YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Before Sinai: Jewish Values and Jewish Law**

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**Shiur #65: A *Berit* Prior to the *Avot*? (2):**

**Environmentalism and *Derekh Eretz***

The previous *shiur* proposed the existence of a covenant between God and Adam, consisting of both laws and values, that predates the particularistic Jewish covenants of *berit Avot* and *berit Sinai* and is not superseded by them. This *shiur* continues to explore this topic, both as an explanatory tool for concepts already found in *Torah She-be’al Peh* and as a way to help frame contemporary discussions about Jewish responsibility towards universal values.

**Environmentalism**

I begin with an example of the latter. As environmentalism has gained traction over the last several decades as a central moral issue for modern society, many have asked: Does Jewish tradition embody concern for environmental conservation? Among its countless obligations and duties, does it ask of its adherents to take active steps to protect the environment, conserve natural resources, and impede the pace of climate change?[[1]](#footnote-1)

Naturally, in response to these questions, Jews have looked to the most obvious and dominant source of Jewish responsibility for guidance: the *mitzvot* of *berit Sinai*. For example, an oft-cited source in discussions of Jewish environmentalism is the prohibition of *bal tashchit*, of destroying fruit trees during a siege (*Devarim* 20:19). Apparently, the Torah harbors concern for the preservation of nature and natural resources, even in times of war, and all the more so in the context of routine life.

Critiques of this reading contend that *bal tashchit*, upon closer examination,doesn’t actually suggest or communicate that which those with environmentalist leanings seek. *Mori ve-rabbi* Harav Aharon Lichtenstein, for instance, notes in a 1980 Hebrew article entitled “Man and Nature: The Social Dimension” that *bal tashchit* doesn’t exclusively protect nature but prohibits destructive behavior generally (*Mussar Aviv*, 274-275). As the Rambam, for example, writes:

Not only trees, but anyone who breaks vessels, or rends clothing, or demolishes a building, or plugs a spring, or discards food in a destructive manner violates *bal tashchit*. (*Hilkhot Melakhim* 6:10)

Conversely, *bal tashchit* only prohibits futile destruction, but not violence against nature for constructive aims. Thus, the Rambam writes earlier in the same chapter:

However, one may cut down [a fruit tree] if it is harming other trees, or because it is harming another’s field, or because its wood is very valuable; the Torah only prohibited destructive behavior. (6:8)

In that case, any activity that is constructive in purpose could not be restricted by *bal tashchit*.

While a strict halakhic formalist might be satisfied with this conclusion, others remain uneasy. There is a vague sense that environmentalism is and ought to be a Jewish concern, but we have a hard time casting it in normative terms within the categories of *berit Sinai*. On the one hand, we are excessively cautious to learn faithfully *from* Torah and to not project external values onto it. On the other hand, we rightfully ask: Does *berit Sinai* exhaust the full scope of our tradition and our duties within it?

**“To Safeguard”**

Here, a second frequently cited source is relevant:

“Behold the work of God, for who can repair that which he has distorted?” (*Kohelet* 7:13)

When the Holy One, blessed be He, created Adam, He took him around to all of the trees of Gan Eden. He said to him: “See My creations, how lovely and praiseworthy they are; and everything I created, I created for you. Pay heed that you don’t corrupt [your ways] and lay waste to My world, for if you corrupt, there is no one to repair [it] after you. (*Kohelet Rabba*, 7)

What kind of source is this, and what can it tell us about Jewish responsibilities? On the one hand, it seems “weak”: First, it is taken from aggadic material, rather than classic halakhic literature. Second, at best it formulates a tentative rule that doesn’t filter down to later decisors and compilers of Jewish law. Third, read carefully in its original context, this *midrash* doesn’t actually say anything about natural conservation. Rather, Adam is being enjoined from sinning, which would indirectly have repercussions for God’s world. However, if Adam has a penchant for Styrofoam cups and disposable plastics, there is nothing explicit here that demands he check that.

On the other hand, perhaps this Rabbinic text, if read faithfully, captures something of what we are looking for. Indeed, it does not dictate a rule; rather, it expresses a value, in God’s voice, of appreciating His creation and seeking to maintain it.[[2]](#footnote-2) It offers a bit of exegesis, we could say, on the mandate of “to safeguard it,” the crucial counterpoint to “to work it” (*Bereishit* 2:15) and *yishuvo shel olam* (discussed in the previous *shiur*).

In the context of this *midrash*, Adam “safeguards” Gan Eden by heeding spiritual commands, and thus one who meticulously observes halakha can conceivably count him- or herself, in a broad sense, as an environmentalist. As a sweeping value, though, “to safeguard it” is open to interpretation and creative application, including the most simple and literal ones. One who respects and cares about the environment should arguably refrain from inflicting direct harm, in addition to protecting it from God’s wrath.

Moreover, as part of a covenant, “to safeguard it” asks of us to perpetually respond to a covenantal calling, mindful of ever-evolving context and circumstance. Just as living up to the *berit Avot* value of the Land of Israel means something different in the modern era than it did in the medieval one (see *shiurim* #27-29), so, arguably, does “safeguarding” God’s creation call for a different action plan in the twenty-first century than it did at a time when climate science was less developed.

Some champions of environmentalism might be frustrated by this presentation. They might have hoped for some clear “dos” and “don’ts” that carry the same binding force as the laws of Shabbat or *kashrut*, and they might find my appeal to broad values too vague and ripe for evasion. In defense, I would suggest that framing environmentalism as a value rather than as a set of laws just seems more authentic to our tradition. Likewise, for me the claim that environmentalism is not a specifically Jewish value, but a universal one that Jewish tradition recognizes as part of human agency in God’s world, has intuitive appeal.

If it were the case that the *mitzvot* of Sinai dictate inviolable rules of conservation and recycling, I think they would be obvious by now. If the instinctive sense of God-fearing Jews, rather, is that protecting the environment is a broad aspiration that calls for soul-searching and effort but also tolerates individuated responses and a certain amount of discretion, then the covenants of Adam and Noach can inform just that. Of course, in response to any covenantal value, an individual or community can formulate rules for itself to govern particular areas of conduct. But the specter of inconsistency, I would argue, should not dissuade earnest people from trying to answer the call of God’s covenant with Adam, even if the response is only partial.

Finally, while I believe that this description of Judaism’s attitude towards nature is cogent, I’m afraid that it has been rendered largely irrelevant. For there is a second factor at play with regard to environmentalism and climate change – not our responsibilities toward nature, but our responsibilities toward fellow humans, present and future.[[3]](#footnote-3) Here, *berit Sinai* has a lot to say, and Harav Lichtenstein, presciently, devotes much of the aforementioned essay to “Laws of Neighbors” and their curtailing of one’s property rights in light of potential damages to another.[[4]](#footnote-4)

Furthermore, as leading Israeli rabbis wrote in an [open letter to the Israeli prime minister](https://www.meisharim.org/_files/ugd/0a818d_8ab4e68ea59b42838ebc71a81629bf60.pdf) (October 29, 2021):

The subject of sustainability is no longer a subject that deals only with *bal tashchit*, with safeguarding God’s world, with “pay heed that you don’t corrupt,” and with the sources that are cited in numerous discussions about the link between Torah and faith, and conservation.

Today, the subject relates to the preservation of life on a global scale, in the most literal of senses.

Even if some aspects of climate science are subject to debate, these rabbis contend, just the possibility of widespread suffering and death requires, halakhically, that we act to reduce the risk. At the very least, we stand before a potential threat to human life – “*safek pikuach nefesh*,” in halakhic terminology – and we may not ignore it. According to their assessment, then, environmentalism today falls within the purview of *berit Sinai* in very concrete terms, regardless of how accurate our theoretical description of humanity’s responsibility towards nature may be.

**“*Derekh Eretz*”**

If we are considering values that predate *berit Sinai* and even *berit Avot*, then the following *midrash* is rather explicit:

R. Yishmael b. R. Nachman said: *Derekh eretz* (literally, “the way of the land”) preceded Torah by twenty-six generations. That is what it says, “To protect the *derekh* to the Tree of Life” (*Bereishit* 3:24): "*derekh*” – this is *derekh eretz*; “Tree of Life” – this is Torah. (*Vayikra Rabba* 9:3)

R. Yishmael b. R. Nachman learns from the sequence of words in the verse that “*derekh*” precedes Torah. Twenty-six is the number of generations from Adam to Moshe; in other words, a value system of *derekh eretz* was present at the dawn of humanity, while Torah only came along thousands of years later. What is meant by *derekh eretz*, however, is left somewhat ambiguous.

In an insightful and stimulating essay, my friend R. Tzvi Sinensky[[5]](#footnote-5) surveys several different meanings of the phrase “*derekh eretz*” in *Chazal*, including:

1. civility;
2. earning a livelihood;
3. marital intimacy;
4. warfare;
5. practical wisdom; and
6. social convention.

What, he asks, binds together these disparate usages? According to R. Sinensky:

*Derekh eretz* means that we are mandated to live as civilized citizens. Living as a full member of society encompasses *mentschlechkeit* [manners], earning a livelihood, reproducing, and so much more. (“*Derekh Eretz* as Rabbinic Natural Morality,” 313)

Functioning as a member of society, in every way, is a responsibility that predates Torah and therefore applies, R. Sinensky contends, to all humanity.[[6]](#footnote-6) However, this only invites another question:

*Derekh eretz* does not appear on the list of seven Noachide commandments listed in *Sanhedrin*. What, then, is the basis for the assumption that both Jews and gentiles were obligated in these practices from the time of Adam? Was there an act of revelation of which we are uninformed? (Ibid., 316)

R. Sinensky explains:

This suggests that *derekh eretz* is the Jewish version of natural morality. The basis for the obligation of *derekh eretz* is not revelation but human intuition. It is therefore incumbent upon Jew and gentile alike, and was binding long before the Sinaitic revelation.[[7]](#footnote-7) (Ibid.)

Thus, after summarizing longstanding debates about the Jewish attitude towards natural law, R. Sinensky proposes that “*derekh eretz* is a Rabbinic variation of natural law” (ibid. 306).

While I wholeheartedly agree with R. Sinensky’s overall presentation, I would add that between explicit command and natural morality, there can be a third option: The establishment of a broad covenant whose values transcend individual commandments. God commands Adam, regarding the trees of Gan Eden and about what eventually emerges as the Noachide code. But prior to that, logically and chronologically, God charges humanity with a mission in and for His world. Adam and his progeny are tasked with building civilization and participating in it. The mandate is neither translatable nor reducible to a list of specific duties; rather, it is meant to be interpreted and implemented in the broadest of senses.

In fact, if we review all the meanings of *derekh eretz* that R. Sinensky enumerates, we discover that there is considerable overlap with the universal values we discussed in the previous *shiur*. Marrying and bearing children, engaging in a trade or livelihood, and following the conventions of society all constitute part of *yishuvo shel olam*, and at the core is maintaining simple decency and civility, the building blocks of all communal living. Thus, R. Sinensky cites R. Ovadya of Bartenura, who comments upon the Mishna’s statement that “anyone not involved in Bible, Mishna, and *derekh eretz* is not from the *yishuv*” (*Kiddushin* 1:10) – “He does not contribute to *yishuvo shel olam*.”[[8]](#footnote-8)

***Derekh Eretz* After Sinai**

Subsequent covenants may both *add* to this mission and further *focus* it, but they don’t *replace* the ongoing call for perpetual *derekh eretz*, in all of its senses, as R. Sinensky’s survey makes clear. Furthermore, this point is captured, according to some commentaries, by the *mishna* in *Avot* that states, “Without Torah, there is not *derekh eretz*; without *derekh eretz*, there is not Torah” (3:17): The Mishna is teaching that each element is deficient without the other.

Read this way, the second half of the statement amounts to a repudiation of narrow, halakhic formalism. The Meiri, for instance, interprets “Torah” here as the “*mitzvot* of the Torah” and explains:

For the *mitzvot* will steer a person generally, but they cannot oversee the minute details that are everchanging – which require *mussar* (discipline) and *derekh eretz*.

Whatever the source of “*derekh eretz*” is practically – whether one derives it from human intuition, or from reflecting upon our revealed tradition, as the Meiri here suggests – preoccupation with only explicit “Torah” will be self-defeating.[[9]](#footnote-9) Not only did *derekh eretz* precede the giving of the *mitzvot* by 26 generations, but it continues to demand and deserve attention, alongside observance of the law, forever afterwards.

At the same time, the first half of the Mishna’s statement emphasizes that Torah is not a mere add-on to *derekh eretz*. Rather, it further develops and refines *derekh eretz* – just as we’ve seen that it does to the values of *berit Avot*. For a Jew, at least, universal *derekh eretz* reaches its peak specifically through exposure to Torah, whose categories and teachings bring civility and discipline to new heights. Furthermore, as R. Sinensky notes (310), Rabbinic literature sometimes eschews the social conventions of *derekh eretz*, calling upon us to aim higher.

Still, more often than not, *derekh eretz* is held up as a goal to aspire to, together with observance and study of Torah. The Maharal, in particular, emphasizes that *derekh eretz* is an indispensable feature of grounded, human experience that rich religious life does not replace. He writes:

If a person were to give all his attention to Torah – even though the Torah is above all else – this would not be appropriate for an *adam* (person) as an *adam* (human). For with respect to his being an *adam*, he should conduct himself according to *derekh eretz*. (*Netivot Olam*, *Netiv Derekh Eretz*)

One might have imagined that *derekh eretz* was an important standard prior to Divine revelation and explicit command, but that those now committed to a higher mission need not worry about such trivial matters. However, the Maharal learns just the opposite from the *Mekhilta*. The *Mekhilta* observes that the *Avot* traveled only during daylight hours, in adherence to conventional practice, and encourages us to follow suit:

The *Avot* and the prophets conducted themselves according to *derekh eretz*…. Behold, *a fortiori* (*kal ve-chomer*) – if the *Avot* and the prophets, who traveled to perform the will of He Who spoke and the world came into existence, conducted themselves according to *derekh eretz* – all other people, how much more so! (*Mekhilta*, *Masekhta de-fischa*, 11)[[10]](#footnote-10)

Fidelity to *derekh eretz*, then, while rooted in a universal covenant,is also incorporated into the lasting legacy of our *Avot*. The Maharal concludes:

[The Sages] thus explain regarding the *Avot* of the world – whom God, may He be blessed, was with in all of their sojourns; and one could have conceived that conduct in accordance with *derekh eretz*, which is the conduct of an *adam* as an *adam*, would not be significant to them at all – this is certainly false, for they conducted themselves according to *derekh eretz*.

If the *Avot* were sometimes privileged to miracles, the Maharal further contends, this was a deviation from their norm. They did not aspire to a supernatural existence, but one that grounded them firmly as humans in the terrestrial world.[[11]](#footnote-11)

The Maharal thus validates, I think, R. Sinensky’s description of *derekh eretz*. It is not just a checklist of behaviors that must complement observance of halakha, and it is not restricted to the moral realm. Rather, it describes the full range of conduct that befits “an *adam* as an *adam*,” an identity that a Jew celebrates alongside his or her special election. The mandate of *berit Sinai* – or *berit Avot*, for that matter – does not preempt the universal expectations of humans as humans or entitle a Jew to abandon “normal” patterns of behavior.[[12]](#footnote-12) Later covenants do not replace earlier ones. Rather, covenantal responsibilities accumulate: A Jew is expected to live as a “*ben Adam*,” a “*ben Avraham*,” and a “*ben Torah*” at once.[[13]](#footnote-13)

**Natural Morality and Natural Law**

If *derekh eretz*, the most elementary civility, can be conceived of as covenantal, then perhaps this discussion can contribute a fresh perspective about the place of natural law within Judaism. On the one hand, even in rabbinic circles it is recognized that a range of Jewish voices across history maintains that all humans are expected to abide by certain rational norms and can be held accountable for violating them.[[14]](#footnote-14) On the other hand, scholars question how the “is” of rationality can generate a moral “ought”: In the absence of command, why *must* a person obey a certain precept, just because it makes sense?

Thus, at the same time that R. Walter Wurzburger argues for ethical responsibilities outside of the law, he also insists repeatedly that they can only emerge out of a covenantal framework with God, even if they are meant to be grasped intuitively:

Even those Jewish thinkers who subscribe to the view of natural law that can be discovered unaided by supernatural revelation still maintain that they amount not merely to rational or natural duties but to divine commandments that our rational faculties apprehend. (“Religion and Morality,” *Covenantal Imperatives*, 79)[[15]](#footnote-15)

For Jews, the covenants of the *Avot* and of Sinai can provide the basis for such norms. But if *derekh eretz* represents a universal duty that preceded Sinai by 26 generations, R. Wurzburger would have to posit a primordial covenant with Adam that encompasses more than just laws.

Our analysis in the previous *shiur* of universal values within the halakhic system, I believe, accomplishes just that. Rabbinic discussions of habitation and *yishuvo shel olam* indicate that Jewish tradition presumes a primordial, universal covenant that charges all of humanity. Importantly, the basis for this suggestion was not logical conjecture or speculative readings of Biblical verses or Rabbinic maxims, but *textual* *evidence* *drawn* *from close, traditional analysis of the halakhic corpus*.

Moral duty may not be embedded in Creation per se, but it is embedded in the Creation story. From the outset, the “soul of life” that God breathes into Adam (*Bereishit* 2:7) is tasked with not only obeying, but also perceiving; with building and not destroying; and with partnering with God in creating a just, habitable world. Moral duty becomes natural, I would say, once Adam is created as a spiritual, charged being.

***Derekh Eretz* of the Community, Before and After Sinai**

Returning to the subject of *derekh eretz*, I would further argue that if this value speaks to the individual, perhaps it also addresses the community. That is, every society requires basic principles of decency and order, even before it develops (or receives) an elaborate system of law, and the Jewish nation is no different.

This is how I understand the Ramban’s explanation of the “statute and ordinance” (*chok u-mishpat*) that Moshe establishes for the Jewish people at Mara, immediately after they emerge from the Red Sea (*Shemot* 15:25). Rashi, following *Chazal* (see *Sanhedrin* 56b), contends that “*chok u-mishpat*” are a sampling of the laws that the Jewish people will eventually receive at Sinai.[[16]](#footnote-16) The Ramban, however, suggests otherwise:

Read simply – when [the Jewish people] began to enter “the great and fearsome desert… and thirst for lack of water” (*Devarim* 8:15), [Moshe] established for them, regarding their sustenance and their needs, rules of conduct that they should follow “until their arrival to inhabited land” (*Shemot* 16:35). For “*chok*” can refer to a rule of conduct….

And “*mishpatim*” for them to live by – to love one another, and to follow the counsel of the elders, and “modest conduct” (*Micha* 6:8) in their tents with regard to the women and children; and that they behave amicably with those who enter the camp to sell goods; and “moral admonitions” (*Mishlei* 6:23) – that they not be like the encampments of bandits who perform every abomination (see *Vayikra* 18:29) and are not embarrassed (see *Bereishit* 2:25). (Ramban, *Shemot* 15:25)

At Mara, with Egyptian subjugation firmly behind them, the Jewish people first confront the challenge of living on their own. According to the Ramban, Moshe does not give them a glimpse of Divine law but provides them with a rudimentary set of practices and rules that allow for a functioning society.

Furthermore, not only can the need for basic rules of conduct not wait for formal law, but the law is not expected to comprehensively meet that need in the long-term. Thus, the Ramban continues, Yehoshua emulates Moshe and similarly establishes his own *chok u-mishpat* when he delivers the Jewish people to the Land of Israel:

And so too, with Yehoshua, it says, “Yehoshua forged a covenant with the people on that day, and he established for them *chok u-mishpat* in Shekhem” (*Yehoshua* 24:25). These are not the *chukkim* of the Torah and the *mishpatim*, rather the practices and policies of societies, like the conditions that Yehoshua enacted that the Sages record (see *Bava Kamma* 80b) and similar matters.[[17]](#footnote-17)

What was Yehoshua’s mandate to regulate his nascent territory, apart from what halakha already legislates? Noticing the linguistic parallel between *Yehoshua* and *Shemot*, the Ramban traces his initiative not to the commandments of Sinai, but to something that predates them. And while I presume that the spirit of Avraham’s commitment to “*tzedaka u-mishpat*” inspired and influenced both Moshe and Yehoshua in their respective enactments, it seems to me that their projects were driven by something even more fundamental.

“*Tzedaka u-mishpat*” are aspirations for a society, but civility and social order – *derekh eretz* writ large – are its building blocks. Without them, there can be no “civilization” at all, no possibility of meaningful *yishuvo shel olam*. Furthermore, compliance with formal law doesn’t absolve either communal leaders or individual citizens from pursuing and implementing intuitive *derekh eretz*, creatively and imaginatively.[[18]](#footnote-18)

If, as we examined previously (see *shiurim* #30-32), the downfall of Sedom in *Parashat Vayera* was due to a lack of *tzedaka u-mishpat*, it seems that the downfall of the generation of the Flood in *Parashat Noach* stemmed from a breakdown in *derekh eretz*. Prior to the Flood, any sense of *mishpat*, of structure or order, had vanished. Sedom’s problem was not a lack of *mishpat*, but a suffocating, grotesque version of it that extinguished any possibility of *tzedaka*. In Noach’s day, however, society had literally crumbled; the Flood merely swept away the debris.

**Communal *Derekh Eretz* Today**

We aim to learn the lessons of both of these failed societies. The focus of our own, inherited mission, of course, is “*mishpat* with *tzedaka*” (*Sanhedrin* 6b), but without losing sight of a more elementary expectation for communal *derekh eretz*, broadly conceived. Just as a Jew is expected to conduct him- or herself “according to *derekh eretz*” on the road to transcendent holiness, so, too, must Jewish collectives at every level – from an individual household to a sovereign Jewish state – first and foremost abide by the conventions of basic functionality.

In the spirit of the Maharal, I submit that we can neither expect good will and other-worldly aspirations to run our homes and institutions for us, nor can we rely on Divine intervention. In this context, too, *derekh eretz* should encompass both principles of moral and civil conduct as well as the conventions of practical living. There are no absolute rules for what “*derekh eretz*” at the organizational level should look like, but if I had to recommend some key elements, they would include: proper bookkeeping and budgeting; mechanisms of oversight and accountability; measures to ensure safety and security; and active management and strategic planning. Responsibilities of this sort may not always seem the most inspiring, but the role of *chok u-mishpat* for the Jewish people wasn’t beneath the likes of Moshe and Yehoshua, and I don’t think it should be beneath us, either.

Moreover, administrative tasks – ranging from doing the family laundry to managing a national army – need not be seen as nuisances or necessarily evils that stand in the way of executing God’s will. Rather, they are genuine elements of collective *derekh eretz* that fulfill a covenantal mandate to live as *benei adam* and engage in *yishuvo shel olam*. Holy in their own way, they keep us grounded (and humble) as humans as we follow the “*derekh* to the Tree of Life.”

**For Further Thought:**

1. The Rambam rules that non-Jews are prohibited from crossbreeding different species of animals or grafting different species of trees (*Hilkhot Melakhim Ve-milchamot* 10:6). Should this influence our understanding of a universal responsibility of stewardship towards God’s creation?
2. This *shiur* related to *derekh eretz* as an aspiration beyond observance of the law, but could it perhaps carry relevance even when the expectations of the law are not formally met? For instance, the Talmud is both suspicious of and discriminatory against contemporaneous, pagan, non-Jewish society that was presumed to be barbaric, but it treats a non-Jew who observes the Noachide commandments favorably. What of non-Jewish societies that are not in technical compliance with all of the Noachide laws but that embrace Biblical values of justice and compassion and/or hold themselves to clear standards of conduct – in other words, *derekh eretz*? See, in particular, the extensive scholarship surrounding the positions of the Meiri in this regard.
3. In *Berakhot* (35b), R. Yishmael recommends that one conduct oneself regarding Torah learning “according to *derekh eretz*” – meaning that one should also devote time towards earning a living. This position is broadly congruent with the Tannaitic sayings about *derekh eretz* referenced in this *shiur*. However, R. Shimon bar Yochai differs with R. Yishmael. Is this a narrow disagreement about work, or does R. Shimon have a wholly divergent view about the relationship between *derekh eretz* and later election? Would he distinguish between the conduct of a spiritual elite and that of everyone else?[[19]](#footnote-19) Might R. Shimon’s own attitude have evolved, and what is his lasting legacy for later generations? See *Berakhot*, ad loc., *Me’ila* 17b, and the sources about R. Shimon bar Yochai referenced in *shiur* #61. See also *Nefesh Ha-chayyim* 1:8 and *Chiddushei Maran Riz Ha-Levi al Ha-Torah*, *Chayyei Sarah*. Also consider *Yevamot* 60b-61a.

1. Rabbinic literature presumes that it is not acceptable to cause damages, even indirectly, to another’s property, but commentators note that the source for such a prohibition is unclear. Multiple suggestions are given, including some that point to broad precepts in the Torah (see the summaries, for instance, in *Kehillot Ya’akov*, *Bava Kamma*, 1 and *Minchat Asher*, *Vayikra*, 71). For example:

* 1. R. Meir Ha-Levi Abulafia (Ramah) quotes the verse of “Do not place a stumbling block before a blind person” (*Vayikra* 19:14), as well as the verse of “Love your fellow as yourself” (*Vayikra* 19:18; *Yad Ramah*, *Bava Batra* 26a).
	2. The Rosh invokes, “For all her ways are ways of pleasantness, and all her pathways are peace” (*Mishlei* 3:17; Responsa, 108:10). [[20]](#footnote-20)
	3. R. Asher Weiss raises the possibility that “one is obligated to prevent his property from causing damage because a person is obligated to act in ways of righteousness and justice, as it is explained in several passages in the Torah that a person must act in ways of righteousness – ‘Righteousness, righteousness shall you pursue’ (*Devarim* 16:20); ‘To do charity and justice’ (*Bereishit* 18:19); ‘And you shall do the just and the good’ (*Devarim* 6:18)” (*Minchat Asher*, ibid.).[[21]](#footnote-21)
	4. R. Yaakov Yisrael Kanievsky (the Steipler Gaon) suggests that implicit in the mitzva to have a justice system is a personal prohibition against doing something that the court would step in to prevent. He similarly mentions the Ramban’s interpretation of “There he set for them a statute and ordinance,” which implies a Biblical expectation for social order that the court will need to impose (*Kehillot Ya’akov*,ibid.).
	5. In light of this last suggestion – could the concept of *derekh eretz*, perhaps as filtered through the Torah and Rabbinic explication, be relevant here?
1. Jewish law forbids causing the unnecessary suffering of animals (*tza’ar ba’alei chayyim*) and even makes accommodations in order to prevent it. What is the source for this concern? Does it restrict non-Jews as well? See *Minchat Asher*, *Bamidbar*, 68.
2. Must a person stand in line courteously? On what basis is it forbidden to cut a line, or to push to the front of a crowd? See, for instance, *Chashukei Chemed*, *Sanhedrin* 8a.
3. Could family planning be part of *derekh eretz*? See *Meshekh Chokhma*, *Bereishit* 7:1.
1. For a review, see, for instance, Prof. Nahum Rakover, *Eikhut Ha-sviva*: *Hebeitim Ra’ayoniyyim U-mishpatiyyim Bi-m’korot Ha-Yehudiyyim*, (Jerusalem, 1993). [↑](#footnote-ref-1)
2. See also *Midrash Ha-Gadol* on *Bereishit* 7:3 regarding a Divine concern for the preservation of the species. [↑](#footnote-ref-2)
3. See also R. Walter Wurzburger, “Religion and Morality,” *Covenantal Imperatives*, 85-87. Of note, R. Wurzburger suggests a link between environmentalism and *shevet* (discussed in the previous *shiur*). He writes, “While it is questionable whether secular ethics can sustain the notion of ethical obligations towards future generations, for Jewish ethics it is axiomatic that we bear responsibility for survival of the human species,” and he goes on to cite *Yeshayahu* 45:18. See also *Taanit* 23a. [↑](#footnote-ref-3)
4. See also his discussion in “Pursuit of Self-Interest,” *Values in Halakha*, 174-180. [↑](#footnote-ref-4)
5. “*Derekh Eretz* as Rabbinic Natural Morality,” in *Sefer Ha-Yovel of Yeshivat Har Etzion* (Alon Shevut, 2019), 305-317. See also [this online essay](https://drive.google.com/a/koheletyeshiva.org/file/d/0BxTqBWS5aRe3c1ZEYVJkMWlyWkk/view?usp=sharing&ref=tzvisinensky.com) by R. Sinensky, as well as brief discussions by Harav Lichtenstein in “Does Judaism Recognize an Ethic Independent of Halakhah?” *Leaves of Faith*, Vol. 2, 34 and “Talmud and Ma’aseh in *Pirkei Avot*,” *Varieties of Jewish Experience*, 61. [↑](#footnote-ref-5)
6. See *Makkot* 9a with Rashi and Ritva (cited by R. Sinensky), as well as R. Yaakov Kaminetsky, *Emet Le-Yaakov*, *Bereishit* 14:14. [↑](#footnote-ref-6)
7. R. Sinensky also cites Harav Lichtenstein in reference to *derekh eretz* and Torah: “Their link reinforces our awareness of the rabbis’ recognition of natural morality” (“Ethic Independent of Halakhah,” ibid*.*). [↑](#footnote-ref-7)
8. See also Rambam ad loc., as well as *Avot* 2:5 and 5:7 with commentaries. On the scope, definition, and role of *derekh eretz,* see also R. Yuval Cherlow, “*Derekh Eretz Kadma La-Torah*,” *Ve-Eirastikh Li Le-olam*: *Li-dmuto Ha-datit shel Ha-adam Be-Yisrael be-eit Techiyya Be-mishnato shel Ha-Rav Kook*, 3rd ed. (Yeshivat Ha-hesder Petach Tikva, 2003), 69-91, including his observation that R. Kook, too, associates *derekh eretz* with *yishuvo shel olam*. [↑](#footnote-ref-8)
9. The Meiri’s description is reminiscent of the Ramban’s commentary on the command to do “*ha-yashar ve-hatov”* (*Devarim* 6:18; see *shiurim* #33 and #44). See also Rabbeinu Bechaye (*Avot*, ad loc.), who echoes the Ramban’s commentary on “*kedoshim tihyu*” (“be holy” [*Vayikra* 19:2]; see *shiur* #57). However, compare to Rashi, Rabbeinu Yona, and Tashbetz (*Avot*, ad loc.). [↑](#footnote-ref-9)
10. See also *Bereishit Rabba* 55:8. [↑](#footnote-ref-10)
11. See also *Shabbat* 53b. The Maharal further argues that *derekh eretz* not only precedes Torah, but “it is a foundation of Torah, for it is the ‘*derekh* to the Tree of Life.’” On R. Kook’s further development of this theme, see R. Cherlow, ibid. See also the brief comments by R. Wurzburger, *Ethics of Responsibility*, 17-18. [↑](#footnote-ref-11)
12. See also *mori ve-rabbi* Harav Yehuda Amital, *Jewish Values in a Changing World*, [Chapter 11](https://etzion.org.il/en/philosophy/great-thinkers/harav-yehuda-amital/derekh-eretz-being-mensch) and [Chapter 17](https://etzion.org.il/en/philosophy/great-thinkers/harav-yehuda-amital/humanity). I fondly recall how Harav Amital would say that he doesn’t wish for his students to be excessively wise or pious; he wishes that they just be “normal.” When I questioned him further about this on one occasion, he quipped that it is far more challenging to be normal than to be wise or pious! [↑](#footnote-ref-12)
13. See also Harav Lichtenstein, *By His Light*, [Chapter 1](https://etzion.org.il/en/philosophy/great-thinkers/harav-aharon-lichtenstein/cultivate-and-guard-universal-duties-mankind). [↑](#footnote-ref-13)
14. See, for instance, the summaries in Harav Amital, *Jewish Values in a Changing World*, [Chapter 2](https://etzion.org.il/en/philosophy/great-thinkers/harav-yehuda-amital/natural-morality-1); *Minchat Asher*, *Bereishit*, 11, 49, and 59; and R. Sinensky, ibid. See also R. Avraham Grodzinski, *Torat Avraham*, 128-139. [↑](#footnote-ref-14)
15. In the same volume, see also “Foundation of Jewish Ethics,” 25-27; “What is Unique About Jewish Ethics?” 35; “Law as the Basis of a Moral Society,” 63-65, 72; “Confronting the Challenge of the Values of Modernity,” 208-209; and “Halakhah: The Tension Between the Claims of Tradition and the Claims of the Self,” 300-301. See also his *Ethics of Responsibility*, 17-18, 24, 28-29, and R. J. David Bleich, “Judaism and Natural Law,” *The Philosophical Quest*, 85-124. [↑](#footnote-ref-15)
16. Compare to *Ezra* 7:10. [↑](#footnote-ref-16)
17. Similarly, regarding Yitro’s advice to Moshe (which the Ramban believes also predated Sinai; see his commentary on *Shemot* 18:1), see *Bava Metzi’a* 30b and Ramban’s glosses to the Rambam’s *Sefer Ha-Mitz*vot, Principle #1. See also the Ramban’s commentary on the following verse (*Shemot* 15:26), in which he alludes to his famed commentary on *Devarim* 6:18. About *chok u-mishpat*, see also I *Shmuel* 30:25 and *Bereishit Rabba* 43:9. [↑](#footnote-ref-17)
18. See also *Teshuvot Chatam Sofer* OC, 208 and CM, 79. [↑](#footnote-ref-18)
19. See, for instance, *Teshuvot Ha-Rashba* 1:413. [↑](#footnote-ref-19)
20. See also *Teshuvot Chatam Sofer*, OC, 208: “That which the Torah does not mention, such as imperceptible damages, was not permitted, Heaven forbid, for ‘her ways are ways of pleasantness.’” [↑](#footnote-ref-20)
21. However, R. Weiss ultimately prefers another suggestion. See also *Minchat Asher*, *Bava Kamma*, 1-2 and Addenda, 1. [↑](#footnote-ref-21)