

PARASHAT SHOFETIM

Deuteronomy 16:18–21:9

Parashat Shofetim opens with the command to appoint judges and legal officials to carry out justice within the society and with a warning against the worship of other gods. Two witnesses must be heard before a court can impose the death penalty. Cases of homicide, civil law, or assault too difficult to decide in one court must be transferred to a higher court. Regulations for choosing a king/leader are presented, including a warning that this leader should follow the laws of Torah faithfully. The offerings for priests are again set forth; also set forth is the difference between a true and false prophet. Cities of refuge for those guilty of manslaughter are described, with laws forbidding the movement of landmarks. The portion concludes with regulations to be observed during war and with assessments of communal responsibilities when the body of a murder victim is found beyond city limits.

OUR TARGUM

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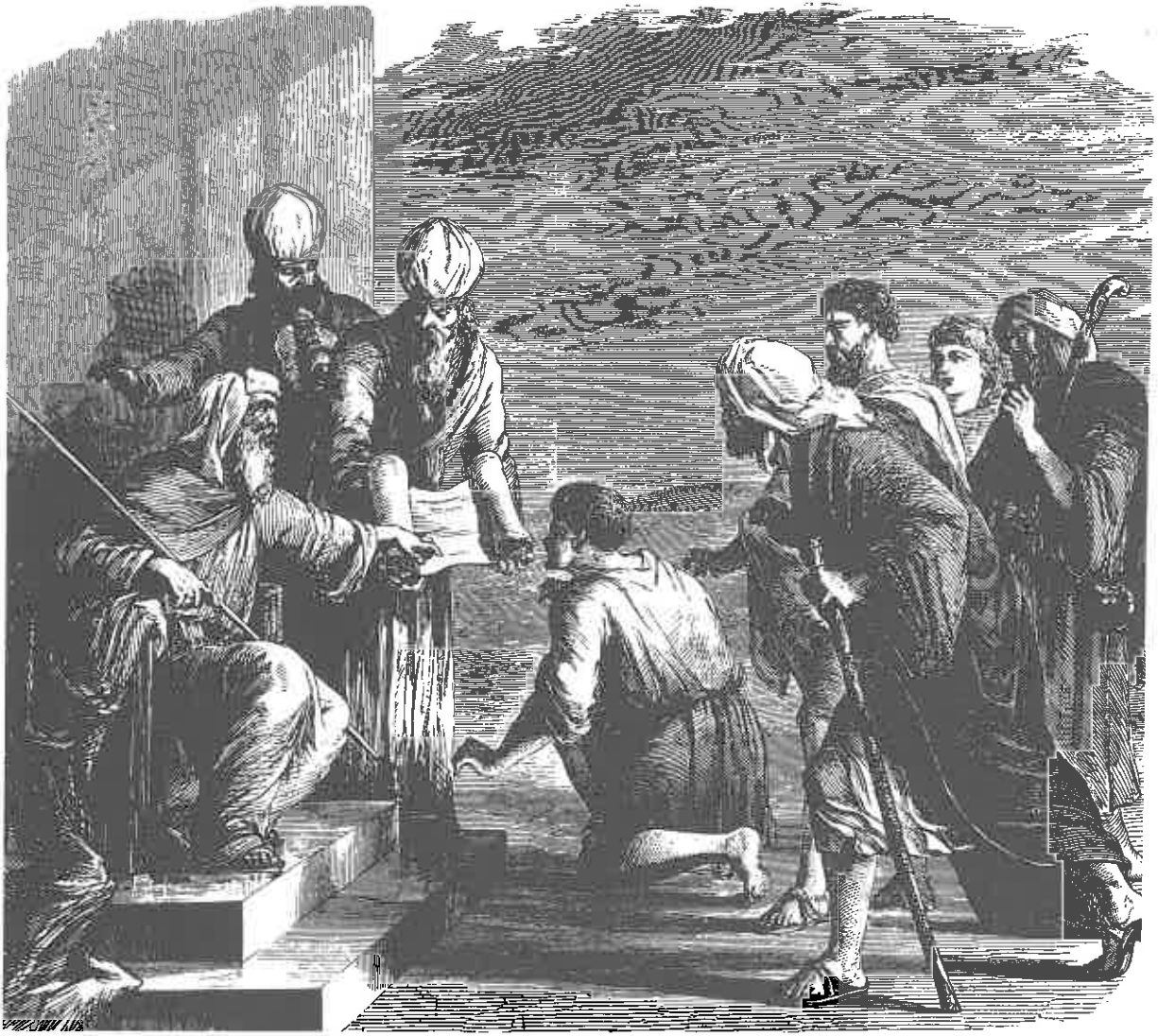
Moses tells the people to appoint judges in their settlements so that they may be governed with justice. These judges must show no partiality and are forbidden to take bribes. “Justice, justice shall you pursue, that you may thrive and occupy the land that *Adonai* your God is giving you.”

A person may receive the death penalty only on the testimony of two witnesses. The testi-

mony of one witness cannot be used to validate guilt. If witnesses give false testimony, they shall be punished. If a case dealing with homicide, civil law, or assault proves too complex for the court hearing it, it is to be sent to a higher court of priests or judges whose verdict must be carried out.

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The people are forbidden to set up places for idols, to offer defective sacrifices, or to engage in moon or sun worship.



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Upon entering the Land of Israel, the people may choose monarchy as a form of government. The king must not be a foreigner, may not keep many horses or send servants back to Egypt to purchase additional horses, may not have many wives nor amass silver and gold to excess. The laws of Torah, which he is to study throughout his life, will insure that he is humble and never arrogant toward his people.

• 4 •

Moses repeats that the levitical priests, the entire tribe of Levi, will not be allotted any land. They are to be given the shoulder, cheeks, and stomach of offerings; first fruits of new grain; wine; oil; and the first shearing of sheep. In this way they

will be compensated for their service in the Temple.

He again warns the people against such forbidden religious practices as offering children to fire or following soothsayers, diviners, sorcerers, casters of spells, or those who claim to consult with spirits, ghosts, or the dead. Such people should be banished from the community.

• 5 •

Moses predicts that other prophets like him will rise to lead the people and that they should be followed. However, he warns the people not to follow those who speak in the name of other gods or those who make untrue predictions in God's name. He declares them "false prophets."

Preparing them to enter the land, Moses re-

views the importance of establishing refuge cities for those accused of causing the accidental death of another person. He explains that if a person cutting wood swings an ax to cut down a tree and the ax-head flies off the handle killing a person, the unwitting killer should be allowed to flee to a refuge city for justice, spared from the revenge of the victim's relatives. In this way, explains Moses, innocent blood will not be shed.

He also forbids moving landmarks, a form of stealing property allotted by God to the people entering the Land of Israel.

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Anticipating the wars for reconquering the land, Moses orders the priests to encourage the people with the following formula: "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 *Adonai* your God who marches with you . . . to bring you victory."

He continues by instructing them to exempt from battle those who have built a new home but not dedicated it, planted a vineyard but not harvested it, become engaged but not married, or are anxious and afraid.

THEMES

Parashat Shofetim contains two important themes:

1. The guarantee and pursuit of justice within the society.
2. Concern for trees and the ecological balance of the world.

PEREK ALEF: "Justice, Justice Shall You Pursue"

The pursuit of justice is one of the most frequently repeated concerns, not only of the Torah, but of Jewish tradition. The Israelites are commanded to use "just weights and honest measures" in their business dealings and to hear and "decide justly in disputes between any persons, Israelites or strangers." They are forbidden to take bribes or to favor persons in judgment because they are rich or poor.

Society is to pursue justice in dealing with

The tactics of war also concern Moses. He tells the people that a town approached for attack must be offered terms of peace. If its citizens respond peaceably, they can be taken to serve as forced labor; if they do not surrender, the city should be besieged and everything in it taken as booty.

When you capture a city, says Moses, do not destroy its trees. You may eat their fruit, but you may not cut them down. Because trees are not human, they cannot withdraw before you. Only trees that do not yield fruit may be cut down and used for constructing siege mounds from which to attack the city.

·7·

Moses declares that when a dead body is found outside a city and the murderer is unknown, the elders and officials from nearby towns should measure the distance between each town and the corpse. When it is determined which city is nearest the corpse, its elders will sacrifice a heifer and declare: "Our hands did not shed this blood, nor did our eyes see it done," and they will be absolved of guilt.

social, political, and international matters. The prophet Amos declares in the name of God: "Let justice well up as waters, and righteousness as a mighty stream." Isaiah proclaims: "Seek justice, relieve the oppressed." The Psalmist poses the question, "Who is worthy to dwell in God's sanctuary?" and answers, "Those who live without blame, act justly, acknowledge the truth, do not slander others, harm others, hold grudges against their neighbors." The mother of Lemuel, king of Massa, advises her son: "Speak up for those who are silent, for the rights of the unfortunate. Speak out, judge justly, champion the

poor and the needy.” (See Leviticus 19:36; Deuteronomy 1:16; Amos 5:24; Isaiah 1:17; Psalms 15:2; and Proverbs 31:8–9.)

The emphasis of the biblical tradition upon the pursuit of justice influences later rabbinic teachers as well. Commenting on our Torah portion’s command to appoint judges and for those judges to “pursue justice,” Rabbi Simeon ben Gamaliel, who served as president of the Sanhedrin in the middle of the first century, C.E., warns his generation: “Do not ridicule or scorn the doing of justice for it is one of the foundations of the world. For the world is balanced on three things—on justice, on truth, and on peace.” (*Deuteronomy Rabbah* 5:1; also *Avot* 1:18)

Other rabbinic commentators claim that the guarantee of justice in the courts and in all dealings between human beings is more important than all the sacrifices offered at the Temple in Jerusalem. Justifying their view, they quote a verse from Proverbs, which declares: “To do righteousness and justice is more desired by God than sacrifices.” The rabbis maintain that sacrifices had value during the limited historical period of the Temple. By contrast, the doing of justice is always crucial to society’s welfare.

To seek justice

To seek justice is to relieve the oppressed. But how else are the oppressed to be relieved if not by judging the oppressor and crushing the ability to oppress! History is not a Sunday school where the question is to forgive or not to forgive. The toleration of injustice is the toleration of human suffering. Since the proud and the mighty who inflict the suffering do not, as a rule, yield to moral persuasion, responsibility for the sufferer demands that justice be done so that oppression be ended. (Eliezer Berkovits, Man and God: Studies in Biblical Theology, Wayne State University Press, Detroit, 1969)

Rabbi Nachman offers an example of the importance of justice within society by singling out the accomplishments of King David. “He judged others justly, acquitting the blameless and condemning the guilty, making the robber restore his stolen property.” As a result, the kingdom he

built was a strong and secure one. People trusted one another and lived in cooperation and peace. (See Proverbs 21:3; *Deuteronomy Rabbah* 5:3.)

This emphasis upon justice within Jewish society is particularly evident within the early biblical and rabbinical judicial systems. *Parashat Shofetim* begins with Moses commanding the people to “appoint judges and clerks for your tribes, in all your settlements.” Elders are to appoint judges for these courts and give them power to carry out hearings, trials, and judgments. If they, for any reason, cannot reach a decision, the case is to be turned over to a higher court of priests.

Rabbi Judah Ha-Nasi, author of the *Mishnah*, provides a description of the courts and cases before them. Each city had its local *bet din*, or “house of justice,” comprised of three or seven judges with two levitical attendants. In Jerusalem there was a Small Sanhedrin of twenty-three judges and a Great Sanhedrin, which was not only the final arbiter of the law but also responsible for determining the religious calendar and defining matters of religious tradition. The Great Sanhedrin was comprised of seventy-one members, a number chosen because of God’s command to Moses to choose seventy elders to help him with the leadership of the people. Adding Moses to the seventy, the rabbis held that the Great Sanhedrin should have a total of seventy-one members.

Rabbi Judah describes the work of each of these courts. The local *bet din* dealt with cases of property and personal injury. The Small Sanhedrin adjudicated criminal and capital cases. The Great Sanhedrin heard all exceptional matters and resolved those cases sent to it by the lower courts.

The system of justice also included regulations for appointing judges, examining witnesses, and hearing and deciding cases. Excluded from acting as judges were relatives, dice-players, those who loaned money on interest, pigeon-flyers, and those who sold produce grown during the sabbatical year. Relatives were also forbidden from serving as witnesses. Witnesses were to be examined one at a time without hearing the testimony of others so the court could compare their reports and reach a just decision.

In noncapital cases representatives were per-

mitted to present arguments for dismissal or conviction in any order; in capital cases, however, the court first heard arguments for acquittal and then for conviction. The eldest judges were required to declare their opinion first when discussing a noncapital case. In capital cases, the youngest were required to speak first so that their opinions would not be influenced by the older judges.

A simple majority determined the verdict in noncapital cases; in capital cases a majority of one was sufficient for acquittal, but a majority of two was necessary for conviction. A higher court could reverse the decision of a lower court on noncapital matters, but in capital cases a higher court could only reverse a case from conviction to acquittal. Finally, the verdict on a noncapital case could be rendered on the same day as the hearing. In capital cases, if the verdict was acquittal, it could also be given on the same day, but if the court decision was conviction, the announcement could be made only the next day. Trials were never permitted on Shabbat or on festivals. (*Mishnah Sanhedrin* 1–5)

Clearly the issue of fair treatment in all cases was central to the Jewish court system of justice. Biased testimony and influence of one judge on another were to be avoided to guarantee fair trials. Decisions seemed to tilt toward acquittal and dismissal rather than conviction.

Commenting on the Torah's command to appoint judges who will promote justice, the *Sifre* emphasizes the importance of appointing judges with expert knowledge of the *halachah*, or "law," and with records of unquestionable integrity, honesty, and righteous behavior.



Rashi

Rashi notes that dispensing justice means not accepting bribes and never showing favor or preferential treatment to witnesses or those seeking judgment before the court. (Comments on Deuteronomy 16:18–20)

Several commentators ask the question: "Why does Moses repeat the word *tzedek*, or "justice," in his statement: "Justice, justice shall you pur-

sue, that you may thrive and occupy the land that *Adonai* your God is giving you"? Pointing out that the commandment could stand without the repetition since the Torah does not often repeat words, interpreters offer a number of explanations.

Some modern scholars suggest that the repetition is simply the way in which the ancient text forms an exclamation point or emphasizes an idea. By repeating the word *tzedek*, Moses underscores the importance of pursuing justice as a means of community survival.

Others argue that the term is repeated to convey the idea that the pursuit of justice is not only the responsibility of government, of judges within society, but also a mitzvah—an imperative—for each individual. One may not say, "Let the courts worry about right and wrong or justice and injustice. I will remain silent."

This may have been what Rabbi Aha meant when he quoted Rabbi Tanhum, son of Rabbi Hiyya, who said, "Though a person may be a scholar of Torah and a teacher of great renown, careful in observing all the ritual commandments, if such a person is able to protest wrongdoing and neglects to do so, he is to be considered cursed." Hearing this observation, Rabbi Jeremiah quoted Rabbi Hiyya who taught: "If a person is neither a scholar, nor a teacher, nor known for observing all the ritual commandments but stands up to protest against evil, such a person is called a blessing."

For rabbinic interpreters of Torah and for the prophets, the pursuit of justice in society was paramount. Correcting the evils originated by human beings was considered the highest ethical priority. Moses' repetition of "justice, justice" was understood to mean: "Don't be satisfied with observing wrongdoing. Stand up and protest against it!" (*Leviticus Rabbah* 25:1)

Why I protest

Author Elie Wiesel tells the story of the one righteous man of Sodom, who walked the streets protesting against the injustice of his city. People made fun of him, derided him. Finally, a young person asked: "Why do you continue your protest against evil; can't you see no one is paying attention to you?" He answered, "I'll

tell you why I continue. In the beginning I thought I would change people. Today, I know I cannot. Yet, if I continue my protest, at least I will prevent others from changing me." (One Generation After, Random House, New York, 1970, p. 72)

Set the example

Levi Isaac taught that the meaning of the commandment "Set judges . . . in all your settlements" is that you must set justice in your gates, your high places, which you carry out and which you assure with your deeds. Each Jew is to be an example of the doing of justice for God. (See David R. Blumenthal, God at the Center, pp. 154-155.)

The mandate to go out of your way to guarantee justice is also seen in a rabbinic discussion comparing Abraham to Job. Job suffers great personal agony. He loses his riches; he endures the death of his children. Seeking an explanation, justice from God, he asks: "Did I not feed the hungry, give drink to the thirsty, clothe the naked? Why has all this evil come upon me?"

The rabbis claim that God answers: "True, you did all those just acts, but don't count yourself as having fully pursued justice. Compare your deeds with those of Abraham. Where you invited hungry guests into your home and greeted them when they came to the door, he ran out to greet them and invited them inside. Where you gave meat to those who normally ate meat, Abraham gave meat to those who were unaccustomed to eating meat. Where you provided wine and beds for those who were accustomed to drinking wine and sleeping on cots, Abraham built roadside inns to provide for thirsty and tired travelers."

From the rabbinic point of view, Job's pursuit of justice is halfway. He sits and waits. He gives only what is required. He does what is right but does not extend himself to do more. By contrast, Abraham goes beyond what is necessary. He generously greets tired travelers and gives them hospitality. He is not content to help the needy; he wants to prevent the root causes of the difficulties they face. By building roadside inns, he makes the extra effort. He practices the double

emphasis of *tzedek*, *tzedek tirdof*, or "justice, justice shall you pursue." (*Avot de-Rabbi Natan* 7)

Simeon ben Lakish, who lived and taught in Tiberias during the third century C.E., interprets the repetition of *tzedek*, *tzedek* as a special lesson in judgment. Lakish urges caution and careful probing. The repetition of *tzedek*, he teaches, is to remind us to make the extra effort to review and examine the evidence by listening carefully to what is said and by seeking out deception. There should be no rush to judgment. (*Sanhedrin* 32b)

Other commentators claim that the repetition of *tzedek* attached to the verb *tirdof*, or "pursue," means to emphasize that there are two forms of justice that must be fulfilled: the *tzedek* of "righteous" action and the *tzedek* of "just compromise." For example, what should be done when two ships meet at the same moment at the entrance to a narrow waterway? Each claims that it arrived first and, therefore, should enter first. Each has *tzedek* on its side. However, if both enter the channel at the same time, they will crash and sink.

The rabbis conclude that in such a case the best solution is to effect a compromise. The repetition of *tzedek* teaches us that when two fully justified claims clash with each other, the just solution is for the parties to find a compromise between them. (*Torah Temimah*. See commentary on Deuteronomy 16:20.)



Rambam (Maimonides)

Moses Maimonides suggests an additional interpretation of the repetition of *tzedek*. It is there, he says, to emphasize the need to reach judgments through a process of consultation. Individuals and judges should not make decisions based on their own impressions. They should discuss a case thoroughly, review it carefully, listen to varying opinions and perspectives, and reach judgments with open eyes and minds. Pursuing justice means going out of your way to make sure that you have gathered all the facts, have consulted with all the experts, and have

taken no short cuts. (Comment on Deuteronomy 16:20)

Obviously, the pursuit of justice is a critical and central concern of Jewish society. Within the Hebrew Bible and imbedded within rabbinic commentary, the accomplishment of justice is a requisite for truth and peace. Jews are commanded to pursue justice because no human community can survive without it. The cornerstone of Jewish ethics is to "be deliberate and careful in judgment" because "where justice is done, peace and truth prevail." (*Avot* 1:1; *Pesikta de-Rav Kahana* 140b)

PEREK BET: *Don't Destroy the Environment, God's Precious Gift!*

If the pursuit of justice discussed above is meant to preserve the delicate relations of human beings within society, Moses' instruction concerning the treatment of trees is meant to preserve the delicate relations of human beings to the environment of the earth. Moses tells the people: "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." Then, as if to create sympathy for the trees, he adds the question: "Are trees of the field, like human beings, capable of withdrawing before you into the besieged city?" (*Deuteronomy* 20:19)

While the commandment deals specifically with cutting down trees during a siege, Jewish interpreters extend it to cover all forms of wasteful destruction under the principle of *bal tashchit*, or "do not destroy." (See discussion of this principle as it relates to the treatment of animals in *Parashat Re'eh*.)

Accordingly, they forbid shifting the course of a stream that could cause the roots of trees to dry up. When asked for the justification for such a law, the rabbis explain that our Torah portion forbids destroying trees, not only by chopping them down with an ax, but "by all means of destruction," including the diversion of water from their roots. Rabbinic commentators also extend Moses' prohibition of cutting down trees during a siege to a prohibition of cutting them

down during times of peace. Wasteful destruction is condemned. "Anyone who deliberately breaks dishes, tears clothing, wrecks a building, clogs up a fountain, or wastes food violates the law of *bal tashchit*. (*Hullin* 7b; *Tosafot Baba Kamma* 115b; *Avodah Zarah* 30b; *Kiddushin* 32a)

Aversion to vandalism

Rabbi Joseph Karo in his *Shulchan Aruch* declares: "It is forbidden to destroy or to injure anything capable of being useful to human beings." (*Hilchot Shemirat Guf va-Nefesh* 14)

Rabbi Robert Gordis comments: "The principle of *bal tashchit* entered deep into Jewish consciousness so that the aversion to vandalism became an almost psychological reflex, and wanton destruction was viewed with loathing and horror by Jews for centuries." (*Congress Bi-Weekly*, April 2, 1971, p.10)

Teach your children what we have taught our children—the earth is our mother. Whatever befalls the earth befalls the children of the earth. If human beings foul the ground, they foul themselves. This we know. The earth does not belong to humanity; humanity belongs to the earth. This we know. All things are connected like the blood that unites one family. All things are connected. Whatever befalls the earth befalls the children of the earth. Humanity did not weave the web of life; it is merely a strand in it. Whatever humanity does to the web, it does to itself. (Chief Seattle, as quoted in The Earth Speaks, edited by Steve Van Matre and Bill Weiler, Institute for Earth Education, Warrensville, Illinois, 1983, p. 122)

While all commentators seem to agree with the emphasis against wasteful destruction, there are differences of opinion on the justification for such a prohibition. The differences reveal at least two foundations for the Jewish concern about the environment.

Moses ibn Ezra, for example, takes a very pragmatic view about chopping down trees. He argues that fruit trees yield food; human beings

require their produce for existence. Therefore, we are prohibited from cutting them down because, in doing so, we are injuring ourselves. "The life of human beings," he writes, "derives from trees." One does not destroy the environment because destruction of the environment results in self-destruction.



Hirsch

Rabbi Samson Raphael Hirsch agrees with this pragmatic—human-centered—approach. He emphasizes that "the tree of the field is the human being; the products of the soil are the condition for human existence." For Hirsch, as for ibn Ezra, destroying fruit trees or wasting precious resources endangers human life. It wastes that which we require for survival. God gave us the world to enjoy, with its fruits to nourish and sustain us. We are commanded "to rule the fish of the sea, the birds of the sky, the cattle, the whole earth," not to pollute its waters and air or waste its precious resources and beautiful forests. Such careless destruction endangers not only our planet but human life as well. (Comments on Deuteronomy 20:19)

A story about Honi Ha-Ma'agal, who lived during the first century C.E. in the Land of Israel, dramatically exemplifies the dependency of human beings on trees. Out walking one day, he sees an old man planting a carob tree. He asks him: "How long does it take for a carob tree to bear fruit?"

The old man replies, "Seventy years." Surprised, Honi asks: "Old man, do you expect to live another seventy years to eat from its fruits?" The old man laughs. "When I came into the world, I found carob trees planted by others. Now I am planting new ones for my children and their children." (*Ta'anit* 23a)

Contemporary environmentalists raise the same concern as the old man, seeing the need to plant fruit trees for the future. Restoring our planet's diminishing resources is a critical issue—one that affects our present and will certainly shape our future on earth. Destruction of tropical forests,

which contain between 50 percent and 80 percent of the earth's species and countless genetic materials for curing diseases and improving crops, endangers the future of life on earth. Lumbering without a policy of reforestation has reduced forests in the United States, Europe, Africa, and Asia, leaving huge expanses of land open to erosion. The burn-off of these lands introduces millions of tons of greenhouse gases and pollutants into the atmosphere.

The ethical concerns of Jewish commentators about preserving and replenishing the critical resources of the earth have clear implications for life on this planet. Caring about trees is a matter of life and death. Perhaps that was the motivation behind the teaching of Rabbi Yochanan ben Zakkai, a student of Hillel, who headed the Sanhedrin during the siege of Jerusalem by the Romans in 70 C.E. Rabbi Yochanan taught that if you are in the midst of planting a tree and are told that the Messiah, the messenger bringing a new era of peace to the world, has arrived, you must not stop planting. "First," says Rabbi Yochanan, "finish planting the tree, then go out and greet the Messiah."

In other words, the duty of insuring the future through replenishing the earth is more important than promises of peace, even if they are brought by the Messiah. Work done to preserve and protect the environment serves to promote human survival.

Blessings for trees

Rabbi Judah said: "When you go out during spring and see the trees budding, you should say, 'Be praised, O God, who has caused nothing to be lacking in the world and has created beautiful creations and beautiful trees from which human beings derive pleasure.'" (Berachot 43b)

When you see handsome or beautiful people or lovely trees, you should say: "Be praised, O God, who creates beautiful creatures in the world." (Mishnah Berachot 7:7)

Let us begin to think about the mystery of life and the links that connect us with the life that

fills the world, and we cannot but bring to bear upon our own lives and all other life that comes within our reach the principle of reverence for life. (Albert Schweitzer)

There is, however, another interpretation of Moses' command against cutting down trees. Beyond justifying the prohibition from a pragmatic—human-centered—point of view, there is also a spiritual foundation for not destroying trees and the environment. Jacob ben Isaac Ashkenazi of Yanof, author of *Tze'edah u-Re'edah*, presents such a point of view. He suggests that there is good reason for the Torah text not only to forbid cutting down trees but to ask the question: "Are trees of the field, like human beings, capable of withdrawing before you into the besieged city?" It does so, says Rabbi Jacob, to focus attention on the sacred "life" within trees.

Jacob ben Isaac asks, "Why does the Torah compare a tree to human beings? Because, just as human beings have the power to grow within them, so do trees. And just as human beings bear children, so do trees bear fruits. When a human being is hurt, the painful cries are heard throughout the world, and when a tree is chopped down, its cries are heard from one end of the earth to the other." (Comment on Deuteronomy 20:19)

Using the tree as an example, Rabbi Jacob means to create a sympathy and awareness that all living things—human beings, animals, trees, or vegetation—are formed by God, the sacred Source of life. For that reason all existence must be respected and nurtured.

It is remarkable that Jewish tradition's concern for the environment originates in an ancient time when fears about exploiting or endangering the planet were remote. Nonetheless, Torah interpreters sensed the danger of damaging God's creation by polluting and wasting precious natural resources and potentials. They saw the earth as a gift to humanity and human beings as partners with God in sustaining the delicate ecological balance of earth. With the Psalmist they

taught, "The heavens are the heavens of God; but the earth God has given to humanity." (Psalms 115:16)

QUESTIONS FOR STUDY AND DISCUSSION

1. Rabbi Ephraim Lunshitz, who died in Prague in 1619, asked, "Is it possible for a man to act justly, and yet unrighteousness can be involved in what he does?" Take the case of a businessman who secretly cheats by adjusting his scales so they will underweigh his product, at the same time providing an incentive to his customers by advertising that product at a better price than that of his competitors. How do the principles of justice discussed by the commentators apply to such a case?
2. Jewish tradition claims that without justice there can be no truth or peace in human society. Do you agree? What examples from history or contemporary life can you give to prove this ancient argument?
3. Rabbinic commentators claim that when God created the first human beings, all the trees in the Garden of Eden were placed before them. God said: "Behold all that I have created, how beautiful and excellent it all is! I have created it all for you. Think upon this. Do not corrupt or ruin My world for there will be no one to repair it after you." (*Ecclesiastes Rabbah* 7:28) What are the lessons we can learn from this ancient rabbinic warning?
4. Scientists have identified four major threats to the earth's environment: (1) destruction of forests and life species; (2) overpopulation; (3) global warming; and (4) waste disposal. Given the discussion about forbidding the destruction of trees, how do you think Jewish tradition deals with these "threats"?