



The Pardes Parsha Discussion by Rabbi Alex Israel

Matot-Massei: When a Halakhic Solution Creates a Halakhic Problem

Last week we met the daughters of Zelophchad. Their father had an inheritance in the land of Canaan but he had five daughters, no sons. Since inheritance passed through the male line, the five daughters felt that his ancestral holding in the land should be preserved and retained by the family, so they approached Moses:

Let not our father's name be lost to his clan just because he had no son! Give us a holding among our father's kinsmen! (27:4)

God affirms their argument and responds:

The plea of Zelophchad's daughters is just: you should give them a hereditary holding among their father's kinsmen; transfer their father's share to them. (v.7)

And henceforth the inheritance law explicitly reflects the case of Zelophchad's daughters:

...Speak to the Israelite people as follows: If a man dies without leaving a son, you shall transfer his property to his daughter. (v.8)

In this manner, God offers a novel solution to a new problem.

But this is hardly the end of the road. Because this decision creates further problems, as we find in the closing chapter of our Parsha - Massei. You see, the daughters of Zelophchad, from the tribe of Menasseh, will inherit their father's ancestral territory. But what if they marry men from other tribes - from Reuben, Yissachar or Asher, for example? According to the laws of inheritance, their children will in turn inherit by patrilineal transmission. But then a piece of the land-holdings of Menasseh will pass to Reuben, Yissachar or Asher! And so, the elders of Menasseh appeal God's ruling to Moses as unjust, as undermining the whole notion of tribal holdings:

The family heads in the clan of the descendants of Gilead son of Machir son of Manasseh, one of the Josephite clans, came forward and appealed to Moses and the chieftains...Now, if they marry persons from another Israelite tribe, their share will be cut off from our ancestral portion and be added to the portion of the tribe into which they marry; thus our allotted portion will be diminished. (36:1-3)

In other words, a halakhic solution has generated a fresh halakhic challenge.

What is the solution to the problem?

Every daughter among the Israelite tribes who inherits a share must marry someone from a clan of her father's tribe, in order that every Israelite may keep his ancestral share. Thus no inheritance shall pass over from one tribe to another... (36:8-9)

And the five Zelophchad daughters abided by this ruling:

The daughters of Zelophchad did as the Lord had commanded Moses... marrying sons of their uncles, marrying into clans of descendants of Manasseh son of Joseph; and so their share remained in the tribe of their father's clan. (36:10-12)

In this ruling, tribal rights – collective priorities – trump the autonomy of these five women, and although the daughters gained the right to inherit and the family inheritance was preserved, here they bow to broad tribal concerns and marry within the clan. Rav Amnon Bazak writes:

On a conceptual level these laws clash. The request of Zelophchad's daughters emerged from a desire to protect the individual – their father – that his name not be lost. This right was granted to them. However, our passage gives the other side of the discussion – if full individual rights are bestowed, this will impair and harm the collective rights of tribes. Only by the Torah presenting two separate passages (parshiot) will each argument be independently accentuated, and only such will the correct result ensue – a balance between individual and communal rights. (Nekudat peticha II pg.176)

We see how frequently, a seemingly perfect legal or halakhic solution generates a response which exposes a flaw in the system from a new direction. Frequently, clashing rulings are reflections of two contrasting and conflicting values, which each reflect correct values.

Please discuss:

- Can you think of other situations in which an initial halakhic solution might generate a secondary halakhic problem or challenge? Is this a problem or is it inevitable?

- Try to think of a halakhic debate in which sides differ and conflict. Can you identify the values that animate and characterize each side?

Shabbat Shalom!