

**THE DAUGHTERS OF TSLAFCHAD:
TOWARDS A METHODOLOGY OF ATTITUDE AROUND WOMEN'S ISSUES¹**
by Susan Schneider

We are blessed with a Torah of timeless truths, which means that every individual can find his or her own very personal story told somewhere in its sequence of words and verses. And since there is a one-to-one correspondence between root-souls and letters of the Torah (there being 600,000 of each) it follows, says R. Tzaddok haCohen, that each person is especially connected to the passage containing the letter that is the root of his or her particular soul.² And since the stories of the Torah spiral through history, each *generation* is also reliving some particular step in the Israelite's forty-two stage journey from Egypt to the holy land.

A growing number of orthodox women are struggling to reconcile two aspirations which are not easily joined. One is the longing for marriage and children, the other a passion for study and more active participation in communal life. Successful role models are sparse and for many communities the impulse itself is questionable. Is it a holy urge, or one prompted by secular values unsupported by spiritual truths?

The question is real for any woman who seeks to live by spiritual law and who trusts the Torah as her guide. One method of resolution is to identify the scriptural passage that holds the archetype of this dilemma and examine its teachings for relevant advice. The obvious place to start is with the daughters of Tslafchad who present an unusual expression of femininity that draws unanimous positive regard. The encounter between these women and Moses evokes G-d's unqualified praise.

A petition was presented by the daughters of Tslafchad...and they stood before Moshe, Eleazar the priest, the princes and the entire community at the door of the Tent of Meeting with the following petition, "Our father died in the desert...without leaving any sons. Why should our father's name be disadvantaged in his family merely because he had no son? Give to us a portion of land along with our father's brothers." Moshe brought their case before G-d.

G-d spoke to Moshe saying, "The daughters of Tslafchad have a just claim. Give them a hereditary portion of land alongside their father's brothers. Let their father's hereditary property thus pass over to them. Speak to the Israelites and tell them that if a man dies and has no sons, his hereditary property shall pass over to his daughter...(Num. 27:1-9).³

There are many teachings in this passage, relevant both to women seeking *halakhic* support for the changes they are experiencing, and to the rabbis who are ruling on their questions. The passage suggests a methodology of attitude that, if consciously adopted by both parties, will keep peace below and draw grace from on high. This paper explores the subject from both perspectives.

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² *Dover Tzeddek*, p.100; *Tzidkat haTzeddek*, s. 114, and many other places.

³ Translation by Aryeh Kaplan, *The Living Torah*, (New York: Moznaiim Publishing Corp, 1981).

GUIDELINES FOR PETITIONERS

1

When the daughters of Tslafchad heard that the land was being divided to the tribes but not to the women they convened to discuss the matter. They said, “G-d’s mercy and compassion is not like the compassion of mankind. Mankind favors men over women. G-d is not that way, His compassion is on men and women alike... (Yalkut Shimoni, Pinhas, 27; Sifri 27:1).⁴

They identified the underlying spiritual principle being violated. Deep inside something did not feel right and they named it. Now they were working for truth and higher good. This gave them the strength to persist despite inner and outer resistance.

2

The daughters of Tslafchad were wise women for they presented their petition at the right time (BB 119b; BR 21:11)

They did not raise theoretical issues. Rather they waited until the moment of practical decision and spoke their piece. We learn from them that the criteria of truth are twofold: Its content must be accurate, and it must be spoken at the “right time.” When both conditions are met, the heavens and earth will open to receive it.⁵

Each moment comes with its own lights and possibilities of transformation. The whole inner structure of metaphysical reality shifts and alters through the cycles of time: spheres align, and channels of possibility open and close, appear and disappear.

The daughters of Tslafchad understood the secret of timing. It is a deeply intuitive wisdom. From their example we derive an essential principle of social action: one must wait till the moment when an injustice or wrong attitude actually impacts upon the physical plane and blocks the path of truth for someone who is ready, now, to travel that path.

The reasons for this “law” are threefold:

1. It might be that the “offending principle” will dissipate on its own from other factors, alleviating a needless waste of time and energy on a project that would happen perfectly well unaided (and in the meantime no actual harm is done).
2. It might be that the individual who at an earlier point felt oppressed by her anticipation of encountering the offending concept will, as her life unfolds, arrive exactly where she needs to go, naturally and organically, via a different path. Not because she accepted limited options or avoided confrontation, but because the issue became irrelevant to the actuality of her life.
3. The actual moment of contact marks the point in the structure of time when channels align to facilitate change in that particular matter.

⁴ In our discussion the following abbreviations will be used: YS=*Yalkut Shimoni*, BB=*Baba Batra*, BR= *Bamidbar Rabba*, TY=*Targum Yonaton*, TT=*Torah Temimah*.

⁵ *Ken Dovrot* (an organization of orthodox women teachers), *Foundation Principles*; an unpublished manuscript.

3

The daughters of Tslafchad were learned women. They presented their petition in a logical and halakhically sophisticated manner (BB 119b; BR 21:11).

After identifying the larger spiritual frame, they supported their petition with *halakhic* principles and precedents. They built an argument that was true to the letter *and* spirit of authentic discourse.

They were not like ordinary plaintiffs who simply present a question in an orderly fashion. Their petition followed a razor sharp line of reasoning that incorporated all the laws and relevant principles and even formulated the proper decision. This is why Scripture says, “And Moshe brought their *judgment* before G-d,” their *judgment*, not their question, for their petition included the legal argument *and* its ruling (*Anaf Yosef, Ain Ya'acov*, BB 119b).

4

They trusted in the merciful one, the master of the world...and came before Moshe...and the entire congregation at the entrance to the mishkan. The word the Targum uses for *trust* is from the same root as the word, “to cleanse,” רחץ (TY Num. 27:1).

They gave the matter up to G-d and cleansed themselves of attachment to anything less than truth. Although they hoped for a favorable outcome, they *didn't* want it if it was not G-d's highest will for them and for all concerned.

This is the most critical step in the whole process. The purity of one's will for truth⁶ determines the success of all subsequent stages. The more one renounces personal agenda and forgoes demands for specific outcomes, the higher the lights of Divine assistance one pulls down to support the cause.

To come clean (רחץ) is to surrender *all* control, “entrusting (ירחיצו) the entire matter to the merciful one, the master of the world.” Contamination at this stage will manifest as opposition at latter points in the process. While these obstacles may or may not be surmountable, they will definitely irritate.

In fact this practice of surrendering attachment to a particular outcome or to anything less than truth must accompany the entire project. It marks the difference between one who does G-d's work and one who does political work, though their actions may be the same. At periodic points in the day, one should affirm his or her commitment through prayer, “G-d, not my will but yours be done. If my labors serve you, please prosper their path, and if they don't, please block them and let me know as gently as possible how to adjust my course.”

5

Although reluctant to appear in public, Tslafchad's daughters overcame their natural modesty because their question was fundamental (*Tiferet Zion*, Num. 27:2).

The daughters of Tslafchad were holding an actual piece of the written Torah and their mission was to get it accepted into the text. There is no holier privilege than to reveal a Torah law

⁶ Truth is here defined as the most spiritually productive outcome under the circumstances, regardless of its outward appearance.

that will influence the behavior of Jews till the end of time. The explication of beautiful insights is always a blessed task, but to originate one of the 613 *mitzvot* is the highest honor accorded a soul.

Though the written Torah is fixed and final, the oral Torah is alive and evolving. Each generation has new technologies and cultural phenomena with *halakhic* implications that have not been explored. The process of formulating questions and generating *halakhic* discourse is the life blood of the Jewish people. Spirit touches matter as the Torah enclothes itself in the bodies of Jews who live by the contemporary applications of Sinai law.

Every Jew of every generation is also carrying a piece of the Torah⁷ and each of them, too, must discover how to insert it into the evolving body of law and teachings called the Oral Tradition. The daughters of Tslafchad are role models for this labor.

6

Daughters: Give us a portion of the land along with our father's brothers.

Moshe: It is impossible for a daughter to inherit.

Daughters: Why?

Moshe: You are women.

Daughters: Then let our mother enter into *yibbum*⁸ and conceive an inheritor that way.

Moshe: Impossible. Since once there are children, *yibbum* is not possible.

Daughters: You are contradicting yourself, Moshe. Either we are not seed and the obligation of *yibbum* applies to our mother, or we are seed and can inherit the land ourselves.

At that moment they convinced Moshe. When he heard the justice of their complaint he immediately presented their case before G-d. (YS 27)

The daughters of Tslafchad did not back down when encountering resistance. Moshe said, "no" repeatedly before he conceded to the logic of their position.

The system does not shift easily; that is its strength. It selects changes that have a momentum of belief and purity of intention that can propel them through layers of resistance. In this way the changes themselves are also purified in the process, and only those that are clean and strong get through. Similarly, a convert is refused three times. Only candidates who are driven by the non-negotiable truth of their soul will find the motivation to overcome the obstacles and claim their place among the Jewish people.

Every new concept or *halakhic* innovation is a "convert" of sorts. A new spark is seeking entry into the community of Israel. It, too, will be refused at least three times, but if its proponents are strong and of clean heart, it *will* find its way in, for no spark is ever permanently exiled. Every truth will find its way back to Torah.

⁷ According to R. Tzadok haCohen every Jew has some piece of the oral Torah that only becomes revealed through his or her life (*Likutei Ma'amarim* p.80-81; *Yisrael Kedoshim* p.152). Sometimes this is an actual law, but more often a particular application of a law that only comes up in the singular circumstances of one's life. Some unique facet of truth and Divine beauty is pressed forth through the configuration of forces and events that comprises that life.

⁸ *Yibbum* describes the situation of a woman whose husband has died without fathering any children. In that case, the brother of the deceased marries the widow and their first child is considered the spiritual child of the dead brother, rather than the child of the living father.

7

“The daughters of Tslafchad speak rightly...” Rashi explains that G-d was teaching through this statement that, “[As the daughters of Tslafchad spoke] so the section is written before Me on high.’ This informs us that their eye saw what the eye of Moshe did not see” (Num. 27:7; TY 27:7 YS, Pinchas 27; *Sifri* Num. 27:7).

Moshe is the greatest prophet who ever lived, and yet the daughters of Tslafchad saw something he did not see.⁹ Each soul comes into the world with some specialty. Whatever its level in the hierarchy of enlightened (or unenlightened) beings there is some piece of truth that only it knows and only it can bring into the world.

A creative tension develops between the people and its leaders. On one hand, we defer to the wisdom of our elders, yet on the other hand we *may* know something that they do not because it is *our* piece of the Torah. In that case we have no choice but to engage in respectful dialogue, following the model of the daughters of Tslafchad, honoring the system, honoring our truth, and finding a way to transform personal wisdom into oral Torah. There is no other option.

8

The daughters of Tslafchad were righteous women (צדקניות). They did not marry until they were forty years old. They waited for suitors that were worthy of them (BB 119b, BR 21:11, YS Pinchas 27).

Every choice has consequences, and when the costs outweigh the gains, an option becomes less feasible. Sometimes, however, though the stakes are high there is no choice, for integrity requires *that* path.

G-d designs each soul with specific talents for He wants certain revelations to come through it. He then implants a drive for self-actualization which compels it, from the inside, to fulfill its mission.

The daughters of Tslafchad developed themselves in certain ways that would narrow their options of appropriate marriage partners. Their exceptional intellect and strength of integrity put them in a category that was not easily matched. And yet, our sages call them righteous *because* they were willing to pay this price for authenticity, *because* they refused to compromise the precious gifts that G-d had given them.

GUIDELINES FOR RABBIS

The story of the daughters of Tslafchad also has lessons for the rabbis who are the gatekeepers responsible for selecting which changes come in and which are shut out, which are Torah, and which are not. Some of these teachings are discussed in *Midrashim* and commentaries, while others are surmised by the absence of negative comment.

⁹ There are various opinions about whether Moshe, in fact, knew the judgment, but chose to consult G-d directly on the matter for other reasons (BR 21:14, TY 27:5, TT 27:5). But regardless of whether or not Moshe knew the judgement already, G-d wanted the ruling to come down in the daughters' merit, and so the matter was held suspended until they initiated its discussion.

1

Conspicuously absent is *any* criticism from Moshe himself, as well as from later commentaries regarding the gender appropriateness of their action. No one even hints that they stepped out of bounds when they came before the entire congregation and publicly presented their petition before Moshe and the elders.

2

Also conspicuously absent is any sign that the rabbis felt personally threatened by their assertiveness or intellectual prowess.

3

The contrast is poignant. While the men were calling for mutiny, abandoning Israel and preparing to turn back to Egypt (Num. 14:4),¹⁰ the daughters of Tslafchad kept their sights forward and asked for their own piece of the land.

Moshe inquired after their strength of faith and they said, “When the people are abandoning Your Torah (i.e. the men turning back to Egypt) that is the time to intensify one’s commitment to service of G-d” (Ps. 119:126).¹¹

The *Midrash* then cites an example that supports the principle from Ps. 119: cited by the daughters of Tslafchad. The story concerns a young Jewish woman captive who became the maidservant of a Syrian general.¹² Her knowledge of all the detailed laws of leprosy enabled her to engineer a great public sanctification of G-d, His people and His Torah. The *Midrash* wonders how this woman became so educated in such an esoteric matter of law, especially at a time when even the men had abandoned learning.

The *Midrash* answers that she learned in her father’s house that “When the people are abandoning the Torah [one makes use of every resource at one’s disposal, even presumably the women] to strengthen the remnant that holds strong to the service of G-d” (again Ps. 119:126, but inverted), (*Sifri Zutra* 27:1, *YS Pinchas* 27).¹³

Since we are now in a time of national crisis with Jews assimilating at a frighteningly rapid rate, the faith and intellectual strength of women is a resource we cannot squander. There are women in this generation who are deeply rooted in love and fear of G-d, and who possess a strength of mind and love of Torah that can be of great service to the Jewish people. This *Midrash* implies that in such circumstances, “It is a time to act for G-d” and empower women wherever *halakhah* permits. If a law is clear and closed, so be it. But if the law has room to expand, then the *Midrash* argues for empowering women to serve their people with *all* of their G-d given gifts.

4

The daughters of Tslafchad began their petition to Moshe with the following words, “Our father died in the wilderness...he died in his sin...”¹⁴ The *Midrashim* bring several opinions about which

¹⁰ After Aaron’s death the men despaired and cried, “*Give us* a [leader] and we will go back to Egypt...” (Num. 14:4). It was in response to this crisis that the daughters of Tslafchad said, “*Give us* a portion in the land...” The *Midrash* contrasts the two requests, both stated in the imperative. The men are betraying faith with these words; the women are asserting it.

¹¹ This is a well-known halakhic principle called, “emergency measure. Its proof text is Ps. 119:126, which reads literally, “It is a time to do for G-d, they are voiding Your Torah.” The verse is sometimes also translated as, “It is a time to do for G-d by suspending [a mitzvah of] the Torah “ (as an emergency measure to assure the survival of the people as a whole).

¹² II Kings 5.

¹³ This is Ps. 119:126 inverted.

¹⁴ Num. 27:3.

of the sins recounted in the Israelites' forty year sojourn through the desert was the one that caused Tslafchad's demise. The *Zohar* presents an opinion based on the equivalency of two words, **מדבר** (desert) and **מדבר** (to speak). It then substitutes the latter for the former and rereads the verse above not as, "Our father died in the desert," but rather, "Our father died as a result of his speech (**בדיבור**)... He didn't guard his mouth and spoke improperly against Moshe..."¹⁵ **Consequently Tslafchad's daughters were afraid that Moshe might hold a grudge against them and not rule objectively because of his bias... Moshe understood their concern...and brought their case before G-d...instead of deciding on his own.** (*Zohar* 3:205b, based on Hebrew translation, מתוך במדב by R. Daniel Parish)

Moshe was a perfectly transparent channel of prophetic transmission. All other prophets and sages have some degree of ego density that distorts their perceptions of reality, even if only slightly. For Moshe alone is this not so. The *Zohar* goes on to explain:

The daughters of Tslafchad did not realize that because "Moshe was the humblest man on all the earth,"¹⁶ unlike the rest of mankind, he would not hold a grudge, and his conflict with Tslafchad would not have affected his legal judgement. (ibid.).

The *Zohar*, however, does not reproach the daughters of Tslafchad for doubting Moshe on this matter, rather the opposite. It goes on to present their behavior as a model for all generations to follow when a plaintiff fears that a judge lacks impartiality. Moshe, too, understood their concern and accommodated it. The *Zohar* praises him specifically for this.

Our generation finds itself in a complicated knot. The fact of women seeking more active participation in study and community life raises *halakhic* questions about the permissibility of their proposed innovations. And just as Moshe balked at the prospect of introducing a change into the system that seemed to have no clear precedent, how much more so is this true, and rightly so, for rabbis today, who have no direct prophetic connection. The difficulty goes deeper still, for the repercussions of women's strivings are not simply *halakhic*. They also affect (even if only slightly) the traditional role divisions of men and women in the orthodox Jewish community. For example, the systematic study of Talmud, until very recently was a field of expertise, and consequently a role, only available to men.

The problem is that since these questions carry such deeply personal implications, both for the community as a whole, and each individual within it, all parties are at least theoretically biased. For the plaintiff this bias is self-understood. He approaches the courts requesting a favorable judgement. There is no standard of objectivity required of the plaintiff.

For judges, this matter is more complicated. The general rule is that anyone with personal interests in a case should absent himself from its ruling panel. And so Moshe did exactly that when the daughters of Tslafchad approached with their appeal.

The problem is that for the particular questions discussed here, there is no one who will not be personally affected by their rulings. And, unlike Moshe, we cannot simply turn to G-d and

¹⁵ Num. 21:2-6. "And they journeyed from Mount Hor by way of the Sea of Reeds...and the soul of the people was much discouraged because of the way. And the people spoke against G-d, and against Moshe...And the Lord sent venomous serpents among the people."

¹⁶ Num. 12:3.

request a heavenly verdict direct from the Source. There is no option but to acknowledge the problem and minimize it wherever possible.

The *Talmud* provides a possible solution. It presents a method of *halakhic* analysis that enables its practitioners to relinquish their preconceptions by entering a place of *truly* “not knowing” what the correct verdict should be. And then, from that place of *not-knowing*, they formulate their ruling.

Moshe said to G-d, “Master of the Universe, tell me the *halakhah* about...? G-d answered, “The *halakhah* is whatever the majority decides. If the majority acquits, so it is; if the majority convicts, so it is.” *This is in order that all of the Torah’s possible interpretations of the question be elucidated*, i.e. forty-nine that prove the objects purity, forty-nine that prove its impurity.... As it says, “The words of G-d are pure. Silver refined in a furnace upon the ground, purified *sevens of times* (i.e., $7 \times 7 = 49$)”¹⁷ (JT Sanhedrin, 21a-b).

Since we have no Sanhedrin or formal court of sages, each rabbi must do this work on his own. The Talmud describes a *halakhic* master as one who can formulate forty-nine perfectly logical *and compelling* reasons to permit and forty-nine to forbid.¹⁸ Significantly, it does not present this as an intellectual exercise, but rather as a heart-centered one.

Seek to acquire an understanding heart that hears the words that prove unclean and the words that prove clean, those that prohibit and those that permit, those that disqualify and those that declare fit (BT Hagigah 3b). Maharsha adds:

And then, *with your discerning heart*, find the ruling that is best suited to serve as practical *halakhah*.

A person who fulfills the spirit of this advice, even if not to its letter (i.e., not necessarily forty-nine on each side) must reach a point where he truly doesn’t know which path holds G-d’s truth. It is there, in the place of *not-knowing*, that bias melts and purification occurs. Until that point, even with a long list of pros and cons, one is still “deciding on one’s own,” which is *not* what Moshe did. By touching the place of *not-knowing* there is at least the possibility of “bringing the matter before G-d” on whatever level we are capable in this generation. And then, from the place of true *not-knowing*, one selects the most spiritually productive solution for *these* circumstances and *these* times. And so the Talmud closes its discussion of this subject with the verse, “the words of G-d are...purified by [the practice of deciding *halakhah* through the methodology of generating] sevens [of options on each side], מזוקק שבעתים.”

When are the words of Torah heard as they were intended? When the one who speaks them formulates his ruling after having integrated the opinions of both sides. (Maharsha on BT Hagiga 3a, ח דה"מ אלו ת"ח).

Not only is the content of their decision conveyed, but even more, the purity of their intention and humility of their process will speak to the hearts of all who hear them (נשמע כתקני).

¹⁷ Ps. 12:7.

¹⁸ “...R. Akiva had a distinguished disciple who knew how to interpret the Torah in forty-nine aspects of uncleanness and forty-nine aspects of cleanness, not one reason being the same as another...Whence did he learn all these? He was learned in the Scriptures, expert in the Mishnah, distinguished in Talmud and brilliant in aggadah” (BT Sofrim 16:7).

5

The Torah is teaching us the power of the *tzaddik*. The daughters of Tslafchad presented their petition to Moshe...and Moshe prayed to G-d to concede to their request and to permit them a portion in the land. G-d agreed to Moshe's prayer as the *Midrash* says,¹⁹ "Moshe commanded, and G-d obeyed him" (Meor v'Shemesh, Masai).

Moshe so empathized with their dilemma and respected their love of the land that he actually prayed for a favorable verdict. The *Midrash* implies that it was Moshe's prayer itself that actually drew down the positive decision.

If women felt that rabbis had this kind of empathy with their yearning for more formal study or fuller participation in community life, any decision (even a bitter one) would still also be sweet. When, instead, they are admonished for their urge to express themselves in ways that are deeply rooted in Torah but not in keeping with the traditional female role, an adversary relationship develops and at that point every option brings loss.

Moshe prayed to be able to give them a favorable verdict. As much as he wanted truth, He wanted to share something with them that was an objectively good thing, and for which he himself longed (i.e. the land) but which was not, under normal circumstances, available to women.

The Torah is teaching a powerful lesson to the rabbis of today. If they are to imitate Moshe (which they must strive to do) then they must find a place of deep and authentic compassion for the women who approach them with halakhic petitions. Their empathy should be so compelling that it moves them to prayer:

Let it be Your will *HaShem* my G-d...that Your halakhah permit a favorable judgment, a judgment that will enable the fullest expression of service for all involved.

Only after touching this place of genuine empathy with the petitioner should the rabbi begin his halakhic research.

The incident of the daughters of Tslafchad occurs on the steppes of Moav, the last stop on the Israelites' forty-two stage journey from Egypt to the Holy Land. Thus, its reenactment in the 6,000 year scale of history will be one of the last developments before the messianic age. The exact time correlations are not clear, though we are fast approaching the end of days, which, apparently, must begin before the year 6,000 (244 years from now).²⁰ This means that if we are not yet collectively at the "steppes of Moav" we are very close, and the glow of its dawning light is certainly present. It is therefore no surprise that a growing number of women in this generation identify with the daughters of Tslafchad and find their own stories, dilemmas and yearnings mirrored in their tale.²¹

The story of the daughters of Tslafchad presents a methodology of attitude that, if practiced in good faith by all parties, will draw the unfolding of G-d's highest will into the halakhic discourse generated by our times.

¹⁹ *Shemot Rabba* 21:2.

²⁰ BT Sanhedrin 97b. See סימן י"ג, דרוש עץ הדעת, לשם, דרוש עץ הדעת, for a lengthy and complex discussion concerning the Talmud's translation of "6 days" into 6 millenniums.

²¹ This would also explain why many rabbis today have a natural empathy for these questions.