

Women's Equality in the Torah: Justice Delayed?

August 25, 2014

Rabbi Barry Block

When parents die, leaving five children, the natural course of events would be to divide the property equally among the five children. Right?

Well, that's not the way things were done in ancient Israel. First of all, in the ancient world, inheritance wouldn't happen when "parents" die, as I said a moment ago. Instead, only men owned property, so inheritance would take place when a man died. The heirs, like the owners before them, were men. Only men.

Women were typically not treated well or fairly in the ancient world – which persisted until approximately 1975. Israelite women don't seem to have fared any worse than their neighbors. At best, some aspects of ancient Jewish law that seem quite sexist today were actually intended to safeguard women's interests. For example, the traditional *ketubah*, or marriage contract, is a lopsided, non-egalitarian document. That same *ketubah*, though, assured that a woman couldn't be left penniless in a divorce.

Still, the status of women in ancient Israel was tenuous. In some ways, our tradition treats women like property, acquired in marriage at the price of a wedding ring. In other ways, women are persons, but with rights subjugated to those of the men in her life. For example, last week's Torah portion stipulates that a young woman's vows are subject to the approval of her father, a power that transfers to her husband when she marries.

In the latter part of the Book of Numbers, five women demand their rights. In the portion we read two weeks ago, five daughters of a man named Zelophachad come before Moses. They ask to inherit their father's land-holding in Israel. No, they don't petition for equality of inheritance rights between women and men. Instead, they modestly suggest that, when a man dies, leaving daughters but no son, the daughters should inherit.

Several aspects of that story are remarkable. First, women are often not named in the Torah. Yes, we know the names of our matriarchs, of blessed memory, but too many other women remain anonymous. These five women, though, are named: Machlah, Noah, Choglah, Milkah, and Tirtzah. With names, these women are humanized. Real people suffered when women weren't permitted to inherit.

Something else remarkable happens when these five sisters ask for their inheritance rights. Moses seems not to know the answer to their plea. This is the same Moses who has already received the Torah – and, our rabbis teach, everything he needed to know in order to interpret for any case that might ever arise in the future. Still, Moses turns to God for an answer. God is the One who proclaims that women can inherit, albeit only in the limited situation of a man's dying with daughters but not surviving son.

A problem surfaces in this week's portion. These five sisters must now contend with their cousins. The men of the tribe come forward with a complaint for Moses. They ask: "What will happen if the daughters of Zelophachad marry a man from a different tribe?" In the ancient world, when a

woman of one tribe married a man of another, she became a member of his tribe. Her children would belong to her husband's tribe. Upon her death, her property would pass to that other tribe.

The problem is a real one. The best way I can describe it is by analogy to our own country. Suppose that Zelophachad's property is Saline County. Now, his daughters possess it. However, if one of his daughters marries a guy from Connecticut, that Saline County property will become part of New England upon her death. Now, that's a problem.

This time, Moses doesn't turn to God for a solution. Instead, he names the remedy himself: "The daughters of Zelophachad may marry whomever they wish." That sounds good, right? But then, he goes on to say, "provided they marry into a clan of their father's tribe." In other words, if they want to own that land in Saline County, they have to marry an Arkansan.

The story of the daughters of Zelophachad hardly depicts 21st Century women's rights. Machlah, Noah, Choglah, Milkah, and Tirtzah do not achieve equality with men. They only inherit because they have no brother. Then, inheritance severely restricts their right to marry.

Our first reaction ranges from resignation to anger. Resignation: What do we expect of antiquity? Anger: "Justice delayed is justice denied." Those words, often attributed to William Gladstone or William Penn, actually originated with our rabbis 2000 years ago, who wrote in Pirkei Avot that violence "comes into the world because of justice delayed and justice denied." The daughters of Zelophachad do not receive full equality. The result is injustice.

Rabbi Laurie Rice counters: “Make no mistake, the sisters in our [portion] challenged and altered an unjust Torah law. This was no small feat. Standing up for their rights, they extended fair treatment for others.” Indeed, the sisters themselves seem to be satisfied. This week’s portion goes on to tell us that they marry within their own tribe, so they do inherit.

Rabbi Rice suggests that we see these sisters’ victory as an important first step, which must be followed by others at a later date. Certainly, as Rabbi Rice says, the resolution of the matter in the Book of Numbers is “not ... enough for women’s rights.” And yet, by taking the laws of Torah further than they had ever gone before, by granting Israelite women a right that no other women possess, Torah moves the needle on women’s rights. The change, however insufficient, is unprecedented. The new law, limited as it is, sets up the possibility for future innovation and greater rights.

Some in our Jewish world view the advances of Torah as the end of the story. They would argue that the sliver of women’s equality found in the latter part of Numbers is the maximum that God and Moses intend, ever, for all of Jewish history. Sadly, some extremist elements in our Jewish world go to great lengths to stand in the way of women’s legitimate religious rights. Ultra-Orthodox authorities even today prevent women, for example, from praying as they wish at the Western Wall in Jerusalem, Judaism’s holiest site.

Rabbi Rice, though, encourages us to see the Torah’s approach to the daughters of Zelophachad as an important statement about the direction in which law and society should evolve. The words of Rabbi Rice: “Perhaps we are meant to read this text, and others like it, not simply to engage in a

dialogue about feminist rights . . . but to always be asking the larger question: Who are the marginalized within our community?”

“Sometimes,” Rice writes, “the answer is women, indeed. When we ignore the plight of the undocumented within our borders, it is the stranger. When we turn our back on the homeless or the hungry, it is the less-fortunate.” And so forth. We are commanded to “Remember the stranger, for you were strangers in the land of Egypt.” How much more are we commanded to “remember the stranger,” when some have been strangers among our own people.

The story of the daughters of Zelophachad reminds us that, even in its ancient form, Judaism has always been a progressive religion. Surely, Zelophachad wasn’t the first man ever to die, leaving daughters but no sons. And yet, his daughters are the first to inherit, upending a tradition much wider than ancient Israel, and much older. No, the sisters do not achieve full equality, but they do secure more rights than any women ever before them.

Let us, in our own day, be like Machlah, Noah, Choglah, Milkah, and Tirtzah. Let us stand up to make the world just a little more fair for those who are denied full justice in our own day. Let us be the ones lifting our voices for the immigrant child, too young and too frightened and too disempowered to produce spokespersons like the sisters in our Torah portion. Let us be the ones raising the cry for victims of gun violence. Let us be the ones crying out for the bombarded citizens of Israel, and for the children of Gaza who are cynically used as human shields.

Then, let our society, and our world, take a step forward, even if it's a small step, to be a little more just, a bit gentler, ever so slightly more peaceful. Then, may we, like the daughters of Zelophachad, be remembered for blessing.

Amen.