

## **LAW IN ACTION IN THE OLD TESTAMENT: Zelophehad's Daughters (Num. 27:1-11)**

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In any study of the Law, it is important to establish some basic precepts. First, the risen Christ has absolute and complete authority over all creation and human activities. Second, high regard for the Law is maintained not only in the Old Testament, but in the New Testament as well. Third, the fundamental impetus of all the Law is love, love toward God and our neighbor. The general love command is fleshed out in the more detailed prescriptions of the Ten Commandments, and in even more detail in other parts of Exodus and particularly Deuteronomy. Fourth, there is a fundamental unity of the Law that is refracted into a three-fold emphasis of the Law among moral, ceremonial and political matters. Finally, the application of the Law to a particular circumstance is not "computerized" but requires wisdom. The Law of the Old Testament is not like geometry; it is not a set of postulates, which, together with a few theorems, allow us to deduce a complete system.<sup>1</sup> As a case in point of the reciprocal relationship of situation and law, let's consider the first recorded *in rem* action under the Mosaic Code, *In re Zelophehad's Daughters* (Num. 27:1-11).

First, a few words about the setting: The events described in Numbers cover the period from shortly after the giving of the Law at Sinai and the construction of the tabernacle recorded in Exodus until thirty-eight years later when the second generation reached the Plains of Moab from which Moses gave his farewell address recorded in Deuteronomy. The overall purpose of the book of Numbers was to call the second generation of Israel to arms as the holy army of God. It did so by recalling the constitution of the first army at Sinai, its failure, and then the call of the second army starting with a new census in chapter 26. This new army of the second generation was given regulations relating to the conquest of the land, one of which we find in the first verses of chapter 27. New questions arose and needed to be dealt with because, for the first time in 400 years, the people of Israel would have to deal with ownership and distribution of land.

Interestingly, this particular regulation was not instituted by God but by litigation. A gentleman by the name of Zelophehad, a member of the first generation, had, like almost that entire group, died in the wilderness. His wife had presumably predeceased him, and among his children were only daughters. They were concerned that, according to the Law, they could not receive the inheritance, and thus their father's name would be blotted out.

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<sup>1</sup> In fact, this isn't true even in mathematics as Gödel and Frege demonstrated.

Their fear was a reasonable one because the immediately preceding census had counted only the males<sup>2</sup> of Israel from which Zelophehad's daughters could have legitimately inferred that only men could stake a claim to the Promised Land. Such a conclusion would also have been consistent with the Law as later recorded in Deuteronomy 21:15ff. (acknowledging the right of primogeniture) and 25:5ff. (positivizing the levirate marriage duty). These laws would have been generally known and applied even before their recordation in Deuteronomy (cf. Gen. 38:8-11).

A simple, straightforward “deduction” from the existing legal principles would have led to the conclusion that Zelophehad's daughters had no claim to an inheritance. But such a deduction seemed unjust to them, and God agreed. The existing legal principles had not addressed this specific situation. This specific situation, in turn, illustrated that the Law was incomplete; there were situations with respect to which wisdom was necessary to fill the interstices.

In this particular case the women brought their lawsuit to the judicial authorities: Moses, Eleazer (then high priest), the leaders and the whole assembly. (The standing of women to prosecute a lawsuit should not go unnoticed; women had independent legal *personae*, at least in some situations.) Their complaint followed a *rîb* format, the resolution of which Moses took before the Lord. God's judgment in favor of the daughters was not a foregone conclusion; the situation required “new” law – not new from God's point of view, to be sure, but new in terms of the failure of the law revealed to date to supply the correct rule of decision for this situation. In fact, God took this opportunity to provide additional legislation (or, perhaps better put, *dicta*, but certainly binding *dicta*) regarding a rule of succession where the deceased had no children at all (vv. 9-11).

Today we are also faced with situations for which the Law of God, even properly understood, does not supply an immediate answer. Reasonable deductions from God's revealed Law, or inferences from a number of God's laws, may not give us the right answer. God's Law was not given in a vacuum; it came in a specific situation in redemptive history and to a people in a particular culture. Without wisdom, even God's Law can become a tool of oppression. And, even though we do not have the same sort of access to God's presence for adjudicatory purposes that Moses had, we have not been left alone. Thanks be to God, for he has promised: “If any of you lacks wisdom, let him ask of God, who gives to all liberally and without reproach, and it will be given to him” (Jam. 1:5).

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<sup>2</sup> Most English translation of Num. 26:2 obscure the fact that only men were counted by translating *b<sup>e</sup>ney-yisra'el* as “Israelite” (NIV) or “children of Israel” (NKJ) instead of “sons of Israel” (NASB).