

# BAL TASHCHIS: PRESERVATION OF FRUIT TREES

*by Rabbi Doniel Neustadt*

It is Biblically prohibited to cut down a fruit tree for no reason. The prohibition is based on a verse in *Parashas Shoftim*: *When you besiege a city... to wage war... do not destroy its trees by swinging an ax against them, for from it you will eat, and you shall not cut it down... only a tree that you know is not a food tree, it you may destroy and cut down..*<sup>1</sup>

All fruit trees<sup>2</sup> are included, even a tree that bears bitter or wormy fruit.<sup>3</sup> If, however, people will unknowingly eat the wormy fruit, then it is permitted to cut the tree down.<sup>4</sup>

Many poskim maintain that the prohibition applies only to chopping down the entire tree but not when just a few branches are cut.<sup>5</sup> Although some authorities are stringent,<sup>6</sup> it is permissible to cut branches to meet any need or to fulfill a mitzvah, e.g., if the branches are hovering over a succah.<sup>7</sup>

It is forbidden to cut a fruit-bearing tree that has yet to bear fruit.<sup>8</sup> An aged tree, however, which experts say is no longer able to produce fruit and is bothersome to maintain, may be cut down.<sup>9</sup>

A minority opinion holds that even a non- fruit-bearing tree should not be cut down indiscriminately.

<sup>10</sup> It is permitted, though, to cut down such a tree for any purpose or need, either commercial or personal.<sup>11</sup>

## **The element of danger**

As if to reinforce the Biblical prohibition quoted above against cutting down a fruit tree, we find in rabbinic literature some ominous warnings against doing so. The Talmud<sup>12</sup> quotes Rav Chanina as blaming his son's untimely passing on the fact that his son had cut down a fig tree while it was still flourishing. Additionally, we find in the Talmud<sup>13</sup> that the moon and stars are "punished" (eclipsed) because healthy, fruit-bearing trees are chopped down. R. Yehudah he-Chasid in his Will [45] also warns against destroying any fruit-producing trees.

These additional Rabbinical admonitions lead some poskim<sup>14</sup> to conclude that even when halachically permitted to cut down a tree—as we will explain later—still, one should be reluctant to do so, for there is an element of danger involved even when there is no halachic restriction. Many

other poskim,<sup>15</sup> however, maintain that the Rabbinical deterrents were merely meant to add a measure of severity to the Biblical prohibition, but when it is halachically permitted, there is no danger involved at all. The following list, therefore, is based on the opinion of the more lenient authorities.

The basic rule is that it is only forbidden to cut a tree down unnecessarily, in a destructive manner. It is permitted to chop a tree down if one will benefit from destroying it. Therefore it is permitted to cut down a fruit tree:

- If the tree is ruining or weakening other nearby trees or if the wood of the tree is more valuable than its fruit.<sup>16</sup>
- If one needs to build a home on the site<sup>17</sup> where the tree is growing.<sup>18</sup> Some poskim allow cutting the tree down only for a mitzvah need,<sup>19</sup> e.g., to build a shul or a mikveh. Some poskim recommend that one never cut down a tree in order to build a home on its site.<sup>20</sup>
- If a fruit-laden tree is darkening the window of a house [or brings bugs into the house, etc.], unless the problem can be alleviated by trimming the branches.<sup>21</sup>

As mentioned earlier, some poskim are hesitant about cutting down a fruit tree under any circumstances. While many rely on the more lenient poskim who permit doing so, if one could follow one of the following options he would go a long way towards satisfying even the more stringent opinions.<sup>22</sup> Thus whenever possible it is recommended to do one or more of the following:

- To ask a non-Jew to cut down the tree.<sup>23</sup>
- To sell the tree with the surrounding area to a non-Jew before cutting it.<sup>24</sup>
- To let the tree wither and die on its own before chopping it down.<sup>25</sup>
- To transplant the tree elsewhere.<sup>26</sup> It is advisable that any decision involving the axing of a tree be presented to a competent rabbi. When presenting the question, the following information should be submitted:

If the tree bears, or will bear, fruit; the location of the tree; its value and significance; the reason for cutting it down; if it is possible or worthwhile to transplant it; if it can be cut down by a non-Jew; if it can be sold to a non-Jew.

## **Bal Tashchis**

As an extension of the Biblical prohibition against cutting down fruit trees, the Rabbis added an injunction<sup>27</sup> against needlessly destroying anything of value, be it an article of clothing, a piece of food, a beverage,<sup>28</sup> or a utensil. Anyone who ruins anything<sup>29</sup> that could be used by others

transgresses this injunction.<sup>30</sup> But when the item is destroyed for a purpose there is no issue of bal tashchis. It is permitted, therefore, to destroy anything of value for any need, medical reason, or monetary benefit.<sup>31</sup>

- It is permitted to break a glass under the chupah to remind us of the destruction of Jerusalem.
- It is permitted to rip apart kosher tzitzis strings in order to replace them with newer or better ones.<sup>33</sup>
- It is permitted to replace a kosher yeriah in a Sefer Torah with a newer or a better one.<sup>34</sup>

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Sources: 1. Devarim 20:19. The prohibition applies also to trees owned by non-Jews, as well as to trees which are ownerless; Shulchan Aruch ha-Rav (Shemiras Guf v'Nefesh 14).

2."Fruit trees" are only those trees whose fruit one would recite a borei pri ha-eitz over; Shevet ha-Levi 5:95.

3. Darchei Teshuvah, Y.D. 116:51.

4. Be'er Moshe 5:136.

5. See Mishneh la-Melech (Isurei Mizbe'ach 7:3); Aruch ha-Shulchan, Y.D. 116:13; Har Tzvi, O.C. 2:101; Rav Y.S. Elyashiv and Rav S. Vosner (quoted in Eitz ha-Sadeh 1, note 15)

6. See Doveiv Meisharim 2:42.

7. See Darchei Teshuvah 116:51. It is definitely permitted to prune a tree in order to enhance its growth; *ibid.*

8. Darchei Teshuvah 116:51.

9. Rambam Hilchos Melachim 6:9; Shulchan Aruch ha-Rav (Shemiras Guf v'Nefesh 15). See also Seforno, Devarim 20:20.

10. Piskei Tosafos (Pesachim 132).

11. Darchei Teshuvah 116:51.

12. Bava Kamma 91b; Bava Basra 26a.

13. Succah 29a. See also Pesachim 50b.

14. See Ya'avetz 1:76; Chasam Sofer, Y.D. 102; Maharsham 1:22; 7:178; Minchas Elazar 3:13; Levushei Mordechai 57; Divrei Yoel 1:92.

15. Shulchan Aruch ha-Rav (Shemiras Guf v'Nefesh 16); Binyan Tziyon 1:61; Bayis Shelomo, Y.D. 191; Shevet ha-Levi 5:95.

16. Rambam, Hilchos Melachim 6:8, based on Bava Kamma 92a; Shulchan Aruch ha-Rav (15); Doveiv Meisharim 1:134.

17. This leniency should not be relied upon in order to make room for taking walks or allowing air to circulate more freely, etc.; Chavos Yair 195; Beis Yitzchak, Y.D. 1:142; Aruch ha-Shulchan, Y.D. 116:13.

18. Taz, Y.D. 116:6 based on the Rosh, and agreed to by most poskim; see Shulchan Aruch ha-Rav (Shemiras Guf v'Nefesh 15); Chochmas Adam 68:7; Binyan Tziyon 1:61; Sdei Chemed (Beis 102).

19. Divrei Chayim 2:57 and other poskim quoted in Darchei Teshuvah 116:51.

20. See Chasam Sofer, Y.D. 102.
21. Kaf ha-Chayim 116:85.
22. See Sdei Chemed (Beis 102).
23. Ya'avetz 1:76, Minchas Shelomo 2:97-3 and Yeshurun, vol. 15, pg. 155.
24. Darchei Teshuvah 116:51.
25. Shevet ha-Levi 6:112-4, who reports that this is the custom.
26. Chasam Sofer, Y.D. 102; Meishiv Davar 2:56. There are several points involved in this procedure. See also Ya'avetz 1:76, who allows cutting down a fruit tree for any reason if the tree will be replanted elsewhere, but many poskim do not agree with this leniency; see Shevet ha-Levi 2:47 and 5:95.
27. Rambam, Hilchos Melachim 6:10 as understood by most authorities. Some Rishonim, however, hold that bal tashchis on any item is Biblically forbidden; see Tosafos, Avodah Zarah 11a and Bava Metzia 32b. See also Sefer ha-Chinuch 529 and Rambam, Sefer ha-Mitzvos 57.
28. Except water; O.C. 170:22. See Da'as Torah, Y.D. 116:5.
29. Even if it worth only pennies; R. Yonah in Sha'arei Teshuvah 3:82.
30. Shulchan Aruch ha-Rav (Shemiras Guf v'Nefesh 14).
31. Shevus Yaakov 3:71. See Mishnah Berurah 501:28.
32. Mishnah Berurah 560:9.
33. Mishnah Berurah 15:3.
34. Chochmas Adam 86:16.

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