

Ki Seitzei- Yivum Levirate Marriage

By Rabbi Eliyahu Kirsh

In Devarim 25:5-10 we are told about the special mitzvah of *Yivum*, Levirate Marriage. If a man passes away leaving a widow and no children, there is a special mitzvah of one of the brothers to marry the widow. Although such a marriage would ordinarily be forbidden on the grounds of the widow being a brother's wife [Vayikra 18:16] which applies even after the brother's demise, the Torah made an exception in this case where there are no surviving offspring. While it is the primary duty of the oldest brother to marry the widow of the deceased brother, any of the brothers can fulfill this mitzvah. In such a marriage *min Hatorah* no *kiddushin*, betrothal is required since the marriage is seen as standing ready to happen at the time of death and it viewed as if a betrothal was already made. All that is remaining is a consummation of the marriage. However, rabbinically, for reasons of modesty we go through the steps of *kiddushin* and *chuppah* before the two people live together. If the two people involved do not want to marry each other, the Torah provides a way out known as *Chalitza*. *Chalitza* consists of the widow removing the shoe from the brother in law's foot and spitting in front of him and stating 'so is done the one who does not want to build his brother's house. [Although the verse states she spits in his face, our *mesorah* tells us she spits merely in front of him.] In today's times *chalitza* is the preferred method since it is questionable how much one can really be entering such a marriage *lesheim mitzvah* and not for personal reasons. In fact in Ashkenazic communities, *yivum* is not practiced at all, even as a secondary measure.

The *Sefer Hachinuch* explains that a wife becomes a limb of the man's body as Chazal say *Ishto Kegufo*. We see how the first wife was taken from Adam Harishon's rib. Dying without children means no legacy or continuity in man serving his creator. The wife in this case is the only memory. Hashem did a great *chesed*, act of kindness to allow the living brother to take charge of this memory. By doing this mitzvah the brother-in-law inherits almost all but not totally his brother's entire legacy. This widow is contributing as well. This is the meaning of Onan not wanting to perform the mitzvah of *yivum* when the Torah states that Onan knew that the seed would not be his. The idea is that Onan would not have his brother's entire legacy because Tamar would have had a part as well. The *Sefer Hachinuch* alerts us to the fact that there are much deeper meanings to this mitzvah as well.

Rabbeini Bachaya al Hatorah offers a simple explanation. The idea of *yivum* prevents total strangers from coming in and taking over the deceased brother's inheritance and family unit and in particular, his wife. The living brother usually would have preferred alive brother to continue his legacy. *Chalitza* has the connotation of mourning [removing the shoe] as well as symbolic dissociation between the brothers.

Rabbeinu Bachaya also explains on a more kabbalistic level that this mitzvah is for the sake of the deceased brother. Since the Mitzvah applies specifically to brothers who were in the world at the same time and not to a brother born after the demise, it turns out that the connection is very specific. When this mitzvah is not performed there is a sense of cruelty which would not apply when the two brothers never knew each other in the first place. This mitzvah allows the living brother to do a phenomenal *chesed* to the deceased brother and this is ultimately Hashem's *chesed* to allow both of them to merit the holy light of *Olam Habah*.