

Yeshivat Har Etzion Israel Koschitzky Virtual Beit Midrash  
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PARASHAT HASHAVUA

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PARASHAT PINCHAS

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Dedicated by the Wise and Etshalom families  
in memory of Rabbi Aaron M. Wise,  
whose yahrzeit is 21 Tamuz. Yehi zikhro barukh.

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**“The Daughters of Tzelofchad Speak Rightly”?!<sup>1</sup>**  
**By Rav Gad Eldad**  
Translated by Kaeren Fish

The appeal by the daughters of Tzelofchad to Moshe arouses identification and empathy in the casual reader; he is glad when they receive a positive response. The daughters of Tzelofchad belong to a venerable list of figures who, faced with the letter of the law that was to their detriment, did not resign themselves but rather took up their fight – and won. However, a comparative review of the different instances reveals a more precise impression of how the Torah directs us to view them.

a. **“Why should [our father’s name] be done away...?”**

Then came the daughters of Tzelofchad, son of Chefer, son of Gilad, son of Makhir, son of Menashe, of the families of Menashe, son of Yosef; and these are the names of his daughters: Machla, Noa, Chogla, Milka, and Tirtza. And they stood before Moshe and before Elazar the Kohen, and before the princes and all the congregation, by the door of the Tent of Meeting, saying, “Our father died in the wilderness, and he was not in the company of those that gathered themselves together against the Lord in the company of Korach, but he died in his own sin, and had no sons. **Why should our father’s name be excluded from his family**, because he has no son? Give us a possession among the brethren of our father.” And Moshe brought their cause before the Lord. And the Lord spoke to Moshe, saying, **“The daughters of Tzelofchad speak rightly; you shall surely give them a possession of inheritance among their father’s brethren, and you shall cause the inheritance of their father to pass to them.** And you shall speak to *Bnei Yisrael*, saying: If a man dies and has no son, then you shall cause his inheritance to pass to his daughter.” (*Bamidbar* 27:1-8)

The formulation of the women’s request recalls another petition, submitted by a group of people in a somewhat similar situation:

And there were certain men who were impure through the dead body of a man, who could not keep the Pesach on that day, and they came before Moshe and before Aharon on that day. And those men said to him, “We are impure by the dead body of a man; **why are we excluded,**

**that we may not offer an offering of the Lord in its appointed season among *Bnei Yisrael*?”**

And Moshe said to them, “Stand still, and I will hear what the Lord will command concerning you.” And the Lord spoke to Moshe, saying, “Speak to *Bnei Yisrael* saying: **If any man of you shall be impure by reason of a dead body, or be on a journey afar off, among you or in future generations, he shall nevertheless keep the Pesach to the Lord;** on the fourteenth day of the second month at evening they shall keep it, and eat it with *matza* and bitter herbs...” (*Bamidbar* 9:6-11)

A comparison between the two instances reveals a difference in the style of the answer that God gives in each case. The response to the daughters of Tzelofchad addresses them directly; it supports their claim and gives instructions concerning their specific case, following which the focus is broadened to similar cases that might arise in the future.

But with regard to those unable to partake in the Pesach, the order is reversed. The response does not address the questioners directly. The instructions concerning Pesach Sheni ignore the petitioners and introduce a law that had not previously been conveyed. The law responds not only to the specific case, but also to other circumstances that might prevent a person from participating in the Pesach (“on a journey afar off”). The petitioners themselves are left to apply the new instructions to their case.

b. **“If any man of you shall be impure by reason of a dead body...”**

The key to the difference noted above lies in the fact that the question of Pesach Sheni could not have arisen in Egypt. The laws of ritual purity and impurity, which are the background to the problem that arises, were given only later, in the desert.<sup>2</sup> From this perspective, the law of Pesach Sheni is a natural and necessary complement to the law of Pesach given in Egypt. In light of the laws of ritual purity and impurity that have been taught since that time, there is a need for an amendment to the laws of Pesach, to address the instance of a conflict between them.

It is for this reason, it seems, that the *halakha* is not formulated as a direct response to the petitioners. They simply happened to be the first group of people who, owing to their ritual status, encountered the halakhic lacuna and sought a response.

The case of the daughters of Tzelofchad is different. These women came and presented an argument against the manner of the division of the land, which had been conducted on the basis of “fathers’ households.” Theirs is not a new situation that Moshe must deal with; the system of rules of inheritance already has tools to deal with such situations. And according to the existing rules, the women’s petition should be rejected, since they do not fulfill the conditions for entitlement to an inheritance. It is after their legal situation

<sup>2</sup> Chizkuni: “Why are we kept back...? – Why are we not permitted to eat of the sacrifice in a state of ritual impurity? After all, last year we ate the Pesach sacrifice in Egypt even though we were impure! The reason for this was that [in Egypt] they had not yet been commanded [in this regard]” (Chizkuni, *Bamidbar* 9:7).

<sup>1</sup> Based on my article, “*Lama Nigara – Bein Pesach Sheni Livnot Tzelofchad*,” *Megadim* 54, pp. 75-84.

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is already clear that the daughters of Tzelofchad come and protest the injustice of a ruling that has already been given. They are not raising a problem that affects the public, but rather an appeal in their own private situation, and their appeal is approved. For this reason, the text addresses them directly; it speaks to their case.<sup>3</sup>

c. **“And Moshe brought their case...”**

The comparison between the two cases reveals further differences. While in both instances Moshe awaits God’s instructions, the situation is described in two different ways. In the case of Pesach Sheni, Moshe tells the petitioners simply:

“Stand still, and I will hear what the Lord will command concerning you.” (*Bamidbar* 9:8)

The appeal of the daughters of Tzelofchad, on the other hand, is described by the text as a “cause” (*mishpat* - literally, “judgment”):

And Moshe brought their judgment before the Lord. (*Bamidbar* 27:5)

This term casts the appeal in a different light. It is not simply a matter of knowing what God instructs in this new situation, nor is theirs a “class action.” The women themselves emphasize the uniqueness of their situation:

“Our father died in the wilderness, and he was not in the company of those that gathered themselves together against the Lord in the company of Korach, but he died in his own sin, and had no sons.” (*Bamidbar* 27:3)

The women do not come to challenge or change the law, but rather to seek a solution to their specific predicament. Their appeal is accepted, and the solution is not only a response to their personal problem, but a law that is binding for all future generations.

However, the definition of their appeal as a “judgment” demands further investigation. A judgment or legal case is conducted – by definition – between two parties. The impression that might arise from our *parasha* is that these women point to apparent discrimination in God’s laws. In the absence of any clear “defendant,” Moshe should seemingly have told them, “Stand still and I will hear what the Lord will command concerning you.”

d. **“The tribe of the sons of Yosef speak rightly”**

Near the end of *Sefer Bamidbar*, we read of a further development concerning the daughters of Tzelofchad:

And the chief fathers of the family of the children of Gilad, son of Makhir, son of Menashe, of the families of the sons of Yosef, came near, and spoke before Moshe, and before the princes, the

chief fathers of *Bnei Yisrael*, and they said, “The Lord commanded my lord to give the land for an inheritance by lot to *Bnei Yisrael*, and my lord was commanded by the Lord to give the inheritance of Tzelofchad, our brother, to his daughters. But if they are married to any of the sons of the other tribes of *Bnei Yisrael*, **then their inheritance shall be taken from the inheritance of our fathers**, and shall be added to the inheritance of the tribe to which they are joined; **so shall it be taken from the lot of our inheritance**. And when the jubilee of *Bnei Yisrael* shall come about, then their inheritance shall be added to the inheritance of the tribe to which they are joined; **so shall their inheritance be taken away from the inheritance of the tribe of our fathers.**” And Moshe commanded *Bnei Yisrael* according to the word of the Lord, saying, **“The tribe of the sons of Yosef speak rightly**. This is the thing which the Lord commands concerning the daughters of Tzelofchad, saying: Let them marry whom they think best; only within the family of the tribe of their father shall they marry. So the inheritance of *Bnei Yisrael* shall not be moved from tribe to tribe; for every one of *Bnei Yisrael* shall cleave to the inheritance of the tribe of his fathers.” (*Bamidbar* 36:1-9)

Now the definition of the appeal as a “judgment” takes on a considerably clearer and more solid dimension: the “other party” is in fact the tribe. The descendants of Yosef feel that the ruling in the matter of the daughters of Tzelofchad is damaging to them. They present themselves before Moshe, bearing the same claim, formulated in the same language, that the women used in their argument.

This hints to us that the argument presented by the daughters of Tzelofchad is in fact a coin with two sides. The text highlights the connection between these two episodes, and the claim of the children of Yosef is acknowledged in the same language that was used in acknowledging the claim of the daughters of Tzelofchad: “The tribe of the sons of Yosef speak rightly.”

e. **“And Moshe commanded *Bnei Yisrael* according to the word of the Lord”**

Once again, however, a comparison of the units in question reveals a significant difference. The daughters of Tzelofchad present a precedent-setting unique situation; Moshe must consult with God in order to arrive at the proper solution. But when the sons of Yosef approach with their appeal, the text records no dramatic parallel in which Moshe finds himself at a loss and turns to God.

Seemingly, just as the original case brought by the women was new to Moshe, so the problem raised by the men of the tribe of Yosef is new and should be addressed in the same way. However, Moshe is ready with his response:

And Moshe commanded *Bnei Yisrael* according to the word of the Lord, saying, “The tribe of the sons of Yosef speak rightly. **This is the thing**

<sup>3</sup> Support for this differentiation may be found in *Chazal’s* teachings concerning these two cases. With regard to the daughters of Tzelofchad, *Chazal* conclude (as cited by Rashi, *Bamidbar* 27:5) that Moshe’s ignorance of this *halakha* was a punishment for saying, ‘and a matter that is too hard for you, bring it to me, and I will hear it’ (*Devarim* 1:17), while with regard to Pesach Sheni there is no indication that Moshe’s ignorance of the *halakha* is perceived in a negative way. This differentiation sits well with our discussion above. The law of Pesach Sheni had to be given at this point, since it arises from the new reality of ritual impurity that has been introduced since the original law of Pesach was given. Therefore, *Chazal* (cited by Rashi, *Bamidbar* 9:7) merely note the merit of the questioners, who serve to reveal this new law. The daughters of Tzelofchad, in contrast, appeal the normative *halakha* conveyed by Moshe concerning the inheritance of the land.

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**which the Lord commands concerning the daughters of Tzelofchad**, saying: Let them marry whom they think best; only within the family of the tribe of their father shall they marry.” (*Bamidbar* 36:5-6)

The obvious question here is why the response to a question posed in the name of the children of Yosef is addressed to the daughters of Tzelofchad.

There is no indication here that Moshe turns to God for a solution, and the text seems to indicate that he offers a response on the basis of the same answer that was previously given to the daughters of Tzelofchad. The fact is that the solution Moshe sets forth here is not all that revolutionary, and it appears to satisfy both sides. The very simplicity of the solution serves to dim somewhat the initial revolutionary enchantment of the case by the daughters of Tzelofchad.

The daughters of Tzelofchad seek justice, and their appeal is granted. However, it is specifically because their appeal arises in their personal dimension that they fail to understand its implications on the national level.

f. **“Why should our father’s name be done away from his family?”**

The daughters of Tzelofchad do not submit their request on the basis of who they are, since they are aware that, as daughters, they do not inherit. Rather, they ask for fair and just representation as the heirs of their father’s family.

These women ignore the fact that their “father’s family” is not just a matter of the nuclear family; at the same time, it is part of their father’s tribe. They receive God’s response in its limited sense, which satisfies them, and they move on. Moshe, however, hears more than they do.

When the sons of Yosef approach, Moshe is not at a loss and he has no need to turn to God for a solution; he has an answer ready for them. The same right to maintain the father’s name over his inheritance, which is granted to the daughters of Tzelofchad, requires that they recognize the right of the father of the tribe over his inheritance. This broader perspective had escaped the daughters of Tzelofchad. It is only when the sons of Yosef bring their appeal that the issue is illuminated in its entirety. For this reason, the text uses the same language – in order to indicate that the solution here is part of the very same command that was given in response to the daughters of Tzelofchad.

g. **“We are impure by the dead body of a man”**

In light of this understanding of the story of the daughters of Tzelofchad, let us go back to the appeal of those excluded from participation in the Pesach:

And Moshe spoke to *Bnei Yisrael*, that they should keep the Pesach. And they kept the Pesach on the fourteenth day of the first month at evening in the wilderness of Sinai, according to all that the Lord commanded Moshe, so did *Bnei Yisrael*. And there were certain men who were impure through the dead body of a man,

who could not keep the Pesach on that day, and they came before Moshe and before Aharon on that day. And those men said to him, “We are impure by the dead body of a man; **why are we excluded, that we may not offer an offering of the Lord in its appointed season among *Bnei Yisrael*?**” And Moshe said to them, “Stand still, and I will hear what the Lord will command concerning you.” And the Lord spoke to Moshe, saying, “Speak to *Bnei Yisrael* saying: If any man of you shall be impure by reason of a dead body, or be on a journey afar off, among you or in future generations, he shall nevertheless keep the Pesach to the Lord. On the fourteenth day of the second month at evening they shall keep it, and eat it with *matza* and bitter herbs...” (*Bamidbar* 9:4-11)

Let us try to imagine what happens here. There is much noise and bustle in the camp as the entire nation gathers around the Tent of Meeting, preparing to offer the Pesach sacrifice. Right at the back stands a group of people who are ritually impure, separated from their families and excluded from the communal festivities. As they watch the preparations progress, they grow increasingly despondent. Finally, summoning their courage, they make their way to Moshe and Aharon, begging to be permitted to share in the sense of community and in the communal festival. Moshe has no ready answer and time is getting on, and so he decides to bring the matter before God.

If we read the situation rightly, we are surprised to discover that the response to this group is in fact in the negative! They do not receive what they ask for. They want to be part of the Pesach along with everyone else, so as not to be excluded, and to participate in “the offering of the Lord in its appointed season among *Bnei Yisrael*.” In response to their appeal, they are permitted to bring the offering of the Lord – but not in its appointed season, among *Bnei Yisrael*; they will bring it at a different time. Thus, while ensuring that they are not excluded altogether from the sacrifice, the license extended to them will not damage the purity of the camp.<sup>4</sup>

h. **“Why should we be excluded?!”**

Let us pay attention to what is common to the claim of the petitioners concerning Pesach and the daughters of Tzelofchad. Both complain of discrimination and declare their desire to be part of the collective practice, from which they are excluded one way or another. In both cases, the response to their appeal hints that the desire to be part of the collective must be accompanied by an understanding of the status of the collective.

Every individual has the right to commemorate

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<sup>4</sup> In the system of sacrifices set forth in the Torah, there is a distinction between individual sacrifices, which any person can bring at whatever time he chooses, and communal sacrifices, which had a set time and are brought on behalf of the entire nation. The Pesach sacrifice is an exception, insofar as it is an obligation pertaining to every individual, but it takes place in a communal setting: everyone is commanded to sacrifice and partake of the Pesach sacrifice during the same few hours. This supports our claim that the Pesach is a communal sacrifice that is brought by individuals.

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the Exodus from Egypt – but this is not a right that he acquires as an individual. It is, rather, a right acquired by virtue of belonging to *Am Yisrael*, which, as a nation, came out of Egypt. Hence, the right to participate in the Pesach cannot stain the uniform sacrifice of the collective, with all its requisite conditions of ritual purity.<sup>5</sup>

Likewise, in the case in which a daughter inherits, she must ensure that this in no way damages the efforts of her tribe to maintain the ongoing legacy of its tribal inheritance.

In both instances, then, the Torah teaches us a lesson about the proper balance between individual rights and the collective interest. Sometimes a public interest, owing to the mass of population involved, suppresses the rights of the individual. If the individual does not watch out for his rights, they may inadvertently be trampled by the collective. On the other hand, the proper balance can be attained only when the individual understands that the basis for his claim is his belonging to the collective. Thus, his appeal must be proportionate, expressing his commitment and obligation to those around him.

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<sup>5</sup> Notably, if the entire collective is in a state of ritual impurity, then the impure individual is included within the collective and the Pesach sacrifice is offered in this state.