

# FREQUENTLY ASKED QUESTIONS

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### Levirate Marriage

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#### Can you explain to me what levirate marriage is?

The term “levirate” is derived from the Latin *levir*, meaning “brother-in-law,” a translation for the Hebrew *yavam* (יָוָם) reflected in the Vulgate. The instructions regarding levirate marriage appear in Deuteronomy 25:5-10:

“When brothers live together and one of them dies and has no son, the wife of the deceased shall not be *married outside the family* to a strange man. Her husband's brother shall go in to her and take her to himself as wife and perform the duty of a husband's brother to her. It shall be that the firstborn whom she bears shall assume the name of his dead brother, so that his name will not be blotted out from Israel. But if the man does not desire to take his brother's wife, then his brother's wife shall go up to the gate to the elders and say, ‘My husband's brother refuses to establish a name for his brother in Israel; he is not willing to perform the duty of a husband's brother to me.’ Then the elders of his city shall summon him and speak to him. And *if* he persists and says, ‘I do not desire to take her,’ then his brother's wife shall come to him in the sight of the elders, and pull his sandal off his foot and spit in his face; and she shall declare, ‘Thus it is done to the man who does not build up his brother's house.’ In Israel his name shall be called, ‘The house of him whose sandal is removed.’”

The ordinance of levirate marriage is given so that if a husband dies without producing an heir, his brother can take the widow as his own wife, producing an heir for his brother. “This form of marriage...allowed a man to receive his deceased brother's property and manage it for the widow, thereby keeping the family property and possessions intact. If the deceased brother left no male children then the surviving brother was expected to take the deceased's wife. Any son born of this relationship to the widow would be counted as the dead brother's heir, who would then be expected to continue the family line” (*ISBE*).<sup>1</sup> Even though the Torah explicitly forbids sexual unions between close relatives (Leviticus 18:16), theologians and commentators have had to note “that the legislation of Deut 25:5-10 is an exception to the legislation regarding marriage and/or sexual intercourse with one's sister-in-law” (*ABD*).<sup>2</sup>

With the unfortunate rise of a sector of Messianic polygamists in recent days, or men believing that husbands can take more than one wife (this belief is thoroughly refuted in the editor's article “**Is Polygamy for Today?**”), such advocates have claimed that the instructions regarding levirate marriage are a kind of Biblically-commanded polygamy. The problem with this is that it is not sustainable in the only two examples we see of levirate marriage in the Tanach.

The first we see is that of the widow Tamar in Genesis 38, whose husband Er died without giving her any offspring (Genesis 38:7). His brother, Onan, was asked by his father Judah to perform the ritual of the levirate, being told “Go in to your brother's wife, and perform your duty as a brother-in-law to her, and raise up offspring for your brother” (Genesis 38:8). During the sexual act with Tamar, it is recorded that Onan withdrew at the moment of climax: “Onan knew that the offspring would not be his; so when he went in to his brother's wife, he wasted his

<sup>1</sup> R.K. Bower and G.L. Knapp, “Marriage,” in *ISBE*, 3:263.

<sup>2</sup> Victor P. Hamilton, “Marriage (OT and ANE),” in *ABD*, 4:568.

seed on the ground in order not to give offspring to his brother” (Genesis 38:9). Onan’s life was taken by the Lord (Genesis 38:10) because “he spilled the semen on the ground” (RSV). This occurred not because withdrawal is a form of contraception, but because having committed to the rite of the levirate he did not follow through during relations with Tamar. There is no statement in the text that Onan was already married, so even though a child conceived would be considered Er’s, Tamar would be his first wife.

The second example we encounter in the Tanach are various references to levirate marriage in the Book of Ruth. Boaz is one of the closest of Naomi’s relatives (Ruth 2:20), a man who has the right to redeem the family property by taking Ruth as his wife (Ruth 3:13). After encountering the widow Ruth, this is something that Boaz is actually very interested in doing. A closer relative has the right to the first choice of the family property and Ruth, but as Boaz tells him, “On the day you buy the field from the hand of Naomi, you must also acquire Ruth the Moabitess, the widow of the deceased, in order to raise up the name of the deceased on his inheritance” (Ruth 4:5), and the relative promptly declines (Ruth 4:6). Boaz is able to take Ruth as his own wife, raising up an heir for the deceased family of Elimelech (Ruth 4:10, 17). Here, we see that perhaps the closer relative could have taken on Ruth as another wife, but clearly chose not to do so as he saw a conflict of interest regarding inheritance.

The instructions regarding levirate marriage concerns a situation *ki-yesh’bu achim yach’dav* (כִּי־יֵשְׁבוּ אַחִים יַחַד), or “When brothers dwell together” (Deuteronomy 25:5a, NJPS). Various interpretations that have been offered of this include: (1) brothers alive together at the same time, (2) those living in the same town, (3) those who live together in a consortium or family estate. The first interpretation is the most likely,<sup>3</sup> even though “brothers” can probably be extended out to also mean close relatives in some cases.

How often the ritual of the levirate was actually practiced does shed some significant light on the fact that a so-called Biblically-commanded polygamy is *not* the issue. Onan pulled out at the last moment, and the man who had the first choice of Ruth rejected her. Likewise, built into the instructions of Deuteronomy 25:5-10 is the option for the brother-in-law to decline his brother’s widow with a special procedure of her removing his shoe or sandal. The widow was to go before the elders of her town (Deuteronomy 25:7-8), pull off the sandal of her brother-in-law, and spit in his face saying, “This is what is done to the man who will not build up his brother’s family line” (Deuteronomy 25:9, NIV). The brother-in-law who does not follow the rite of the levirate will have a stigma attached to him (Deuteronomy 25:10). And concurrent with this, “in removing the brother-in-law’s shoe, with the town’s elders as witnesses, the woman assumes the right to her freedom and full control of her destiny” (*ABD*),<sup>4</sup> as shoes were often viewed as being a sign of property ownership.<sup>5</sup>

Because there are opt-out instructions given for the rite of levirate marriage, there is good cause for us to believe that this was observed few and far between in the period of the Tanach (i.e., Ruth 4:7). Indeed, the history of the Jewish Synagogue attests that it eventually died out, as the maintenance of property within a family was less and less needed as economies changed, and along with it the need to keep property or land within a specific family group. At the very most, we see “levirate marriage” observed today in Judaism when a new child is named after a deceased relative. Jeffrey H. Tigay observes, “We find echoes of this sentiment today in the emotionally powerful custom of naming a child after a deceased relative...whose name thus lives

<sup>3</sup> Cf. Walter C. Kaiser, *Toward Old Testament Ethics* (Grand Rapids: Zondervan, 1983), pp 190-192.

<sup>4</sup> Hamilton, “Marriage (OT and ANE),” in *ABD*, 4:567.

<sup>5</sup> John H. Walton, and Victor H. Matthews and Mark W. Chavalas, *The IVP Bible Background Commentary: Old Testament* (Downers Grove, IL: InterVarsity, 2000), 200.

on. It may also be a way of ensuring that the widow is left with a tangible reminder of her first marriage...”<sup>6</sup> This would certainly be a suitable way for contemporary Messianics today to likewise honor the instructions of Deuteronomy 25:5-10, and it is definitely detectable within both the Jewish and Christian cultural traditions for married couples to name their children, even if partially, after their predecessors.

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Unless otherwise noted, Scripture quotations are from the *New American Standard, Updated Edition* (NASU), © 1995, published by The Lockman Foundation.

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<sup>6</sup> Jeffrey H. Tigay, “Deuteronomy,” in David L. Lieber, *Etz Hayim: Torah and Commentary* (New York: Rabbinical Assembly, 2001), 1134.