Parashat Shoftim – Third Year

Devarim 19:14-21:9

Eitz Hayim 1099-1106; Plaut 1468-1481; Hertz 829-835

My dvar today will focus on verses 19 and 20, Chapter 20, in Devarim (Deuteronomy), which talks about not cutting down fruit trees when besieging a city, a topic that some of you may have heard me speak about before: It includes the iconic question, "Are the trees man that you should make war against them?" This sentence is one of the few explicitly ecological commandments in the Torah, yet it becomes the base for a whole body of Halakhic rulings. However, before I get to that point, I must set the scene, or, to be pretentious, establish the theological framework.

First, though Judaic source materials offer much that is relevant to today’s environmental problems, that relevance must generally be inferred, not cited directly – but this is typical of many modern issues of Jewish law and practice. There are exceptions, as with this d’var, but inference is far more common.

Second, rich though the sources may be, they are overwhelmingly anthropocentric as opposed to deep ecology. That is, they focus on the value of the environment to human beings rather than treating ecology as inherently valuable in the absence of any apparent usefulness. In this case, the commandment not to destroy the trees turns out to be anthropocentric, as I will explain in a moment.

Third, there isn't even a word for "nature" or “ecology’ in Rabbinic Hebrew, and the concept of nature *per se* was largely ignored by commentators. (Today we use the word *Teva:* tet-vet-ayin.) This apparent absence of concern for environmental issues is not surprising. Judaism is not given to dualities, as are many other religions. The concept of human vs. nature is alien to Judaism. Rather, creation is seen as a whole so there was no reason to define environment as a special category. Just as ecologists would have it, nature is pervasive.

But, fourth, *nature itself is not holy*. God is very much present in all that happens, but God is not nature, and nature is not God.

Enough preamble! To the main topic. The two verses in question read as follows:

19) When in your war against a city you have to besiege it a long time in order to capture it, you must not destroy its trees, wielding the ax against them. You may eat of them, but you must not cut them down. Are trees of the field human to withdraw before you into the besieged city? 20) Only trees which 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.

Those two verses conclude Chapter 20, which is otherwise entirely devoted to rules of war. The immediately preceding seven verses offer three very different possible futures for a city that you perceive as “enemy:”

1. If the city surrenders to you, all of its people become subservient to you as “forced labour.” (20:11)
2. If the city is distant from your land, and insists on war with you, once G/d permits you to overcome it, you shall kill all the men, while the women and the children and all of their goods become your property. This was exactly the pattern of warfare by the Greeks at the height of their power.[[1]](#footnote-1) (20:12-14)
3. If the city is located in the promised land, G/d has already said to exterminate the former residents, “lest they lead you to do the abhorrent things that they have done for their gods,” and thus you become guilty before God. (20:15-18)

The rest of my d’var will extol the meaning that Jewish tradition and scholarship has given to the phrase about protecting fruit trees. However, my enthusiasm is significantly tempered by recalling those phrases about the brutal gains from warfare.

The commentary accompanying verses 19 and 20 in Chapter 20 in both *Eitz Hayim* and in the Hertz chumash is surprisingly sparse. Though the *Halakhah Ma-aseh* in *Eitz Hayim* reads, “The concern for fruit trees in these verses provides one of the foundations for Jewish concerns for the environment,” it offers no specifics.

This brevity surprises me. To go from one verse about fruit trees to all natural and artificial goods is a very big step. Simply put, of all the Talmudic discussions about environmental values, *Bal Tashchit* is clearly most important: Do not destroy, or more accurately do not needlessly destroy, anything on earth. Where does this directive come from? It is directly deduced from Devarim 20:19. The reasoning goes that, if trees are protected even in wartime, surely they should be protected in peacetime. However, the seemingly deep ecological sentence about trees not being man who can avoid battle is followed by specification that seems to indicate that, in its most literal interpret-tation, only trees that offer food are protected–clearly an anthropocentric qualification.

However, the classical rabbis did not stop at a literal interpretation of 20:19-20. Instead, they took fruit trees as just an example, and derived the principle that we are forbidden to destroy not just fruit trees but ***anything*** that could conceivably be useful, and, given that everything on earth, natural or human-made, had to have a use, ***anything at all!*** Hence, *Bal Tashchit*. Still anthropocentric, but now verses 19 and 20 are so broadly conceived as to lean strongly against human arrogance toward nature and toward anything we may own. As R. Plaut writes in his chumash (1478), “These verses are clearly a limitation on the principle enunciated in Genesis 1:28 that humanity may utilize (“master”) the earth’s resources to the fullest.” On the next page, R. Plaut quotes Maimonides as follows: “All needless destruction is included in this prohibition; for instance, whoever burns a garment, or breaks a vessel needlessly, contravenes the command ‘You must not destroy.”[[2]](#footnote-2) And, if further support is needed, there is Psalm 24:1: “For the earth is the Lord’s with all that it contains.”

Based on the principle of *Bal Tashchit*, the Rabbis forbade overgrazing of hillsides, sport hunting, diverting the flow of a river in wartime, and even excessive consumption of food. However, these corollaries immediately get us into hot water. Who gets to define the trade-offs? Who gets to say what constitutes wise use of a natural resource? The answer, as commonly in Judaism, is human beings. The rabbis were ***not*** deep ecologists. They permit us to use resources, even if such use destroys the resource *in situ*. Thus, one can cut down a tree to make lumber to build a house. Or, as is explicit in Torah, to build barriers in a siege.

In brief, it is the purpose for which it will be used that determines whether destruction is acceptable or not, but that gets us immediately into even hotter water. If it is legitimate to destroy a tree to build a house, what about a building mansion? If it is legitimate to destroy a tree to make pulp for a textbook, what about publishing pornography? It remains for us today to find a way to make these decisions, and a way to enforce them. We are clearly at the point where the design of governments, their structure, and their election is at issue. *Bal Taschit* gives us the principle but not its application. As Psalm 115 says, “The *heavens are the Lord’s, but the earth has been given to humankind.”*

To conclude, it seems that there is some conflict between Psalm 24—“the earth is the Lord’s”--and Psalm 115—“the earth has been given to mankind.” As my university text books at MIT sometimes wrote, the resolution of that problem is left as an exercise for the student, or, in our case, for the congregation.

Shabbat shalom,

1. See Pat Barker’s book, *The Silence of the Girls.* [↑](#footnote-ref-1)
2. *Sefer ha-Mitzvot*, negative commandments (57). [↑](#footnote-ref-2)