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Bal Tashchit: The Jewish prohibition against needless destruction

Chapter 1 - Introduction to *bal tashchit*

The natural environment¹ is the life support system for man in this world, from which he receives the resources² necessary for his survival, in which he lives, and into which he expels his wastes. Aside from the role the natural environment plays in the survival of man, the services it provides are an important element in the health and well-being of any society. Therefore, proper management of the natural environment - in order to make the best use of the resources and services it provides to man - is a vital concern.

Concern over the state of the natural environment and its effects on the human population has greatly increased over recent years. This concern has penetrated into nearly every realm of human experience, including the realm of what is commonly referred to as religion, or spirituality. One expression of this has been a growing interest in the relationship between traditional religions and the environment, particularly amongst those who are seeking ways of incorporating care for the environment into their religious practices. According to the European Forum for the Study of Religion and the Environment³: *There is a growing interest in the relationships between environmentally sustainable ways of living and established religious traditions, emerging trans-cultural and trans-local religious practices, and environmental spiritualities.*

One of the germane questions that can be asked about the relationship between religion and the environment is: what if any contributions can the religious traditions make towards the protection (and perhaps, even the improvement) of the quality of the natural environment? Most if not all of the tenets of established religious traditions were established long before the quality of the environment became known as an important international issue⁴. The environmental disciplines

¹ The term 'natural environment' is deceptive in that it implies areas of wilderness untouched by man. In fact, as Kareiva writes : *Humans have so tamed nature that few locations in the world remain without human influence* (Kareiva et al. 2007, p.1866, which will be further discussed in the section 5.2.3.5) I use the term 'natural environment' to mean that part of man's environment which is not recognizably changed for the purposes of man. In other words, areas free of agriculture, industry or other human institutions. This, of course, is also misleading, because many practices, such as agroforestry, and many areas such as man-made wetlands don't clearly fit into either category. The unavoidable difficulties in defining what is 'natural' and what is not is already well-documented (for example, see Roald Hoffmann, Shira Leibowitz Schmidt, *Old Wine, New Flasks – Reflections on Science and Jewish Tradition*, (New York, 1997), pp.1-79). Further discussion on this interesting topic is beyond the scope of this thesis.

² Resources are defined as anything which provides benefit to man by satisfying his needs and wants. I will discuss the definition of resource in greater depth in chapter four (section 4.1). Natural resources are defined as physical resources that man takes from the 'natural' world, such as water or oil.

³ European Forum for the Study of Religion and the Environment, available at: <http://www.hf.ntnu.no/relnateur/index.php?lenke=about.php>.

⁴ This is not to say that environmental problems are by any means new. In his book *The Torah and the stoics on humankind and nature: a contribution to the debate on sustainability and quality* (p.22), Jan Boersema points out that: *At an early stage of development human societies were already confronted with the consequences of their actions, in the form of soil exhaustion, salinization, erosion and desertification... Of later date, but still centuries-old, is local pollution of the soil, water and air with toxic substances and substances in toxic quantities. The fact that we can nevertheless speak of a modern problem, despite its ultimately long history, is due in the first place to the enormous scale human environmental impact has assumed in our era and our likewise vastly expanded knowledge of the nature of that impact. But that is not all. Just as important, if not more so, is that this is now also increasingly regarded as a problem, with all the variation in problem formulation that implies.*

(such as environmental science, environmental management, ecology, and environmental economics) developed from other scientific disciplines at a time when the importance of religious tradition was already seriously waning in the developed world⁵. Therefore, there was little apparent interplay between the development of these disciplines and religious traditions, at least in the Western world.

Despite this lack of interplay, there is some suggestion that the Jewish tradition, in particular, can contribute towards the protection of environmental quality. Dutch scholar Jan Boersema finds a number of themes in the Hebrew Bible that he proposes might be advantageously adapted, in the Western world, in reformulating the relationship between man and his environment⁶. German scholar Aloys Hütterman writes⁷: “*The religious concepts of this small ancient society [the Jews] were the most important factor in the development of our civilization. We urgently need to adapt their ecological concepts in order to survive as human beings on our globe, which is now in the same situation as Eretz Yisrael [the land of Israel] was for the Jews, a tiny island in the universe where the limits of its resources are already visible*”.

This thesis will examine one religious tenet from the Jewish tradition, known as *bal tashchit* or 'do not destroy'. *Bal tashchit*, which is increasingly mentioned in the context of contributions religious traditions can make towards addressing environmental issues, is derived from the following two verses in the book of Deuteronomy⁸:

When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy its trees by forcing an axe against them: for thou mayst eat of them, and thou shalt not cut them down; for is the tree of the field a man, that it should be besieged by thee? Only the trees which thou knowst that they be not trees for food, thou shalt destroy and cut them down; and thou shalt build bulwarks against the city that makes war with thee, until it be subdued.

Bal tashchit is almost certainly the most important halachic⁹ precept relating to the protection of the natural environment¹⁰. According to Jewish scholar R. Norman Lamm¹¹: *The Biblical norm which most directly addresses itself to the ecological situation is that known as bal tashchit*. Author Manfred Gerstenfeld writes¹²: *Bal tashchit is the halachic principle most frequently mentioned in contemporary Jewish publications to elaborate Judaism's attitude towards the environment*.

⁵ Ibid, p.236.

⁶ Ibid, particularly the final chapter.

⁷ Aloys Hütterman, *The Ecological Message of the Torah*, (Atlanta, 1999), p.204.

⁸ Deuteronomy 20:19-20. These verses will be re-introduced in the original Hebrew, along with my own interpretive translation and analysis, in the following chapter.

⁹ *Halachic* means pertaining to *halacha* (Jewish law).

¹⁰ It is interesting to note however that many in the non-Jewish world seem to have largely missed the significance of *bal tashchit*. For example, the two studies earlier mentioned: *The Torah and the stoics on humankind and nature: a contribution to the debate on sustainability and quality* by Jan J.Boersema, and *The Ecological Message of the Torah* by Aloys Hütterman, both by non-Jewish academics who examined the Hebrew Bible from an environmental perspective, make no mention of *bal tashchit*. This despite the fact that both authors demonstrate significant knowledge of both the Hebrew Bible and the natural sciences, and each appreciates the Hebrew Bible as an underutilized source of environmental wisdom. The main reason for this omission, in my opinion, is the difference in how the Hebrew Bible is studied by traditional Jewish scholars, and other scholars, as will be discussed in the third chapter of this thesis.

¹¹ Norman Lamm, 'Thou Shalt Not Destroy', *Trees, Earth, and Torah: A Tu B'Shvat Anthology*, edited by Ari Elon, Naomi Mara Hyman and Arthur Waskow, (Philadelphia, 1999), p.106.

¹² Manfred Gerstenfeld, *Judaism, Environmentalism and the Environment: Mapping and Analysis*, (Jerusalem, 1998), p. 112.

Environmental educator, Eilon Schwartz writes¹³: *The Talmudic law bal tashchit ("do not destroy") is the most predominant Jewish precept cited in contemporary Jewish writings on the environment...No single Jewish concept is quoted more often in demonstrating Judaism's environmental credentials than the Rabbinic concept of bal tashchit. It appears in virtually all of the literature that discusses Jewish attitudes toward the environmental crisis.* Legal scholar David Nir writes¹⁴: *The foremost environmental precept in traditional Judaism is known as bal tashchit, which is the Aramaic translation of the Hebrew Biblical injunction "do not destroy"*¹⁵. *Indeed, so fundamental is this maxim that one commentator has observed it would be no more possible to begin a discussion of Jewish environmental law without mentioning bal tashchit than it would be possible to explore the history of American constitutional law without referring to Marbury v. Madison.*

But, what exactly is *bal tashchit*? Like many religious tenets, *bal tashchit* has been subjected to a wide range of interpretations and claims. For example, economist Michael Szenberg writes¹⁶, *This all-embracing principle "Do not wantonly destroy" encompasses both humankind's proper attitude toward inanimate objects and towards animals. Violation of this Biblical instruction contributes more to the environmental crisis than any other more eminently covered cause.* Claims like this, that *bal tashchit* is an "all-embracing principle" have rarely been substantiated through critical analysis of the source texts. On the other hand, Nir takes a far more minimalist position, writing¹⁷: *Regrettably, bal tashchit's ubiquity, if not overuse, has led to frequent misunderstandings of its origin, meaning, and purpose.* Nir later writes: *Bal tashchit may not function as the broad-based environmental ethic it is often mistakenly thought to be.*

In general, the more Torah-observant writers have restricted their examination to the practical *halacha* or Jewish law. Three such authors, R. Moshe Yitzchak Vorhand¹⁸, R. Yitzchak Eliyahu Shtasman¹⁹, both Ashkenazic Jews, and R. Simon Tov David²⁰, a Sephardic Jew, all published books on *bal tashchit* at the beginning of the new millennium. Each of these books was written in Hebrew for a limited, Torah-observant audience. To my knowledge they are the only books devoted solely to the subject of *bal tashchit* to be published either before or since. Remarkably, despite their exhaustive and lengthy analysis of the legal and ethical aspects of *bal tashchit*, none of these books make mention of the serious ecological problems facing the world, or even how the observance of *bal tashchit* could help address some of the more localized environmental problems facing the Torah-observant community.

¹³ Eilon Schwartz, 'Bal Tashchit: A Jewish Environmental Precept', *Environmental Ethics*, Vol. 18, (Winter 1997), p. 355.

¹⁴ David Nir, 'A Critical Examination of the Jewish Environmental Law of Bal Tashchit – "Do Not Destroy"', *The Georgetown International Environmental Law Review*, vol. 18, Number 2, (Winter 2006), p.336.

¹⁵ From early times, the Biblical prohibition of לא תשחית (lo tashchit) has been commonly referred to in the classic Jewish texts as בל תשחית (bal tashchit). In Rabbinic Hebrew, the prefix בל (bal) is often used in place of לא (lo). See for example, Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature*, (New York 1903), p.170. Nir is incorrect in calling *bal tashchit* the Aramaic translation of the Hebrew Biblical injunction "do not destroy". The term בל תשחית is Hebrew rather than Aramaic. The Aramaic translation for the Biblical לא תשחית is לא תחבל.

¹⁶ Michael Szenberg, *Managing G-d's Estate: Current Environmental Policies and the Biblical Tradition*, Center for Applied Research, The Lubin School of Business, Pace University (U.S.), Working Papers, No. 152, March 1996, p. 3.

¹⁷ Nir, (2006), p.335-353.

¹⁸ R. Moshe Yitzchak Vorhand, *Birchat Hashem* (Jerusalem, 2000).

¹⁹ R. Yitzchak Eliyahu Shtasman, *Aitz Hasadeh* (Jerusalem 2000).

²⁰ R. Siman Tov ben Dovid Dovid, *Al Pakhim Ketanim* (Tel Aviv, 2001).

A notable exception to the above was R. Samson Raphael Hirsch who lived in nineteenth century Germany and whose writings will be quoted extensively in the following chapters²¹. R. Hirsch, who was an eminent Torah scholar, and strictly observant of Torah law, wrote about *bal tashchit* with a passion and expansiveness that was, even for him, remarkable. For example, in the description of *bal tashchit* published in his seminal book *Horeb*, Hirsch writes²²: *And from this [the prohibition of bal tashchit] you should hear the warning of G-d: "Do not corrupt or destroy anything" and apply it to your whole life and to every being which is subordinated to you, from the earth which bears them all to the garment which you have already transformed into your cover. Do not corrupt or destroy anything is the first and most general call of The Creator, which comes to you, Man, when you realize yourself as master of the earth.*

Nir is very critical of R. Hirsch's position, as well as that of other, more contemporary and less Torah-observant writers who have expanded the scope of *bal tashchit* to encompass every and all environmental ills, but with little or no apparent basis in the Jewish legal sources²³. Nir cites, for example, Eric Freudenstein who²⁴: *describes bal tashchit as a "general prohibition against destroying the environment", and Bradley Artson who: stretches bal tashchit past all recognition, claiming that "[t]he mitzvah of [bal tashchit] is one that impels us to attend to live and the world as a single system, in which we are increasingly powerful – hence dangerous – participants. [Bal tashchit] is God's warning to be careful and to tread lightly."*

Translating between different systems of thought

The differences in portrayal of *bal tashchit* between the Torah-observant writers (with the exception of R. Hirsch) and the less traditional, more environmentally-oriented writers can be partially explained as a 'translation' problem. Each group is speaking about *bal tashchit*, but in different 'languages', so to speak, so that each could claim (as Nir, for example, does) that the other one is missing the point of what *bal tashchit* is meant to be. This relates to one of the challenges in defining and describing *bal tashchit* relative to current environmental problems, which is the difficulty of bridging the gaps between very different systems of thought. For example, Gerstenfeld writes²⁵: *Judaism refers predominantly to how Jews should behave. Classical Judaism not only represents a much older world of thought than that of modern environmentalism: it is also a radically different one. This raises the question of how one can transpose concepts from one world of ideas to another, very different, one.* Schwartz also gives recognition to the difficulty of bridging this gap, and the necessity of understanding that different cultures have different ways of looking at the world, writing²⁶: *It [bal tashchit] appears in virtually all of the literature that discusses Jewish attitudes toward the environmental crisis. Yet rarely are more than a few sentences given to actually explaining its history and its meaning. Such*

²¹ Possible explanations for R. Hirsch's unusual interest in the natural world are discussed in the summary of the third chapter (section 3.5).

²²R. Samson Raphael Hirsch, *Horeb, a Philosophy of Jewish Laws and Observances*, trans. I Grunfeld (New York, 1980), ch. 56, pp. 279-280.

²³ These authors are apparently basing themselves on the writings of R. Hirsch (though usually without any attribution). In fact, R. Hirsch was a renowned Torah scholar who had a strong textual basis for his relatively extreme position on *bal tashchit*. Unfortunately, R. Hirsch doesn't expound on the sources for his position, and I find it doubtful that those authors who base their claims on his writings are aware of these sources. One of the things I will attempt to accomplish in this thesis, particularly in the second and third chapters, is to locate and expound on some of the probable sources for R. Hirsch's position.

²⁴ Nir (2006), p.349.

²⁵ Gerstenfeld (1998), p.3.

²⁶ Schwartz (1997), p.355-356.

a superficial approach has been relatively widespread in contemporary environmental ethics and its relation to traditional cultures. Advocates of a particular culture bring prooftexts to show that the culture is part of the solution; critics use it to show that the culture is part of the problem. Both approaches do little service to investigating a different cultural perspective from our own, one which is based on different philosophical assumptions debated in a different cultural language {...} only by entering the classical world of Jewish texts is it possible to transcend apologetics and get a glimpse of a traditional cultural perspective on its own terms. While recognizing the need to 'enter the classical world of Jewish texts', Schwartz's article falls short, in my opinion, of actually penetrating to a sufficiently deep understanding of *bal tashchit* to do justice to the contributions *bal tashchit* may be able to make to the world at large. The second and third chapters (as well as Appendix 1) of this thesis will attempt to take the reader through a deeper and broader examination of some of the classic Jewish texts upon which *bal tashchit* is based, and the remaining chapters will attempt to bridge some of the gaps between the different worldviews²⁷.

Deriving a principle of *bal tashchit*

The legal prohibition of *bal tashchit*, as described in the books by R. Vorhand, Shtasman and Simon Tov mentioned above, is very clearly-defined and built solidly on the classic Jewish texts. Nevertheless, this legal prohibition remains far too limited in scope to be applied to most current environmental problems, which transcend all or most traditional 'borders' (geographic as well as cultural). The 'all-embracing principle' described by R. Hirsch, Szenberg, and others is too vaguely defined to be of much practical use. What is needed, and what is still lacking, in my opinion, is a clearly defined *principle* of *bal tashchit* that is broad enough to be applied to a wide range of environmental problems, while remaining faithful to the classic Jewish sources upon which it must be based. By a principle, I mean a fundamental idea upon which other ones can be based and from which other ones can be derived. The methodology for deriving a principle, in the Jewish tradition, is described by contemporary legal scholar, R. Yitzchok Breitowitz as follows²⁸: *Halachic reasoning, in common with all reasoning by analogy, involves a combination of inductive and deductive logic. First, relevant primary data - rulings in particular cases extracted from Talmud and [Jewish legal] Codes - have to be identified and collected. Second, through inductive reasoning, a hypothesis is formulated that explains the specific collection of rulings by reference to a more general principle. Third, through deductive reasoning, this principle can be utilized to apply to new situations that are not explicitly covered by the earlier rulings but can now be subsumed under the principle that is believed to explain those earlier rulings (emphasis added).*

Aims and Objectives

The aim of this thesis will be to answer the following three questions:

1. What exactly is *bal tashchit*?

²⁷ Nir, in my opinion, almost totally disregards the translational difficulties mentioned above, and attempts to fit the prohibition of *bal tashchit* into a modern western system of legal thought. Within this context, it is understandable that Nir concludes as I quoted him above that: *Regrettably, bal tashchit's ubiquity, if not overuse, has led to frequent misunderstandings of its origin, meaning, and purpose...* and later writes: *Bal tashchit may not function as the broad-based environmental ethic it is often mistakenly thought to be.*

²⁸ R. Yitzchok A. Breitowitz, *How A Rabbi Decides a Medical Halacha Issue*, Synopsis of Presentation given at the Conference on Jewish Medical Ethics, San Francisco, CA, February 18-20, 1996. Available at: <http://www.jlaw.com/Articles/decide.html>.

2. How, if at all, can *bal tashchit* be applied to current environmental problems?
3. What, if anything, can *bal tashchit* contribute to our current understanding and ability to manage our natural environment?

In order to answer these questions I will take the following approach:

In chapter two I will examine Deuteronomy 20:19-20 in the Hebrew Bible, from which *bal tashchit* is derived. This will include an analysis of the verses themselves, as well as the commentary that developed around them.

In the third chapter I will investigate the prohibition of *bal tashchit* in the classic Jewish texts, working chronologically from the earliest recorded sources until the modern era. My rationale in doing this is, first of all, to ensure a comprehensive survey of legal rulings from which to form a principle (as described above by R. Breitowitz) of *bal tashchit*. Additionally, this will provide a chronological perspective on *bal tashchit*, which may indicate how the principle is affected by the different circumstances experienced by Jewish communities over time.

In the fourth chapter I will attempt to develop a general *principle* of *bal tashchit* by integrating the findings of the second and third chapters with more modern concepts in environmental management.

In the fifth chapter I will further develop and clarify a general principle of *bal tashchit*, in terms of a hierarchical model that can be applied to current problems.

In the sixth chapter, I will apply the general principle of *bal tashchit* to an important current environmental problem – the management of fresh water resources in Israel.

Finally, in chapter seven I will evaluate and discuss what can be learned from this exercise and what a principle of *bal tashchit* can contribute to the modern world.

Three appendices are added to supplement these chapters. To help address the problem of translating between different systems of thought, the first appendix describes underlying assumptions in the Jewish tradition upon which *bal tashchit* should be understood. The second appendix provides brief backgrounds of the authors of the classic Jewish texts used in this thesis. The third appendix examines the principle of *bal tashchit* as an explanatory tool for approaching the remarkable debate between those who believe that man is rapidly destroying his environment/life-support system and those who disagree.

Methodological Approach

In the second and third chapters, and in the remainder of this thesis where Jewish texts are examined, my methodological approach is to examine these texts from the perspective of Jewish tradition, rather than from the perspective of an academic or a historian. My aim is to formulate a principle of *bal tashchit* that remains faithful to Jewish tradition. Therefore, anything in this thesis appearing novel or innovative should be solidly grounded in the classic Jewish texts.

For example, in traditional Judaism, the text of the *Tanach* or Hebrew Bible is never studied without the accompaniment of the commentaries and the *oral tradition* upon which these

commentaries are usually based.²⁹ Other approaches to learning the Hebrew Bible, without the Jewish oral tradition, will bring different conclusions. On the one hand, this allows more freedom for some creative and eco-friendly interpretations. On the other hand, it excludes the participation of those who are adherents to Jewish tradition, and can result in the omission of significant principles in the Jewish tradition such as *bal tashchit*³⁰.

²⁹ The Tanach as well as the oral tradition will be introduced in the third chapter (section 3.1)

³⁰ See footnote 10 above.

