

In the past year, former Ashkenazi chief Rabbi David Lau personally handled many cases to ensure sensitivity



THE WIDOW must remove the sandal of her brother-in-law... (Wikimedia Commons)

‘Halitza’ for wartime widows

Since the beginning of Operation Swords of Iron, the Chief Rabbinate has performed roughly 20 *halitza* ceremonies. This is a fairly rare ceremony in which the brother of the deceased declares that he will not marry the bereaved widow. We’ll explain the origins of this law and some of the controversies that have ensued from it.

According to the Torah, a childless widow becomes, by default, linked to her husband’s brother in a form of levirate marriage (*yibum*). “...Her husband’s brother shall unite with her: he shall take her as his wife and perform the levir’s duty. And it shall be that the first child that she bears shall be established in the name of his dead brother, that his name may not be blotted out in Israel” (*Deuteronomy* 25:5-6). As indicated, this law was meant to ensure that the lineage of the deceased continues.

Many have noted it would also guarantee that the widow would not be left without financial support, a particularly grave concern in eras in which women did not have economic independence. Indeed, later in the Bible, we find a quasi-yibum marriage when Boaz marries Ruth, the ancestor of King David.

In the same passage, however, the Torah also describes a dramatic process called *halitza*, in which the brother-in-law ends this levirate bond.

“If that party does not want to take his brother’s widow, his brother’s widow shall appear before the elders in the gate and declare, ‘My husband’s brother refuses to establish a name in Israel for his brother; he will not perform the duty of a levir.’ The elders of his town shall then summon him and talk to him.

“If he insists, saying, ‘I do not want to take her,’ his brother’s widow shall go up to him in the presence of the elders, pull the sandal off his foot, spit in his face, and make this declaration: ‘Thus shall be done to the man who will not build up his brother’s house!’ And he shall go in Israel by the name of ‘the family of the

unsandaled one’” (*Deut.* 25:7-10).

From the text, it would clearly seem *halitza* is not a preferred option. In Mishnaic times, however, preference was given by some sages to performing *halitza*, out of concern that some brothers were not marrying with pure intentions of continuing their brother’s lineage – i.e., they had the intent of marrying for her beauty, marital relations, or inheritance. At times, Babylonian sages presented both options to the brother as equal choices (*Yevamot* 39a).

The Talmud, however, seems to indicate that in some locales, *yibum* remained the preferred option. This position was adopted by Maimonides and Rabbi Yosef Karo, thereby becoming the default option in Sephardi lands. Rabbi Tam and Rabbi Moshe Isserles, in contrast, asserted that *halitza* should be performed. This position also conformed with the medieval Ashkenazi ban on polygamy, as *yibum* would otherwise become problematic in cases when the brother was already married.

IN 1950, Ashkenazi chief Rabbi Yitzhak Halevi Herzog and Sephardi chief Rabbi Ben-Zion Uziel issued a number of protocols of the Chief Rabbinate. One of them asserted that *yibum* would not be performed in Israel, alongside a ban on polygamy.

This ruling was strongly opposed by then-31-year-old Rabbi Ovadia Yosef, who insisted that Sephardi tradition allows this practice. This position has been maintained by his sons who, like their father, became Sephardi chief rabbis, although the official protocol of the rabbinate remains that *halitza* should be performed.

Toward that goal, many rabbinical courts own a special leather *halitza* shoe that includes straps which wrap around the ankle. On an average year, it is estimated there are 15 to 20 such cases in Israel and a couple in the United States. The ceremony can be

performed starting three months after the husband’s death, which is the minimum amount of time that was traditionally deemed necessary to determine that the widow was not pregnant.

For many families, the process of *halitza* can be unpleasant, especially as they are still grieving for their loss. The widow must remove the sandal of her brother-in-law, and then, in front of three judges, spit in front of him and call out, “Thus shall be done to the man who does not build up his brother’s house!” The widow then takes on the legal status of a divorcee and is permitted to remarry.

In the past year, former Ashkenazi chief Rabbi David Lau personally handled many of these cases, to ensure there was no bureaucratic delay and that each situation was handled as gently and sensitively as possible.

In the early 20th century, it was suggested by a few scholars that perhaps an appointed agent could stand in place of the widow, thereby relieving her of having to participate in the ceremony. The motivation then was to handle cases in which the brother-in-law was located a far distance from the widow, thereby leaving her unable to remarry.

While this idea was tentatively suggested by Rabbi Shalom Schwadron, it was more enthusiastically endorsed in the 1920s by Rabbi Avraham Yudelowitz, then a leading rabbi in New York. This novel suggestion, however, was almost universally rejected by leading decisors such as rabbis Uziel, Avraham Bornstein, and Yosef Razin.

During the *halitza* ceremony, the judges traditionally recite aloud, “May the daughters of Israel not come to need *halitza* or *yibum*.” Let us pray that this blessing is fulfilled soon.

The writer is the executive director of Ematai and author of *Ethics of Our Fighters: A Jewish View on War & Morality*.