

# HALOCHOSCOPE TOPE

May one cut down a crab-apple tree if its branches are becoming entangled in electric power lines?

The issues:

- (A) *Bal Tashchis*, the restriction against cutting down fruit bearing trees
- (B) The *Sakana*, additional danger to those who cut them down
- (C) Cutting them down for constructive purposes
- (D) What is considered fruit bearing?

(A) *Bal Tashchis*

Wanton destruction of anything useful is forbidden. The Torah specifically forbids destroying fruit bearing trees. The Talmud invokes this prohibition with regard to destroying other things, including food, animals and clothing. The Poskim debate whether they are included in the Scriptural prohibition or are a Rabbinical extension of it. Some say that though they might not be included in the specific Mitzvah not to destroy trees, they are included in the general Mitzvah not to destroy. Thus, such destruction might not be Scripturally punishable but is punished Rabbinically in a similar fashion. Here, the comparative leniency might hardly make a difference. The principle is not to destroy. Normally, additional mitigating factors are required to allow dispensation, including whether or not the restriction is Scriptural. In our cases the entire restriction would be negated if the need is truly there to destroy, as we shall see in section C.

For example, hunting as a sport is considered *Bal Tashchis* by the Poskim. [Aside from the unnecessary exposure to danger involved, a violation of the requirement to safeguard one's well-being.] Hunting for a livelihood is permitted. It is not wanton destruction. Though the meat of hunted game is not kosher, the hides are a permissible and purposeful use of the animal. It is then the same as picking the fruit off a fruit tree, which is obviously not destructive, but the height of productivity. The animal was obviously meant to provide us with its hides, since the purpose of the creations in this world are to serve mankind.

[The Poskim actually allude to the possibility of skinning animals for their hides after they die naturally. The custom is to wish a person well when he buys

a new garment with the blessing *Tisbaleh Vesischadesh*, may you wear this out and buy a new one. One also recites the blessing *Shehecheyanu* on acquiring a new garment. However, if an animal had to be killed for it, many have the custom not to do these, due to the loss of animals' life. Apparently, though the hide could have been taken from animals that die naturally, and it is anyhow taken for constructive uses, it would be better not to resort to this. This is based on the Passuk, *Verachamav Al Kol Maasav*, Hashem's mercy is for all of His works. Others maintain that this is a weak reason. Nonetheless, they conclude that many people care deeply about this. Thus one wishes not to have to do it again so soon.]

All methods of destruction of a tree are included in the restriction. This includes restricting a tree's water supply and cutting off a fruit bearing branch.

According to some Poskim, the Torah words this prohibition as two Mitzvos, in a way to forbid it as both a negative Mitzvah and as the implied negative of a positive commandment. The reason for this Mitzvah is given in the Torah itself. "For from it you shall eat, do not cut it down for man is a tree of the field ..." [Incidentally, some interpret this last phrase to mean that there something special about trees. This is why, in their opinion, the destruction of trees is stricter than other destruction.] This means that since man draws sustenance from trees, he should not waste them. The tree exists to serve the needs of mankind. Accordingly, its wanton destruction contradicts the will of its Creator. By extension, this would apply to anything useful to mankind. Even things that do not *appear* to have any use might be forbidden by this reasoning. Indirectly, everything in this world has a purpose in the ecosystem, including parasites. The Poskim entertain the slight possibility that if there is no immediate purpose to mankind, for example, in the case of predatory animals, this would justify sport-hunting. Possibly, this is based on the idea that this itself is the "purpose" of these animals. However, they reject this argument. Clearly, the Torah permits cutting down non-fruit bearing trees. However, this is in a specific situation, when a Jewish army is laying siege to a Canaanite city. Even for such a seemingly good cause, only barren trees may be cut down.

There is an additional element of character refinement. The Talmud likens one who destroys something in anger to an idolator. Losing control due to frustration is symptomatic of a lack of discipline that could eventually lead to idol-worship. [See Parshas Shoftim 20:19, Sifri, Torah Temimah. Makos 22a, Baba Kama 91b, Baba Basra 26a, Chulin 7b, Shabbos 105b 129a, Kidushin 32a, etc., Poskim. Rambam, Melachim 6:8-10 etc. Taz Y.D. 116:6, commentaries. Noda Biyehuda II:Y.D.10. Shoel Umashiv I:28. Sdei Chemed Klalim, Bais, 17, 102.]

### (B) *Sakana*

Some things are Halachically permissible but are deemed dangerous and are forbidden due to this danger. In such instances, whereas Halachically one might follow a lenient ruling due to doubt, one must tend to stringency to avoid danger. Sometimes, the danger is obvious, at other times, a matter of Talmudic dogma. The Talmud predicts dire consequences, backed up by statistics, for one who cuts down a fruit bearing tree. This is not superstition. It has deep meaning, according to some due to the connection between man and a tree of the field. A minority view maintains that even in some of the permissible cases cited in the next section this danger applies. The majority, however, maintain that it only applies when the restriction also applies. [See Baba Kama 91b, Baba Basra 26a, Poskim. Rema Orach Chaim 223:6, commentaries. Yoreh Deah 116, Taz 6, Darkei Teshuva 51.]

### (C) *Constructive purposes*

The Torah forbids specifically *destroying* trees, rather than simply removing them. The simple application of this exclusion is thinning a row of trees to allow for healthier growth of the remaining trees. The Talmud discusses a date vine in a vineyard. The dates end up tasting better, but the productivity of the grapevines is weakened. The primary purpose of the vineyard is the grapes. Therefore, the palm may be removed. Pruning a tree is permitted, to improve its production.

Furthermore, the reason for this Mitzvah is the fact that it sustains mankind. Therefore, the Talmud permits cutting it down if its wood is worth more than its fruit. This raises the question of other positive purposes to allow for the destruction of a tree. Thus, some Poskim permit destroying trees to clear the land for building, since this is not *Hashchasa*, wanton destruction. Some even imply that if leaving a tree will reduce the value of the property it may be cut down. However, others maintain that this is only true if the cleared land will be useful for more profitable trees. Other instances include burning furniture to keep warm. "Wasting" the body is worse than wasting inanimate objects. Eating expensive food is justified for this reason. The Talmud permits burning the clothing of one who sleeps on his job when guarding the Bais Hamikdash, as a penalty.

For a Mitzvah, one may destroy a fruit tree. The Talmud suggests pomegranate wood as the ideal spit to roast the Paschal lamb. Fig is considered ideal firewood for the altar. If branches cover a *Sukah*, the Poskim permit cutting them away.

The Poskim discuss removing a tree for open space, rather than to build. Some suggest that only if transplanting it is not possible may it be cut down. One view

permits cutting away branches to let more light in through a window. If it is causing property damage with roots or branches, or it attracts and harbors bees, causing major hardship, one may cut it back. If need be the whole tree may be removed. If it poses a hazard, such as protruding into a public thoroughfare, the Talmud requires its removal. This is based on the Mitzvah to prevent bloodshed in, and remove hazards from, one's home. For this reason alone, in our case, one would be permitted to cut back branches that pose a fire hazard, or will eventually pose one. [See Baba Kama 91b-92a, (Yam Shel Shlomo), Chulin 7b, Shabbos 139a, 140b, Psachim 74a, Midos 1:2, Poskim. Darkei Teshuva 116:51. Sdei Chemed, Pe'as Hasadeh, Bais, 47.]

#### ***(D) What is considered fruit bearing?***

When a tree ceases to produce fruit it may be destroyed. Even if it still yields fruit, but less than the minimum considered productive, it is no longer considered *Eitz Maachal*, fruit bearing. However, in many cases the reason the tree is not considered productive is personal, by the standards of the owner. For example, the Poskim forbid cutting down a bug infested tree. Its fruit, forbidden to Jews due to its need to be checked extensively, may be used for gentiles, or even for Jews as a beverage or jam. Fruit that has too little value to be harvested, or is too small to be eaten normally (and might even take on the Brocha Shehakol because of this) is still picked occasionally by passersby. Therefore, the Poskim only permit cutting down a useless tree if it truly produces too little.

Crab apples are considered edible fruit by the Talmud. Often, a back-yard tree is not cultivated and does not produce well. It is likely that single branches do not produce the minimum required to make them viable. Some Poskim maintain that if the entire tree is not cut down, Bal Tashchis is not violated. Others disagree, but permit cutting off a branch that does not produce the minimum. In addition, in our case, if the utility company determines that the branches pose a potential hazard, they must be removed. If the utility has the right to trim themselves, the Jew is under no obligation to stop them, nor would he, according to most opinions, suffer any Sakana as a consequence. If the Jew must make this decision himself, it would be preferable, after taking into account the factors mentioned, to delegate the actual task to a gentile. [See Kilayim 1:4 Maasros 1:3, commentaries. Darkei Teshuva 116:51. Sdei Chemed Pe'as, Bais, 47.]