



Parashat Pinchas features a brief presentation of the Torah's laws of inheritance, outlining which relatives are granted inheritance rights over the property of the deceased and in which priority sequence (27:6:11). The Torah concludes this section by commenting, "and these shall be for the Israelites as a statutory law, as the Lord commanded Moshe" (27:11).

This clause forms the basis of a famous ruling by Maimonides in his *Mishneh Torah*. He writes (Hilkhot Nachalot 6:1):

A person may not bequeath to somebody who is not worthy of inheriting him, or deny an inheritor the inheritance, even though this is [an issue of] money, because it says in the section of inheritance, "it shall be for the Israelites as a statutory law" which teaches that this statute is not alterable, and a condition in this regard is ineffective. Whether he instructed while he was healthy or on his deathbed, and whether he instructed orally or in writing, it is ineffective.

According to Maimonides, the laws of inheritance differ from other laws of Torah governing ownership and transfer of property. Generally, the two parties can agree to whichever arrangement they wish, and ignore the Torah's monetary laws. *Halakha* states that with regard to monetary law one can make a stipulation that runs in opposition to the Torah's guidelines. In a case where Torah law mandates that a person owes another, or that they divide a certain property according to a certain percentage, the two parties may agree to a different arrangement if they so desire, without referring to the Torah's civil code.

When it comes to inheritance, however, Maimonides maintains that the Torah's dictates cannot be circumvented. In his view, the term *chukat mishpat* ("a statutory law") establishes inheritance as a religious dictate, rather than merely an arrangement for resolving conflicts between two parties.

Rabbi Yitzchak Breuer (Germany-Israel, 1883-1946), in his work *Nachaliel*, comments how this ruling reflects Judaism's attitude towards property and the concept of ownership. He writes, "Private property in Israel is not a self-understood concept... It seems clear that the Torah's laws do not recognize at all the right to bequeath private property as a result of ownership... Death cancels ownership." A person's ownership over property is inherently limited by human mortality; a person cannot determine what happens to his belongings after his passing. Man is given possessions to use at his discretion during his lifetime, but this control is restricted to the period he spends on earth. Only the Torah determines what happens to his estate once he leaves this world.

Accordingly, *Halakha* distinguishes in this regard between inheritance and a gift. As Maimonides rules later in that chapter (Hilkhot Nachalot 6:5), a person is empowered before death to distribute his assets as gifts to whomever he wishes. Since this distribution will take effect while he still alive, it is within the realm of his control over his property. Distribution in the form of inheritance, however, cannot override the Torah's statutes, as it constitutes an attempt to extend beyond the limited confines of human control over assets. This control ceases at the time of death, and thus a person can effectuate the transfer ownership over his property only while he is living, and not after death.