

THE DEVELOPMENT OF THE LAWS OF *BAL TASHCHIT*
AND THEIR IMPLICATION FOR CULTIVATING A JEWISH
ENVIRONMENTAL ETHIC FOR TODAY

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Modern Jewish environmental teachings use the term *shomrei adamah* - guardians of the earth, to emphasize our responsibility as the earth's care takers. Guiding these ethics are the prohibitions of *bal tashchit*, biblical and rabbinic laws forbidding unnecessary waste and wanton destruction of resources that are beneficial to human beings. This thesis will trace the development and the expansion of the category of *bal tashchit* throughout Jewish history. It will draw on the insights of Jewish sages and commentators to explore the implications of these laws for modern society. The thesis will conclude by proposing a *bal tashchit* ethic for today, standing firmly on the shoulders of our ancestors, and fulfilling our responsibility to guard and protect our world.

The thesis is divided into six chapters: the first chapter examines the origin of *bal tashchit* in the Torah (Deuteronomy 20:19-20) and views of the commentators. The second chapter explores the early expansion of the prohibition against destroying fruit trees in the Sifre and laws preventing environmental degradation in Mishnah Baba Batra. The third chapter of this thesis investigates various *sugyot* in the Babylonian Talmud that directly use the phrase "bal tashchit" to fully understand the rabbinic prohibition in all its complexities. Chapter four analyzes the codification of *bal tashchit* in Maimonides' *Mishneh Torah* and Joseph Karo's *Shulchan Aruch*. Chapter five brings understanding and application of *bal tashchit* into the modern era. It begins by examining Samson Raphael Hirsch's influential proclamation regarding the sanctity of observing the commandment to "not destroy." This chapter discusses how the modern Jewish environmental movement has claimed *bal tashchit* as its call to action. The final chapter of this thesis will seek to enable readers to use the concept of *bal tashchit* to evaluate their own use of resources. It will examine the relationship between *bal tashchit* and "conspicuous consumption" in order to cultivate a consumer ethic based on living simply, consciously, and within one's means.

This thesis concludes with a summary of the significant developments of the category of *bal tashchit* throughout Jewish history. It will take social and technological advancements into consideration as it explains *how bal tashchit* has expanded from its biblical origins into an environmental ethic for today. It draws on ancient and modern wisdom to remind us of the important role humanity must play as *shomrei adamah*, guardians and protectors of our planet in order to ensure a healthy future for the land and all its inhabitants.

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Introduction

When the Holy Blessed One, created the first human, God took Adam and led him around all the trees of the Garden of Eden. And God said to Adam: “See My works, how good and praiseworthy they are! And all I have created, I made for you. [But,] be mindful then that you do not spoil and destroy My world. For if you spoil it, there is no one after you to repair it.” (Kohélet Rabbah at 7:13)

The message embedded in this midrash is the inspiration for my thesis and work as a Jewish environmental educator. It acknowledges and praises God as the creator of the earth and then charges humanity with the task of using its resources wisely. The last line is a warning to be responsible caretakers: to use only what it is necessary, and to be conscious of the negative impact that humans can make on the ecosystems of the earth. God informs Adam, the first human, that there is only one world to provide for the needs of human beings, plants and animals. Then, God leaves the world's fate in our hands.

For the past one hundred years, though, this wisdom has been overshadowed by the human tendency to accumulate more than what is necessary for survival. Beginning with the Industrial Revolution, our society has been able to produce and distribute more goods at a lower cost than ever before. We have been trained to buy things and dispose of them without thinking about the resources needed to create them, the human labor required to assemble them, and where they go when we are finished using them. Overconsumption has led to numerous environmental problems such as pollution, deforestation, species extinction, and climate change. Through the values of Western civilization, many of us have become removed from the land. In turn, we as a society have forgotten about our

sacred responsibility to prevent its decline.

I believe it is time to return to the wisdom of our ancient texts and traditions; time to examine our patterns of consumption and disposal of food, energy, and material goods; time to cultivate a different ethic. In doing so we can rediscover Judaism's approach to live simply and to make the most out of what we already have. This paradigm shift will allow us to recognize human's unnecessary waste and wanton destruction of the planet's finite resources, and, ultimately give us opportunities to live truly in partnership with God.

Throughout history, human beings have depended on balance in the natural world: everything necessary for survival comes from the earth. Food, raw materials for clothing and shelter, and energy sources are all grown on and extracted from the land. Biblical religion has conflicting ideologies about humanity's relationship with the natural world. On one hand, God blesses humanity in Genesis 1:28: “be fertile and increase, fill the earth and master it¹; and rule the fish of the sea, the birds of the sky, and all the living things that creep on earth.”². This appears to give the human race permission to use the earth as they fit, without regard to consequences. It presumes we are dominant over nature and its masters.

1. The Hebrew word **וָכַבְדָּהָא** has been translated as master, subdue, and have dominion over. This verse has been critiqued by environmentalists for seemingly giving biblical approval for environmental misuse.

2. Genesis 1:28.

On the other hand, in Genesis 2:15 God commands human beings to "till [the earth] and tend [the earth]."³ The implication here is that people are guardians and stewards of creation. We are commanded to protect the planet's resources, cultivating them for our needs, but ensuring that it can continue to provide for future generations. This responsibility appears in the book of Ecclesiastes: "One generation goes and another comes; but the earth remains forever."⁴ It also appears in the midrash in Kohelet Rabbah cited above which expands on the view of Genesis 2:15, creating a mandate for human beings to take their role seriously. After all, there is, has been, and will only be one planet Earth.

Modern Jewish environmental teachings use the term *shomrei adamah* - guardians of the earth, to emphasize our responsibility as the earth's care takers. Guiding these ethics are the prohibitions of *bal tashchit*, biblical and rabbinic laws forbidding unnecessary waste and reckless destruction of resources that are beneficial to human beings. This thesis will trace the development and the expansion of the category of *bal tashchit* throughout Jewish history. It will draw on the insights of Jewish sages and commentators to explore the implications of these laws for modern society. The thesis will conclude by proposing a *bal tashchit* ethic for today, standing firmly on the shoulders of our ancestors, and fulfilling our responsibility to guard and protect our world.

3. Genesis 2:15.

4. Ecclesiastes 1:4.

The thesis is divided into six chapters: the first chapter will examine the origin of *bal tashchit* in the Torah. Deuteronomy 20:19-20 prohibits chopping down fruit trees in a time of war, providing the initial framework for *bal tashchit*. Commentators have examined the language in Deuteronomy 19-20 to develop a greater conceptual understanding of this law. Rashi and Ibn Ezra, for example, debated the purposes of the prohibition and the implication it has for better understanding the relationship between human beings and fruit trees.

The second chapter will explore the early expansion of the prohibition against destroying fruit trees in the Sifre and laws preventing environmental degradation in Mishnah Baba Batra. These tannaitic works offer insights into how early rabbinic thinkers understood the connection between people and the communal environmental conditions around them. From these origins, the Talmud expanded and developed the laws of *bal tashchit* to include unnecessary waste and destruction of food, clothing, and other material possessions. The third chapter of this thesis will investigate various *sugyot* in the Babylonian Talmud that directly use the phrase "*bal tashchit*" to fully understand the rabbinic prohibition in all its complexities.

Chapter four analyzes the codification of *bal tashchit* in Maimonides' *Mishneh Torah* and Joseph Karo's *Shulchan Aruch*. These Medieval codes synthesize and crystalize the Talmudic material, creating a philosophical framework with which to extend the rubric of *bal tashchit* into everyday situations. Chapter five will bring understanding and application of *bal tashchit* into the modern era. It begins by examining Samson Raphael

Hirsch's influential proclamation regarding the sanctity of observing the commandment to "not destroy." Hirsch's language and theology is reminiscent of Kohelet Rabbah. This chapter discusses how the modern Jewish environmental movement has claimed *bal tashchit* as its call to action.

The final chapter of this thesis will seek to enable readers to use the concept of *bal tashchit* to evaluate their own use of resources. It will examine the relationship between *bal tashchit* and "conspicuous consumption"⁵ in order to cultivate a consumer ethic based on living simply, consciously, and within one's means.

This thesis will conclude with a summary of the significant developments of the category of *bal tashchit* throughout Jewish history. It will take social and technological advancements into consideration as it explains how *bal tashchit* has expanded from its biblical origins into an environmental ethic for today. It will draw on ancient and modern wisdom to remind us of the important role humanity must play as *shomrei adamah*, guardians and protectors of our planet in order to ensure a healthy future for the land and all its inhabitants.

5. This term was coined by Thorsten Veblen in 1899 to describe the consumption patterns by the *nouveau riche* who bought things in order to show off their new wealth. It is currently applied to the middle class, who purchase goods in order to demonstrate social and economic status rather than for their utilitarian function.

Chapter 1 - Biblical Origins of *Bal Tashchit*

Introduction

דברים פרק כ:יט-כ

כִּי־תָצוּר אֶל־עִיר יָמִים רַבִּים לְהִלָּחֵם עָלֶיהָ לְתַפְשָׁהּ
לֹא־תִשְׁחִית אֶת־עֵצָהּ לְנֹדֶחַ עָלֶיהָ גִּרְזֹן כִּי מִמֶּנּוּ תֹאכַל וְאִתּוֹ לֹא
תִּכְרֹת כִּי הָאָדָם עֵץ הַשָּׂדֶה לֵבָא מִפָּנֶיךָ בַּמָּצוֹר: רַק עֵץ
אֲשֶׁר־תֵּדַע כִּי לֹא־עֵץ מֵאֲכָל הוּא אִתּוֹ תִּשְׁחִית וְכָרְתָּ וּבְנִיתָ
מָצוֹר עַל־הָעִיר אֲשֶׁר־הוּא עֹשֶׂה עִמָּךְ מִלְחָמָה עַד רִדְתָּהּ

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 (The trees of the field are 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. (Deuteronomy 20:19-20)

The twentieth chapter of the book of Deuteronomy contains the biblical origins for the rabbinic category of *bal tashchit*. Verses nineteen and twenty prohibit cutting down the fruit trees of a besieged city during a time of war, while allowing non-fruit-bearing trees to be cut down and made into instruments of war. These verses lay the groundwork for establishing an understanding of what type of environmentally destructive acts are prohibited according to Jewish law and the circumstances in which they are allowed. Here, fruit trees are given special considerations during times of war. The Israelites were allowed to eat their fruit, but they were not permitted to cut them down in order to gain an advantage during combat. Classical, medieval, and modern biblical commentators have sought to understand these verses in the context of the book of Deuteronomy, the biblical tradition at large, and in relation to the customs of other ancient cultures. In

doing so, they have built the foundation for a Jewish environmental ethic. Additionally, scholars argued across the centuries about the correct grammatical reading of the phrase:

"כִּי הָאָדָם עַץ הַשָּׂדֶה לֵבָא מִפְּנֵיךְ בַּמָּצוֹ" (Deuteronomy 20:19). Commentators have disagreed on whether this verse is a question or a statement. The grammatical reading has implications for understanding the complex relationship between human beings and the trees of the field.

This chapter will explore the meaning of Deuteronomy 20:19-20 in its biblical and ancient context, address the grammatical questions brought up by the commentators, and clarify to what extent Deuteronomy 20:19-20 is the biblical proof text and origin of *bal tashchit*.

A. Laws of Warfare in Deuteronomy 20

This chapter of Deuteronomy describes several laws that governed the Israelites during a time of war. Jeffrey Tigay divides the laws of Deuteronomy 20 into three categories. He writes in the *JPS Torah Commentary on Deuteronomy*, "Chapter 20 consists of three laws about warfare: preparing the army for battle (vv. 1-9), treatment of defeated populations (vv. 10-18), and treatment of trees near besieged cities (vv. 19-20)."¹ These laws set limits about who is eligible to be sent to war and the extent to which cities and people who were conquered can be punished and destroyed. Tigay states, "Harsh as some of

1. Jeffrey Tigay, *The JPS Torah Commentary Deuteronomy*, (Philadelphia: Jewish Publication Society, 1996), 185.

them are in the light of modern ideals (though not modern practice), they limit wanton destruction of life and property and are the oldest known rules of war regulating the treatment of conquered people and territory".² Verse 15 implies that these laws apply to both the conquest of the promised land and to all wars after that, since some soldiers would have already planted vineyards in their homes after settling the land. These laws differ from those of other contemporaneous cultures. They also contrast dicta from 2 Kings 3. Both of these examples will be contrasted with Deuteronomy 20 later in this chapter.

For the Ancient Israelites, it was understood that God would be with them on the battlefield and in control of their destiny during war. This theme has its origins in Exodus 14 and 15 when the Israelites are escaping from Egypt. While being pursued by the Egyptian army, the Israelites cry out to Moses,

Was it for want of graves in Egypt that you brought us to die in the wilderness? What have you done to us, taking us out of Egypt? Is this not the very thing we told you in Egypt, saying, "Let us be, and we will serve the Egyptians, for it is better for us to serve the Egyptians than to die in the wilderness?" (Exodus 14:11-12)

To this Moses replies, "Have no fear! Stand by, and witness the deliverance which the Eternal will work for you today; for the Egyptians whom you see today you will never see again. The Eternal will battle for you; you hold your peace!" (Ex. 14:13-14). Here it is made clear that God is Israel's warrior. This is also explicit in Numbers 10:9, 35-36, and 31:6, Deuteronomy 1:30, 20:1-4, and 23:10-15, in the books of Joshua, Judges, First

2. Ibid.

and Second Samuel, First and Second Kings, and various Psalms.³

Tigay explains how God's power influenced all aspects of military life,

God was believed to be present in the Israelite military camp, above the Ark. God Himself was Israel's 'myriads of thousands' of troops (Num. 10:36) and the Israelites were 'the Lord's ranks' (Exodus 12:41). God defeated the enemy by turning the elements of nature against them or by incapacitating them. The Israelites either stood by passively or sent the army to assist God by finishing off the enemy, whom God delivered into its hands.⁴

The Israelite armies took the appropriate measures to acknowledge God's presence in the camp and on the battlefield. They offered prayers and sacrifices before they went into battle and they brought the Ark and other sacred vessels into battle with them. War, and by extension the laws that governed it, were explicitly rooted in the belief that God would do battle on behalf of the Israelites. It therefore follows that these laws were intended to maintain holiness in the camp, during battle, and in dealing with the victorious aftermath. It is in this context that Deuteronomy 20 begins by invoking God's presence before the Israelites go into battle.

דברים פרק כ:א-ד

כִּי־תֵצֵא לַמִּלְחָמָה עַל־אֹיְבֶיךָ וְרָאִיתָ סוֹס וְרֶכֶב עִם רַב מִמֶּנּוּ לֹא
תִירָא מֵהֶם כִּי־יְהוָה אֱלֹהֶיךָ עִמָּךְ הַמַּעֲלֶךְ מֵאֶרֶץ מִצְרָיִם: וְהָיָה
כִּקְרַבְכֶּם אֶל־הַמִּלְחָמָה וְנִגַּשׁ הַכֹּהֵן וְדִבֶּר אֶל־הָעָם: וְאָמַר
אֱלֹהִים שָׁמַע יִשְׂרָאֵל אַתֶּם קְרֹבִים הַיּוֹם לַמִּלְחָמָה עַל־אֹיְבֵיכֶם
אֲלֵי־יָרֵךְ לְבַבְכֶּם אֶל־תִּירְאוּ וְאֶל־תַּחֲפֹזוּ וְאֶל־תַּעֲרֹצוּ מִפְּנֵיהֶם: כִּי
יְהוָה אֱלֹהֵיכֶם הֵהָלֵךְ עִמָּכֶם לְהִלָּחֵם לָכֶם עִם־אֹיְבֵיכֶם
לְהוֹשִׁיעַ אֶתְכֶּם.

3. Jeffrey Tigay, "Excursus 3," *The JPS Torah Commentary Deuteronomy*, (Philadelphia: Jewish Publication Society, 1996), 430, 528

4. Ibid., 430.

When you take the field against your enemies, and see horses and chariots—forces larger than yours—have no fear of them, for the Eternal your God, who brought you from the land of Egypt, is with you. Before you join battle, the priest shall come forward and address the troops. He shall say to them, “Hear, O Israel! You are about to join battle with your enemy. Let not your courage falter. Do not be in fear, or in panic, or in dread of them. For it is the Eternal your God who marches with you to do battle for you against your enemy, to bring you victory. (Deuteronomy 20:1-4)

As indicated above, the act of war was connected to being in God's presence, making warfare a holy endeavor. The restrictions that follow about who is eligible to go off to war and what type of actions were permissible and prescribed upon a victory are thus a religious mandate in addition to legal guidelines.

As Tigay notes, Deuteronomy 20 is harsh in describing what was to be done with people captured during battle. If the enemy accepts an offer of peace before the battle, then they will become forced laborers (Deuteronomy 20:11). However, if they do not and engage in battle, they are subjected to a siege. If God delivers them into the Israelites' hands, then the men shall be killed and the women, children, livestock and other property of the town may be taken by the Israelites as spoils of victory (Deuteronomy 20:13-14). A city's fruit trees would implicitly be included here. Calum Carmichael concludes that they should have been destroyed as well. He states, "In 20:16-17, and in its influencing law, all of an enemy's spoil, including by implication his fruit trees, must be totally destroyed."⁵

Carmichael connects verses 19 and 20 with those that precede it in the chapter.

5. Calum Carmichael, *The Laws of Deuteronomy*, (Ithica: Cornell University Press, 1974), 132.

Possibly D (the Deuteronomist) is thinking back to this policy of total extermination, as expounded in his earlier laws, and decides that the fruit trees, exceptionally, are to be exempted. A contrast would then exist: practical good sense in one case balancing the religious zeal (literally destructive in its practical aspect) in the other.⁶

Thus, according to Carmichael, fruit trees are spared for logical reasons, presumably because they provide necessary food, whereas enemies and their possessions were "fair game" for Israelite plundering.

B. Deuteronomy 20 Compared to 2 Kings 3

The Tanakh mentions the treatment of fruit trees during wartime in one other text. In 2 Kings 3 the Israelites invade Moab. Looking for Divine intervention for their impending battle, the three kings leading the Israelites approach Elisha for a prophecy. While a musician played in the background, Elisha states:

מלכים ב פרק ג:יט

וְהִכִּיתֶם כָּל-עִיר מְבֻצָּר וְכָל-עִיר מְבַחוּר וְכָל-עֵץ טוֹב תִּפְּלוּ
וְכָל-מַעְיֵינֵי-מַיִם תִּסְתְּמוּ וְכָל הַחֲלָקָה הַטּוֹבָה תִּכְאֲבוּ בְּאֲבָנִים

You shall conquer every fortified town and every splendid city; you shall fell every good tree and stop up all wells of water; and every fertile field you shall ruin with stones. (2 Kings 3:19)

Several verses later this prophecy comes true.

מלכים ב פרק ג:בד-בה

וַיָּבֹאוּ אֶל-מַחֲנֶה יִשְׂרָאֵל וַיִּקְמוּ יִשְׂרָאֵל וַיַּכּוּ אֶת-מוֹאָב וַיִּנָּסוּ
מִפְּנֵיהֶם וַיָּבֹאוּ [וַיָּכּוּ] זָבָה וְהַכּוֹת אֶת-מוֹאָב: כֹּה וְהָעָרִים
יִהְרָסוּ וְכָל-חֲלָקָה טוֹבָה יִשְׁלִיכוּ אִישׁ-אֲבָנוֹ וּמִלְאוּהָ
וְכָל-מַעְיֵן-מַיִם יִסְתְּמוּ וְכָל-עֵץ-טוֹב.

6. Ibid.

They entered the Israelite camp, and the Israelites arose and attacked the Moabites, who fled before them. They advanced, constantly attacking the Moabites, and they destroyed the towns. Every man threw a stone into each fertile field, so that it was covered over; and they stopped up every spring and felled every fruit tree. (2 Kings 3:24-25)

This passage indicates a deviation from the prohibition against cutting down fruit trees in Deuteronomy 20. Additionally, the enactment of Elisha's prophecy allowed for the destruction of fields and springs as well. The results of these actions would have been total environmental destruction. It would have effectively cut off sources of food and access to fresh water. These kinds of actions would make it impossible for either the Moabites or the Israelites to inhabit the city after the battle. Obviously, the Deuteronomic war laws were not always observed or could be reversed by the word of a reliable prophet.

C. Warfare in the Ancient Near East

The Deuteronomic prohibition against cutting down fruit trees in a time of war was an exception to the cultural norm of its time period. The type of environmental destruction in wartime described in 2 Kings 3, particularly the cutting down of fruit trees, was normal practice in ancient cultures. S.R. Driver states that this specific act was mentioned in Greek, Arabic, and Assyrian warfare sources, though, in slightly different forms by each group.⁷ It was a favorite practice in Arabic warfare to specifically cut down palm-groves. This was customary for the Assyrians as well. Driver notes that they destroyed the

7. S.R. Driver, *The International Critical Commentary on the Holy Scriptures of the Old and New Testaments* (New York: Charles Scribner's Sons, 1895), 240.

valuable trees, namely the date-palms, after they captured a city.⁸

Tigay lists three reasons for this persistent military pattern in ancient cultures. "This weakened its economical potential and hampered its ability to fight again in the near future. It may also have been intended to pressure besieged cities into surrendering before they suffered such long-term damage".⁹ It is clear in Tigay's last reason that cutting down the fruit trees would be a method of cutting off the food supply of a besieged city, thus forcing them to surrender more quickly. This would have obvious negative implications on the local economy as well as human health.

Deuteronomy 19:20 makes an important distinction between the permissibility of cutting down non-fruit bearing trees and the prohibition of destroying fruit trees. Abraham Ibn Ezra, the twelfth century biblical commentator from the Iberian Peninsula, understood that the trees that do still produce food are essential for human survival. He wrote in his commentary to Deuteronomy 20:19, "You may not destroy fruit-bearing trees, which are a source of life to mankind, but you may eat of their fruit; you are forbidden to destroy them so that the besieged city will surrender before you."¹⁰ Ibn Ezra elucidates that it was improper to cut down fruit-bearing trees to starve out the inhabitants of the besieged city, distancing Israelite practices from other local people.

8. Ibid.

9. Tigay, 190.

10. *Commentary of Abraham Ibn Ezra on the Pentateuch*, trans. Jay Shachter (Ktav Publishing House: Jersey City, 2003), 92-93.

D. Non-Fruit-Bearing Trees

While cutting down a fruit tree during a time of war was unmistakably forbidden by Deuteronomy 20:19, in regard to non-fruit-bearing trees, the text is also clear that it would be permissible to cut them down in order to gain an upper hand in military action. Verse 20 draws out this distinction. Tigay states, "An exception is made in the case of military necessity: non-fruit-bearing trees may be felled for the purpose of constructing siegeworks".¹¹ Siegeworks are a temporary fort that is used for defense. Non-fruit-bearing trees are not valuable as a source of food. They may, however, provide the resources needed to give the Israelites an advantage militarily if they are cut down. They are therefore in a different category than fruit-bearing trees, which, as a source of food and sustenance are protected during battle. Ramban explains that non-fruit-bearing trees are therefore to be cut down first when wood is needed to build defense mechanisms. He also permits chopping them down as a strategy to prevent the besieged town dwellers from gathering firewood or hiding. He wrote in his commentary on Deuteronomy 20:20:

But in the opinion of our Rabbis (*Baba Kamma* 91b), it is permissible to cut down a fruit-tree to build a bulwark, and the statement of the Torah, ***Only trees which thou knowest that they are not trees for food, etc*** (verse 20) is to assign priority, meaning that a fruitless tree should be cut down prior to a fruit-tree. If so, the meaning of the section, in their opinion, is that the Torah warned, ***Thou shalt not destroy the trees*** to cut them down destructively, not for the purpose of the siege, as is the custom of armies [to cut down trees needlessly]. And the reason for it is that warriors destroy a city and its environs in the hope of conquering it, as it says, ***and ye shall fell every good tree, and stop all fountains of water*** (II Kings 3:19). You are not to do so, to destroy it, for you are to trust in God that He will deliver it not your hand. ***For the man is the tree of the field***, for you will eat of its fruit and live, and through it the city will be besieged by you, meaning to say, you will eat from it after conquering the city, and

11. Tigay, 190.

also when you are encamped, engaged in the siege, you should do likewise. And the meaning of the expression, *them thou mayest destroy and cut down* is that you are permitted to cut them down to build bulwarks and also to destroy them *until it be subdued*, for sometimes the destruction [of the trees] is for the purpose of capturing the city; for example, when the people of the city go out and fetch the wood thereof, or they hide there in the forest to fight against them, or when the trees are a *refuge and a covert* to the city from stones of stumbling.¹²

Ramban's opinion is that non-fruit bearing trees may be cut down for several strategic military purposes. The wood can be used to build a bulwark (a solid wall-like structure raised for defense) to help the Israelites be victorious while besieging a city. He also includes reasons for cutting them down in order to keep people within the confines of the besieged city and to shorten the siege. By contrast, Ramban affirms the notion that those trees that do provide food are an invaluable resource for the Israelite army while doing battle as well as after their successful campaign.

Ramban also affirms the biblical idea that God is the true source of military might. This interpretation indicates that it would be in line with the religious law and beliefs of the time for the Israelites to trust that God would help them achieve military success rather than needing to transgress the biblical prohibition of cutting down fruit trees and using them for defense, when there was an option to chop down non-fruit bearing trees first. He acknowledges that this was a custom in the ancient world. Yet, Ramban is clear that the literal meaning of Deuteronomy 20:19 stands as the morally and religiously proper behavior, condemning the Israelites' actions in 2 Kings 3 as unnecessarily destructive

12. Ramban on Deuteronomy 20:19-20.

To summarize, the Ancient Israelites partook in warfare like most other peoples of their day. One common practice during wartime in the Ancient Near East was for invading armies to cut down fruit trees while besieging cities. The Deuteronomic text rejects this type of behavior during wartime as unnecessarily destructive of resources that, according to Ibn Ezra, are a vital source of life. It was permissible, however, to use the wood of non-fruit bearing trees to build defense structures. Thus an important distinction was made in the Torah between trees that provided life sustaining fruit and those that did not, leading to the prohibition against cutting down the former during a time of war.

C. Are The Trees of the Field Human? vs. The Trees of the Field Are Human!

As mentioned above, in Deuteronomy 20 there is a distinction between trees that produce fruit and trees that do not. According to Ibn Ezra, the former is a source of life and the latter is not. There is an implicit relationship between fruit trees and human beings, the fate of one being bound to the fate of the other. This relationship is explicitly mentioned in verse 20 with the phrase: "כִּי הָאָדָם עֵץ הַשָּׂדֶה לֵבָא מִפְּנֵיךָ בַּמָּצוֹר".

Biblical commentators have debated the grammatical structure of the phrase for nearly two millennia. This line can be rendered two ways, one with, and one without an interrogative *heh*. The difference between a question and a statement here addresses the nature of the relationship between the fruit bearing trees and human beings. For example, JPS translates the phrase with the interrogative *heh* rendering it, "Are trees of the field

human to withdraw before you into the besieged city?"¹³ Tigay explains that,

This translation suggests that trees are unable to protect themselves by taking refuge within the city, or that they are not like human enemies that they should have to take refuge. This is essentially a "humanitarian" rather than a utilitarian reason for the prohibition.¹⁴

In making this statement a question, the fruit trees are spared from being cut down in war because they cannot defend themselves. They cannot run away from battle as human beings can. The trees are defenseless and are not the enemy. The JPS translation aligns with the way that the medieval commentator Rashi understood the verse. Rashi writes in his commentary to Deuteronomy 20:19:

כִּי הָאָדָם עֵץ הַשָּׂדֶה. הֲרִי "כִּי" מְשַׁמֵּשׁ בְּלִשׁוֹן "דִּילְמָא", שֶׁמָּא
הָאָדָם עֵץ הַשָּׂדֶה לְהַכְנִס בְּתוֹךְ הַמָּצוֹר מִפְּנֵיךְ לְהַתִּיסֹר בִּישׁוּרֵי
רָעָב וְצָמָא כְּאֲנָשֵׁי הָעִיר, לָמָּה תִשְׁחִיתֶנּוּ

For, is the tree in the field a man? Here, *ki* is understood as "perhaps," "should", or "for." 'Perhaps the tree in the field is (to be considered) a human being, able to run away from you into the besieged town, to suffer there the agonies of thirst and hunger, like the townspeople — if not, why then destroy it?' (Rashi on Deuteronomy 20:19)

According to Elion Schwartz,

Rashi's interpretation of the verse is based on his understanding of the Hebrew word *ki* as being interrogative, turning our text into a rhetorical question. Is the tree of the field to be part of the same (moral) world as the human being? No. The tree of the field is not the target of the siege; the people of the town are. No one has the moral right to destroy the trees because of a dispute among human beings. The trees must not be destroyed because of a dispute among humans."¹⁵ Rashi considered the

13. Jewish Publishing Society translation of Deuteronomy 20:19

14. Tigay, 190.

15. Elion Schwartz, "Is the Tree Human?" in *Trees, Earth, and Torah: A Tu B'shvat Anthology*, ed. Ari Elon, Naomi Mara Hyman and Arthur Waskow, (Philadelphia; Jewish Publication Society, 1999), 86.

tree to have a distinct importance separate from its connection to human beings. In adding an interrogative *heh*, Schwartz claims, "Rashi in effect has argued for an environmental ethic which views (fruit) trees as having existence independent of human wants and needs."¹⁶

His reading, however, is contrary to the following verse that permits non-fruit bearing trees to be cut down. Rashi did not give a clear explanation of why fruit trees are protected and non-fruit bearing trees are not. While Rashi did give an ethical consideration to fruit trees during a time a war, a period in which it may be hard to maintain ethical standards, Schwartz concludes, "his interpretation...is not supported by the original phrasing of the text".¹⁷ This conclusion was also reached by Driver who wrote, "The rendering, which is that of all the ancient versions, and nearly all modern commentators, implies the alteration of a point (*he'adam* for *ha'adam*) in the Massoretic vocalization, which here yields no appropriate sense."¹⁸

Driver and Schwartz both read the text according to the commentary offered by Abraham Ibn Ezra. Schwartz notes, "Ibn Ezra's (1089-1164) interpretation, later echoed by the King James Version, attacks Rashi's position on both grammatical and logical grounds and offers an alternative possibility."¹⁹ The King James Version translation reads, "For the tree of the field is man's life."²⁰ Ibn Ezra does not include an interrogative *heh* in his commentary on the second clause of Deuteronomy 20:19. Ibn Ezra understands this

16. Ibid.

17. Schwartz, 87.

18. Driver, 240.

19. Schwartz, 87.

20. King James Version translation of Deuteronomy 20:19.

verse within the larger context that fruit trees play for sustaining human life. Human beings depend on the trees of the field, therefore their preservation, even and especially during a time of war, would be of utmost importance. He demonstrates the belief in his commentary to Deuteronomy 20:19:

(יט) **כי האדם עץ השדה**, כבר ביארתי בספר היסוד, כי יתכן בכל לשון לקצר לאחוז דרך קצרה, כמו, חמור לחם. רק מלת לא לא יתכן להיותה נחסרת, כי הטעם יהיה להפך. ומדקדק גדול ספרדי אמר, כי חסר ה"א. וכן הוא, הכי האדם עץ השדה. וזה הטעם איננו כבני אדם שיוכל לברוח מפנך. ולפי דעתי, שאין לנו צריך לכל זה, וזה פירוש, כי ממנו תאכל ואותו לא תכרות, כי האדם עץ השדה, והטעם כי חיי בן אדם הוא עץ השדה. וכמוהו, כי נפש הוא חובל (להלן כד ו), כי חיי נפש הוא חובל. ואותו לא תכרות, דבק עם **לבוא מפניך במצור**, הנה לא תשחית עץ פרי שהוא חיים לבן אדם, רק מותר שתאכל ממנו, ואסור לך להשחיתו כדי שתבוא העיר מפניך במצור. והעיר על זה הפירוש שהוא נכון, שאמר וכתובנית מצור. והעד על זה הפירוש שהוא נכון, שאמר וכתובנית מצורץ. **(כ) עד רדתה**, כי לולי שהיתה נשגבה, לא אמר הכתוב ימים רבים.

(19) **Man is a tree of the field** I have already explained, in *Sefer Hayyesod*, that in every language there is a tendency to omit words in order to be concise. Nevertheless, one never omits the word “not”, because then one’s meaning is reversed. A great Spanish grammarian asserted that the sentence is missing an interrogative *heh*, as if Scripture were asking rhetorically, “is a tree of the field a man?” - but in my view this interpretation is not correct, because it makes no sense to explain a prohibition against destroying a fruit tree, on the grounds that a tree is not a man. In my opinion there is no need for any of this. The meaning, rather, is as follows: **You may eat of them, but do not cut them down, for man is a tree of the field** (i.e, the life of man depends on the trees of the field). A similar construction appears in ‘for it is taking a life in pawn’ (24:6), which clearly means “it is taking the means of a man’s livelihood in pawn”. The phrase **but do not cut them down** is conceptually tied to the phrase to come before you in the siege, to wit: You may not destroy fruit-bearing trees, which are a source of life to mankind, but you may eat of their fruit; you are forbidden to destroy them so that the besieged city will surrender before you. The subsequent phrase (20) **cut to build up**

siegeworks (20) is proof that this is the correct interpretation. **Until it is brought low** for if it were not a great city, Scripture would not have said “a long time.” (Ibn Ezra on Deuteronomy 20:19-20)²¹

Ibn Ezra reads the text without an interrogative *heh*. He rejects Rashi's opinion that the reason for the prohibition against cutting down a fruit tree is because it is not a man and would not be able to run away. Instead, Ibn Ezra stresses the sacred relationship between fruit trees and human beings. Trees of the field are not to be cut down since "the life of man depends on the trees of the field." Fruit trees provide food that is necessary for human survival. But it is also more than that. Ibn Ezra is implying that the fate of human beings is intimately linked to that of the trees of the field. If humans cut down the fruit trees while besieging a city, then they would essentially be abusing themselves as the beneficiary of the fruit from those trees. Schwartz writes that Ibn Ezra's commentary to Deuteronomy 20:19 "shows us our link to the natural world."²²

Ramban clearly agrees with Ibn Ezra's analysis, and not Rashi's. Ramban wrote, "Rabbi Abraham (Ibn Ezra) has explained it well." Ramban went on quote Ibn Ezra's commentary and elaborate on the key phrase "כי חיי בן אדם הוא עץ השדה".

Ramban wrote, "*For the man is the tree of the field*, for you will eat of its fruit and live, and through it the city will be besieged by you, meaning to say, you will eat from it after conquering the city, and also when you are encamped, engaged in the siege, you should do likewise."²³ Ramban is more explicit in the permissibility to eat the fruit of the trees

21. Shachter, 92-93.

22. Schwartz, 87.

23. Ramban's commentary on Deuteronomy 20:19-20.

during a battle. The fruit trees are the source of life for the soldiers. At the same time, Ramban supported the statement in the following line, verse 20, which does not extend the same protection to non-fruit bearing trees. He explains, "for sometimes the destruction [of the trees] is for the purpose of capturing the city; for example, when the people of the city go out and fetch the wood thereof, or they hide there in the forest to fight against them, or when the trees are a refuge and a cover (Isaiah 4:6) to the city from stones of stumbling."²⁴ Ramban's elaboration on these reasons helps to clarify the parameters in which it would be permissible to destroy non-fruit bearing trees. It is not blanket permission to cut them down unnecessarily. The trees must be used either to build a tool for defense or cut down as a strategy for achieving military success. Thus Ramban, who wrote a few generations after Ibn Ezra and Rashi, extended the parameters of what constitutes necessary and unnecessary destruction. The environment may be ruined, if and only if, it is for purposes of self-defense.

Driver also conclusively sides with Ibn Ezra's grammatical understanding of Deuteronomy 20:19. He states, "...אִישׁ הָאֵץ יָדָיו can only be rendered, 'man is the tree of the field,' which is explained to mean 'man *consists of* the tree of the field,' *i.e.* he lives on it" (Driver 240).²⁵ Driver's note summarizes the majority opinion on understanding this phrase. Fruit trees are vital to human beings' existence in times of peace and, all the more so, in times of war. Inherent in Deuteronomy 20:19-20 is the notion that human beings must treat the environment with special care. The implications for not doing so lead not

24. Ibid.

25. Driver, 240.

only to the loss of food sources but also to human life that, especially during biblical times, was dependent on it.

Conclusion: Deuteronomy 20:19-20 as the basis of *Bal Tashchit*

Though the Deuteronomic phrase, **לֹא תִשְׁחִית**, which appears in the war laws specifically relates to not cutting down fruit trees in a time of war, it becomes the basis of the rabbinic category **בַּל תִּשְׁחִית**, a more general prohibition against wanton waste and environmental destruction. There are several key ideas from the biblical text and its commentators that form the basis of the expanded category. Foremost, the Torah itself sets limits to what is protected. Fruit trees referred to as "trees of the field" are the primary object. But Ibn Ezra recognizes fruit-bearing trees to be a source of life for mankind. From this a general principle can be established that things in the natural world that are vital sources of life should not be destroyed or wasted unnecessarily.

Ramban extends Ibn Ezra's thought that Deut. 20:20 gives permission to destroy trees that do not produce food as long as it is for the purpose of defending the army. However, it does not give blanket permission to cut down all the trees in the surrounding area for no reason. Deuteronomy 20 serves as the biblical origin of rabbinic laws of *bal tashchit* by setting the standard for the protection of natural resources that benefit human beings, while allowing for their limited destruction in certain situations.

Chapter 2: Tannaitic Material Related to Environmental Protection

Introduction

In the Tannaitic period (approximately 70-200 CE) the authors of the Mishnah and Sifre began to codify Jewish law. These laws covered the breadth of religious and communal life. While they may not be called "environmentalists" per se, these works contain *halakhot* that protect natural resources and limit their contamination by pollutants. The contributors to these works were concerned with protecting the natural environment for the sake of human health and well being, professional and neighborly courtesy, and maintaining proper balance in the ecosystem. They sought to find a balance between economic needs and preventing the unnecessary destruction of resources. One example of these laws is Mishnah Baba Batra chapter two, which specifically address issues of water and air quality when planning and developing a community. Even though Mishnah Baba Batra does not use the term *bal tashchit* or reference Deuteronomy 20, its specific environmental concerns are relevant and important in understanding the development of Jewish environmental ethics.

In Sifre, a halakhic midrash organized as a commentary on Deuteronomy, the exposition on the prohibition against cutting down a fruit tree in a time of war serves as the basis for preserving the holiness of each individual fruit at all times. Additionally, Sifre expands upon the means by which it is forbidden to destroy a fruit tree. The writers of Sifre make it clear that it is crucial that trees remain in place for a set of reasons: the water around the trees will remain unharmed during a time of war so that the trees will continue to live, produce fruit, and provide sustenance. Taken together, the writers of these texts view the

environment as an entity that is vital to human health and economic prosperity. The developments of Jewish law in these works strive to find a balance between environmental protection and economic need.

I. Mishnah Baba Batra 2

Chapter two of Mishnah Baba Batra contains many laws that deal with preventing environmental contamination. These laws were intended to protect water sources, land, and fruit trees. Whereas Deuteronomy 20:19-20 was applicable solely to times of war, Baba Batra dealt with the realities of daily communal life. In establishing the rules and regulations for community life, it is clear from this text that the rabbis of the Mishnah were cognizant of how individual's actions would effect the land and how that would in turn impact the health of themselves and their neighbors.

Today these laws could fall under the rubric of maintaining environmental justice.

Contemporary advocates of environmental justice "seek to redress inequitable distributions of environmental burdens (pollution, industrial facilities, crime, etc.) and equitably distribute access to environmental goods such as nutritious food, clean air & water, parks, recreation, health care, education, transportation, safe jobs, etc."¹

Environmental justice ethics protect individuals who are negatively impacted by the proximity they live to sources of pollution. This chapter of Baba Batra will be examined through the lenses of environmental protection at large, the specific protection of fruit

1. *Wikipedia*, "Environmental Justice," http://en.wikipedia.org/wiki/Environmental_justice (accessed January 1, 2009).

trees as related to Deuteronomy 20, and the impact of environmental factors on human health.

A. Environmental Protection at Large:

משנה מסכת בבא בתרא פרק ב משנה א

לא יחפור אדם בור סמוך לבורו של חברו, ולא שיח, ולא מערה, ולא אמת המים, ולא נברכת כובסין, אלא אם כן הרחיק מכתל חברו שלשה טפחים, וסד בפסיד. מרחיקין את הגפת ואת הזבל ואת המלח ואת הסיד ואת הסלעים מכתלו של חברו שלשה טפחים, וסד בפסיד. מרחיקין את הזרעים, ואת המחרשה, ואת מי רגלים מן הכתל שלשה טפחים.

One may not dig a cistern (or well) near the cistern of his fellow, nor (may one dig) a ditch, a cave, a water channel, or a laundry wash-pool unless one set it three handbreadths away from the wall of his fellow, and plastered it with plaster [to retain the water]. They set olive refuse, manure, salt, lime, or stones three handbreadths from the wall of one's fellow, and covered it with lime. They set seeds, a plough, and urine three handbreadths from a [neighbor's] wall. (Baba Batra 2:1)

This mishna prevents one person from using their property in a way that will have a negative impact on how their neighbor is able to use and enjoy their own land.² Here, the Mishnah is concerned with preventing contamination and destruction of another's property. For instance, the laundry wash-pool must be set a certain distance from another's wall in order to prevent moisture from getting into their property which may cause their walls to rot. It might also cause mold to grow. This law protects one

2. Philip Blackman *Mishnayoth Volume IV Order Nezikin*, 2nd ed. (New York: The Judaica Press, Inc., 1963) 172, n. 1.

neighbor's property from being harmed by another's actions.

This mishna has inherent environmental and health related protections built in as well. It ensures that cisterns are not placed too close together or near other water sources. This could be to prevent any cross contamination of the two sources if one were to become polluted. Additionally, there is a specific prohibition against putting refuse, manure, and urine too close to a neighbor's wall. Even still, they had to be covered with lime, a technique that would soak up moisture, break the waste down into soil, and lessen the smell. An uncovered refuse pile could also attract rodents and insects that would have a negative impact on the health of the soil and of residents of the house.

משנה מסכת בבא בתרא פרק ב משנה ט

מִרְחִיקִין אֶת הַנְּבִלֹת וְאֶת הַקְּבָרוֹת וְאֶת הַבְּרִסְקִי מִן הָעִיר
חֲמִשִּׁים אַמָּה. וְאֵין עוֹשִׂין בְּרִסְקִי אֶלָּא לְמִזְרַח הָעִיר. רַבִּי
עֲקִיבָא אוֹמֵר, לְכָל רוּחַ הוּא עוֹשֶׂה, חוּץ מִמַּעַרְבָּה, וּמִרְחִיק
חֲמִשִּׁים אַמָּה.

They put carcasses, graves, and tanneries at least fifty cubits away from a town. They make a tannery only at the east side of a town. R. Akiba says, One may set it up on any side, except on the west of it, but he must keep it at a distance of fifty cubits. (Baba Batra 2:9)

This mishnah is concerned with preventing the potential pollution of the land, water, and air. Carcasses, graves, and tanneries all have the potential to contaminate their immediate surroundings. If they were close to cisterns or fields of vegetables they would have a harmful effect on those resources, creating unsafe water and food sources. Blackman suggests that they are kept a certain distance away from a town "on account of their

obnoxious odors."³ This is presumably also the reason that a tannery would be limited to only the east side of town (or the west, depending on the wind currents of the particular region). The Mishnah attempts to protect town dwellers from inhaling harmful fumes. This ethic was vital for preserving environmental and human health in an urban or suburban community and preventing the degradation of the soil, water, and air, resources that are vital to human survival.

B. Specific Protection of Fruit Trees

Deuteronomy 20, which forbids any unnecessary destruction of fruit trees during a time of war, is the base for the rabbinic category of *bal tashchit*. As Ramban notes, fruit trees provided sustenance for soldiers both before and after the siege of a city.⁴ Fruit trees were important at all times, not just during war. They have economic value and sustain human life. Fruit trees were given special treatment in Mishnah Baba Batra for these reasons. They were given their own area to grow outside of a town. They could not be planted too close to cisterns that would contaminate them or which their roots might destroy, thereby undermining adequate water supplies. Additionally, they may only be cut down under certain circumstances. Proper compensation must be made if they are. A tree cannot even be cut down to build a city if it was there first. There is also respect for not infringing on a neighbor's property. Baba Batra's environmental considerations helped establish an ethic for the way communities treated the ecosystem around them. The following mishnayot go into further detail regarding these laws.

3. Blackman, 176.

4. Ramban's comments on Deuteronomy 20:19-20 can be found in chapter 1.

משנה מסכת בבא בתרא פרק ב משנה ז

מרחיקין את האילן מן העיר עשרים וחמש אמה, ובחרוב
ובשקמה חמשים אמה. אבא שאול אומר, כל אילן סרק,
חמשים אמה. אם העיר קדמה, קוצץ ואינו נותן דמים. ואם
האילן קדם, קוצץ ונותן דמים. ספק זה קדם, ספק זה קדם,
קוצץ ואינו נותן דמים.

One must keep a tree twenty-five cubits from a town, and, in the case of a carob or a sycamore, fifty cubits. Abba Saul says, "In the case of any non-fruit-bearing tree, fifty cubits." If the town was there first, one cuts down the tree and pays no compensation. And if the tree came first, one cuts down the tree but pays compensation. If it is a matter of doubt whether this came first or that came first, one cuts down the tree and pays no compensation. (Baba Batra 2:7)

משנה מסכת בבא בתרא פרק ב משנה יא

מרחיקין את האילן מן הבור עשרים וחמש אמה, ובחרוב
ובשקמה חמשים אמה, בין מלמעלה בין מן הצד. אם
הבור קדם, קוצץ ונותן דמים. ואם אילן קדם, לא יקוצץ.
ספק זה קדם, וספק זה קדם, לא יקוצץ. רבי יוסי אומר,
אף על פי שהבור קודם לאילן, לא יקוצץ, שזה חופר בתוך
שלו, וזה נוטע בתוך שלו:

One must set up a tree twenty-five cubits away from a cistern, and in the case of a carob or a sycamore tree, fifty cubits, whether higher [than the cistern] or on the same level. If the cistern was there first, one cuts down the tree and pays the value. If the tree was there first, one may not cut down the tree. If it is a matter of doubt whether this was there first or that was there first, one may not cut it down. R. Yose says, "Even though the cistern was there before the tree, one may not cut down [the tree] for this one has every right to dig within his domain, and that one has every right to plant a tree within his domain." (Baba Batra 2:11)

משנה מסכת בבא בתרא פרק ב משנה יב

לא יטע אדם אילן סמוך לשדה חברו, אלא אם כן הרחיק
ממנו ארבע אמות, אחד גפנים ואחד כל אילן.

A person may not plant a tree near his fellow's field unless he set it four cubits away from [the other's field] and it is the same whether it is a vines or any other tree. (Baba Batra 2:12)

One of the most interesting and revealing set of laws in this chapter of Baba Batra regarding the future development of *bal tashchit* deals with when it is appropriate to cut down a tree and when it is not permitted. In mishnah 2:7, the text permits a tree to be cut down without compensation if it grows in an inconvenient place after the town has been built. However, if the tree was there before the town, it may be cut down, but proper compensation must be paid to the owner. The tree here is viewed as having a specific economic value. Ideally, the tree would not have to be cut down at all, since it is a source of income and food. However, if it is for the greater good of developing a town, it may, as long as the owner is compensated appropriately.

The tree does not have the ultimate right to be left standing if it conflicts with greater human interests. However, it is granted this protection when its roots interfere with a water cistern if the tree was planted first. This is not the case if the cistern existed before the tree, although Rabbi Yose supported the ultimate right of a person to plant a tree on their property even though its roots may damage their neighbor's cistern.

Mishnah 2:11 dictates the minimum distance that a tree must be planted from a cistern. There are several environmental reasons for this type of instruction. Trees should not be planted where they might ruin a cistern since its roots may grow into in and destroy it, causing a loss of water. A community must figure out the appropriate way to share and use space and resources most efficiently. Rabbi Yose's opinion states that each land owner can determine how they use their own land. This contradicts the first statement of Mishnah 2:11 which calls for a more cooperative approach to land use. Mishnah 2:12

however counters Rabbi Yose and maintains that proper land sharing takes priority over an individual's own decisions. Overall this opinion stands implying the necessity for neighbors and inhabitants of a town to take environmental factors into consideration when planning out the development of towns and how individual fields are planted.

Some of the rules regarding the distance trees must be planted outside a town or city has to do with the tree's roots ruining the housing structures, especially their foundations. This unintended consequence might deprive people of their homes, and in the worst case scenario, even their lives. This leads to the necessity to create a balance between the more immediate needs of human life and the long-term benefits of the tree. The trees could be planted, but far enough away from habitation or farmland to be beneficial rather than harmful. Other specific laws from Baba Batra 2 include not planting a tree where it will ruin a cistern and not planting a tree that doesn't bear fruit where it kills one that does.

C. Impact of Environmental Factors on Human Health

A third implication of Mishnah Baba Batra 2 on cultivating an environmental ethic deals with the impact that environmental factors have on human health. Mishnah 2:3's laws prevent the environmental contamination of one's living space caused by air pollution and noise pollution from nearby industries. Mishnah Baba Batra defends the rights of those who share close space with a business over those of the businessmen if he compromises the area's clean air and or reasonable level of noise. There are limits however. For example, the opinion of the Mishnah changes when noise comes from those who dwell in the living spaces rather than patrons in a shop. These laws can be seen as early Jewish

attempts at environmental justice since they seek protect those who live near businesses from the harmful effects of pollution.

משנה מסכת בבא בתרא פרק ב משנה ג

לא יפתח אדם חנות של גחלתוּמין ושל צבָעין תחת אוֹצָרוֹ שֶׁל חֲבֵרוֹ. וְלֹא רֶפֶת בָּקָר. בְּאֵמֶת, בֵּינן הִתִּירוּ, אֲבָל לֹא רֶפֶת בָּקָר.

A person should not open a baker's shop or a dyer's shop under the granary (or storehouse) of his fellow, nor [may he keep] a cattle stall [nearby]. They have indeed permitted these under a winestore, but [they have] not [permitted] a cattle-stall. (Baba Batra 2:3)

The beginning part of this mishna protects one person's food from being destroyed by the byproducts of a neighbor's business since the food that would be kept in their personal storage area could be harmed by the other's actions. A baker's shop produces heat that would spoil the grains above. A dyer's shop would have released the hazardous byproducts of the dying process into the air, potentially also spoiling the food kept in storage above. There would also be heat generated by the dyer's ovens that could damage the goods stored above. The mishna, however, permits these businesses to operate below a wine storage area. Wine would have been kept sealed and therefore would be protected from being spoiled. Additionally, the wine drunk in Palestine during the time of the writing of the mishna would have been improved rather than harmed by heat.⁵ A cattle-stall is a different type of contaminator than a bakery or a dye shop. The overwhelming stench would spoil the wine as well as be a nuisance to the owner of the space. These laws are meant to protect the storage areas of individuals. Their needs are given precedence over somebody who is trying to establish a business if the business would

5. Herbert Danby, *The Mishnah* (New York: Oxford University Press, 1933) 367, n. 6.

have a negative impact on the quality of the food and wine stored in close proximity.

משנה מסכת בבא בתרא פרק ב משנה ג

חנות שבחצר, יכול למחות בידו ולומר לו איני יכול לישן
מקול הנכנסין ומקול היוצאין. אבל עושה כלים, יוצא ומוכר
בתוך השוק, אבל אינו יכול למחות בידו ולומר לו איני יכול
לישן, לא מקול הפטיש, ולא מקול הרחים, ולא מקול
התינוקות:

As to a shop in the courtyard, a person may object and tell [the shopkeeper], "I cannot sleep because of the noise of people coming in and the noise of people going out." One may make utensils [and] go out and sell them in the market. But none may protest against another and say, "I cannot sleep because of the noise of the hammer," or "because of the noise of the millstones," or "because of the noise of the children." (Baba Batra 2:3)

The second part of this mishna draws a boundary around what type of noise pollution is permitted to interfere with an individual's living space and what is forbidden. An individual's right to have a fit night's sleep is valued above a shopkeeper's right to keep their store open late at night or early in the morning. Presumably a person would not be able to object to noise in the middle of the day, however that is not explicit in the text. It is clear that noise from customers is unacceptable if a person is trying to sleep or even concentrate. The noise created doing one's craft, however, is permitted even if it might disturb somebody nearby. In this circumstance, the shopkeeper's ability to build things or to grind wheat takes precedence over another's right to complain about the noise.

There is a limit to the restrictions an individual can place on the shopkeeper. The shopkeeper can control when people enter and leave their shop, but may not be able to determine the hours in which they need to work to prepare their merchandise. In the first case the residents of the area are granted protection against unnecessary noise from

businesses, so that they may be able to get the proper amount of sleep to stay healthy. However, one is not permitted to complain about noises coming from residential units. Babies cry. Children play. The parents cannot always control this as much as they probably would like to. Therefore the mishnah does not attempt to force the parents to do something they are unable to do. The noise made by small children is a natural part of the human life cycle and permitted to exist without disruption.

Baba Batra 2 is an early rabbinic statement on dealing with environmental issues within a community. The rabbis were dealing with real issues that affected the lives of members of the community. They, like all other human beings, needed to keep their water sources clean, their soil healthy and grow enough produce to feed people properly. All of these were also necessary for human health and survival. This is the important link to the current environmental justice movement. The Mishnah sought to maintain equity in issues of land use and give all people the right to clean water, safe and plentiful food, fresh air, and peaceful living space. That was the intention of most of the laws in Baba Batra 2. To this end, sometimes the natural resources were given greater protections than at other times, depending on their economic value and their usefulness or their potential to harm human activity.

II. Sifre

The Sifre to Deuteronomy is organized as a halakhic midrash to this book of the Torah. It comes from the school of R. Akiba. Piska 203 and 204 reveal tannaitic interpretations and expansions to the origins of *bal tashchit* in Deuteronomy 20:19-20. In these

comments, the author(s) of the Sifre show the important connections between human beings and trees, both as a source of food and therefore life, and as a resource to be used in military action. It significantly broadens the types of protection for fruit trees. It also elaborates on the Torah's distinction between fruit bearing and non-fruit bearing trees and the purpose each has in the world.

A. Piska 203

Piska 203 elaborates on the methods that are prohibited to use in order to cut down trees during a war against a besieged city. It then draws the conclusion that other types of environmental destruction are also forbidden in attacks against enemies held captive in their own cities. It becomes clear from this piska that it is unethical to destroy the landscape as a means to draw civilians out to surrender. The following are the comments of the Sifre on Deuteronomy 20:19.

In making war against it to take it – not merely to take its inhabitants captive – *thou shalt not destroy the trees thereof by wielding an ax against them* (20:19): I conclude that this applies only to using an axe: whence do we learn that one may not even divert a water conduit from them? From the verse, **Thou shalt not destroy the trees thereof** – by any means whatsoever.⁶ (Sifre Deuteronomy Piska 203)

Is the author of the Sifre more concerned about protecting the natural landscape or is the concern for the inhabitants of the besieged city, that they should be entitled to clean water and fresh food while held up? According to the former statement, the trees are protected from becoming innocent victims of war, so much so that their sources of water, the

6. Reuven Hammer, trans. *Sifre A Tannaitic Commentary on the Book of Deuteronomy*, trans. (New Haven: Yale University Press, 1986), 219.

conduits, should go untouched during battle. This is in line with Rashi's understanding of Deuteronomy 20:19.⁷ The latter statement promotes a more holistic approach to understanding the relationship between human beings, trees, and water. Like Ibn Ezra, it would support the deeper connection between the three as interdependent entities.⁸ The last phrase, "*thou shalt not destroy the trees thereof* by any means whatsoever," appears to support Rashi's view. The trees, and in this case, the water that feeds them, are the subjects of the protectionist policy of Sifre's comments on Deuteronomy 20. This view holds that unnecessary environmental destruction is forbidden on the grounds that the land and the water have their own value, regardless of the human condition surrounding it. At the same time, the Sifre also follows Ibn Ezra's approach that the trees should be spared because of their innate value to human beings.

For is the tree of the field man (20:19): This shows that man's living comes from the tree (The biblical question is read by the Rabbis as a statement: "For man *is* the tree of the field."), and R. Ishmael says: Hence we learn that God has pity on the fruits of the tree; we learn this by reasoning from the minor to the major: if Scripture cautions you concerning the tree which merely grows fruit, how much more so must this apply to the fruit itself.⁹ (Sifre Deuteronomy Piska 203)

This comment lifts the fruit of the tree to an almost sacred level. A person's livelihood and therefore his ability to provide for all his needs comes from the fruit of the tree. The tree is useful to humans as long as it is able to grow fruit. This, perhaps is the determining factor in the difference between Deuteronomy 20:19 and Deuteronomy 20:20 leading to the permissibility of cutting down a non-fruit bearing tree while those

7. Rashi's comments on Deuteronomy 20:19 can be found in chapter 1.

8. Ibn Ezra's comments on Deuteronomy 20:19 can be found in chapter 1.

9. Hammer, 219.

that bear fruit are strictly protected during a time of war.

B. Piska 204

Piska 204 of Sifre Deuteronomy specifically addresses the difference between these two types of trees and the permissibility to use or not use them as objects of warfare. Sifre is both practical and legalistic in its approach. It has already defined fruit bearing trees as necessary for human wellbeing. It has not yet commented on the value of a tree that does not provide fruit. Here it comes to the conclusion that such trees are more valuable for their resources of wood that can be turned into weapons than for the other benefits they may provide to humanity. The tree's value to the Israelites varies with the circumstances of the people and of the ability of the tree to provide fruit, as seen in this citation, the Sifre's comments on Deuteronomy 20:20:

Only the trees of which thou knowest – this refers to fruitful trees (See B. BK 91b) – ***that they are not trees for food (20:20)*** – this refers to an unfruitful tree. But if eventually we are going to include fruit trees, why does the verse state, ***(that they are not) trees for food?*** To show that an unfruitful tree takes precedence over a fruitful tree (It may be cut down first. All the manuscripts read, “If eventually we are going to include unfruitful trees”). One might think that this is so even when the unfruitful tree is worth more (for other things than for its fruit), but, as R. Eleazar ben R. Simeon says, the verse goes on to say, ***Them thou mayest destroy and cut down*** (B. BK 92b quotes only the initial word from the verse as proof) – from them you may construct arks and boats (So F. Perhaps for crossing moats filled with water) – ***that thou mayest build bulwarks against the city*** – you may make all kinds of *tormenta* and bring up all kinds of *ballistae* (both are machines for hurling missiles) – ***until it fall (20:20)*** – even on the Sabbath.¹⁰ (Sifre Deuteronomy Piska 204)

The Sifre clearly implies that the two types of trees have different purposes for human

10. Hammer, 220.

beings. Fruit bearing trees are needed for their fruit and are therefore spared from unnecessary destruction. Trees that do not bear fruit are useful to a conquering army for different purposes. The wood from these trees can be used to aid the military. It is justifiable to cut down non-fruit bearing trees to aid in strategy. They may not, however, be arbitrarily cut down just for the sake of wanton destruction.

Conclusion

Sifre to Deuteronomy is a valuable source of clarification for better understanding Deuteronomy 20:19-20. On the one hand, Sifre views fruit trees as virtually holy objects. It extends the protection of fruit bearing trees to not only being cut down by an axe, but killed by other environmentally destructive means, such as diverting water from them. Piska 203 treats the relationship between fruit trees and human beings with sacred intention, for "man's living comes from the tree"¹¹ both economically and ecologically. The Piska goes on to explain that God has compassion for each individual fruit on the tree. It extends the protection of trees to each piece of fruit it produces. None of them are to be wasted or destroyed unnecessarily because each individual fruit is of divine origin. Human beings depend on the fruit of trees and are therefore mandated to protect them even in the worst of times.

On the other hand there are limits to how far the protection of trees is extended by both the Torah and Sifre. The Torah explicitly permits the destruction of non-fruit bearing trees if they are used to build bulwarks that will enable the Israelite army to capture a

11. Sifre Deuteronomy Piska 203.

seized city. Piska 204 in Sifre specifies the type of military structures that can be built from the trees. It is clear that the value is not in the tree itself, but that the concern for both types of the trees appears to be related to the circumstances of its usefulness to human beings. It is not an overarching ethic that protects all trees and by extension all species of plant life. The Sifre helps elaborate that the value of the tree is determined by its usefulness to humanity.

However, a tree's value is not just restricted to its utilitarian use for human beings. R. Ishmael's comment in Piska 204 alludes to the concern that God shows for each fruit on a tree. Trees are part of creation. They have their own purpose in the ecosystem beyond providing food for humans and being made into instruments of war. They should not be victims of human violence because they cannot do harm to people. The author(s) of Baba Batra 2 created laws that ensured the maximum ability for trees to survive in various situations. It was only permissible to cut them down if they began to grow after the community had been established and they would be a nuisance for the town or destroy an existing water cistern.

Other laws in Baba Batra 2 attempt to prevent the environmental burden placed on individuals due to pollution of air and land and the contamination of water. These laws protect individuals from being harmed by industries. This type of environmental justice shows that the authors of Mishnah Baba Batra and Sifre Deuteronomy understood the need to protect environmental resources as a way of maintaining a healthy society as well as the proper balance in the natural world.

Chapter 3: Talmudic Expansion of *Bal Tashchit*

Introduction

The source text for the rabbinic category of *bal tashchit* comes from Deuteronomy 20:19-20. As discussed in chapter one, the original prohibition against unnecessary waste and wanton destruction specifically applied to fruit trees cut down in a time of war. The Torah's basis for preventing environmental destruction is limited. At the same time that it protects fruit trees, it allows for the cutting down of non-fruit-bearing trees, provided that they are used for military purposes. The distinction between these two types of trees is related to their usefulness to human beings. Fruit is a resource necessary for human health and survival. Human beings benefit from the trees remaining untouched, even during the most destructive human act of warfare. Non-fruit-bearing trees should not be cut down unless their wood is needed for building an instrument that would help them in a wartime siege.

The Mishna and Sifre understood the notion that the quality of human life depended on maintaining the health of the environment around them. These works expanded the scope of environmental protection to prevent contaminating cisterns, soil, fields, air and water. These laws were for the sake of the land and the health of people living in communities. In many cases the two are deeply connected. The fate of human beings is imminently tied to the health of the land that grows food for people's survival.

This is the theoretical and legal background for the Talmudic prohibition against unnecessary waste and wanton destruction of natural resources. Human beings depend

on many things in order to live their daily lives. Every resource can be traced back to its origin as organic matter growing from the earth. By expanding *bal tashchit* to include not wasting or destroying oil, food, clothing, furniture, and domesticated animals, the rabbis in the Talmud expressed their religious and ethical understanding that all resources have sacred origins and should be used to their maximum potential with extreme care. By this the rabbis meant that one should endeavor not to waste anything useful, either accidentally or intentionally. This ethic is embedded in a consciousness of environmental dependency and an economic and social reality that food, energy sources, and commercial goods can be hard to acquire, especially if the environment is not protected. The Talmudic Encyclopedia defines *bal taschit* as:

בל תשחית: איסור השחתת דבר שיש ממנו הנאה לבני אדם.

Bal Tashchit: It is forbidden to damage anything that from which there is benefit to human beings.¹

In certain key passages the Talmud expands the notion of what is included for protection under the laws of *bal tashchit*. The discussions in these *sugyot* can be divided into three categories: unnecessary waste of oil, food, and commercial goods. This chapter will highlight these passages, showing how the Talmud expanded the category of *bal tashchit* to legally prohibit the waste and destruction of anything beneficial to human beings. There are times, however, when *bal taschit* comes into conflict with other Jewish laws, such as *pikuach nefesh* (saving a life) and *kibud av v'em* (respect for father and mother). These texts will also elaborate the limits of *bal tashchit* in relation to these values.

1. *Talmudic Encyclopedia*, (Jerusalem: Talmudic Encyclopedia Publ. Ltd., 1951), s.v. "בל תשחית".

I. Prohibition of the Unnecessary Waste of Oil

תלמוד בבלי מסכת שבת דף סז עמוד ב

תנו רבנן: נותנין בול של מלח לתוך הנר בשביל שתאיר ותדליק. ונותנין טיט וחרסית תחת הנר בשביל שתמתין ותדליק. אמר רב זוטרא: האי מאן דמיכסי שרגא דמשחא ומגלי נפטא – קעבר משום בל תשחית.

The Rabbis taught in a *b'raitā*: One may place a fistful of salt into a lamp so that it will burn more brightly, and one may place mud or clay beneath a lamp so that it will burn more slowly. Rav Zutra said: Whoever covers an oil lamp, or uncovers a naphtha lamp, transgresses the law of *bal tashchit*. (Babylonian Talmud *Shabbat* 67b)

This text from the Babylonian Talmud Tractate *Shabbat* comes in the middle of a discussion about acts that Jews are prohibited to do because they would be following in the ways of the Emorites. The Talmud forbids a person to ask their constellations to show them good fortune; a man may not be called by his wife's name at night nor her by his; one may not ask for his barrel of wine to be strengthened, break an eggshell upon a wall before fledglings, or dance before fledglings; a woman may not dance before a dip so that its flavor will be strong, nor may a woman urinate before her cooking pot so that the food will cook quickly. All of these are identified by the text as superstitious and idolatrous practices.

This list is followed by the permissibility of adding a splinter of mulberry wood or glass fragments into a cooking pot so that the food will cook faster. However, the practice is prohibited because people should not eat the mulberry wood or the glass. It is at this point where the above cited text enters the discussion to explain another practice that may appear magical but is not forbidden on the grounds that it is an Emorite practice. The

*b'rait*a addresses the real human need to make a finite amount of oil last as long as possible. While it might seem that this would take a miracle, perhaps not to the extent of the miracle of the Chanukah oil, there were techniques for enabling an oil lamp to burn brighter longer. Rashi explains that salt thins the oil, allowing the oil to find its way to the wick more easily and burn for a longer period of time.² An oil lamp will also burn longer if mud and clay are placed underneath it. It is taught in the Tosefta on *Shabbat* 2:6 that these techniques of increasing the brightness of an oil lamp and extending the amount of time it burns are permitted on the eve of Shabbat. Hence, they are not magic tricks but important and legitimate tools for getting the most light for the longest period of time out of a fixed amount of olive oil.

This leads into Rav Zutra's prohibition against the opposite practice, doing something intentionally that will cause the oil to burn more quickly. Rashi explains that covering an oil lamp causes the oil to burn more quickly "because the cover contains the heat generated by the lamp; the extra warmth thins the oil, allowing it to be drawn more quickly."³ Conversely, Rashi notes that uncovering a naphtha lamp (a mixture of flammable liquids) enables the fire from the wick to jump to the oil causing it to burst into flames, thereby wasting the oil.

Rashi on *Shabbat* 67b

**דמכסי שרגא דמשחא – שעושה לו כיסוי למעלה ממהר
לדלק נפט – כשמגלין אותו האור הולך ונמשך אליו ומבעיר**

2. Note 14 in Shottenstein edition BT *Shabbat* 67b.

3. Note 15 in Shottenstein edition BT *Shabbat* 67b.

Covers an oil lamp - That when one covers the lamp it causes it to burn more quickly.

Naphtha - When it (a cover) is removed from it (the lamp), the fire goes and is extended unto it (the naphtha fuel) and it bursts into flames.

Rav Zutra pronounces that these wasteful acts constitute a transgression of *bal tashchit*.

This is a big expansion of the Deuteronomic prohibition of cutting down fruit bearing trees during a time of war. Rav Zutra extends the types of resources that were forbidden to waste unnecessarily under the rubric of *bal tashchit*. For Rav Zutra every single drop of oil was valuable. By extension, the unnecessary waste of any resource that provides fuel or energy for human use could be considered a violation of *bal tashchit*. This *sugya* illustrates that these resources should be treated with the utmost care. They provide humanity with the means to cook food, keep warm, and see at night. It is humanity's obligation to take special care not to accidentally or intentionally waste them. Beginning with Rav Zutra, the prohibition of *bal tashchit* developed into a category calling for the prevention of wasting any sources of energy and to maximize their efficiency.

II. Prohibition of the Unnecessary Waste of Food 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.

Rav Hisda said: When one can eat barley bread but instead eats wheaten bread he transgresses the sin of *bal tashchit*. Rav Papa said: When one can drink beer but instead drinks wine, he transgresses the sin of *bal tashchit*. But there is actually no problem (in doing so, for seeking to avoid transgressing the sin of) *bal tashchit* with regard to one's body is a greater (consideration). (Babylonian Talmud *Shabbat* 140b)

The intentional use of *bal tashchit* by Rav Hisda and Rav Papa projects an ethic of protecting resources that go into the production of food and beverages. These three statements contain several interrelated concepts regarding a person's wealth, the accessibility and affordability of food resources, and human health. Though not explicitly stated in this *sugya*, several Talmudic commentators have considered Rav Hisda and Rav Papa's statements to be a prohibition against wasting one's money. The Meiri, the Maharsha, and Rashash insist that it is a sin and an indulgence for a poor person to spend more money on expensive food and wine when cheaper bread and beer is available.⁴ This is logical. When a person is on a limited budget, they should not spend more money than necessary on fancy foods or other expensive household items. People of all income levels make choices everyday about how they eat. Issues of cost versus nutritional quality are just as relevant today as they were when this text was written. Therefore, the understanding that Rav Hisda and Rav Papa were referring to wasting money by buying more expensive bread or beverages is a feasible explanation for the prohibition here.

However, it is not directly stated that the wasteful practice in these statements are specifically related to money. Rav Hisda does not address this statement to poor people or Torah scholars as he does previously in this *sugya*. Rather, he makes a general prohibition against eating wheat bread when barley bread is available. What then is the difference between these kinds of bread, and why does Rav Hisda make such a strong

4. Notes 16 and 17 in Shottenstein edition BT *Shabbat* 67b.

statement calling a person a sinner for choosing wheat bread when barley bread is available? These questions also apply to Rav Papa's restriction on drinking wine when beer is available.

Barley was one of the first grains domesticated by human beings. According to an article by C.W. Newman and R.K. Newman,

Considerable evidence is available that points to the role of barley as a sustaining food source in the evolution of humans. Indeed, it was one of the most important food grains in the ancient world. Additionally, alcoholic beverages of various types and fermented foods prepared from barley are commonly referred to in the ancient literature. As other food grains (e.g., wheat, rye, and oats) became more abundant, barley was relegated to the status of 'poor man's bread'. However, current consumer interest in nutrition and health may help restore barley's status in the human diet.⁵

Newman and Newman help contextualize this passage in the Talmud. By the Rabbinic period barley bread was considered food for poorer people, though it was once the staple of all classes. It is also common practice to make beer from readily available barley supplies.

While beer was a common beverage in the Rabbinic period, wine was a luxury item.

According to Rod Phillips, author of *A Short History of Wine*,

One reason for the special status of wine was its scarcity. Grain grew far more widely and easily than grapes, and beer (really liquid bread) could be made year-round as long as grain was available. But grapes grew only in certain localities and ripened only once a year, so that there was limited scope for wine-making. Moreover, each year's wine had to last a year, until the next vintage was ready for drinking. In regions where grapes did

5. C.W. Newman and R.K. Newman, "A Brief History of Barley Foods," *Cereal Foods World* 51, no. 1 (2006): 4.

not grow, wine had to be imported, thus adding to its cost. Wine cost about five times more than beer.⁶

Wine was more expensive and took more resource to produce and distribute than beer.

As Phillips points out, beer could be made at any time of year from the available grains.

Grapes only grow in certain geographical climates and are only harvested once a year.

Thus, during the Rabbinic period, barley bread and beer were stigmatized as food and drink for the lower classes.

Newman and Newman also reference the nutritional differences of barley and wheat breads during this time period. They wrote, "In ancient Rome, bread made from wheat was considered more nourishing, more digestible, and in every way superior to barley bread. As in later cultures, barley bread was consumed predominantly by slaves and the poor. After the fall of the Roman Empire, barley bread was considered inferior to rye and wheat breads."⁷ From this it is clear that barley bread was considered nutritionally inferior to wheat bread.

It is now possible to view Rav Hisda's and Rav Pappa's statements and the third anonymous one in terms of their contribution to the expansion of *bal tashchit*. Rav Hisda considers it unnecessarily wasteful to eat wheat bread when barley bread was also available. Regarding the use of common resources, it can be inferred from this that common foods cost less money and use less resources to produce than fancy, gourmet or

6. Rod Phillips, "Wine in the Ancient World," <http://www.answers.com/topic/wine-in-the-ancient-world> (accessed January 8, 2009).

7. Newman and Newman, 5.

luxury foods. According to Rav Hisda, when given a choice, one is religiously and ethically obligated to consume foodstuffs that require less resources to produce and cost less to the consumer.

This same line of reasoning can be applied to alcoholic beverages. If barley was the primary grain available in the Rabbinic period, then it would not require many resources to produce and distribute beer. According to Rav Pappa and Phillips, wine was more of a luxury item than beer. In order to not violate *bal tashchit* one would be bound to drink beer over wine since it was more readily available, requiring less resources to make and transport than wine. Rav Hisda and Rav Pappa expand *bal tashchit* to consider social, environmental, and economic factors when determining what type of food to eat and beverage to drink. They deem it inappropriately wasteful to eat a product that is superfluously expensive and requires more resources to produce.

This, however, is not the final conclusion reached in this *sugya*. The last line in the cited section states that it is permissible for a person to eat wheat bread and/or drink wine when they are doing so for health reasons. Taking care of a person's body trumps the obligation to buy less nutritious goods even if they are more expensive. The phrase "בל תשחית דגופאי עדיף" - "do not waste with regard to one's body is greater," is used to support this practice. The text implies the cheapest foods may not be the most nutritious. This issue is still prevalent in many parts of the world today. Often poorer communities, in the United States and abroad, do not have the same access to fresh food as wealthier ones. Less nutritional food is linked to higher rates of heart disease and diabetes. Many

families are stuck in a difficult ethical decision since it may become a financial burden to spend extra money on healthier food. Here, the Talmud concludes that care for one's own body (*pikuach nefesh*) outweighs the issues of unnecessary waste (*bal tashchit*) of fiscal or environmental resources. The issue of *bal tashchit* versus *pikuach nefesh* comes up in a second place in the Talmud.

תלמוד בבלי מסכת שבת דף קכט עמוד א

אמר רב חייא בר אבין אמר שמואל: הקיז דם ונצטנן – עושין לו מדורה אפילו בתקופת תמוז. שמואל צלחו ליה תכתקא דשאגא, רב יהודה צלחו ליה פתורא דיונה, לרבה צלחו ליה שרשיפא. ואמר ליה אביי לרבה: והא קעבר מר משום (דברים כ) בל תשחית – אמר ליה בל תשחית דגופאי – עדיף לי.

Rav Hiyya bar Avin said in the name of Shmuel, “When someone gets chills [on Shabbat] after bloodletting, we may make a fire [to warm that person and/or to prepare warm food, because the high risk of death overrides the normal prohibition against lighting fires on Shabbat]...” [Yes, but it’s Shabbat, a difficult time to find or purchase firewood. This also takes place in Babylonia, a region located on a dry, artificially irrigated flood plain with few trees. So how does one get ready fuel for such a fire?] For Samuel himself, they chopped up an expensive, drum-shaped stool made of *shaga*-wood. For Rav Judah, they chopped up a table made of *yavneh*-wood. For Rabbah they chopped up a [wooden] chair. At which point Abbaye said to Rabbah, “[They’re destroying your perfectly good furniture merely for kindling!] Aren’t you breaking the rule against needless waste (Deut. 20:19)?” He replied, “[Avoiding the ‘needless waste’ of my body takes priority for me.”⁸ (Babylonian Talmud *Shabbat* 129a)

In this *sugya* it is clear that it is permissible to destroy pieces of furniture, even expensive ones, in order build a fire that can save a person's life. This conclusion is reached after a discussion of whether or not it was permitted to kindle a fire on the Sabbath to aide the

8. *Torah of the Earth Exploring 4,000 Years of Ecology in Jewish Thought*, ed. Arthur Waskow, vol. 1, "Halakha: The Law of *Bal Tashchit*," trans. David Sulommm Stein (Woodstock: Jewish Lights Publishing, 2000), 99-100.

healing a woman who has just given birth. The Talmud indicates that it would be permitted to light the fire, whether it be in the summer when it is warm or in the winter when it is cold. The line of reasoning gets extended from a woman who has given birth to any person who is sick.

In the opening statement by Rav Hiyya bar Avid cited above, saving a life takes precedence over the conflicting values of keeping the Sabbath. There is no question that one should light a fire on the Sabbath to save a life. The next section of this text deals with the question of where one acquires firewood on the Sabbath. In Stein's translation of this text, he inserts the following note, "Yes, but it's Shabbat – a tough time to find or purchase firewood; and it's Babylonia – located on a dry, artificially irrigated flood plain with few trees. So how does one get ready fuel for such a fire?"⁹ The rabbis in the *sugya* must think creatively about finding fuel for the fire since wood could not be easily bought or gathered

In the first example, Shmuel dictates that a chair made from *shaga*-wood be chopped up and used for the fire in order to warm him after blood letting. In the Shottenstein edition a note is inserted stating that this is expensive wood.¹⁰ Thus, using expensive furniture for the fire is permitted. In the second example, a table made of *yavneh*-wood is chopped up and burned to warm Rav Yehudah. It is not until the third example, in the case of chopping up a stool to burn in order to warm Rabbah that the question of the legality of

9. Ibid.

10. Shottenstein edition BT *Shabbat* 129a.

this practice is raised. Abaye asks his master Rabbah if the act of using the chair for firewood did not constitute a violation of *bal tashchit*. Rabbah's response of "בל" תשחית דגופאי עדיף לי" teaches much about his understanding of the expansion and limitations of the category of *bal tashchit*. From this question and answer it is possible to infer that under non-life threatening circumstances it would be a transgression of *bal tashchit* to break apart usable furniture to make a fire. Thus furniture and, by extension, any usable household item should be destroyed unnecessarily in normal situations.

This however, does not apply to life threatening situations. Rabbah's language is the same as the anonymous last statement of the section from BT *Shabbat* 140b cited above. Both of these Talmudic passages support the supremacy of *pikuach nefesh* when given the choice between preserving or destroying resources that may help bodily healing. These cases are extreme examples of pending bodily harm when not eating healthier food or using furniture to make a fire could lead to death. In the following example, the bodily harm incurred is not life threatening. It is an example of allowing minor scrapes that will heal in order to preserve an article of clothing that cannot be mended.

III. Prohibition of Wanton Destruction of Material Possessions

תלמוד בבלי מסכת בבא קמא דף צא עמוד ב

דתניא: מקרעין על המת ולא מדרכי האמורי, אמר רבי אלעזר: שמעתי, שהמקרע על המת יותר מדאי – לוקה משום בל תשחית, וכ"ש גופו ודלמא בגדים שאני, דפסידא דלא הדר הוא כי הא דרבי יוחנן קרי למאני מכבדותא, ורב חסדא כד הוה מסגי בני היזמי והגא, מדלי להו למאניה, אמר: זה מעלה ארוכה, וזה אינו מעלה ארוכה.

It was taught in a *b'raita*: We rend (garments) for the dead and this does not violate the prohibition of following in the way of the Amorites. Rabbi Elazar said: I have heard that one who rends his clothes for the dead more than is necessary is flogged for violating the prohibition of *bal tashchit* (do not destroy). (If this is held true with ruining one's clothing) then all the more so (that one is held liable for injuring) his body. Perhaps clothes are different because they are an irreversible loss (when damaged). (It is therefore possible that R. Elazar prohibits one from ruining his clothes, but permits one to wound himself.) This is like Rabbi Yochanan, who used to call his clothes "those (things) that honor me." And Rav Hisda when he used to walk among thorns and thistles would lift up his clothing (thereby exposing his legs to the thorns). He said, "This heals (referring to his leg) while this does not heal (referring to his garment)." (Babylonian Talmud *Baba Kama* 91b)

This section of the Talmud's contribution to understanding *bal tashchit* begins with Rabbi Elazar's statement that ripping one's garments more than is necessary during a time of mourning was a transgression of "do not destroy." This statement is not refuted and can be viewed as an expansion of the laws of *bal tashchit*. The unnecessary destruction of clothing, therefore, is prohibited by Jewish law. The text mentions that the punishment for this violation is flogging, the punishment for breaking any rabbinic dictum.

The Talmud, having made the statement that mourners who rip their clothing excessively violate *bal tashchit*, used the expression כל שכן to extend the prohibition to

include unnecessarily damaging a person's body. However, this is quickly rejected since clothes may be ripped beyond repair while under most circumstances a tattered body is able to heal itself.

Rabbi Yochanan contextualizes the prohibition of unnecessarily destroying clothing. Clothing was very important and not easy to come by. Every step of the way, from growing and harvesting the raw materials, to making them into garments, transporting them, and selling them, was, and still is, intricately connected to the cycles of the earth and to the divine energy needed for their growth. In Rabbi Yochanan's understanding that the clothes honor him, there is an aspect God's presence active in all these steps. Therefore, it would transgress *bal tashchit* to ruin clothes when it was possible to save them from harm. It was, and still is, incumbent upon mourners to only rip their garments in a way that they can be repaired at a later time.

Walking among thorns and thistles, in contrast, would create many rips at the bottom of a person's clothing. Rav Hisda makes the conscious decision to lift up his garment so that it will not be ruined. In doing so, he presumably subjects his legs to small cuts and scrapes. These wounds on a human being's leg heal, whereas a torn garment does not. It is this reasoning that makes it permissible for one to risk wounding oneself slightly in order to not violate the *bal tashchit* prohibition extended to clothing.

BT *Baba Kama* 91b assumes that one will be not be harmed beyond a dangerous point. This is in contrast to the passages from BT *Shabbat* 129a and BT *Shabbat* 140b. In the

latter two examples, saving one's own life was more important than using a chair to start a fire and spending more money for higher quality or fancier food when plainer stuff was available for health reasons; two actions that in non-life threatening situations would be forbidden under the laws of *bal tashchit*. It is understood from these two passages, and expanded in BT *Baba Kama* 91b that material possessions, food, and clothing, all have near sacred value. It is strictly prohibited under *bal tashchit* to destroy them or waste them without proper cause, even at the cost of suffering minor bodily harm.

This next passage will use a similar example of ripping clothing unnecessarily. The conflicting value brought up here is honoring one's parents. The conclusion of the passage nicely avoids transgressing *bal tashchit* but it is clear that destroying a garment unnecessarily was censured.

תלמוד בבלי מסכת קידושין דף לב עמוד א

דרב הונא קרע שיראי באנפי רבה בריה, אמר: איזול איחזי
אי רתח אי לא רתח. ודלמא רתח, וקעבר (ויקרא יט) אלפני
עור לא תתן מכשול דמחיל ליה ליקריה. והא קעבר משום
(דברים כ) בל תשחית דעבד ליה בפומבייני. ודילמא משום
הכי לא רתח דעבד ליה בשעת ריתחיה.

Rav Huna once ripped some silk garments in the presence of his [grown] son Rabbah, thinking, "Let me see whether or not he gets angry." (and thereby show inadequate honor to his father.) But perhaps [his son] indeed would have gotten angry, and [Rav Huna] would have violated the rule, Do not place a stumbling block before the blind (Lev. 19:14). [Rav Huna] was willing to forgo the honor [due to him by his son]. But didn't [Rav Huna] violate *bal tashchit*, the commandment against needless waste (Deut. 20:19)? [No] he ripped the garment along the seam with its border (so it could easily be repaired). But perhaps that was the reason his son did not get angry! [No] he tested him when he was already upset. (Babylonian Talmud *Kiddushin* 32a)

This *sugya* begins with an apparent act of unnecessary destruction. From the onset, Rav Huna's behavior seems to be in violation of *bal tashchit*, though the Talmudic passage does not make this claim immediately. Rav Huna attempts to provoke his son Rabbah by performing an act that both know is clearly prohibited. He wants to know to what degree his son will uphold the honor a son owes his father. If Rabbah were to get angry at his father, then he would fail this test. If he did not react, he would condone his father's destructive behavior. This test has several flaws, though it does help to expand the Talmudic categorization of *bal tashchit*.

The anonymous voice in the Talmud condemns Rav Huna for intentionally trying to get a reaction out of his son that would cause him to break the *mitzvah* of honoring one's father. Rav Huna would therefore be guilty of transgressing the prohibition of placing a stumbling block before the blind in addition to his sons' sin of disrespecting his father. Rav Huna is willing to absolve his son of the obligation to show him honor in order that he get the intended reaction out of him.

At this point the Talmud condemns Rav Huna's actions as a violation of *bal tashchit*. It can be discerned that ripping an article of clothing without a useful intention is forbidden. It would not be permissible to render a garment useless for the sole purpose of getting a reaction out of a person or testing somebody. Destroying clothing for any unnecessary reason violates *bal tashchit*.

The Talmud gets Rav Huna out of the bind however. It explains that Rav Huna does not

violate *bal tashchit* because he rips the garment in a way that it can be repaired. Rashi explains that since Rav Huna tore the garment along the seams, it could be sewn back together again and its value is not diminished.

Rashi on BT Kiddushin 32a

בפומבייני - במקום התפירה שאינו נחסר מדמיו בכך כגון בשוליו.

Along the seams - In the place where it is sewn so that he did not diminish its (the garment's) value. Thusly, for example along the skirt of the garment.

This explanation exonerates Rav Huna from violating *bal tashchit* because he technically does not destroy the garment. He only appears to in order to get a reaction from his son.

The last two lines of this *sugya* attempt to explain why Rabbah did not react to his father's actions. The Talmud suggests that there was no reason for Rabbah to get upset since his father does not broken any commandments. It is plausible that Rabbah did not notice that his father had ripped the garment on the seams since he was already in a fit of anger. Rabbah therefore would have passed his father's test since he did not rebuke him in public for committing what he would have perceived of as a violation of rabbinic law. If this were the case, the text suggests that honoring ones' parents would be more important than preventing them from doing a destructive act and transgressing *bal tashchit*.

This passage expands the types of items that are protected from unnecessary destruction by rabbinic law to include clothing. A person should not intentionally rip a garment in a

way that it would make it worthless. Additionally, the *sugya* gives a hint that broken or torn items should not be discarded if it is possible to sew them back together or fix them in order to return them to their original state. Rashi's comment here helps this understanding. He also ties it to the economic argument that if Rav Huna had caused the garment to depreciate in value, that would be a transgression of *bal tashchit*. This rabbinic category has been expanded to include prohibiting the destruction and waste of clothing and other inanimate objects. The next Talmudic passage expands *bal tashchit* even further to include animate objects.

IV. Prohibition of the Unnecessary Destruction of Animals

תלמוד בבלי מסכת חולין דף ז עמוד ב

שמע רבי נפק לאפיה, אמר ליה: רצונך סעוד אצלי, אמר לו: הן. צהבו פניו של רבי, אמר לו: כמדומה אתה שמודר הנאה מישראל אני? ישראל קדושים הן, יש רוצה ואין לו ויש שיש לו ואינו רוצה, וכתיב: (משלי כ"ג) אל תלחם [את] לחם רע עין ואל תתאו למטעמותיו כי כמו שער בנפשו כן הוא אכול ושתה יאמר לך ולבו בל עמך, ואתה רוצה ויש לך, מיהא השתא מסרהיבנא, דבמלתא דמצוה קא טרחנא, כי הדרנא אתינא עיילנא לגבך. כי אתא, איתרמי על בההוא פיתחא דהוו קיימין ביה כודנייתא חוורתא, אמר: מלאך המות בביתו של זה ואני אסעוד אצלו? שמע רבי נפק לאפיה, אמר לי: מזבנינא להו, אמר ליה: (ויקרא י"ט) ולפני עור לא תתן מכשול. מפקרנא להו, מפשת היזקא. עקרנא להו, איכא צער בעלי חיים. קטילנא להו, איכא (דברים כ') בל תשחית. הוה קא מבתש ביה טובא, גבה טור בינייהו. בכה רבי ואמר: מה בחייהו כך, במיתתן על אחת כמה – וכמה.

Rebbi heard that [Rabbi Pinchas ben Yair was passing through the area] and went out to meet him. (Rebbi) said to him, "Would you be willing to eat a meal with me?" Rabbi Pinchas ben Yair replied to him, "Yes." Rebbi's face became radiant [Rabbi Pinchas ben Yair did not usually accept invitations]. Rabbi Pinchas ben Yair said to him, "Did you think

that I am prohibited by a vow from benefitting from Jews? Israel are holy. But there is one who wants (to share what he has with others) but does not have (enough to accomplish this). [Therefore, Rabbi Pinchas ben Yair would decline such a person's invitation in order not to burden him]. And there is one who has (enough) but does not want (to share them with others). And it is written, "Do not eat the bread of a miser, and do not desire his delicacies. For like one whose soul is embittered, so is he. 'Eat and drink' he says to you, but his heart is not with you" (Proverbs 23:6-7). But you want (to share what you have) and you have (the means to do so) [therefore I accept your invitation]. However, right now I am hastening since I am toiling to do a *mitzvah* [to redeem a captive]. When I return, I will join you." When he returned it so happened that he sought to enter (Rebbi's home) through an entrance where white mules were standing [and blocking the way inside]. Rabbi Phichas ben Yair said, "The Angel of Death is in this one's house, and I will dine with him?" [White mules are called so because they kick and inflict wounds that never heal]. He said to him, "I will sell (the mules)." He replied, "Before a blind person you shall not place a stumbling block (Leviticus 19:14). [Since it is forbidden to sell dangerous animals to a fellow Jew]. Rebbi said, "I will abandon them." R. Pinchas ben Yair replied, "You will increase the harm." [Since they will be left unguarded and could harm others]. Rebbi said, "I will cut (their hooves)." Rabbi Pinchas ben Yair replied, "Then there is suffering of living creatures." Rebbi said, "I will kill them." R. Pinchas ben Yair replied, "There is the prohibition of *bal tashchit* - do not destroy wantonly." As Rebbi intensely pleaded with him (to still accept the invitation), a mountain arose between them. Rebbi wept and said, "If even during the lifetimes of the righteous it is so, how much more so it will be after their deaths!" (Babylonian Talmud *Hullin* 7b)

There are several laws in this *sugya* that lead to an expansion of the category of *bal tashchit* to include the unnecessary killing of animals. Rabbi Pinchas ben Yair was on the way to redeem a captive at the onset of this story. Since he was en route to perform this *mitzvah* he was unable initially to stop at Rebbi's house for a meal. In his acceptance of Rebbi's invitation Rabbi Pinchas ben Yair indicates that unless he was sure the person had the means and right intentions, he generally declined invitations to eat with people. Rabbi Pinchas ben Yair is portrayed as a righteous and caring individual, with concern for following Jewish law and not embarrassing those with little means.

When he returns to dine with Rebbi, he cannot enter the house because the white mules are blocking the entrance. White mules are dangerous animals since they kick and inflict wounds that never heal. He says this is a bad omen, yet he was still willing to try to enter Rebbe's house. This however never came to pass due to his inability to get inside Rebbe's house since the entrance way was blocked by the mules. Rebbe, eager to welcome his guest, offers several solutions to get rid of the mules so that Rabbi Pinhas can enter. The order of Rabbi Pinhas's rebuke to Rebbi for his plans for removing the mules leads to the declaration that killing the animals for human convenience is prohibited because it would transgress *bal tashchit*.

Rebbi's first reaction to the mules blocking the way was to sell them. Rabbi Pinchas ben Yair rejects this idea because the mules would then become a hazard to another person, and this violates rabbinic law. Rebbi then offers to abandon the animals in the forest. This too is rejected on account that it only increase their harmfulness since they would be roaming free without somebody watching over them. Rebbi tries another approach, he will cut their hooves, the part of their body that caused the harm when they kicked somebody. Rabbi Pinchas ben Yair claims that this would go against *tsar ba'alei chayim*, unnecessary suffering of animals. Rebbi, having exhausted all other possibilities, finally offers to kill the animals so that his guest can come inside his house for a meal. Rebbi Pinchas ben Yair, who had already demonstrated compassion to human beings and the mules themselves, strictly forbid this suggestion, because it would violate *bal tashchit*. It did not befit Rabbi Pinhas that the animals be sold, let free, injured, or killed on his

behalf. This passage illustrates how *bal tashchit* can apply to animals. It includes the unnecessary destruction of animals for non-life threatening purposes.

Conclusion: The Talmudic Expansion of *Bal Tashchit*

All of the Talmudic passages cited above added to the rabbinic understanding of *bal tashchit* to encompass more than just cutting down fruit trees during a time of war.

These *halakhic* and *aggadic sugyot* reveal a great deal about the rabbinic desire to prevent the unnecessary waste and wanton destruction of all things that human beings derive benefit from. Additionally they serve as source material for the medieval codifiers. These passages also reveal that the application of *bal tashchit* has limits; most notably when it is necessary to use resources to save a human life.

The following generalizations about *bal tashchit* can be made from the Talmudic passages discussed above:

1. It is a rabbinic prohibition to intentionally waste oil.
2. It is a rabbinic prohibition to eat food and drink beverages that require more resources to produce and transport when there are options to eat and drink things that require less. However, it is permitted to do so if one needs the greater nutritional quality of the more resource intensive items to sustain their health.
3. It is a rabbinic prohibition to wantonly destroy furniture and by extension all other material goods. If one's life is in danger it is permitted to use these items for life saving measures. If one's life is not in danger, it is permitted to allow small bodily harm in order to protect these items.

4. It is a rabbinic prohibition to wantonly destroy clothing. Mourners should not rip their garments beyond repair. It is not considered a transgression against *bal tashchit* if ripped clothing is sewn back together. Hence, it can be concluded that *bal tashchit* does not apply to material goods that can be repaired
5. It is a rabbinic prohibition to unnecessarily kill domestic animals for non-life threatening purposes.
6. *Pikuach nefesh*, saving a life, takes precedence over *bal tashchit* in all situations.

Chapter 4: The Codification of *Bal Tashchit*

Introduction

For centuries after the completion of the Talmud, Jewish legal traditions developed regionally through series' of questions and answers sent between communities and leading rabbinic authorities. The Middle Ages were a tumultuous time for Jews in both Christian and Muslim lands. As communities were forced to flee their native lands Torah learning diminished. With it went the ability for Jews to understand their vast legal tradition. Rambam believed this was a great problem for Jewish communities. He therefore set out to create a comprehensive compendium of Jewish law that would be easy for average Jews to understand and follow. Several centuries later the Jewish community was again forced into exile throughout the Iberian Peninsula. Joseph Karo once again set out on the task to codify the various rites that had emerged in Jewish communities throughout the known world. The *Mishneh Torah* and the *Shulchan Aruch* are two of the greatest Jewish works since the completion of the Talmud. Both Rambam and Karo created systems that were accessible. They both also directly addressed *bal tashchit* in their respective works. Their legal decisions stand as the basis for a complete understanding of this prohibition today.

I. Rambam's *Mishneh Torah*

Rabbi Moses ben Maimon (known as Maimonides and Rambam) lived from 1135-1204.¹ He was born in Cordoba, Spain, but forced to flee with his family when he was thirteen

1. *Encyclopaedia Judaica*, s.v. "Maimonides."

years old due to religious persecution of the Jewish community by the Almohads.² By the time Maimonides and his family settled in Egypt he had already become one of the premiere Jewish scholars of his generation. His early Halakhic works included a commentary to the Mishnah and *Sefer Ha-Mitzvot*. He also composed many responsa, answers to Jewish legal questions, posed to him by leading rabbis of his his day. Maimonides' most comprehensive halakhic work was the *Mishneh Torah*. This work, translated in English as "Repetition of the Law" took Maimonides ten years to complete.³

During Maimonides' lifetime the Jewish community faced great perils. The Muslim persecutions had forced mass migrations of Jews from the Iberian peninsula eastward. This greatly disturbed Jewish communal life and learning. As different communities were forced to integrate with each other, there were debates over which were the appropriate rites and customary laws to follow. In the *Mishneh Torah*, Maimonides "set for himself the task of classifying by subject matter the entire Talmudic and post-Talmudic *halakhic* literature in a systematic manner never before attempted in the history of Judaism."⁴ This is explicated in his introduction to the *Mishneh Torah*:

In our days, many vicissitudes prevail, and all feel the pressure of hard times. The wisest of our wise men has disappeared; the understanding of our prudent men is hidden. Hence, the commentaries of the *geonim* and their compilations of laws and responsa, which they took care to make clear, have in our times become hard to understand, so that only a few individuals fully comprehend them. Needless to add that such is the case in regard to Talmud itself, both Babylonian and Jerusalem, and the *Sifra*, *Sifrei*, and *Tosefta*, all of which require, for their comprehension, a broad

2. Ibid.

3. Ibid.

4. Ibid.

mind, a wise soul, and considerable study. Then one might learn from them the correct way to determine what is forbidden and permitted, as well as other rules of the Torah. On these grounds, I, Moses the son of Maimon the Sephardi bestirred myself, and relying on the help of God, blessed be He, intently studied all these works, with the view of putting together the results obtained from them... all in plain language and terse style, so that thus the entire Oral Law might become systematically known to all without citing difficulties and solutions of differences of view... but consisting of statements, clear and convincing, that have appeared from the time of Moses to the present, so that all rules shall be accessible to young and old... (introduction to *Mishneh Torah*).⁵

A. *Hilchot Melachim U'Milchomateihem*: The Laws of Kings and Their War

In Maimonides' systematic codification of Jewish law, he systematized the laws of *bal tashchit*. The main references appear in chapter six of *Hilchot Melachim*

U'Milchomateihem: The Laws of Kings and Their Wars. In *halachot* eight, nine, and ten, Maimonides affirms and further explains the prohibition against cutting down fruit trees during a time of war in Deuteronomy 20:19-20. He then expands the category of *bal tashchit* to include the prevention of unnecessary waste and wanton destruction of nature, household items, clothing, and buildings. These three *halachot* provide the most extensive expansion of *bal tashchit* by any halakhic figure. They are often cited as the foundation for the modern understanding of *bal tashchit*. Rambam's explanation of Deuteronomy 20 and its implication on further Jewish law are derived from sources already mentioned in previous chapters of this work.

רמב"ם הלכות מלכים פרק ו הלכה ח

אין קוצצין אילני מאכל שחוץ למדינה ואין מונעין מהם אמת
המים כדי שייבשו, שנאמר לא תשחית את עצה, וכל הקוצץ
לוקה, ולא במצור בלבד אלא בכל מקום כל הקוצץ אילן

5. Ibid.

מאכל דרך השחתה לוקה, אבל קוצצין אותו אם היה מזיק
אילנות אחרים, או מפני שמזיק בשדה אחרים, או מפני
שדמיו יקרים, לא אסרה תורה אלא דרך השחתה.

We must not cut down fruit trees outside a city nor prevent an irrigation ditch from [bringing water to] them so that they dry up as [Deuteronomy 20:19] states: “Do not destroy its trees.” Anyone who cuts down [such a tree] should be lashed. [This] applies not only in a siege, but in all situations. Anyone who cuts down a fruit tree with destructive intent should be lashed. Nevertheless, a [fruit tree] may be cut down if it causes damage to other trees, to fields belonging to others, or if a high price [could be received for its wood]. The Torah only prohibited cutting down a tree with destructive intent.⁶ (*Mishneh Torah, Hilchot Melachim U'milchamoteihem* 6:8)

In this *halacha*, Maimonides first quotes the law in Deuteronomy 20:19 preventing the cutting down of fruit trees outside a city. He immediately includes preventing an irrigation ditch from being blocked during a siege. This first expansion of environmental protection to water sources during wartime is found in Sifre Deuteronomy Piska 203. Trees and water are both vital for human survival and ecological health. The automatic inclusion of protecting cisterns shows Maimonides understanding that *bal tashchit* applied to various natural resources, not just fruit trees.

Maimonides includes the punishment for cutting down a fruit tree. Lashing was the minimum rabbinic punishment that a person could receive for violating a prohibition found in the Torah.⁷ The second categorical expansion of *bal tashchit* in Halacha 6:8

6. Rabbi Eliyahu Touger, *Maimonides - Mishneh Torah Hilchot Melachim U'Milchomoteihim: The Laws of Kings and Their Wars; A New Translation with Commentaries, Notes, Illustrations, and Index* (Moznaim Publishing Corporation; Jerusalem, 1987), 116-17.

7. Touger, *Hilchot Melachim*, 117.

states that the punishment for cutting down a fruit tree in a destructive manner applies at all times, not just during a siege. This extends the protection of natural resources to everyday life, increasing the environmental consciousness of Jews no matter what their situation is. It is an important statement in understanding that human beings must act in a non-destructive manner toward their natural surroundings at all times.

The unnecessary destruction of resources does have limits in the *Mishneh Torah* as it does in Deuteronomy, the Mishnah, and the Talmud. Maimonides allows for a fruit bearing tree to be cut down if it might damage other trees or fields that belonged to one's neighbor. Babylonian Talmud *Bava Kama* 92a allows for this in the case of Shmuel's date tree growing near his neighbor's vineyard. Similarly *Bava Batra* 25b-26a prevents one's neighbor from planting a fruit tree close to another person's well lest the roots of the tree destroy the well.⁸ In these examples the tree is not cut down needlessly as that would constitute wanton destruction. Rather, there are positive reasons for cutting down the tree that permit such actions.

Maimonides makes the case that the application of *bal tashchit* is limited as well when determining the economic value of the fruit of the tree in relation to the value of its' other uses. For example, the tree may be cut down if the wood is more valuable than the fruit. Additionally, a tree may be cut down once the fruit it produces is no longer substantial. This is the subject of *Hilchot Melachim* 6:9.

8. Ibid.

רמב"ם הלכות מלכים פרק ו הלכה ט

כל אילן סרק מותר לקוץ אותו ואפילו אינו צריך לו, וכן אילן מאכל שהזקין ואינו עושה אלא דבר מועט שאינו ראוי לטרוח בו, מותר לקוץ אותו, וכמה יהא הזית עושה ולא יקוצנו, רובע הקב זיתים, ודקל שהוא עושה קב תמרים לא יקוצנו.

It is permissible to cut down any fruitless tree, even if one has no need for [the lumber or the space it takes up]. Similarly, one may cut down a fruit tree that has become old and produces only a slight yield which does not warrant the effort [required to care for it.] What is the yield that an olive tree must produce to warrant that it should not be cut down? A quarter of a kav of olives. [Similarly,] a date palm which yields a kav of dates should not be cut down.⁹ (*Mishneh Torah, Hilchot Melachim U'milchamoteihim* 6:9)

Rambam's comments in this *halacha* affirm the permissibility to cut down non-fruit bearing trees in Deuteronomy 20. It would appear that non-fruit bearing trees may be destroyed at will without using their wood for another purpose. Touger notes that this was not true. He explains in his commentary to this *halacha*,

This phrase does not permit wanton destruction. As mentioned in the following Halacha, the prohibition of *bal tashchit* applies to all articles of value. Rather, in regard to fruitless trees, greater leniency may be taken and the restrictions mentioned in the previous Halachah need not be heeded.¹⁰

Fruitless trees then, have less value than fruit bearing trees, but are still protected under Rambam's final definition of *bal tashchit* in *Halachah* 6:10. The discussion of defining a tree as fruit bearing or non-fruit bearing is elaborated upon in *Bava Kama* 91a where the issue becomes: At what point is it no longer worthwhile for a

9. Touger, *Hilchot Melachim*, 118

10. *Ibid.*

person to care for a tree that does not provide the proper amount of fruit?

The overall concern that Rambam shows for the protection of fruit bearing trees is reminiscent of Ibn Ezra's commentary to Deuteronomy 20:19. Human beings are dependent on fruit trees for their survival, thus their fates are intertwined.

Rambam's conclusion that all fruit bearing trees that are still able to produce enough fruit for food and economic benefit for human beings are to be protected at almost all cost, demonstrates his respect for the natural world and the human dependence on its preservation. The next *halacha* extends this ethic and religious precept far beyond fruit bearing trees.

רמב"ם הלכות מלכים פרק ו הלכה י
ולא האילנות בלבד, אלא כל המשבר כלים, וקורע בגדים,
והורס בנין, וסותם מעין, ומאבד מאכלות דרך השחתה, עובר
בלא תשחית, ואינו לוקה אלא מכת מרדות מדבריהם.

[This prohibition does not apply] to trees only. Rather, anyone who breaks utensils, tears garments, destroys buildings, stops up a stream, or ruins food with destructive intent transgresses the command "Do not destroy." However, he is not lashed. Rather, he receives "blows for enforcing submission," [as instituted by] the Rabbis.¹¹ (*Mishneh Torah Hilchot Melachim U'milchamoteihem* 6:10)

Maimonides' categorical expansion of what is prohibited by Jewish law to destroy unnecessarily in this *halachah* is the most definitive and comprehensive explanation of *bal tashchit* in Jewish legal literature. Additionally, it incorporates and summarizes

11. Touger, *Hilchot Melachim*, 118-20.

previous sources' notion of what was included in this prohibition. For example, the prohibition against breaking utensils is traceable to *Shabbat* 129a where destroying furniture for fire would have been prohibited according to *bal tashchit* had it not been done as a life saving measure. The prohibition against tearing clothing is derived from Rav Huna's actions testing his son in *Kiddushin* 32a. The source for the prohibition against stopping up a stream is a rebuke of Elisha the prophet to King Jehoram for having failed to "Destroy every good tree, stop up every stream of water, and fill every good field with stones," in 2 Kings 3:19. There a specific directive from God was necessary to lift the ban on *bal tashchit*. *Shabbat* 140b is the original source of defining the waste of food and drink as a transgression of *bal tashchit*. Rambam's halachic mastery fused many of the sources covered in previous chapters to come up with a comprehensive definition of *bal tashchit* that prohibits the unnecessary waste and wanton destruction of natural resources, food, and material possessions.

Furthermore, Rambam's use of the phrase דרך השחתה emphasizes that it is the intention behind the action that defines what is considered a transgression of *bal tashchit* and what does not. This acknowledges that *bal tashchit* has limitations. There are times when a tree needs to be cut down for a positive reason. By extension, other resources may be displaced if it is for a greater good. These exceptions though, are limited in scope and nature. It is clear from Maimonides' writings in the *Mishneh Torah* that he understands the Torah and rabbinic literature to clearly prohibit the destruction and ruination of natural resources, wasting food, and ruining clothing and other material possessions. Clothing and material possessions including household items use materials

that come from the earth. All clothing is made from either plant or animal products. As such, the fields where the crops are grown and the food that is fed to livestock should be considered under the intention of the laws of *bal tashchit*.

B. *Hilchot Evel*: The Laws of Mourning

Rambam sheds light on the social justice aspect of *bal tashchit* in *Hilchot Evel*: The Laws of Mourning. These *halachot* address the end of the cycle of consumption of a material good. As mentioned above, clothing originates as either a crop or the wool of an animal. It is then turned into fabric and formed into an item of clothing by workers. This item is then worn by an individual. The last phase of that article of clothing's life is in its disposal. Rambam expands the category of *bal tashchit* in the following *halacha* by stating that it is one's legal and ethical obligation to give possessions that are still useful to the poor rather than discard of them.

רמב"ם הלכות אבל פרק יד הלכה כד
מלמדין את האדם שלא יהא חבלן ולא יפסיד את הכלים
וישליכם לחבלה, מוטב לתתם לעניים ואל ישליכם לרמה
ותולעה, וכל המרבה כלים על המת עובר בלא תשחית.

We teach a person that he should not recklessly destroy property and throw them away destructively. It is better to give them to the poor than to throw it to maggots and worms. Whoever multiplies articles on a deceased person violates the commandment against destroying property.¹²
(*Mishneh Torah Hilchot Evel* 14:24)

Rambam clearly understands that one's personal property should not be discarded as

12. Rabbi Eliyahu Touger, *Maimonides - Mishneh Torah Hilchot Evel: The Laws of Mourning; A New Translation with Commentaries, Notes, Illustrations, and Index* (Moznaim Publishing Corporation; Jerusalem, 2001), 494.

waste when other human beings can still benefit from it. This adds a dimension of social justice and *tzedakah* to the laws of *bal tashchit*. A person can acquire many things in their lifetime. Some will wear down but still be useful. These should be given to the poor if possible.

Similarly, when individuals die their material possessions are of no use to them. Judaism does not believe that a person takes their worldly possessions with them after they die. Rambam alludes to the practice that may have been customary for people to be buried with their personal items. He rejects this on the grounds that this would be an unnecessary waste of those items. They would be buried under ground and gone forever. As such, Rambam forbids any item of personal property that still has use to be buried either with the dead or in a pile of refuse. This would be a violation of *bal tashchit*. His rationale is clearly stated in this *halacha*. It is a better ethical decision to give something to people who are in need and can make use of an item than to throw it away wastefully, taking it out of commission forever, though it is still useful to humanity. It is an act of *tzedakah* to provide for the poor. This is especially true if items would otherwise be thrown out or buried with the dead.

II. *Sefer Hachinuch*

Sefer Hachinuch is a medieval work written by Rabbi Aaron Halevi from Barcelona around year 1300.¹³ This source is a commentary on each of the 613 commandments as

13. Mansfred Gerstenfeld, *Judaism, Environmentalism and the Environment Mapping and Analysis* (Jerusalem: Rubin Mass Ltd, 1998), 154.

systematized by Maimonides' *Sefer Hamitzvot*. *Sefer Hachinuch* comments on *bal tashchit* on *Halacha* 529. Here it is explained as having religious and ethical roots.

The purpose of this *mitzvah* (*bal tashchit*) is to teach us to love that which is good and worthwhile and to cling to it, so that good becomes a part of us and we will avoid all that is evil and destructive. This is the way of the righteous and those who improve society, who love peace and rejoice in the good in people and bring them close to Torah: that nothing, not even a grain of mustard, should be lost to the world, that they should regret any loss or destruction that they see, and if possible they will prevent any destruction that they can. Not so are the wicked, who are like demons, who rejoice in destruction of the world, and they are destroying themselves. (*Sefer Hachinuch Halacha* 529)

According to *Sefer Hachinuch*, people who follow the laws of *bal tashchit* are righteous and improve society. Mansfred Gestenfeld notes that, "*Sefer haHinnukh* links the avoidance of destruction to religious practice."¹⁴ Following this *mitzvah* is a way for people to get closer to Torah. Each action that avoids unnecessary waste and destruction is considered a religious act, a way to become closer to God. *Sefer Hachinuch* goes on to credit those who prevent others from loss and destruction with creating a better society. The author defines waste in very small terms, even as little one mustard seed. This understanding of *bal tashchit* expands the rabbinic notion of unnecessary destruction. It also creates a consciousness that should inform every righteous person's actions so that one might be aware of how to prevent waste in their own and others' actions at all times. Finally, the author of *Sefer Hachinuch* understands the connection between the destruction of the planet and the destruction of the self. The conclusion of his comments foreshadow the doom for one who has no concern for how their actions impact the ecosystem.

14. Ibid., 114.

III. Joseph Karo's *Shulchan Aruch*

Joseph Karo lived four centuries after Rambam from 1488 to 1557.¹⁵ Born either in Toledo or Portugal and living most of his life in Turkey and Safed, Karo is recognized as one of the leading halachic figures of his generation and of all time. His works, the *Beit Yoseph* and the *Shulchan Aruch* have had a "decisive influence over the whole Jewish world."¹⁶ This text from Karo picks up on Maimonides' prohibition of placing useful objects in the grave with the deceased.

שולחן ערוך יורה דעה סימן שמט סעיף ד
כל המרבה כלים על המת, הרי זה עובר משום בל תשחית.

One who increases the amount of funeral objects (such as coffins, burial clothing, etc.), behold he transgresses *bal tashchit* ("do not waste").
(*Shulchan Aruch, Yoreh Deah* 349:4)

The *Shulchan Aruch* does not make references to *bal tashchit* often. When it does, as in the case above, it is a summary of Maimonides' codification of the Jewish principle. Karo's position is in line with Maimonides' that people should not place lavish and useful objects in the ground when they bury a person. This halachic ruling was intended to prevent wasting useful resources from being buried with the dead. Jewish law does ensure that the dead are given their proper respect. It also limits the type of funeral rites that are allowed.

This statement from the *Shulchan Aruch* seeks to prevent unnecessary extravagance for the items used in burial. One should follow the traditional path of burying people in a

15. *Encyclopaedia Judaica*, s.v. "Joseph Caro."

16. *Ibid.*

plain coffin and shroud rather than in a fancy coffin and clothing. Additionally, Karo followed Maimonides in the prohibition against burying objects with the dead that are still useful.

Conclusion

Maimonides expanded the category of *bal tashchit* in important ways, making use of the breadth of Jewish legal writing that preceded him. He made it applicable to natural resources beyond trees. In the *Mishneh Torah* it is a violation to ruin all water and food sources. Rambam extended the laws of *bal tashchit* to forbid the unnecessary waste and wanton destruction of household utensils, clothing, buildings, and food. Rambam clearly asserted that the laws of *bal tashchit* apply at all times, not just during warfare. Thus, all things useful to humanity must be treated with special care. Additionally, they should not be intentionally discarded while they are still useful.

Bal tashchit is as much of a social issue as it is an environmental one in the codes.

Rambam understood that it was wasteful to throw away something when one person no longer needs it but another person could put it to good use. This includes burying it with the deceased. Joseph Karo affirmed Rambam's position prohibiting excessive burial practices. Maimonides' *halachot* on *bal tashchit* made it a relevant Jewish value in areas of the treatment, consumption, and disposal of all natural resources and personal items. His writing was incredibly important for the development of *bal tashchit* as a Jewish environmental and social ethic.

Sefer Hachinuch followed Rambam's view that *bal tashchit* extended to cover many things created in the world. It went one step further, however, making it both a religious and an ethical mandate to be "hyper-aware" of one's actions in the world. The connection, however, that each action that prevents waste in the world brings an individual closer to Torah and therefore the source of *mitzvot*, gives *bal tashchit* a spiritual backing that understood a deeper relationship between human beings, God, and the earth.

Chapter 5: Applying *Bal Tashchit* in the Modern Age

Introduction

The medieval codifiers crystalized the biblical and rabbinic laws pertaining to *bal tashchit* into concise statements prohibiting most destructive and wasteful acts. They created a philosophical base for applying *bal tashchit* beyond its original context, to cover other natural resources, food, and clothing. The Industrial Revolution (late 18th and early 19th centuries) brought many changes to civilizations throughout the world. People moved to cities en masse from the countryside. Technologies were developed to increase the production of food and the manufacturing and distribution of goods. These changes transformed how people acquired things. They were no longer solely dependent on subsisting on their land and making their own goods. Factory farms and production centers were able to mass produce almost everything, driving down their costs. Rapid industrialization and advancements in science and technology solved many problems and enhanced the quality of human life.

At the same time, however, there are unintended environmental consequences, endangering both the health of the planet and of human beings. The earth's resources are becoming depleted at an alarming rate causing species extinction, soil erosion, and famine that has displaced millions of people worldwide. Factories are polluting the air, land, and water. The wide use of pesticides is changing the makeup of the soil in a way that is detrimental to human health. All of this combined, plus supplying enough energy for transportation, heating and cooling, and other individual household needs and desires

is changing the climate of our planet.

The Jewish community is beginning to respond to these environmental problems with a claim that we have a religious mandate to act as stewards of creation. Individuals and organizations have begun to create a Jewish vocabulary to accompany their environmental work, giving it a spiritual and religious context. This chapter will look at how two organizations are using the laws of *bal tashchit* to teach children and inspire communal action. First, however, it will examine the influential work of a leading intellectual and religious figure of the modern era who made *bal tashchit* into one of the most important prohibitions of his day.

I. Samson Raphael Hirsch

Samson Raphael Hirsch was one of the most influential Jewish thinkers of the modern era. Living in Germany in the nineteenth century, Hirsch was a leading rabbi and writer and a staunch advocate of Orthodox Judaism.¹ Hirsch's approach to Jewish scholarship involved seeking to understand how Jewish sources "contribute to the preservation and strengthening of 'Jewish Life.'"² He explained that the *mitzvot* were divine rules of life and not just matters for abstract study or guides to ritual behavior. Consequently, Hirsch's thought is ideal for considering how *bal tashchit* was conceived of in the modern world and understood and applied in *halakhic* communities.

1. *Encyclopaedia Judaica*, s.v. "Samson Raphael Hirsch."

2. *Ibid.*

Hirsch specifically commented on *bal tashchit* in two works. The first was *Choreb, oder Versuche ueber Jissroels Pflichten in der Zerstreuung, Horeb—Essays on Israel's "Duties" in the Diaspora* originally published in 1837. In this work, "Hirsch laid down his basic views on Judaism which were elaborated and explained in his subsequent writings."³ In this work, Hirsch emphasized that *bal tashchit* is one of the most important commandments to follow. One who does so is *mentsh*, one who does not, an animal. .

Yea, "Do not destroy anything" is the first and most general call of God... If you should now raise your hand to play a childish game, to indulge in senseless rage, wishing to destroy that which you should only use, wishing to exterminate that which you should only exploit, if you should regard the beings beneath you as objects without rights, not perceiving God Who created them, and therefore desire that they feel the might of your presumptuous mood, instead of using them only as the means of wise human activity -- then God's call proclaims to you, "Do not destroy anything! Be a *mentsh*! Only if you use the things around you for wise human purposes, sanctified by the word of My teaching, only then are you a *mentsh* and have the right over them which I have given you as a human. However, if you destroy, if you ruin, at that moment you are not a human but an animal and have no right to the things around you. I lent them to you for wise use only; never forget that I lent them to you. As soon as you use them unwisely, be it the greatest or the smallest, you commit treachery against My world, you commit murder and robbery against My property, you sin against Me!" This is what God calls unto you, and with this call does God represent the greatest and the smallest against you and grants the smallest as also the greatest a right against your presumptuousness... In truth, there is no one nearer to idolatry than one who can disregard the fact that things are the creatures and property of God, and who presumes also to have the right, having the might, to destroy them according to a presumptuous act of will. Yes, that one is already serving the most powerful idols -- anger, pride, and above all ego, which in its passion regards itself as the master of things.⁴ (Samson Raphael Hirsch, *Horeb* #56)

3. Ibid.

4. Samson Raphael Hirsch, *Choreb, oder Versuche ueber Jissroels Pflichten in der Zerstreuung: Horeb—Essays on Israel's "Duties" in the Diaspora*, trans. and ed. Isidore Grunfeld , (London: Soncino, 1962), *Horeb* #56.

Hirsch picks up on many of the themes from Jewish *aggadic* and *halakhic* literature regarding the human relationship to the earth and the obligation to use its resources wisely. The basis for Hirsch's argument that *bal tashchit* is the "first and general call of God," that is, the theological understanding that God owns the earth and lends it to human beings to inhabit responsibly. This harks back to ideologies expressed in Genesis 2:15 and *Kohelet Rabbah* 7:13. According to these sources, human beings have a religious and ethical obligation to regard the earth with care since it is God's property. Any destructive act, large or small, is an offense to the earth which belongs to God and, ultimately, a sin against God. According to Hirsch, a person has the choice of being a *mentsh*, one who is respectful and deliberately conscious of the way one uses natural resources, or an animal, one whose anger, pride, and ego allows him or her to disregard the earth as God's property. Since the earth belongs to God, God's presence too dwells in the natural world. Hirsch believes that people were obligated to treat the environment with the same honor reserved for God. Hirsch was adamant about the human responsibility not to destroy or waste any resources or harm any animals. This mandate reflects an ethic of environmental stewardship in the midst of a rapidly industrializing world.

The second reference to *bal tashchit* from Hirsch appeared in his commentary on the Torah called *Uebersetzung und Erklärung des Pentateuchs*, written from 1867-1878. In this work Hirsch understood the prohibitions against destruction as the fulfillment of the commandment in Genesis 1:28 for human beings to have dominion over the world.

Under the concept *bal tashchit* the purposeless destruction of anything at all is taken to be forbidden, so that the *lo tashchit* of our text becomes the most comprehensive warning to human beings not to misuse the position which God has given them as masters of the world and its matter to capricious, passionate or merely thoughtless wasteful destruction of anything on earth. Only for wise use had God laid the world at our feet when He said to Man "subdue the world and have dominion over it" (Genesis 1:28).⁵ (Samson Raphael Hirsch on Deuteronomy 20:20)

It is clearly Hirsch's view that the earth's resources must be used wisely if one is to live an ethical life in the modern era. It is imbued with the deep religious notion that the world was not created for human exploitation, but rather it was created with great care in order to provide enough for the inhabitants of each generation. The earth's resources and their byproducts are to be treated respectfully and with compassion. This is the fulfillment of the commandment in Genesis 1:28 for human beings to be responsible for managing the earth's finite resources. Hirsch was a role model for promoting a Jewish ethic based in living with intentionality so as not to injure animals, plants, and material possessions. His understanding of *bal tashchit* is a precursor for the development of a contemporary Jewish environmental ethic.

II. Coalition on the Environment and Jewish Life

The Jewish environmental movement in America became organized in the early 1990's. The Coalition on the Environment and Jewish Life (COEJL) was founded in the Spring of 1992 with the mandate to help Jewish communities respond to the global ecological crises threatening environmental balance and the quality of human life. The coalition's

5. Samson Raphael Hirsch, *Uebersetzung und Erklärung des Pentateuchs: The Pentateuch Translated and Explained by Samson Raphael Hirsch Vol. V Deuteronomy*, trans. by Isaac Levy (New York; Bloch Publishing Company, 1962), 395.

founding statement speaks of a uniquely Jewish obligation to act in order to prevent further environmental degradation.

For Jews, the environmental crisis is a religious challenge. As heirs to a tradition of stewardship that goes back to Genesis and that teaches us to be partners in the ongoing work of Creation, we cannot accept the escalating destruction of our environment and its effect on human health and livelihood. Where we are despoiling our air, land, and water, it is our sacred duty as Jews to acknowledge our God-given responsibility and take action to alleviate environmental degradation and the pain and suffering that it causes. We must reaffirm and bequeath the tradition we have inherited which calls upon us to safeguard humanity's home.⁶

There is much in COEJL's founding statement that resembles Hirsch's ideology. Both invoke the biblical mandate that it is humanity's sacred duty to prevent the destruction of clean air, land, and water and everything else in the natural world. Both believe Jews have a religious obligation in the modern era to urgently uphold this responsibility, to use their position in the world to act wisely and alleviate suffering by preventing the environmental degradation that comes from destructive and wasteful practices. Echoes of Jewish texts written throughout the ages that have directly spoken of preventing pollution and unnecessary destruction are found in these statements. Throughout the last two decades, COEJL has brought together leading environmental voices in the Jewish community in order to develop program materials for congregations and advocate in Washington, D.C. for environmental legislation aligned with wisdom rooted in the Jewish experiential and textual tradition. They have been a leading voice for bringing religious environmentalism into the North American Jewish community.

6. Coalition of the Environment and Jewish Life, "The Founding Statement of the Coalition of the Environment and Jewish Life," <http://www.coejl.org/~coejlor/about/founding.php>.

III. The Teva Learning Center and Jewish Environmental Education

Elion Shwartz wrote in 1999, "The Talmudic law of *bal tashchit* ("do not destroy") is the most predominant Jewish precept cited in contemporary Jewish writings on the environment."⁷ Indeed, many leaders in the Jewish environmental movement have invoked *bal tashchit* in order to establish a contemporary Jewish environmental ethic. An example of those who have taken this idea seriously are the founders of the Teva Learning Center, which was established in 1993 in order to teach children and adults about the "ecological wisdom inherent in Judaism."⁸ This experiential education program is based on the premise that, "Thousands of years ago our ancestors lived with a keen awareness of their dependence on the natural systems that support life. Although many Jews today have lost this connection, our ancient relationship with nature is nevertheless reflected in Jewish law, in our prayers, in the celebration of our holidays, and in the core values of our tradition."⁹

The Teva curriculum is based on four principles that spell out the acronym T.E.V.A. - **t**ogetherness (group building), **e**cology, ***b**al tashchit* (in Hebrew the *bet* and *vet* are written the same), and **a**wareness (of the natural world). This experiential education program takes school age participants into the wilderness to learn about the natural world. *Bal tashchit* is taught as the underlying Jewish value to live responsibly on the earth,

7. Elion Schwartz, "Is the Tree Human?" *Trees, Earth, and Torah A Tu B'shvat Anthology*, (Philadelphia: The Jewish Publication Society, 1999), 83.

8. The Teva Learning Center, "Our Philosophy," <http://tevalearningcenter.org/philosophy.php>.

9. Ibid.

while the participants are surrounded by nature and feel connected to it. Educators apply this ancient law to present day situations. Participants are taught about reducing, reusing, and recycling, conserving natural resources like water, oil, and electricity, and the importance of living more simply on the earth, all through the lens of *bal tashchit*. Program models based on the Teva Learning Center's approach to Jewish environmental education have been replicated in synagogues, college campuses, and summer camps throughout North America and Israel.

Today, many Jewish campers and students are learning about pressing environmental issues in secular schools and through popular culture. They are keenly aware that this matter affects their lives in many ways. When they go to a program at the Teva Learning Center or encounter a Jewish environmental educator at camp or in synagogue and learn that Judaism has environmental ethics deeply embedded within it, they have a new way of relating to their Jewish identity that is relevant to their lives and congruent with their secular experiences. More importantly, they also learn that there are specific Jewish responses to dealing with environmental issues. The Jewish environmental movement has been successful in using the concept of *bal tashchit* to teach Jews, young and old alike, that there is a Jewish religious imperative to use resources wisely, recycle materials, reduce their carbon footprint, carpool and ride bikes, and the like.

Conclusion

Today's Jewish environmental movement is gaining momentum and support from the more mainstream Jewish communities who are beginning to recognize the need to embrace and apply environmental ethics for social and financial reasons. Organizations like COEJL and the Teva Learning Center have been leaders in developing teaching material for schools, camps, and synagogues and should be looked to as valuable resources for furthering a Jewish environmental ethic grounded in text and tradition. For the last two decades these organizations have been using the biblical and talmudic teachings surrounding *bal tashchit* to guide changes in personal and communal behaviors in order to lessen the impact human beings are having on the natural world. They have been guided as well by the wisdom of modern rabbis, especially Samson Raphael Hirsch who emphasized a religious framework for *bal tashchit's* application in the industrialized world.

The wisdom of Jewish sages is inspiring modern Jews to think more critically about how they as individuals and institutions make decisions about their energy suppliers, their food, and the types of products they buy. *Bal tashchit* is becoming part of the vocabulary that is framing the “greening” process in synagogues and people's homes, at summer camps and in schools. In many cases this is inspiring people to live more simply. This is at the heart of applying *bal tashchit* to daily life. Schwartz wrote, “[O]ne is not permitted to consume beyond what is necessary to live. To do so would be *bal tashchit* - wanton

destruction."¹⁰ All things that are grown and produced for consumption require resources and labor for their production, distribution, and disposal. Those who constantly acquire more than they need, whether it is food, clothing, or other material possessions, are not following Hirsch's mandate to use resources wisely and placing an unnecessary burden on the earth and furthering the gap between the rich and the poor. Schwartz asserts that,

the link between *bal tashchit* and living a simple life certainly suggests the link between demanding less and not cutting down trees. However, motivation for a simple life has often come from social considerations as well. Excessive consumption means that one is using one's wealth on oneself, often flaunting one's wealth, as the expense of helping out those who are less fortunate.¹¹

Schwartz is another example of a contemporary Jewish scholar who is using the historical framework and rubrics of *bal tashchit* to teach modern Jews about the social, religious, and environmental virtues of living only according to your needs.

This thesis is intended to move the discussions and actions forward, to help clergy, lay leaders and educators develop an even deeper understanding of the development of *bal tashchit* in the classical literature in order to provide further support, encouragement, and structure to propel their environmental initiatives forward. The concluding chapter will show how *bal tashchit* applies to the environmental issues the planet faces today, and how this concept helps us to focus on the Jewish religious and social mandate for individuals and communities to live more simply and consume less resources.

10. Schwartz, 94.

11. Ibid.

Chapter 6: Curb Your Consumerism: Cultivating a *Bal Tashchit* Ethic for Today

Environmental concerns have become one of the most important issues in the twenty-first century. From the debate over the reality and the causes of global climate change to the economic necessity of having fuel efficient vehicles, people are beginning to shift their thinking in the way they interact with the environment. While this shift began with the American environmental movement of the 1970s, cultural and attitudinal changes have only recently become mainstream. The plethora of "green" products now available is a sign that the global market is responding to the demand from consumers to lessen the impact that their lifestyle choices have had on the planet. Consumer consciousness has developed around two issues: a concern for how one's actions may negatively impact the environment and economic necessity.

There are, however, many other issues linked to the human impact on the environment. In the twentieth century, the world's population quadrupled.¹ Along with population growth came the need for more food, more fuel, and more manufactured goods. Western countries and industries were able to develop a lifestyle based on the cheap production, distribution, and disposal of nearly everything. For years this was done without regard to the impact this was having on the planet and on human beings. Advertisers and lobbyists have successfully convinced us of that we need the newest, the best, the most effective products available in order to feel complete as individuals. Jeremy Benstein, the

1. Jeremy Benstein, *The Way Into Judaism and the Environment*, (Woodstock: Jewish Lights Publishing, 2006), 118.

Fellowship Director for the Heschel Center for Environmental Learning and Leadership, wrote in 2006, "Lifestyles and levels of material consumption that were once the province of the very wealthy have become the brithright of the middle class: this is the success of the 'affluent society.'"² Consumption levels have increased dramatically in the last one hundred years. At the same time the world's population had a four-fold increase, "energy use grew eleven times, and overall economic activity in 2000 was an astounding seventeen times its level in 1900 as measured in GNP!"³ This increase in the consumption of energy and material goods has led to a more comfortable lifestyle for those who have been able to afford it, but has created many problems for us as a society and a civilization and undoubtedly had a negative impact on the environment.

As human beings we need to consume in order to survive. We need food, water, clothing, shelter, and access to transportation. However, the act of consuming for its own sake, beyond the basic necessities, has become the dominant paradigm in Western culture. Benstein writes,

The important change from mere consuming to consumerism (or consumer culture) is not just the quantitative increase in levels of consumption, but also the qualitative transformation from consumption as a means to existence to being an end in itself, a focus of greater and greater amounts of energy and resources, a purported solution to too many of life's problems.⁴

People are inundated by advertisements almost everywhere they go. For many, shopping

2. Ibid. 119.

3. Ibid.

4. Ibid.

has become a hobby, a form of therapy, or just something to do when they are bored. As Westerners we have grown accustomed to buying things, not just out of necessity, but because we have been convinced that new products make us feel good and look good. A prime example was advice that Rudy Giuliani, former mayor of New York City, gave to New Yorkers in the wake of dealing with the emotional trauma of terrorist attacks on September 11, 2001. The day after the attacks on the World Trade Center Giuliani urged citizens to, "Show your confidence. Show you're not afraid. Go to restaurants. Go shopping."⁵

James Gustave Speth, dean of the Yale School of Forestry and Environmental Studies, describes a consumer society as "one in which consumerism and materialism are central aspects of the dominant culture, where goods and services are acquired not only to satisfy common needs but also to secure identity and meaning."⁶ Speth maintains that it is this cultural paradigm, the emphasis on acquiring goods beyond what is needed for survival or even living comfortably, that is a leading factor of environmental decline.⁷ Additionally these patterns of consumption often elevate one's concern for the material conditions of one's life over their spiritual and social needs.⁸

5. Deroy Murdock, "Giuliani's Finest Hour," *National Review Online*, September 14, 2001 (<http://article.nationalreview.com/?q=YzAwOTUwMjQyNDMwYTZmODc4ZjkzMTdhOWQ5OWU3Njg=>)

6. James Gustave Speth, *The Bridge at the Edge of the World: Capitalism, the Environment, and Crossing from Crises to Sustainability*, (New Haven: Yale University Press, 2008), 147.

7. Ibid.

8. Ibid.

The true environmental and emotional costs to high levels of consumption are largely hidden from the consumer. The continual need to have more creates problems. Benstein writes, "One is ecological, or material: the continually increasing through-put of the consumer society is leading to resource depletion and increased waste and pollution. The other is psychological, or spiritual: perennial dissatisfaction is not a great recipe for satisfaction."⁹ Our society has used consumerism as a means to achieving inner peace and personal fulfillment. Advertisers have convinced us that people only judge us by our smell, our car, and our clothing. Consumer culture has taught us that shopping heals our wounds and builds our sense of self, even though most people know this is not true.

The latest studies in fact show that money does not buy happiness or satisfaction. A study published in *Science* in 2006 concludes,

The belief that high income is associated with good mood is widespread but mostly illusory. People with above-average income are relatively satisfied with their lives but are barely happier than others in moment-to-moment experience, tend to be more tense, and do not spend more time in particularly enjoyable activities.¹⁰

Energy use, food production and distribution, and the manufacturing, use, and disposal of material goods all require natural resources and human labor. The true impact of our human behaviors and consumer choices on the natural world are generally hidden. Production plants and disposal centers are intentionally built out of sight so that they are beyond the consciousness of consumers. Lower income areas, which consume far less

9. Benstein, 120.

10. Daniel Kahneman, Alan B. Krueger, David Schkade, Norbert Schwarz, Arthur A. Stone, "Would You Be Happier If You Were Richer? A Focusing Illusion," *Science*, June 30 2006, 1908-10.

resources, repeatedly bear the brunt of the pollution from these centers. Over the last one hundred years, and even in just the last thirty, the levels of worldwide consumption of goods have begun to deplete and pollute the earth's natural resources at an alarmingly dangerous rate. The planet will not be able to sustain the same levels of consumption as the worldwide population continues to rise and the Western approach to consumerism is adopted by the developing world. The United States has only five percent of the world's population, yet consumes thirty percent of the world's resources and produces thirty percent of the world's waste.¹¹ If the rest of the world consumed at the same rate we would need three to five planets to provide the necessary resources.¹² And yet, we only have one.

Jewish environmental ethics are built upon the belief that we are *shomrei adamah*, or stewards of the created world. This is derived from Genesis 2:15.¹³ Jewish thinkers have been grappling with what this means for many generations. A midrash from *Kohelet Rabbah* emphasizes one reason for the human mandate for protecting the earth:

When the Holy Blessed One, created the first human, God took Adam and led Adam around all the trees of the Garden of Eden. And God said to Adam: "See My works, how good and praiseworthy they are! And all I have created, I made for you. [But,] be mindful then that you do not spoil and destroy My world. For it you spoil it, there is no one after you to repair it. (*Kohelet Rabbah* at 7:13)

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11. "Facts from the Story of Stuff" with Annie Leonard - "The U.S. produced approximately 33% of the world's waste with 4.6% of the world's population" (Miller 1998) quoted in Francis Harris, *Global Environmental Issues* (Hoboken; John Wiley and Sons, Ltd, 2004), n. 5 <http://www.storyofstuff.com>
 12. From "Facts from the Story of Stuff" with Annie Leonard <http://www.storyofstuff.com/>.
 13. This concept is discussed in greater detail in the introduction of this thesis.

This midrash warns of the dangers of abusing the only planet that we have. It reveals the potential consequences that our uncontrolled consumption may have on the planet in the long run. Human actions have the ability to spoil and destroy the world. Implicit is the responsibility to use resources that are "made" for human beings wisely. For the last century, humanity has been pushing the earth very close to its limits. We depend on the earth's resources for our survival. Therefore, we must strive to strike new balances in the way we use them.

The *halakhic* literature on *bal tashchit* shows there are Jewish ethics regarding the way that we manage the world's finite resources. Like many Jewish mandates there is a spectrum of applicability of *bal tashchit* for preventing destruction and waste of natural resources. The issue of environmental protection often comes into conflict with human need, both for personal use and economic gain. Sometimes the authorities ruled in favor of benefiting nature and sometimes nature bowed to human beings. It was dependent on the conditions of each situation. The classical literature, medieval codifiers, and modern thinkers have all attempted to find the middle ground between absolutes. Human beings do need to consume resources. Food, clothing, and shelter have always been considered necessities for human survival. However, throughout the literature scholars have used the concept of *bal tashchit* to attempt to find a balance between allowing situations that use resources appropriately and preventing the unnecessary waste and wanton destruction of food, clothing, material possessions, and sources of energy. We are not to go undernourished, under-clothed, or under-sheltered. Yet, at the same time, excessive production of food and goods can lead to unnecessary environmental damage and a waste

of precious resources.

Seeking to find the balance between having the basics and not over consuming, environmentalists are beginning to ask, "How much is enough? What is a decent standard of living, for one and for all, and for once and for all?"¹⁴ Our sacred texts can help us answer these questions. In an age where the cheap production and distribution of goods has fed the consumer culture without regard to environmental and psychological degradation, it is time to reexamine the role that Jewish wisdom can play in helping us reclaim our role as guardians and stewards of the natural world.

Bal tashchit is often cited in contemporary literature as a prohibition of living beyond what one needs. Bernstein uses BT *Shabbat* 140a as the textual support for preventing "conspicuous consumption." This term was coined by Thorsten Veblen in 1899 to describe the consumption patterns by the *nouveau riche* who bought things in order to show off their new wealth. It is currently applied to the middle class, who purchase goods in order to demonstrate social and economic status rather than for their utilitarian function. Bernstein explains, "The Rabbis had extensive discussions regarding what is justifiable use and what is wasteful or extravagant. These were usually under the rubric of *bal tashchit*, the prohibition against needless destruction. For instance, one exchange

14. Alan Durning, *How Much is Enough? The Consumer Society and the Fate of the Earth* (New York: Worldwatch Institute/Norton, 1992), quoted in Jeremy Benstein, *The Way Into Judaism and the Environment* (Woodstock: Jewish Light Publishing, 2006), 120.

suggests that conspicuous consumption is a direct violation of this precept."¹⁵ Benstein understands Rav Hisda's comments in this *sugya* as a warning against spending more money for luxury items when you can live on less expensive food and drink, for these are wasteful and destructive acts. He cites contemporary examples that would transgress *bal tashchit* on grounds of conspicuous consumption including the types of cars people drive, the electronics they buy, and the clothes they wear.¹⁶ Benstein does recognize that the last line in this *sugya*, "For *bal tashchit* as applied to one's person is more important"¹⁷ justifies spending more money for food and material possessions if they are necessary to keep one healthy. This leads him to frame the following questions that test the limits of *bal tashchit*. "What is a sufficient level of material wealth? How do we define our well-being and what contributes to it? What is legitimate use and, and what is abuse, or waste?"¹⁸

These questions are at the heart of cultivating a *bal tashchit* ethic for today. This ethic is based on being a conscious consumer and making choices that seek to minimize the negative impact of one's lifestyle choices on the health of ourselves and our planet. There are three areas that prohibitions against *bal tashchit* have traditionally applied: energy use, food, and material goods. The goal of living a life centered around the principles of *bal tashchit* is to limit one's personal, and our communal, consumption of these resources and items to those that are necessary for physical health and mental well-

15. Benstein, 120

16. Ibid.

17. BT *Shabbat* 140b.

18. Benstein, 120.

being. This will vary from person to person. I propose that *bal tashchit* is the Jewish equivalent for secular concept of "reduce," the first part of the slogan, "reduce, reuse, recycle." The Teva Learning Center teaches children that "reduce" happens before you leave your house. It requires a change of habits. For example, one should grab a reusable bag if you know that you are going to go shopping or take one's own mug to a coffee shop. These simple actions reduce the amount of unnecessary paper or plastic that is thrown into garbage cans and sits in landfills.

Reduce can apply to shopping. A quick personal check that asks the question, "Do I need this, or do I just want it?" must determine whether or not we buy an item rather than its affordability or the way we think it will make us feel. Reduce can apply to the food we buy. A quick mental check that asks, "Where do the items I am buying come from? How far were they shipped? How were they treated?" can influence the type of produce we buy, rather than choosing by what looks the shiniest.

On a bigger scale we can reduce the amount of fossil fuels that need to be extracted, processed, transported, and burned by driving more fuel efficient vehicles and making structural changes to buildings and modifying behavior in order to improve their energy efficiency. This lowers the total carbon dioxide emissions that pollute our air and change our climate. These changes are necessary to get at the core of the most pressing environmental issues.

By striving to live more simply we can begin to allow our planet to heal and regenerate. It also frees space in our mind to think about the things that really matter, such as our personal and professional relationships, which ought to define us, rather than the possessions we have that for too many of us have become the measure of who we are. Our leisure time can be spent with people and nature rather than obsessing over the latest technology or the newest fashion.

By acting thus, living according to the values of *bal tashchit* gives us an opportunity to deepen our spiritual lives. We are God's partners in caring for the earth. Each action in fulfillment of this responsibility, each *bal tashchit* moment, is a sacred opportunity to build and strengthen that personal relationship with the Source of all creation. We create *bal tashchit* moments when we think through the long term effects of our actions rather than acting solely to fulfill our short term desires. We create *bal tashchit* moments when we understand that there are ways to live that are gentler on the earth and when we share that knowledge with others. *Bal tashchit* is a call to live more simply for the sake of the health of the planet and ourselves. Its wisdom is a gift from our ancient sages. Its application is our responsibility.

Conclusion

The prohibition of *bal tashchit* - "do not waste" developed significantly from the biblical era to the early rabbinic period, from the time of the Talmud to Medieval codification, and from the writing of codes into the modern era. The developments during each of these periods were connected to changes in society and in the ways the Jewish community governed itself and created ethical standards of living. This conclusion will summarize the key expansions of *bal tashchit* in connection to important societal indicators.

The laws of *bal tashchit* first appeared in Deuteronomy 20:19-20 amidst other laws governing Israelite warfare. These verses prevented the destruction of fruit trees during a time of war, a practice that was common military strategy throughout the ancient world. This method of warfare is even mentioned as an Israelite strategy in the book of 2 Kings. The Deuteronomic law does not apply to non-fruit-bearing trees, however. According to verse 20 they may be chopped down in order to build bulwarks to use against a besieged city.

Biblical commentators throughout the generations debated over the grammatical structure of Deuteronomy 20:19. Their comments are indicative of how they understood the relationship between fruit trees and human life. Rashi and Ibn Ezra's words were analyzed in this thesis, as their thoughts informed the works of those who lived after them. Many agree with Ibn Ezra's interpretation that the phrase **כִּי הָאָדָם עֵץ הַשֵּׁדָה**

should be read, "For man is a tree of the field," meaning that the life of man depends on the tree of the field. In this worldview, the fate of human beings is intimately tied to the land. If the fruit trees are protected in a time of war, so much the more so that natural resources should be spared unnecessary destruction in times of peace.

The Sifre was the first work to expand the prohibition against cutting down fruit trees to include not diverting their sources of water. This is consonant with the development of laws in Mishnah Baba Batra that prevented water, air, and land pollution and discussed when it was permissible and when forbidden to cut down a fruit tree when developing a town. The Jewish community did not have standing armies in the Tannaitic period and therefore it had no need to have laws related to trees in times of war. In order to make the laws of Deuteronomy 20:19 relevant to their way of life, they took the principles of wartime and applied them to resource preservation in their own communities.

The greatest categorical expansion of *bal tashchit* took place in Babylonian Talmud. This was necessary in order to keep *bal tashchit* a meaningful part of Jewish law since Jewish communities did not have armies, nor were they living in Palestine. Hence, previous laws related to *bal tashchit* were irrelevant. The Talmud took the prohibitions that applied to trees and land use and extended them to prohibit the unnecessary destruction of food and material possessions that come from trees and other natural resources. Among other prohibitions, these *aggadic* and *halakhic* passages make it a rabbinic transgression to waste oil produced from olives or other crops and food grown from the land. They also prohibit intentionally ripping clothing beyond repair, and using

furniture for firewood (under non-life-threatening situations). The development of *bal tashchit* in the Talmud is the most extensive enhancement of this principle in the Jewish literary canon. The rabbis took the principle to protect one natural resource during a specific situation and applied it to all resources at any time, as long there was no risk to human life or impediment to one's economic gain or that of one's neighbor. These limitations would be picked up by Rambam.

Rambam's *Mishneh Torah* is one of his greatest contributions to the Jewish world. In *Hilchot Melachim U'Milchoteihem* Rambam succinctly codified all the situations in which *bal tashchit* applied. Medieval scholars lived in a time when Torah learning was declining due to the persecutions of Jewish communities. Rambam's intention in writing the *Mishneh Torah* was to create a work that could be used and studied in place of the Talmud in order to meet the changing needs and educational levels of the Jewish community. Rambam was also a great philosopher. In codifying the laws of *bal tashchit* he found that the underlying concept against waste and destruction applied at all times to anything useful to human beings. Though Rambam did not cite his sources directly, he drew upon all previously known *halakhic* material in his writing.

Joseph Karo utilized Rambam's work and affirmed his rulings in the *Shulchan Aruch*. Rambam and Karo both applied *bal tashchit* to preventing burying a deceased's possessions with him or her if they were still usable to others. This is a reaction to the elaborate practices of their day and a response to the needs of the Jewish community to keep clothing and other items in circulation rather than tossing them into the ground.

Maimonides' rulings about *bal tashchit* are the most definitive and comprehensive in all sources of Jewish law.

Samson Raphael Hirsch was the next great thinker to contribute to the development of *bal tashchit*. He espoused a religious imperative for protecting all parts of the sacred, created world, harkening back to the biblical rhetoric that the world belongs to God. It was therefore a sin to disregard any of the *halachot* surrounding *bal tashchit* because it would be a direct offense to God. This resonated even more strongly than in the past because Hirsch lived during an historic time of transition in the way goods were manufactured and distributed. The technological developments of the Industrial Revolution began in England and quickly spread throughout the world in the late 18th and early 19th centuries. It became much easier for people to acquire things, lowering the economic value they placed on their possessions. In the rabbinic and medieval periods it was prohibited under the laws *bal tashchit* to destroy household items and waste clothing because they were very hard and expensive to replace. From the Industrial Revolution on, the mass production and distribution of goods made their acquisition and disposal a thoughtless process, with little regard for the environmental, spiritual, and psychological consequences.

Contemporary Jewish environmentalists have reclaimed the phrase *bal tashchit* to teach us about our responsibility for addressing the growing environmental crisis. This work has used Maimonides' approach to applying the underlying philosophical framework of *bal tashchit* to reduce individual and communal waste of paper products, electricity,

water, and other resources used in the course of an average day. The category has been expanded to provide a Jewish framework for changing other consumer behaviors that contribute to pollution, climate change, personal unhappiness, and worker oppression.

The laws of *bal tashchit* have been expanded throughout history to meet the changing needs of Jewish communities. With each development, the prohibitions against destroying resources and wasting household items have been made meaningful and relevant for the societal complexities of their time period. From protecting fruit trees in times of war, to saving water and land from pollution; from prohibiting the unnecessary destruction of clothing, utensils, and food to encouraging greater consumer consciousness and simple living, the prohibitions that fall under the rubric of *bal tashchit* have been influential in protecting the planet and bringing people closer to God.

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