuse what someone else no longer needs.

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7 United States Environmental Protection Agency, “Municipal Solid Waste Generation, Recycling, and Disposal in the
8 Ibid.
9 Skumatz, Lisa A., Ph.D. and Freeman, David J., “Pay as you Throw (PAYT) in the US: 2006 Update and Analyses”,
2006.
Rabbi Norman Lamm, Ph.D., recently announced his retirement after more than a quarter of a century as President of Yeshiva University and of its Rabbi Isaac Elchanan Theological Seminary. He is the author of *The Shema*: Spirituality and Law in Judaism and *Seventy Faces: Articles of Faith*.

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