

Jewish Environmental Ethics

Shavuot 5780

Introduction: The main source in the environmental ethics discussion is the passuk of לא תשחית (Source 1). What exactly this prohibition includes is a massive discussion beginning in the gemara and going through the rishonim and poskim. Questions to keep in mind as you go through the sources are:

- 1) What's the reason behind this prohibition? Is it about wanton destruction? A loss of value in your possessions? Something else?
- 2) What is the scope of תשחית? Is it applied minimally or maximally to different cases?
- 3) What is the Jewish perspective on the natural world? Does the world solely exist for humans to use, or is their value in preserving the world as it exists?

דברים פרק כ פסוקים יט - כ

כִּי־תִצּוֹר אֶל־עִיר יָמִים רַבִּים לְהִלָּחֵם עָלֶיהָ לְתַפְשָׁהּ לֹא־תִשְׁחִית אֶת־עֵצֶיהָ לְנֹדֶם עָלֶיהָ גֵרְזֵן כִּי מִמֶּנּוּ תֹאכַל וְאִתּוֹ לֹא תִכְרֹת כִּי הָאָדָם עֵץ הַשָּׂדֶה לֵבָא מִפְּנֵיךָ בַּמִּצּוֹר:

וְלֹק עֵץ אֲשֶׁר־תִּדְעַ כִּי־לֹא־עֵץ מֵאֲכָל־הוּא אִתּוֹ תִשְׁחִית וְכָרְתָּ וּבְנִית מִצּוֹר עַל־הָעִיר אֲשֶׁר־הוּא עֹשֶׂה עִמָּךְ מִלְחָמָה עַד רִדְתָּהּ: (פ)

When in your war against a city you have to besiege it a long time in order to capture it, you must not destroy its trees, wielding the ax against them. You may eat of them, but you must not cut them down. Are trees of the field human to withdraw before you into the besieged city?

Only trees that you know do not yield food may be destroyed; you may cut them down for constructing siegeworks against the city that is waging war on you, until it has been reduced.

תלמוד בבלי מסכת בבא קמא דף צא עמוד ב - צב עמוד א

אמר רב: דיקלא דטען קבא - אסור למקצציה. מיתיבי: כמה יהא בזית ולא יקצצו? רובע! שאני זיתים, דחשיבי א"ר חנינא: לא שכיב שיבחת ברי, אלא דקץ תאינתא בלא זמנה. אמר רבינא: ואם היה מעולה בדמים - מותר. תניא נמי הכי: רק עץ אשר תדע - זה אילן מאכל, כי לא עץ מאכל הוא - זה אילן סרק; וכי מאחר שסופו לרבות כל דבר, מה ת"ל כי לא עץ מאכל? להקדים סרק למאכל; יכול אפילו מעולה בדמים? ת"ל: רק. שמואל אייתי ליה אריסיה תמרי, אכיל, טעים בהו טעמא דחמרא. א"ל: מאי האי? א"ל: ביני גופני קיימי. אמר: מכחשי בחמרא כולי האי? למחר אייתי לי מקורייהו. רב חסדא חזא תאלי בי גופני, אמר ליה לאריסיה: עקרינהו, גופני קני דקלי, דקלי לא קני גופני.

Rav said with regard to a palm tree that still produces fruit in the amount of a kav, that it is

prohibited to cut it down due to the prohibition of: “When you shall besiege a city...you shall not destroy the trees” (Deuteronomy 20:19).

The Gemara **raises an objection** to the statement of Rav from what was taught in a mishna (*Shevi'it* 4:10): **How much** fruit must **be on an olive tree** so that one may **not cut it** down? **A quarter-kav**. Why did Rav say that it must produce a full *kav*? The Gemara answers: **Olive trees are different, since they are significant**. Therefore, even a quarter-kav is valuable.

Rabbi Ḥanina said: My son Shivḥat did not die for any reason **other** than **that he cut** down **a fig tree before its time**. **Ravina says: But if** the lumber **was greater in monetary** value than its fruits, it is **permitted** to chop it down, and this does not violate the prohibition against destroying a tree.

This halakha is also taught in a *baraita*. The verse states: “Only the trees of which you know that they are not trees for food, then you may destroy and cut down” (Deuteronomy 20:20). **“Only the trees of which you know”**; **this** is referring to **a tree** that bears fruit used for **food**, and it is permitted to cut down this type of tree under certain circumstances. **“That they are not trees for food”**; **this** is referring to **a barren tree**.

The Gemara asks: **And since** the *baraita* **will ultimately include all types** of trees, so that even a tree that produces fruit may be cut down, **what**, then, is the meaning when **the verse states: “That they are not trees for food,”** which indicates that it is permitted to cut down only a barren tree? The Gemara answers: It is **to give precedence** to cutting down **a barren tree over** a tree whose fruit is used for **food**.

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One **might** have thought that he must give precedence to the cutting down of a barren tree **even** if the barren tree is **greater in monetary** value than the fruit-bearing tree. **The verse states: “Only,”** which teaches that there is an exception to the rule. Similarly, if the fruit-bearing tree itself would be worth more as lumber than for its fruits, it would be permitted for one to cut it down.

The Gemara relates: The **sharecropper of Shmuel brought him dates**. Shmuel **ate** them, and **tasted the taste of wine in them**. **He said** to his sharecropper: **What is this?** The sharecropper **said to him**: The date palms **stand among the grapevines** and therefore contain a taste of wine from the grapes. Shmuel **said**: Do **they weaken the wine**, i.e., the grapevines, **so much** that it is possible to taste the wine in the dates? **Tomorrow**, cut down the date palms and **bring me from their marrow** to eat.

The Gemara relates a similar incident: **Rav Ḥisda saw date palms** growing **among grapevines** on his estate. **He said to his sharecropper: Uproot the** date palms, since one can **purchase date palms** with **grapevines**, as grapevines are more valuable, while one **cannot purchase grapevines** with **date palms**.

Why is there a measurement of how much fruit a tree produces in order to fall under the prohibition of בל תשחית?

How does Rav Hanina's statement fit into the narrative as a whole, considering its location in

the chiastic structure of the piece (See the color coding)? Does it serve to undermine or support the halachic conclusion?

What does it say about תשחית בל if you are allowed to chop down the tree when the value of the cut tree exceeds that of keeping the tree alive?

NOTES

My son Shivhat did not die, etc. – לֹא שָׁכִיב שִׁיבַחַת בְּרִי וְכוּ' –
The verse (Deuteronomy 20:19) compares people to trees,
and Ibn Ezra explains that just as one may not cut short the
life of a man, one should not cut short the life of a tree.

תלמוד בבלי מסכת בבא בתרא דף כו עמוד א

רבא בר רב חנן הוּוּ ליה הנהו דיקלי אמיצרא דפרדיסא דרב יוסף, הוּוּ אתו צפורי יתבי בדיקלי ונחתו בפרדיסא ומפסדי ליה; א"ל: זיל קוץ, א"ל: והא ארחיקי לי! א"ל: ה"מ לאילנות, אבל לגפנים בעינן טפי. והא אנן תנן: אחד גפנים ואחד כל אילן! א"ל: ה"מ אילן לאילן וגפנים לגפנים, אבל אילן לגפנים בעינן טפי. א"ל: אנא לא קייצנא, דאמר רב: האי דיקלא דטעין קבא - אסור למקצייה, ואמר ר' חנינא: לא שכיב שכחת ברי, אלא דקץ תאנתא בלא זימניה, מר אי ניחא ליה ליקוץ.

The Gemara relates: **Rava bar Rav Ḥanan had these palm trees** that stood **adjacent to the boundary of Rav Yosef's vineyard**. Birds would come and roost on the palm trees and would subsequently **descend to the vineyard and damage it**. Rav Yosef **said to Rava bar Rav Ḥanan: Go and cut down your palm trees**. Rava bar Rav Ḥanan **said to him: But I distanced** them the required amount. Rav Yosef **said to him: This matter**, i.e., this specific distance, applies only **to trees, but a greater distance is required for vines**.

Rava bar Rav Ḥanan protested: **But didn't we learn** in the mishna that this is the *halakha* **whether** he is planting **grapevines or any kind of tree**? Rav Yosef **said to him: This matter** applies only to the distance between one **tree and another tree**, or the distance between one **vine and other vines**. **But** with regard to the space between **a tree and vines, one requires a greater distance**.

Rava bar Rav Ḥanan **said to him: I myself will not cut them down, as Rav said**: With regard to **this palm tree that produces one kav of fruit**, it is **prohibited to cut it down**, due to the verse: "You shall not destroy the trees" (Deuteronomy 20:19). **And Rabbi Ḥanina says: My son Shikhḥat died only because he cut down a fig tree before its time**. Rava bar Rav Ḥanan continued: **If the Master is amenable** to do so, he **may cut** them down, but I will not do it.

Is the final line of the gemara where Rava bar Ran Hanan meant seriously or sarcastically? Is he saying that he is halachically unable to cut it down, but Rav Yosef was permitted to, or is he

saying that no one should cut them down as that will lead to death?

Which of these perspectives is taking a more maximilist approach to תשחית?

TES

I will not cut them down – אֲנִי לֹא קַיְיִצֵּנָא: Many commentaries point out that if Rava bar Rav Hanan were causing damage, he would certainly be required to cut down his trees. Some explain that one is permitted to cut down a fruit tree only if it causes a great loss (*Tosafot*). Others write that Rav Yosef did not claim that the tree had to be cut down according to the strict letter of the law; rather, he wanted Rava bar Rav Hanan to do so as an act of piety, to avoid being responsible for the damage. Rava bar Rav Hanan responded that if it is an appeal to piety, one should also take into consideration the problem of cutting down fruit trees (*Rashba*). Yet others contend that Rava bar Rav Hanan said that he does not maintain that this is the *halakha*, and that he could not follow the ruling of Rav Yosef, who was personally involved in the case. Therefore, he was unwilling to act, and he suggested that if Rav Yosef was certain of the *halakha* he should take action himself (*Rabbeinu Yona*).

תלמוד בבלי מסכת שבת דף קכט עמוד א

מר רב חייא בר אבין אמר שמואל: הקיז דם ונצטן - עושין לו מדורה אפילו בתקופת תמוז. שמואל צלחו ליה תכתקא דשאגא, רב יהודה צלחו ליה פתורא דיונה, לרבה צלחו ליה שרשיפא. ואמר ליה אב"י לרבה: והא קעבר מר משום בל תשחית! - אמר ליה בל תשחית דגופאי - עדיף ל'.

This conclusion emerges **from that which was stated: Rav Ḥiyya bar Avin said that Shmuel said:** With regard to one who **let blood and caught cold, one makes a fire for him even during the season of Tammuz**, i.e., the summer. Failure to do so could result in serious illness.

The Gemara relates that after **Shmuel** underwent bloodletting, **they broke for him a wooden armchair made of teak [shaga]** to build a fire. Similarly, for the sake of **Rav Yehuda they broke a wooden table made of ebony [yavna], and for Rabba they broke a bench**. They needed to build a fire due to the potential danger to Rabba. Since they could not find firewood, they kindled the fire with the furniture.

And Abaye said to Rabba: In breaking the bench, **didn't the Master violate** the prohibition, **"Do not destroy"** (Deuteronomy 20:19)? It is prohibited to destroy objects of value. Rabba

said to him: Do not destroy also with regard to destruction **of my body**. Preventing illness and danger **is preferable to me**.

How does this gemara view the relationship between people and resources?

תלמוד בבלי מסכת שבת דף קמ עמוד ב
ואמר רב חסדא: האי מאן דאפשר ליה למיכל נהמא דשערי ואכל דחיטי - קעבר משום בל תשחית. ואמר רב פפא: האי מאן דאפשר למישתי שיכרא ושתי חמרא - עובר משום בל תשחית. ולא מילתא היא, בל תשחית דגופא עדיף.
And Rav Ḥisda also said: One who is able to eat barley bread and nevertheless eats wheat bread violates the prohibition against wanton destruction. One who wastes resources is comparable to one who destroys items of value. And Rav Pappa said: One who is able to drink beer and nevertheless drinks wine violates the prohibition against wanton destruction. The Gemara comments: And this is not a correct matter, as the prohibition against destruction of one's body takes precedence. It is preferable for one to care for his body by eating higher quality food than to conserve his money.

How does this gemara view the relationship between people and resources?

Is 'destruction of one's body' used in a more expansive way than before? How does pleasure factor in?

The gemara in Pesahim 113a says that Rav Pappa was a beer brewer. How might that impact his statement here regarding beer and wine?

ספר החינוך מצוה תקכט
(א) שנמנענו מלכרות האילנות כשנצור על עיר כדי להצר לאנשי העיר ולהכאיב לבותם, ועל זה נאמר [דברים כ', י"ט], לא תשחית את עצה וגו' ואותו לא תכרות. וכמו כן נכנס תחת זה הלאו שלא לעשות שום הפסד, כגון לשרוף או לקרוע בגד או לשבר כלי לבטלה, ובכל ענינים אלו ובכל כיוצא בהם שיהיה בהם השחתה יאמרו זכרונם לברכה תמיד בגמרא [קידושין ל"ב ע"א] והא קא עבר משום בל תשחית. ומכל מקום אין מלקין אלא בקוצץ אילני מאכל שהוא מפורש בכתוב, אבל בשאר ההשחתות מכין אותו מכת מרדות.
שורש המצוה ידוע, שהוא כדי ללמד נפשנו לאהוב הטוב והתועלת ולהדבק בו, ומתוך כך תדבק בנו הטובה ונרחיק מכל דבר רע ומכל דבר השחתה, וזהו דרך החסידים ואנשי מעשה אוהבים שלום ושמחים בטוב הבריות ומקריבים אותן לתורה, ולא יאבדו אפילו גרגר של חרדל בעולם, ויצר עליהם בכל אבדון והשחתה שיראו, ואם יוכלו להציל יצילו כל דבר מהשחית בכל כחם, ולא כן הרשעים אחיהם של מזיקין שמחים בהשחתת עולם והמה משחיתים, במדה שאדם מודד בה מודדין לו, כלומר בה הוא נדבק לעולם, וכענין שכתוב [משלי י"ז, ה'], שמח לאד לא ינקה רע, והחפץ בטוב ושמח בו נפשו בטוב תלין לעולם, זה ידוע ומפורסם.
To not destroy fruit trees: That we have been prevented from chopping down trees when we besiege a city to distress the people of the city and to sadden their hearts. And about this is it stated (Deuteronomy 20:19), "you may not destroy its tree, etc. and you shall not chop it down." And likewise not to do any damage - such as burning or ripping a garment or breaking

a vessel for no reason - entered under this negative commandment And in all of these matters and in all that is similar to them, they, may their memory be blessed, would always say in the Gemara (Kiddushin 32a), "But behold, he is transgressing on account of 'do not destroy.'" And nonetheless we only administer lashes for one that cuts down a fruit tree, since it is explicit in Scripture. But with other destructions, we [only] give him lashes of rebellion (See Mishneh Torah, Laws of Kings and Wars 6:10).

The root of this commandment is well-known - it is in order to teach our souls to love good and benefit and to cling to it. And through this, good clings to us and we will distance [ourselves] from all bad and destructive things. And this is the way of the pious and people of [proper] action - they love peace and are happy for the good of the creatures and bring them close to Torah, and they do not destroy even a grain of mustard in the world. And they are distressed by all loss and destruction that they see; and if they can prevent it, they will prevent any destruction with all of their strength. But not so are the wicked - the brothers of the destructive spirits. They rejoice in the destruction of the world, and they destroy themselves - [since] in the way that a person measures, so is he measured; which is to say that he clings to it forever, as the matter that is written (Proverbs 17:5), "the one who rejoices in calamity, will not be cleared (of evil)." And the one who desires the good and rejoices in it, 'his soul will dwell in the good' forever. This is known and famous.

With these sugyot as background, there are various excellent academic articles that track the Jewish approach towards environmental ethics. Eilon Shwartz tracks two different traditions throughout rabbinic writings, one representing a maximilist approach to תשחית, and one a minimalist approach. Hava Tirosh-Samuleson compares the respective places of natural things and mankind in the world. These articles serve as excellent surveys of the Jewish perspective on environmental ethics

קהלת פרק א
<p>(ד) דֹר הַלֵךְ וְדֹר בָּא וְהָאָרֶץ לְעוֹלָם עֹמֶדֶת:</p> <p>(ה) וְזָרַח הַשֶּׁמֶשׁ וּבָא הַשֶּׁמֶשׁ וְאֵל־מְקוֹמוֹ שׁוֹאֵף זֹרֵחַ הוּא שֵׁם:</p> <p>(ו) הוֹלֵךְ אֶל־דָּרוֹם וְסוֹבֵב אֶל־צָפוֹן סוֹבֵב הוֹלֵךְ הָרוֹחַ וְעַל־סִבְיָתָיו שֵׁב הָרוֹחַ:</p> <p>(ז) כָּל־הַנִּחְלִים הַלֵּכִים אֶל־הַיָּם וְהַיָּם אֵינָנוּ מֵלֵא אֶל־מְקוֹם שֶׁהַנִּחְלִים הַלֵּכִים שֵׁם הֵם שְׂבִים לִלְכֹת:</p> <p>(ח) כָּל־הַדְּבָרִים יִגְעִים לֹא־יִכָּל אִישׁ לְדַבֵּר לֹא־תִשָּׁבַע עַיִן לִרְאוֹת וְלֹא־תִמָּלֵא אֶזֶן מִשְׁמַע:</p> <p>(ט) מִה־שִּׁהִיָּה הוּא שִׁהִיָּה וּמִה־שִּׁנְעֻשָּׁה הוּא שִׁנְעֻשָּׁה וְאֵין כָּל־חֵדֶשׁ תַּחַת הַשֶּׁמֶשׁ:</p> <p>(י) יֵשׁ דָּבָר שִׁיאֲמַר רְאֵה־זֶה חֵדֶשׁ הוּא כְּבֹר הִיָּה לְעֹלָמִים אֲשֶׁר הִיָּה מִלְפָּנֶינוּ:</p>
<p>One generation goes, another comes, But the earth remains the same forever. The sun rises, and the sun sets— And glides back to where it rises. Southward blowing, Turning northward, Ever turning blows the wind; On its rounds the wind returns. All streams flow into the sea, Yet the sea is never full; To the place [from] which they flow The streams flow back again. All such things are wearisome: No man can ever state them; The eye never has enough of seeing, Nor the ear enough of hearing. Only that shall happen Which has happened, Only that occur Which has occurred; There is</p>

nothing new Beneath the sun!
Sometimes there is a phenomenon of which they say, "Look, this one is new!"—it occurred long since, in ages that went by before us.

תהלים פרק קד פסוק ה

יִסְד־אָרֶץ עַל-מְכוּנֶיהָ בַּל-תִּמּוּט עוֹלָם וָעֶד

Who didst establish the earth upon its foundations, That it should not be moved for ever and ever;

Do these verses in Kohelet and Psalms indicate a different view of the environment?

מורה נבוכים ב כז

MANY of our coreligionists thought that King Solomon believed in the Eternity of the Universe. This is very strange. How can we suppose that any one that adheres to the Law of Moses, our Teacher, should accept that theory? if we were to assume that Solomon has on this point, God forbid, deviated from the Law of Moses, the question would be asked, Why did most of the Prophets and of the Sages accept it of him? Why have they not opposed him, or blamed him for holding that opinion, as he has been blamed for having married strange women, and for other things? The reason why this has been imputed to him is to be found in the following passage: "They desired to suppress the book Koheleth, because its words incline towards scepticism." It is undoubtedly true that certain passages in this book include, when taken literally, opinions different from those taught in the Law, and they must therefore be explained figuratively. But the theory of the Eternity of the Universe is not among those opinions, the book does not even contain any passage that implies this theory; much less a passage in which it is clearly set forth. There are, however, in the book, some passages which imply the indestructibility of the Universe, a doctrine that is true; and from the fact that the indestructibility of the Universe is taught in this book, some persons wrongly inferred that the author believed in the Eternity of the Universe. The following are the words that refer to the indestructibility of the Universe: "And the earth remaineth for ever." And those who do not agree with me as regards the above distinction [between the indestructibility and the Eternity of the Universe], are compelled to explain the term le-'olam (lit., "for ever"), to mean "the time fixed for the existence of the earth." Similarly they explain the words of God, "Yet all the days of the earth" (Gen. viii. 22) to signify the days fixed for its existence. But I wonder how they would explain the words of David: "He laid the foundations of the earth, that it should not be moved for ever" (Ps. civ. 5).

How does the Rambam's Aristotelian view that the world does not change fit into our discussion of בל תשחית?