

Habitation, Not Chaos: Perspectives on the Development of an Halakhic Approach to Climate CHange.

Rabbi Daniel Wolf

I would like to argue on one issue that Rabbi Resnikoff raised. That is the issue of *grama be-nezikin* (indirect damage). There are long treatises on the limits of the obligation to pay in different cases and much ink has been spilled and many quills broken over this issue. However, it is obvious to me that there is always a prohibition. Although burning another person's *shtar chov* (contract of debt) might or might not create an obligation to pay there is undoubtedly a prohibition. The question of *grama* or *garmi* (indirect damage) is only post facto when there is a tort and possible obligation. It is obviously prohibited to facilitate a fire on your neighbor's property. To eliminate any doubt, the *Gemara* in Tractate Baba Kama 55b states that even in cases of *grama* (indirect damage) where there is no post facto obligation to pay, there is an obligation in the eyes of God. It is clear that damaging another is always prohibited. I would tend to believe that the prohibition is even in cases not defined as *grama* (indirect damage) . It seems obvious that one is prohibited to hire an arsonist to burn my neighbors house even though this is not defined as a tort since *ein shaliach ledvar aveyra* (every individual carries their own responsibility) but that does not make it allowed.

Since global warming obviously is a danger to many people beyond the economic destruction there is also the aspect of endangerment, *ve-nishmartem le-nafshoteichem* (the mitzvah to protect life).

I would look to other sources of prohibition as well. We find far reaching interpretations of the passage "*lo tohu bera'a lashevet yetzara*" (Isaiah 45:18), "The world was not created for chaos but rather to be settled." The gist of this passage is that the purpose of the world is habitability. Based on this, the Mishna says that the whole world was created specifically for the mitzvah to have children (*pru u-revu*). It cannot be permitted to return the habitable world to uninhabitability and chaos. I would also look to other broad statements like the ten conditions Joshua made on entering the Land of Israel. We have other injunctions to protect the environment like the prohibition of herding *behema daka*, animals which do environmental damage.

I would also try to develop the obligation of humanity to protect the environment. The Midrash in *Bereshit Raba* (the midrash on Genesis), echoed in Tractate Sanhedrin 108a, says that *ki heshchit kol basar et darko al ha-aretz* – All flesh has been destructive in their ways on the world and the Sages tell us this means that they were intermingling species both of animals and plants so that one might plant wheat and another plant would grow instead. The Sages relate this to the sins of the generation of the flood. It seems that this is a sin against nature – and *midah keneged midah* (measure for equal measure) God punished the world for humanity's and nature's foreign ways. Obviously we are commanded to protect the natural environment and raising the temperature of the world changes the way all living things exist on the globe. This is an affront to nature and the world God has made for us. I believe these "halakhic" prohibitions mirror our moral outrage better than formalistic notions borrowed from interpersonal relationships

I think the primary obligation of dealing with this problem is on society and governments. The acts of an individual are just not enough to make a difference. Also many issues such as mass transit, development of zero emission cars, and alternate energy production are only feasible for governments. I find it difficult to define specific activities that should be barred and which should be allowed for an individual or for society. I don't want to get into the nitty gritty of specific recommendations.

Modern life has engendered a paradox. Never before has humanity succeeded in allowing so many people to exist on the globe. Simultaneously, never before has humanity succeeded to this extent in changing the atmosphere and the environment. Of course, cutting off all economic activity is not feasible and would not produce the economic or scientific advances necessary to support humanity. So cutting off economic activity would not make the world a better place nor would people accept such limitations. But continuing on our path is unconscionable halakhically and morally.

So while the principle that we need to protect the earth is solid, the application of that principle is confounding. I see the increasing standard of living both in the US and Israel and I am stumped to define a baseline. How big should cars be? How big should houses be? What is necessary? When I moved to Israel to Alon Shvut, almost no one had air conditioning and everybody managed. Houses are heated much more in the US than in Israel. Is it necessary to be able to walk around in a t-shirt indoors in the winter?

Of course, these issues differ from country to country and the US uses much more energy per person than most countries, about double what Israel uses. The number for the U.S. is 18 metric tons vs 10 for Israel, 11 for China and 2.5 for India. What should be the baseline for the US? What is fair?

Nizkei shekhenim, damage to neighbors, is relevant when one neighbor starts a business or other activity that impacts someone else. Producing smoke, for example, or animal smells, etc. There is a great argument about who must take precautions to limit the impact. Many of the activities in question for global warming - i.e. transportation - take place in the public sphere: roads, bridges etc. Even many industries use water, sewage, etc. and they all use the electrical grid which is usually in public hands or is regulated. So industry on wholly private property no longer exists. Most of the problems of global warming are connected to energy use so the notion of acting on my property is irrelevant.

Furthermore in modern society, there has been a recognition that regulation of industry should be given to public authorities. For example, one cannot open up industrial areas in private buildings or even businesses that might produce inordinate traffic, etc. We can see such an approach appreciated by the Sages in the ten conditions mentioned earlier. Society must take into account the public good in zoning and regulation of the use of private property. So if we assume that society must limit global warming, it is obvious that it should adopt rules and regulations that maximize the general welfare. We also assume that the government has a role

in defining safety standards of different items- cars, appliances, etc. Although some libertarians in the US have sporadically objected to such standards most economists see the value in such standards. Thus zoning requirements have obviated the rules of *nizkei shichenim* (damages to neighbors). Formally economists have deemed these costs “externalities” and many strict “laissez faire” economists justify restricting such external costs.

In summary, while I disagree with Rabbi Resnikoff’s approach, particularly regarding *grama be-nezikin* (indirect damage), his sentiment is correct. I believe there are sufficient sources to support a halakhic assertion that Jews must work to solve or mitigate the climate crisis. These efforts should be individual actions to limit one’s “carbon footprint” as well as influencing the public sphere to encourage governments to legislate , as well as corporations and other institutions to take action. Whether from the verse in Isaiah that the world was not created for chaos, or the ten conditions of Joshua, the suggestion that the halakha supports an environmental perspective is sound. However, when we come to apply this principle, we find that the complications are innumerable. Determining a fair baseline for energy use worldwide, considering the obligations of individuals and the obligations of governments, and struggling to analogize halakhic principles to modern cases are only the tip of the iceberg. My belief is that halakha clearly supports protecting the environment. When we attempt to apply this halakha to specific cases, specific conclusions become much murkier.

Rabbi Daniel Wolf was a *Ram* in *Yeshivat Har Etzion* for over 30 years, lecturing in the *Kollel Gavoah* there. He was the senior editor for Rav Lichtenstien’s lectures on the Talmud (which won the Israel Prize) and wrote three books on the Talmud. He is a renowned expert on various fields of halacha including *Tumma* (ritual impurity) and *Ribit* (interest). The interface of halacha (Jewish law) and the modern world is also an interest of his research and he has delivered lectures on various modern halachic topics.