

Where Do You Bring Your Hardest Questions?



Your 18Forty Parsha Guide is a weekly newsletter exploring five major takeaways from the weekly parsha. Receive this newsletter every week in your inbox by subscribing [here](#). Questions or feedback? Email Rivka Bennun Kay at Shabbosreads@18forty.org.

On her walk home from shul on Shabbat afternoon, a Modern Orthodox woman is still turning over what a friend told her earlier in the week. A friend of a friend has been waiting two years for a *get* (the Jewish bill of divorce that frees a woman to remarry). The halacha she is bound by and has organized her life around has so far produced no answer for that woman. The question she walks home with is whether the tradition holds an answer she has not yet learned.

The closing chapters of Matot-Masei speak directly to whether the tradition holds an answer she has not yet learned. The case in Masei, where the tribal heads of Menashe raise a follow-up concern, builds directly on the daughters' original case in Parshat Pinchas. The case in Matot, where the tribes of Reuven and Gad ask to settle east of the Jordan, brings forward a separate question. Each of the three cases asks something the explicit text had not yet addressed, and each response joins the explicit law. The way the Torah answers these questions is internal to the Torah itself, and how the Torah responds is part of what it teaches.

Parshat Pinchas is the cleanest place to begin. Bamidbar 27 shows the daughters bringing their question, Moshe inquiring of God, and the answer being recorded as binding law for every future case. The ruling itself is striking in its content, since the Torah places daughters in the line of inheritance when there are no sons, which a reader expecting a uniformly patriarchal text will not have anticipated. The two follow-up cases in the double parsha repeat the same sequence on different questions.

1. The Case of Bnot Tzelophchad

The case opens with Machla, Noa, Hogla, Milca, and Tirza, the five daughters of Tzelophchad, approaching Moshe, Elazar the priest, and the chieftains at the entrance of the Tent of Meeting. Their father has died in the wilderness without sons, and the standing law has not stated what happens when a man dies leaving only daughters. They ask why their father's name should be eliminated for that reason, and they request a portion of land among their father's brothers. Moshe brings the case before God, and the response affirms that the daughters speak rightly. The statute that follows governs every case after, holding that when a man dies and has no son, his daughter inherits.

The classical tradition reads the five women as halachic actors of the highest order. The Talmud preserves the rabbinic memory that they were wise, learned in Torah, and righteous, and that they articulated their argument in the language of inheritance law itself. Rashi reads the genealogy the verse supplies as evidence that they came from a line of people who loved the land of Israel and pressed their claim out of that love. The classical sources present the daughters as halachic actors working from within the law's own logic, bringing a question the explicit text had not yet addressed to the legal authority who could inquire of God.

Avivah Gottlieb Zornberg, in *Bewilderments*, her study of the book of Bamidbar, reads the daughters' approach as a turning point in the wilderness narrative—the moment a private grievance is articulated publicly in the language of inheritance law and receives an answer the explicit text had not previously contained. Tamara Morsel-Eisenberg, on the 18Forty Podcast, describes this as the basic pattern of every halachic story. A person inside the system brings a question the explicit text has not addressed, the legal authority inquires of God, and the answer becomes part of the law. That sequence is part of what the Torah teaches, and the daughters' case demonstrates it cleanly.

The daughters' case shows the same shape in its cleanest form. A petitioner brings a question the explicit text has not addressed, Moshe inquires of God, and the answer becomes binding law for every case after. The daughters' case is the first instance, and the rest of the double parsha supplies two more—in Matot and Masei.

2. Two More Cases Within the Double Parsha

Parshat Matot opens with its own case. The tribes of Reuven and Gad approach Moshe with a question the standing settlement plan had not addressed. The land east of the Jordan suits their flocks, and they ask whether they can settle there rather than cross the river with the rest of the people. Moshe's first response is sharp, reading the request as repeating the spies' refusal. The tribes reframe the request, offering their fighting men to lead the crossing. Moshe accepts the modified arrangement and the inheritance map is redrawn. The principle that every tribe shares in the conquest is preserved, and the answer to the new question joins the explicit law.

Parshat Masei closes the book of Bamidbar with the third case, at Bamidbar 36. The tribal heads of Menashe approach Moshe with a downstream concern from the daughters' case in Pinchas. If the daughters of Tzelophchad marry men from other tribes, the inheritance the ruling just gave them will pass into those tribes through marriage, and the portion of Menashe will erode generation by generation. Moshe again brings the case before God, and the response preserves the daughters' inheritance and adds a marriage constraint requiring them to marry within their father's tribe. The modern reader will notice the difficulty immediately, since Parshat Pinchas placed daughters in the line of inheritance and Masei narrows the marriages those same daughters can choose, looking like the patriarchal correction the reader expected. The tribal heads of Menashe, however, are raising a tribal-inheritance concern bound on the face of the verses to the daughters' own generation entering the land. The constraint still narrows what the daughters can choose, but the chapter is engaging two competing interests rather than reeling in the original ruling.

The classical tradition does not smooth the constraint into easier readings. The Talmud reads the marriage constraint as binding only on the daughters' own generation entering the land, with no extension to their descendants. The narrative closes in the book of Yehoshua, which records the daughters approaching Elazar and Yehoshua after the conquest to receive the inheritance Moshe had ruled they were owed.

The three cases across two *parshiyot* each follow the same sequence, with a petitioner bringing a question the explicit text has not yet addressed, the legal authority inquiring of God, and the answer joining the explicit law. Rabbi Aryeh Lebowitz describes halacha as a system whose own internal logic handles questions the standing text has not directly addressed. The Torah models exactly that logic when it records the daughters' case, and Rav Kook gave that logic its name in modern Jewish thought.

3. The Pattern Articulated

The procedure the daughters modeled in eleven verses has a name in modern Jewish thought. Rav Avraham Yitzchak HaKohen Kook spent decades developing the account in *Orot HaKodesh*. Revelation, on his account, opens through the moral and spiritual life of the Jewish people as that life engages the text across generations rather than as a single event closed at Sinai. The community's grasp of what the text requires deepens as the community lives the text into new circumstances, even as the text itself does not change. Machla, Noa, Hogla, Milca, and Tirza modeled the move when they pressed an inheritance question the standing law had not anticipated.

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The Modern Orthodox reader's immediate worry is that if the community's moral life shapes how the text is read, the door opens to importing any moral concern the community happens to feel, and the law starts being driven by sentiment rather than by its own authority. Yosef Bronstein argues that the lived halachic experience of the community across history is part of how the Torah's meaning becomes clearer over time. A worry raised from external ethics does no halachic work, while a concern emerging from halachic argument and practice enters the system and is adjudicated by the system's own rules.

The daughters' case is the cleanest illustration of halachic revelation in action. The standing inheritance law had not addressed what happens when a man dies leaving only daughters, so the five women raised it as a halachic argument, asking why their father's name should be eliminated. Moshe brought their argument before God, and God's answer became binding law for every case that followed. After Moshe, the rabbinic tradition has applied the same shape to new cases for nearly 2,000 years, exercising the interpretive authority Devarim 17 supplies, which charges every generation's judges to address the questions the standing law leaves unresolved.

4. The Pattern Across History

The daughters' question did not remain a one-time story. Jewish law has had to face new cases ever since, because the Torah speaks in principles that must be applied to circumstances the text does not anticipate, and what the daughters did at the Tent of Meeting has been done in every generation. One of the earliest illustrations is Hillel's *pruzbul*, which arose when the Torah's command to cancel debts in the shemittah year was producing the outcome Devarim 15:9 explicitly warned against, with lenders refusing loans to the poor as the seventh year approached. Hillel's response used the authority of *beit din* to transfer debts to the court so the obligations survived cancellation and lenders continued extending credit to those most in need.

The *sotah* ritual, which tested a wife suspected of adultery using bitter waters, was eventually halted, and naming the legal reason it was halted does not make the ritual itself less troubling. The Talmud records that the waters worked only when the husband himself was free of sexual sin, and when sexual wrongdoing became widespread among husbands Rabbi Yochanan ben Zakkai discontinued the practice on that ground. The reasoning was legal and practical, not a modern egalitarian argument, and it did not address the deeper imbalance the Torah's law of adultery built in by classifying husband and wife differently. The rabbis halted the ritual because its own condition could no longer be met, and the deeper question remained for later generations to face.

The same kind of work shows up in commerce through the *heter iska*, a business-partnership contract that restructures what would otherwise be a loan as a shared investment. The Torah forbids one Jew to charge another interest in three different places, a prohibition that holds intra-Jewishly in the text. By the medieval period, Jewish merchants were operating in credit-based economies, and Jewish communities could not simply withdraw and continue functioning. The pressure was practical, not a claim that interest had become morally acceptable or that the Torah's concern had disappeared, yet practical pressure is not trivial because halacha governs real economies. Working from the partnership logic in Bava Metzia 70b, later authorities structured the transaction as an investment partnership in which the lender's return was a share of profit on the underlying enterprise, allowing commerce to proceed through a halachic form the tradition itself authorized.

These are only three examples drawn from a much larger record. Post-talmudic enactments, medieval communal regulations, and modern responsa all show halachic authorities applying Torah to questions the written text leaves unresolved. Moshe Koppel describes halacha as a language a community speaks, with lived usage shaping how it develops. That is the background for the contemporary agunah crisis, where women whose husbands refuse to grant a religious divorce are asking halacha to use its own tools to address a moral injury the system has long recognized but has not fully solved.

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5. The Prenup and Its Limits

The contemporary halachic prenup belongs alongside *pruzbul*, the discontinuation of the *sotah* ritual, and *heter iska* as one more instance of rabbinic corrective work, though the analogy needs to be modest. The Beth Din of America's prenuptial agreement, developed under Rabbi Mordechai Willig and adopted by the Rabbinical Council of America, is a contract and arbitration agreement that couples sign before marriage. Like *heter iska*, the prenup uses a legal form halacha recognizes to address the moral failure of *get* refusal, in which a woman whose husband refuses to grant a *get* can be trapped in a marriage against her will.

Rabbi Shlomo Weissmann, director of BDA, explains the prenup as binding arbitration. A valid *get* requires the husband's act of giving and the wife's act of acceptance, which the prenup does not replace. Instead, the husband accepts a support obligation before marriage, enforceable through *beit din* and often through secular court, that applies while the couple is separated and the *get* process remains unresolved. That distinction matters because halacha treats a *get me'useh*, a coerced *get*, as invalid. Supporters of the BDA prenup argue that the obligation is voluntarily assumed before marriage rather than a later punishment imposed to extract a *get*, while some Orthodox authorities dispute that line and worry that financial pressure can still rise to improper coercion.

The prenup's limits are both technical and communal. It protects only couples who signed before marriage or later signed a postnuptial version, which means it cannot by itself reach the woman whose case opened this article, the friend's friend already two years into *get* refusal. This functions similar to a *pruzbul* or *heter iska*, which only help those who sign the documents in advance. Communities that have not adopted the prenup, including significant parts of the Orthodox world, leave their members without this protection. Even when a couple signed, a husband may ignore the *beit din*, fight enforcement in court, or decide the financial and social cost is worth absorbing, and in those cases women still need *beit din* intervention and public pressure from organizations like the Organization for the Resolution of Agunot.

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The damage from *get* refusal takes concrete form, with some women remaining married against their will for years and sometimes decades, others pressured to trade money or custody for a *get*, and children born from later relationships who may face *mamzerut*, the halachic status that severely restricts whom they can marry in observant communities. Tova Ganzel, describes the Jewish moral tradition as one in which the community's moral pressure shapes how the law is read across generations. The woman walking home from shul with her friend's friend's case is being asked to do what Machla, Noa, Hogla, Milca, and Tirza did at the entrance of the Tent of Meeting, bringing a concrete injury to the authorized place of judgment and making the claim in the language of halacha. Without that forum, and without the communal backing that makes its decisions enforceable, the procedure stays available in theory and unavailable to the women harmed by *get* refusal.

Questions for Reflection

- 1. Who in your actual community holds the role the *beit din* held for the daughters of Tzelophchad—and have you brought your unresolved question to them, or just carried it?**
 - 2. Where has the tradition asked for fidelity to its form, not just its moral conclusion—and can you sit with that difference without needing to resolve it?**
 - 3. A prenup only protects those who sign before the crisis. Where else have you built structures that only help you *before* things get hard—and what would it take to build one that helps you now?**
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