

Parshas Pinchas – 5781

The Daughters of Tzelafchad made an inheritance claim to Moshe after he conveyed the Word of HaShem in regards to dividing up the Land.

Numbers 27:4

לָמָּה יִגָּרַע שֵׁם־אֲבִינוּ מִתּוֹךְ מְשִׁפְחָתוֹ כִּי אֵין לוֹ בֵּן תִּנְהַלְנוּ אֶחְזִיה
בְּתוֹךְ אַחֵי אֲבִינוּ:

Their claim was that their father left no male heirs (and the census was only males). “Why should the name of our father be erased within his family, [just] because there isn’t to him a son [to inherit]. Give us his inheritance within the brothers of our father [in his tribal portion].”

Their claim was simple. Land was being given out to all the males that were counted in the soon-to-be-conquered-and-divided Promised Land. Moshe, then, did not know the proper halacha (ruling) and had to confer with HaShem.

What was the difficulty of this question? What other complexities were there in the inheritance ruling? And why did the Daughters of Tzelafchad specifically want a portion from their father and their tribe (when they would marry they would have a portion with their husband)?

The Gemara says, Bava Basra 110b, the law that a son inherits his father’s estate and precedes a daughter is derived from our passuk, as it says: “Why should the name of our father be done away from among his family, because he has no son?” Rabbi Aḥa ben Ya’akov infers that the reason they requested the inheritance is that, as they said, “He has no son.” So we can deduce that if he has a son, the son takes precedence and the daughters would not have requested an inheritance.

This is confirmed by the Gemara on the verse “Further, speak to the Israelite people as follows: ‘If a man dies without leaving a son, you shall transfer his property to his daughter.’” (ibid 27:8). The Gemara asks, Bava Basra 108b, that based on this passuk, it first states that a son inherits from his father, as it is written in the portion concerning inheritance: “If a man dies, and has no son, then you shall pass his inheritance to his daughter” (ibid), and therefore, sons inherit first. If there are no sons then a daughter inherits.

This leaves the question what additional argument were the daughters of Tzelafchad making, that the Gemara said we derive that a daughter inherits if there are no sons from Numbers 27:8 and if there is a surviving son, then the son is the exclusive heir from Numbers 27:4? Both really could be learned out of verse 27:8. The Gemara is pointing out why we needed an extra passuk to learn that if there is a son then he is the exclusive heir, and it had to be from the claim that the Daughters made, which introduced the halacha that daughters will inherit ahead of parents and brothers of the deceased, if there are no sons. (Gemara Baba Basra 108b).

It derives from this question and another nuance to the question that the Gemara Baba Basra says later on (ibid 119a) that the Daughters question was riddled with correct Halachic inferences; even those not learned or taught yet. If they simply asked a question out of ignorance or not having learned the Halacha yet, then we would not derive a halachic ruling from their question.

Further, the Gemara in Baba Basra 119a points out from our passuk that the Daughters mentioned their uncles (father’s brothers) because their claim was twofold: Their father deserved a portion of the Promised Land, but he died, so therefore: (1) we should inherit him because he had no sons, so therefore, as children we should inherit his land claim and his land claim will live on through us, as it rightfully belongs to his children. (2) If we do not get his claim, then there is

another way for a man to live on. That is through Yibum. It talks about the levir's duty, in Deuteronomy. "When brothers dwell together and one of them dies and leaves no son, the wife of the deceased shall not be married to a stranger, outside the family. Her husband's brother shall unite with her: he shall take her as his wife and perform the levir's duty." (Deuteronomy 27:5). This law was clearly not mentioned yet, but apparently, it was either known or inferred from custom or out of fairness.

Now, we know that there is no Yibum obligation when there are surviving daughters. However, the Daughters made a good point. If our father's inheritance will be lost because it will just be absorbed by others, then Yibum obligation might as well exist even if a person has daughters. That is why the Daughters mentioned, in our verse, "give us the inheritance portion, from within our father's brothers." If the uncles get it, then the portion is lost and it was like their father never existed. So, either force our mother to marry one of them, to have sons, or give it to us, his female issue.

To complete our discussion we have to understand the assumption of land heritage to the Promised Land that was given out to the Israelites while still in the desert. The passuk earlier says, after it counted the males of the Israelites and mentioned the major family roots, "Among these shall the land be apportioned as shares, according to the listed names." (Numbers 26:53). It says two passukim later, "The land, moreover, is to be apportioned by lot; and the allotment shall be made according to the listings of their ancestral fathers." (ibid 26:55). The Gemara in Baba Basra discusses who was entitled to a land grant.

The Gemara (117a) cites a *baraisa* that presents how Eretz Yisrael, the Promised Land, was divided. First, "as it is taught Rabbi Yoshiya says: Eretz Yisrael was divided among those who left Egypt, as it is stated: "According to the names of the tribes of their fathers they shall

inherit” (Numbers 26:55).” This teaches that Jewish People would inherit Eretz Yisrael according to those who left Egypt. Second, Rabbi Yoshiya continues and asks “But how do I derive the meaning of the verse “Unto these the land shall be divided for an inheritance” (Numbers 26:53)” which would indicate that the land was to be divided among those recently counted in the wilderness, i.e., those who would enter Eretz Yisrael? He rectifies the verses by saying, “Unto these” teaches that the land will be divided among those who are like these people—who were counted—in that they were adults above the age of twenty, to exclude the children, who were not entitled to a portion in Eretz Yisrael, as they were not of age (and not living at the time of the Exodus).

The Gemara, goes on to state how a portion will also be given to those who are descendants of those that went out of Egypt. Accordingly, there is a two part division. Rabbi Yonatan says that Eretz Yisrael was divided among those who entered Eretz Yisrael, as it is stated, “Unto these the land shall be divided for an inheritance” (Numbers 26:53). But how do I interpret “According to the names of the tribes of their fathers they shall inherit” (Numbers 26:55)? This teaches that this inheritance is different from all other inheritances in the world, for in all other inheritances in the world, the living inherit from the dead, but here, the dead inherit from the living. In other words, the portions of land received by those who entered Eretz Yisrael were transferred to their fathers who left Egypt, and then inherited by the current generation.

It seems confusing but the Gemara brilliantly sums it up like this. The Promised Land was divided among those that left Egypt. However, we know that the entire generation, except for Yehoshua Bin Nun and Caleb Ben Yefuna, died out in the desert. Most died during the 40 years because of the sin of the Spies. Many died during the several plagues that consumed the Israelites in the desert (the sin of the Golden Calf (Exodus 32:28), the sin of requesting meat and

better food, the plague after Korach rebellion (Numbers 16:46), the sin of claiming to be starving in the desert (Numbers 21:6), the plague after the Midianite enticements (ibid 25:9)); and when Moshe told the leaders to kill those who worshiped the Pe'or idol (Numbers 25:1), and the man stoned for carrying and gathering sticks on Shabbos (Numbers 15:36). There was also Moshe and Aharon, who died for their own sins, and Miriam.

Accordingly, these inheritances were in limbo. Those counted in our Parsha (Numbers 26:2) were now leaders of their own households, ready for war, and they received a portion of Eretz Yisrael (because dead people cannot be granted land.) However, HaShem did not forget the original promise to take these People to a land flowing with milk and honey, and give them that land, as He promised Avraham, Yitzchok, and Yaakov. (See Exodus 13:5). That inheritance did not lapse, simply because all those that left never made it, physically, to Eretz Yisrael.

The Gemara resolves it and says, a portion was given to those that left and inherited by their children. A portion was also given to those now alive and entering and ready to start families and fight and conquer the Land. So, if two brothers, Reuven and Shimon left Egypt. Reuven had one son and Shimon had 5 sons. Reuven got one portion and Shimon got one portion. Reuven's one portion was then given to his son, so his son got 2 portions (200%). Shimon's 5 children each got one and 1/5 portions (or 120%).

How can the Land be divided into more than 100% portions? If those that left Egypt divided the total land, how can there be room for a second land grant? We derive the answer from the passuk that says, "with larger groups increase the share, with smaller groups reduce the share. Each is to be assigned its share according to its number." (Numbers 26:54). Each tribe got its same Land Grant. But space was given based on these portion allotments.

Thus, the Daughters were asking a poignant question: We are alive, so therefore, we deserve to get a portion. Additionally, our father left Egypt (and did not forfeit it by being part of Korach's rebellion, see Numbers 27:3). Therefore, give us our full allotment: One, based on our father's original allotment of Land Grant (Numbers 25:55) when they said "Let not our father's name be erased." Two, based on our being alive now, among the new families of Israel about to enter the land (Numbers 26:55), when they said, "give us within our father's kin." The word "קִינִי" can be kin, like when Avraham called Lot his kin. (Genesis 13:8). The Daughters cleverly asked for the duplicate portion that they should be entitled to.

Thus, we learn out inheritance of a son from our passuk. It is because the Daughters knew if they did not inherit then the Land Grant given to their father for *his* leaving Egypt would remain unbequeathed and taken by others. So the Gemara learns out a son's exclusive inheritance from this passuk, because that is how the father's name lives on. That a daughter inherits is from the verse later on (27:8). The Daughters wanted their father's Land Grant to be fulfilled, and so it was.

I will end off by pointing out that our Parsha also contains the Tamud offering, an unblemished lamb in the morning and an unblemished lamb in the afternoon, daily. This practice was ceased on the 17th of the Fourth month. We just observed a fast, the fast of the 17th of the Fourth month, for this reason among several others. May we all see the building of the holy Beis Hamikdash, the full sovereignty of the Jewish People in all areas and territories of Eretz Yisrael, and obtain our Land Grant with the coming of Moshiach, soon in our days.