

Introduction to Tractate Yebamot

The law of levirate marriage—marriage of the widow to a brother of the childless deceased husband for purpose of procreation—aims at bringing about the realization of that original act of consecration (of marriage), which was procreation. This is explicit in the Torah, which seeks to maintain the deceased's "name" in Israel ("name" here standing for household, extended family). The deceased's widow is to produce a child with a surviving brother completing the purpose of the original union though by unanticipated means (Deu. 25:5-10). The premise of the reproductive purpose of marriage rests on the penalty for his failure to comply—the deceased's brother is called a "name"—by refusing to give his deceased brother a "name," that is, offspring.

- I. When the levirate connection does not pertain
- II. The interstitial case: the flawed levirate connection and the rite of removing the shoe
- III. The consequence of the levirate marriage
- IV. Marriages that violate the restrictions of the Torah: the consequences for the priesthood as to the consumption of priestly rations
- V. Marriages that are subject to doubt by reason of the status of the parties thereto
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A writ of divorce, abrogating the intentionality affirmed in marriage, does not present the only way in which the law nullifies the initial act of consecration of a woman to a man. Death also serves to deconsecrate the conjugal bed, but for a different reason. If the husband dies having produced offspring, the governing intentionality accomplished its purpose and the wife may proceed to the next marriage if she wishes. The transaction is sealed by the offspring.

What happens if the husband's goal in consecrating the woman—children—has not come to fruition? Scripture maintains the goal of the original act of consecration has not been attained. The desacralization of the original intention of sanctification, confirmed by offspring, does not take place. The woman remains consecrated for the as-yet-unrealized purpose of the union. Then, so far as is possible, the widow bears the obligation to accomplish the intention that resulted in marriage. Here circumstance intervenes—a surviving brother of the childless deceased may take his place as husband of the widow.

Scripture deems the widow's role to be active; she is the one who demands the realization of the original consecration. The surviving brother is an instrument in the fulfillment of the couple's agreement. The surviving brother(s) may, however, prevent the transaction, in which case the woman is freed of her status of sanctification. The rite of removing the shoe, *halisah*, provides the legal counterpart to the presentation of a writ of divorce (Deu. 25:7-10). There is this obvious difference; the unwilling brother takes the passive

role while the outraged widow takes the active one. Her task is the embodiment and fulfillment of that sanctification that she has willingly accepted for herself, a task that the surviving brother has refused to share. She bears as heavy a stake in the marriage as her now-deceased husband, but her brother-in-law has failed in his Heavenly task.

When Heaven intervenes in a consecrated relationship and severs it, no writ of divorce is required to free the woman from the marriage. In the law of levirate marriage, Heaven may have also arranged matters so that a union of a surviving brother with the widow contravenes other laws of the Torah. Heaven bears responsibility for the refusal of the levirate marriage when the deceased childless man's widow is related to the surviving brother in a relationship prohibited by the Torah, e.g., if she is the sister of the surviving brother's wife.