

In this week's Torah portion, we have what is often lauded as the first overtly feminist, or at least proto-feminist action taken in Torah. I realized that I've never drashed directly about it, though I've referenced it off-hand. Committing to a closer reading this year, I realized that it's because it brings up some feelings for me, somewhere in the range of discomfort, or at least dissatisfaction. I'll be curious about what you think.

First, some backstory: a census is taken in Parshat Pinchas, for the purposes of apportioning the land that the people are about to enter. After listing all males over the age of 20 by their clan and their tribe, Chapter 26, verses 52-55, teach: "Hashem spoke to Moses, saying, "Among these shall the land be apportioned as shares, according to the listed names: with larger groups increase the share, with smaller groups reduce the share. Each is to be assigned its share according to its enrollment. The land, moreover, is to be apportioned by lot; and the allotment shall be made according to the listings of their ancestral tribes. "

Here is the default: the land will be held by tribes, apportioned based on the numbers of adult males in each one. After listing the number of Levites, who because of their Temple service will not receive a share of the land, the flow of instruction is interrupted, at the beginning of Chapter 27, as five women raise their voices. The story spans 11 verses:

1The daughters of Zelophehad, of Manassite family—son of Hopher son of Gilead son of Machir son of Manasseh son of Joseph—came forward. The names of the daughters were Mahlah, Noah, Hoglah, Milcah, and Tirzah. 3They stood before Moshe, Eleazar the priest, the chieftains, and the whole assembly, at the entrance of the Tent of Meeting, and they said, 3"Our father died in the wilderness. He was not one of the faction, Korah's faction, which banded together against יהוה, but died for his own sin; and he has left no sons. 4Let not our father's name be lost to his clan just because he had no son! Give us a holding among our father's kin!"

5Moshe brought their case before Hashem. 6And Hashem said to Moshe, 7“The plea of Zelophehad’s daughters is just: you should give them a hereditary holding among their father’s kinsmen; transfer their father’s share to them. 8“Further, speak to the Israelite people as follows: ‘If a householder\* dies without leaving a son, you shall transfer his property to his daughter. 9If he has no daughter, you shall assign his property to his brothers. 10If he has no brothers, you shall assign his property to his father’s brothers. 11If his father had no brothers, you shall assign his property to his nearest relative in his own clan, who shall inherit it.’ This shall be the law of procedure for the Israelites, in accordance with יהוה’s command to Moshe.”

Of course this is considered a feminist text: five women stick together and speak up to power – and they win their case!

And yet – Rabbi Ethan Tucker put it well in his essay, “Equality Without Adjuncts?” If we read the text closely, the daughters’ claim “is not a feminist claim, but the dutiful objection of faithful, patriarchal daughters. They are concerned not for their own inheritance (they don’t say, נגרע למה /Why have we been left out?”) but for the erasure of their father’s name from the annals of Israelite inheritors (יגרע למה נחלתו מתוך אבינו שם /Why should our father’s name be left out from his inheritance?”).

It is notable that they don’t make a claim that women should inherit equally with men, only that to preserve the name of the patriarch, daughters should inherit when there are no other options. And that is the victory that they win: daughters inherit when there are no other options.

This is perhaps why I always feel somewhat dissatisfied reading this text: we are left with some increased autonomy for women – when it serves the larger needs of patriarchy. The women make their case – but only appealing to the logic of a patriarchal system. They do not shake the foundations of that systems. And what alternative do they have? There is no existing outside of that system.

Fortunately, midrash comes to the rescue. There are two that I find very compelling.

An ancient midrash from Yalkut Shimoni<sup>1</sup>, starts out by imaging the daughters, as written, dutifully concerned for their father's memory. It says that the daughters even suggested to Moshe that their mother perform *yibum* – the Torah mandated marriage of a childless widow to her husband's brother, so that she could bear progeny in her deceased husband's name. Moshe tells them that is impossible – only when a husband died without any children, literally “without seed” is *yibum* permitted. The daughters respond with a *coup de grace*: “Moshe you, are contradicting yourself! Either we are not “seed” and the obligation of *yibum* applies to our mother, or we are “seed” and can inherit the land ourselves.”

According to this midrash, the women play by the rules, and subvert them: Stuck with the potential contradiction, Moshe and Hashem concede that they are indeed full people.

But Sifrei Bamidbar, another ancient Midrash, makes a more breathtaking claim<sup>2</sup>:

"When the daughters of Tzelofchad heard that the land was to be apportioned to the tribes and not to females, they gathered together to take counsel, saying: Not as the mercies of flesh and blood are the mercies of HaMakom. The mercies of flesh and blood are greater for males than for females.

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<sup>1</sup> Yalkut Shimoni Bamidbar 27:2

<sup>2</sup> Sifrei Bamidbar 133:1

Not so the mercies of the One who spoke and brought the world into being. His mercies are for males and females (equally). That One's mercies are for all! As it is written (Psalms 145:9) "Hashem is good to all, whose mercies are upon all creations."

What I love about this ancient midrash, written by men, is that it imagines Mahlah, Noah, Hoglah, Milcah, and Tirzah reasoning together - *correctly* – that their patriarchal society is flawed, and that they must appeal directly to God. This midrash concedes that God, in the ideal society that S/He envisions, values and cares for men and women equally, even though humans fail to uphold that standard. Thousands of years ago, the male authors of this midrash had their own discomfort, their own insight that something was wrong with the distinctions made in their own society, and were willing to quote Psalms to prove that the Divine ethic is different.

Perhaps it could not have occurred to the daughters to ask for more, living as they did among "flesh and blood." And we, too, live among "flesh and blood." To the extent that Torah is a mirror, I am left with the challenge that this parashah and its midrashim bring up for me: what are the aspects of patriarchy and misogyny that I have so internalized that I take them for granted even when I think I'm challenging patriarchy? What are the ways that my imagination of what is possible is limited by what I know? And how can I get closer to the divine ethic described in the midrash – of a world in which all receive equal justice and mercy?

These are not just questions for myself, but for all of us.

Shabbat shalom.