פְּשִׁיטָא! בַּת לֵוִי מִן הַמַּעֲשֵׂר אִיצְטְרִיכָא לֵיהּ.

The Gemara asks: It **is obvious** that she is disqualified, as she is a *zona*, a woman who has had sexual relations with a man forbidden to her by the Torah and with whom she cannot establish a marital bond. The Gemara answers: Since it **was necessary for** the *tanna* to mention the disqualification of **a daughter of a Levite from** partaking of **the tithe,**[N] he added that an Israelite woman is likewise disqualified from marrying into the priesthood.

וּבַת לֵוִי מִן הַמַּעֲשֵׂר מִי מִיפַּסְלָא בִּזְנוּת? וְהָתַנְיָא: לְוִיָּה שֶׁנִּשְׁבֵּית, אוֹ שֶׁנִּבְעֲלָה בְּעִילַת זְנוּת, נוֹתְנִין לָהּ מַעֲשֵׂר וְאוֹכֶלֶת! אֲמַר רַב שֵׁשֶׁת: קָנָסָא.

The Gemara asks: **And a daughter of a Levite, is** she **disqualified from** partaking of **the tithe**[H] **by licentiousness? But isn't it taught** in a *baraita*: In the case of **a Levite woman who was captured,** who may have had intercourse with one of her captors, **or** even in a case **where** a Levite woman definitely **engaged in licentious sexual relations, we** nevertheless **give her** first **tithe and she may eat** it? This indicates that an act of fornication does not disqualify a woman from partaking of the tithe. **Rav Sheshet said:** The disqualification is **a penalty** imposed by the Sages on this particular woman for not taking sufficient care, as she married without witness testimony as to her first husband's death.

״בַּת כֹּהֵן מִן הַתְּרוּמָה״. אֲפִילּוּ בִּתְרוּמָה דְּרַבָּנַן.

§ The mishna further taught that the **daughter of a priest** in this situation is disqualified **from** partaking of ***teruma*.** The Gemara explains: This statement does not refer to *teruma* by Torah law, as it is obvious that she is prohibited to eat this produce. Rather, she is barred **even from *teruma*** that applies **by rabbinic** law.[N]

״וְאֵין יוֹרְשָׁיו שֶׁל זֶה וְיוֹרְשָׁיו שֶׁל זֶה יוֹרְשִׁין כְּתוּבָּתָהּ״ וכו׳. כְּתוּבָּה מַאי עֲבִידְתָּהּ? אֲמַר רַב פַּפָּא: כְּתוּבַּת בְּנִין דִּיכְרִין.

§ **And** the mishna also taught: **Neither** the **heirs of this** one nor the **heirs of that** one **inherit her marriage contract.** The Gemara asks: **A marriage contract, what is its purpose;** why mention the inheritance of a marriage contract after the mishna has just said that she is not entitled to the payment of a marriage contract at all? The Gemara answers: **Rav Pappa said:** This is referring to **the marriage contract** payment **of the male sons.** One of the conditions of a marriage contract is that any male children born to this woman who inherit from their father will receive the sum of her marriage contract in addition to their share of the inheritance with their other paternal brothers.

פְּשִׁיטָא! מַהוּ דְּתֵימָא: לְדִידָהּ דְּעָבְדָא אִיסּוּרָא קָנְסוּהָ רַבָּנַן, לְזַרְעָהּ לָא קָנְסוּ רַבָּנַן, קָא מַשְׁמַע לָן.

The Gemara asks: This **is obvious.** Since she does not have a claim for the payment of her marriage contract, she is not entitled to the other conditions of a marriage contract either. The Gemara answers: It is necessary. **Lest you say** that **with regard to** the woman **herself, who committed a prohibition, the Sages penalized her,** but **with regard to her offspring the Sages did not penalize them,** as they did nothing wrong, the *tanna* therefore **teaches us** that the entire marriage contract is canceled, along with all its conditions.

HALAKHA

A daughter of a Levite…from the tithe – בַּת לֵוִי מִן הַמַּעֲשֵׂר: A Levite woman who engaged in licentious sexual relations is still permitted to partake of first tithe. Therefore, a Levite woman who was captured and may or may not have had intercourse with her captor is certainly permitted to partake of first tithe. However, if a Levite woman married based on the testimony of one witness that her husband had died and her husband subsequently arrived, the Sages penalized her by prohibiting her to partake of the tithe, as stated by Rav Sheshet (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 1:2).

NOTES

A daughter of a Levite from the tithe, etc. – בַּת לֵוִי מִן הַמַּעֲשֵׂר וכו׳: Some commentaries state that even Rabbi Meir agrees that a Levite woman who engages in licentious sexual relations is not disqualified from partaking of tithes (*Tosafot*). However, others apparently maintain that Rabbi Meir is of the opinion that a daughter of a Levite is barred from tithes not only by rabbinic law, as a penalty, but she is actually prohibited from eating first tithe by Torah law (Rambam; see Rashash). According to this opinion, the Gemara must be explained differently, as there is no novelty in her disqualification from tithes according to the opinion of Rabbi Meir, since he prohibits tithes to all regular Israelites. Rather, the Gemara must be referring to the opinion of the Rabbis (*Arukh LaNer*).

Even from *teruma* prohibited by rabbinic law – אֲפִילּוּ בִּתְרוּמָה דְּרַבָּנַן: Several early authorities dispute Rashi's claim that she is prohibited to partake of *teruma* by Torah law as a penalty. They contend that in the case of any woman who engaged in forbidden relations, even if she is not classified as a *zona*, e.g., if she engaged in intercourse against her will or unwittingly, she is nevertheless disqualified from partaking of *teruma* by Torah law. This *halakha* was necessary only to preclude the consideration that the Sages might not have prohibited her to partake of *teruma* by rabbinic law because she did not sin willingly. The Gemara therefore clarifies that the Sages even penalized her in that case, as rabbinical enactments are generally instituted on the model of Torah law (Ramban; Rashba).

"אֲחִיו שֶׁל זֶה וְאָחִיו שֶׁל זֶה חוֹלְצִין וְלֹא מְיַבְּמִין". אָחִיו שֶׁל רִאשׁוֹן חוֹלֵץ – מִדְּאוֹרַיְיתָא, וְלֹא מְיַיבֵּם – מִדְּרַבָּנַן. אָחִיו שֶׁל שֵׁנִי – חוֹלֵץ מִדְּרַבָּנַן, וְלֹא מְיַיבֵּם – לֹא מִדְּאוֹרַיְיתָא וְלֹא מִדְּרַבָּנַן.

§ The mishna further taught that **the brothers of this** one **and the brothers of that** one all **perform *ḥalitza*, and they do not consummate levirate marriage.** The Gemara explains: **The brother of the first one performs *ḥalitza* by Torah** law, as that woman is legally the wife of the first husband and therefore requires *ḥalitza*. **But he does not consummate levirate marriage by rabbinic** law, as the Sages penalized her and prohibited her from returning to the first husband. Conversely, **the brother of the second one performs *ḥalitza* by rabbinic** law, so that people do not say that a childless woman can leave her *yavam* without *ḥalitza*. **But he does not consummate levirate marriage, neither by Torah** law **nor by rabbinic** law,[N] as her marriage to the second man was an error.

"רַבִּי יוֹסֵי אוֹמֵר: כְּתוּבָּתָהּ עַל נִכְסֵי בַּעְלָהּ" וכו'. אֲמַר רַב הוּנָא: בַּתְרָאֵי מוֹדוּ לְקַמָּאֵי, קַמָּאֵי לָא מוֹדוּ לְבַתְרָאֵי.

§ The mishna taught: **Rabbi Yosei says** that the obligation of **her marriage contract is upon the property of her** first **husband. Rav Huna said: The last** Sages in the mishna, Rabbi Elazar and Rabbi Shimon, **concede to the first** ones, and merely add to their statement. However, **the first** ones **do not concede to the last** Sages. In other words, the second set of Sages extend the rulings of the first Sages beyond the cases to which they specifically referred.

רַבִּי שִׁמְעוֹן מוֹדֵי לֵיהּ לְרַבִּי אֶלְעָזָר דְּמַה בִּיאָה דְּעִיקַּר אִיסּוּרָא לָא קָנֵיס, וְכָל שֶׁכֵּן מְצִיאָתָהּ וּמַעֲשֵׂה יָדֶיהָ דְּמָמוֹנָא הוּא. וְרַבִּי אֶלְעָזָר לָא מוֹדֵי לֵיהּ לְרַבִּי שִׁמְעוֹן: מְצִיאָתָהּ וּמַעֲשֵׂה יָדֶיהָ דְּמָמוֹנָא הוּא, לָא קָנֵיס, אֲבָל בִּיאָה, דְּאִיסּוּרָא הוּא, קָנֵיס.

The Gemara clarifies this statement: **Rabbi Shimon concedes to Rabbi Elazar.** How so? **For if** with regard to **sexual relations, which is the main prohibition,** Rabbi Shimon **did not penalize** her, as he claims that the intercourse of the *yavam*, her first husband's brother, acquires her and exempts her rival wife, **all the more so** her first husband should be entitled to **her found** objects **and her earnings, which** are merely **money. And** yet **Rabbi Elazar does not concede to Rabbi Shimon,** as he claims that in the case of **her found** objects **and her earnings, which** are only **money,** the Sages did **not penalize** her,[N] **but** with regard to **sexual intercourse, which is a prohibition,** they did **penalize** her.

וְתַרְוַיְיהוּ מוֹדוּ לֵיהּ לְרַבִּי יוֹסֵי: הָנֵי דְּיָתְבָא תּוֹתֵיהּ לָא קָנֵיס וְכָל שֶׁכֵּן כְּתוּבָּה, דִּלְמִשְׁקַל וּמֵיפַק קָאֵי. וְרַבִּי יוֹסֵי לָא מוֹדֵי לְהוּ, כְּתוּבָּה דִּלְמִשְׁקַל וּמֵיפַק – הוּא דְּלָא קָנֵיס, אֲבָל הָנֵי דְּיָתְבָא תּוֹתֵיהּ – קָנֵיס.

And Rabbi Shimon and Rabbi Elazar **both concede to Rabbi Yosei** with regard to a marriage contract. If in the case of **these** matters discussed above, **which** are relevant **when she is living under** her husband's authority and is treated as a married woman, the Sages did **not penalize** her, but allowed him to retain her found articles and earnings as though she were a full-fledged wife, **all the more so** they did not make her forfeit the **marriage contract, which** is designed **for** her **to take and** then **leave** the marriage. **And** by contrast, **Rabbi Yosei does not concede to them.** He maintains that in the case of **a marriage contract, which** is **for** her **to take and leave,** the Sages did **not penalize** her, **but** with regard to **these** other conditions, which take effect **when she is** still **living under his** authority, they did **penalize** her.

רַבִּי יוֹחָנָן אָמַר: קַמָּאֵי מוֹדוּ לְבַתְרָאֵי, בַּתְרָאֵי לָא מוֹדוּ לְקַמָּאֵי, רַבִּי יוֹסֵי מוֹדֵי לֵיהּ לְרַבִּי אֶלְעָזָר: כְּתוּבָּה דְּמִדִּידֵיהּ לְדִידָהּ – לָא קָנֵיס, וְכָל שֶׁכֵּן מְצִיאָתָהּ וּמַעֲשֵׂה יָדֶיהָ דְּמִדִּידָהּ לְדִידֵיהּ.

In contrast to Rav Huna, **Rabbi Yoḥanan said: The first** Sages **concede to the last ones,** but **the last ones do not concede to the first** Sages. According to Rabbi Yoḥanan, the statements of the first Sages are more inclusive, whereas the second Sages restrict and limit the previous rulings. How so? **Rabbi Yosei concedes to Rabbi Elazar,** as he reasons as follows: If with regard to **a marriage contract, which** is given **from him to her,** the Sages did **not penalize** her, as Rabbi Yosei maintains that since she did not sin willfully she is entitled to her marriage contract, **all the more so** they did not enforce a penalty with regard to **her found** objects **and her earnings, which** are **from her to him.** The Sages certainly did not cause him to forfeit something he has the right to claim from her.

וְרַבִּי אֶלְעָזָר לָא מוֹדֵי לֵיהּ: מְצִיאָתָהּ וּמַעֲשֵׂה יָדֶיהָ הוּא דְּמִדִּידָהּ לְדִידֵיהּ – לָא קָנֵיס, אֲבָל כְּתוּבָּה דְּמִדִּידֵיהּ לְדִידָהּ – קָנֵיס.

And Rabbi Elazar does not agree with Rabbi Yosei with regard to a marriage contract. He claims that **it is** concerning **her found** objects **and her earnings, which** are **from her to him,** that the Sages did **not penalize** her. **However,** as pertains to the **marriage contract, which** is **from him to her,** the Sages did **penalize** her, as a punishment.

NOTES

He does not consummate levirate marriage, neither by Torah law nor by rabbinic law – וְלֹא מְיַיבֵּם, לֹא מִדְּאוֹרַיְיתָא וְלֹא מִדְּרַבָּנַן: The commentaries ask: It is clear why he performs *ḥalitza*, but the Gemara has not explained why he cannot consummate levirate marriage, as she is not considered to have been married to his brother when the latter died. If so, why can't he marry her anyway, even though this is not considered levirate marriage (Rabbi Akiva Eiger)?

Some commentaries answer that the Gemara means that there is no mitzva by Torah law for him to perform levirate marriage, and therefore even if he had relations with her unwittingly or against her will he does not have to give her a bill of divorce, unlike an actual *yavam*, as the Sages did not decree that any aspect of levirate marriage should apply in this case (Rashash). Others suggest that he is considered the brother of one who engaged in licentious sexual relations with a woman, who is also forbidden to her by rabbinical decree (*Keren Ora*, based on Jerusalem Talmud).

Her found objects…which are monetary, they did not penalize her – מְצִיאָתָהּ...דְּמָמוֹנָא הוּא לָא קָנֵיס: Although the Gemara mentions only two *halakhot* here, the same principle applies to the nullification of her vows. The phrasing is somewhat imprecise, as the key factor is not that the Sages are penalizing her, since the denial of her earnings to her husband is hardly a punishment for her. Rather, the important distinction is between the basic prohibition against sexual relations on the one hand and all the other obligations that stem from a marriage on the other hand (Rashba; see *Tosafot*).

וְתַרְוַיְיהוּ מוֹדוּ לֵיהּ לְרַבִּי שִׁמְעוֹן: וּמָה הָנֵי דְּמַחַיִּים – לָא קָנְסִי, בִּיאָה דִּלְאַחַר מִיתָה לֹא כָּל שֶׁכֵּן. וְרַבִּי שִׁמְעוֹן לָא מוֹדֵי לְהוּ: בִּיאָה הוּא דִּלְאַחַר מִיתָה – לָא קָנְסִי, אֲבָל הָנֵי דְּמַחַיִּים – קָנְסִי.

And Rabbi Yosei and Rabbi Elazar **both concede to Rabbi Shimon,** for the following reason: **And if** with regard to **these,** i.e., her found objects and earnings or her marriage contract, **which** are given **in his lifetime,** the Sages did **not penalize** her, then with regard to the **sexual relations** of the *yavam*, **which** occur **after the death** of the husband, is it **not all the more so** that they should not penalize her, and she should remain permitted? **And Rabbi Shimon does not concede to them,** as **it** is only in the case of **sexual relations, which** occur **after** his **death,** that the Sages did **not penalize** her. **However,** with regard to **these** other matters, which apply **during** the husband's **lifetime,** the Sages did **penalize** her by depriving her of them.

"נִשֵּׂאת שֻׁלְּאַ בִּרְשׁוּת" וכו'. אֲמַר רַב הוּנָא אֲמַר רַב: הָכִי הִלְכְתָא. אָמַר לֵיהּ רַב נַחְמָן: גַּנָּבָא גַּנּוּבֵי לְמָה לָךְ? אִי סְבִירָא לָךְ כְּרַבִּי שִׁמְעוֹן – אֵימָא: הֲלָכָה כְּרַבִּי שִׁמְעוֹן, דְּשְׁמָעֲתִיךְ כְּרַבִּי שִׁמְעוֹן קָאָזְלָה.

§ The mishna taught that if **she married without** the **consent** of the court she is permitted to return to her first husband. **Rav Huna said** that **Rav said: This is the *halakha*. Rav Naḥman said to him: Why do you steal** in, i.e., why do you state your opinion in a sneaky manner? **If you maintain in accordance with** the opinion of **Rabbi Shimon,** then you should explicitly **say:** The ***halakha* is in accordance with** the opinion of **Rabbi Shimon, as your *halakha* follows** the opinion **of Rabbi Shimon.**

וְכִי תֵּימָא, אִי אָמְרִינָא: הֲלָכָה כְּרַבִּי שִׁמְעוֹן מַשְׁמַע אֲפִילּוּ בְּקַמַּיְיתָא, אֵימָא: הֲלָכָה כְּרַבִּי שִׁמְעוֹן בָּאַחֲרוֹנָה, קַשְׁיָא.

And lest you say: If I were to **say** that the ***halakha* is in accordance with** the opinion of **Rabbi Shimon,** that would erroneously **indicate** that I agree with him **even with regard to the first** case, that of a married woman who married another on the basis of one witness. If so, you should **say** the following: **The *halakha* is in accordance with** the opinion of **Rabbi Shimon with regard to the last** case. The Gemara comments: Indeed, the question of why Rav Huna did not state his ruling in this manner is **difficult.**

אָמַר רַב שֵׁשֶׁת: אָמְרִינָא, כִּי נָיֵים וְשָׁכֵיב רַב אֲמָרָהּ לְהָא שְׁמַעְתָּתָא. הֲלָכָה – מִכְּלָל דִּפְלִיגִי, מַאי הֲוָה לָהּ לְמֶיעֱבַד – מִיאֱנַס אֱנָסָהּ.

§ **Rav Sheshet said: I say** that **when Rav dozed and was falling asleep he said this *halakha*.** In other words, Rav did not examine the matter carefully, as this ruling is unnecessary. Rav Sheshet explains: **From the fact** that Rav declared a ruling of ***halakha,*** it may be inferred **that** others **disagree** with this opinion. However, there is actually no dispute here, as **what could she have done?** It is as though **he raped her.** Since she received the testimony of witnesses that her husband was dead, she had no reason to refrain from remarrying. Her actions cannot be considered willing, as why should she refrain from marrying after receiving the testimony of witnesses that her husband was dead? Her lack of knowledge in this matter renders this case analogous to a rape. And as is well known, a woman who was raped is permitted to return to her husband.

וְעוֹד תַּנְיָא: כָּל עֲרָיוֹת שֶׁבַּתּוֹרָה אֵין צְרִיכוֹת הֵימֶנּוּ גֵּט חוּץ מֵאֵשֶׁת אִישׁ שֶׁנִּיסֵּת עַל פִּי בֵּית דִּין. עַל פִּי בֵּית דִּין הוּא דְּבָעְיָא גִּיטָּא, עַל פִּי עֵדִים לָא בָּעְיָא גִּיטָּא.

And it was further taught in a *baraita*: **Any of those with whom relations are forbidden by Torah** law **do not require a bill of divorce**[H] to dissolve a union, **except for a married woman who remarried by** permission of **the court.** The Gemara infers: **It is** only a woman who married **by** permission of **the court who requires a bill of divorce,** but if she married **based on** testimony of **witnesses she does not require a bill of divorce.**

מַנִּי? אִילֵימָא רַבִּי שִׁמְעוֹן – עַל פִּי בֵּית דִּין מִי בָּעְיָא גֵּט? וְהָתַנְיָא, רַבִּי שִׁמְעוֹן אוֹמֵר: עָשׂוּ בֵּית דִּין בְּהוֹרָאָתָן – כְּזִדּוֹן אִישׁ בְּאִשָּׁה, עַל פִּי עֵדִים – כִּשְׁגָגַת אִישׁ בְּאִשָּׁה, אִידִי וְאִידִי לָא בָּעְיָא גֵּט.

The Gemara further inquires: **Who is** the author of this *baraita*? **If we say** it is **Rabbi Shimon,** in his opinion **does** a woman who married **by** permission of **the court require a bill of divorce**[N] from the second man? **But isn't it taught** in a *baraita* that **Rabbi Shimon says: If the court acted** merely in accordance **with their** own **instruction** when they permitted a woman to remarry and her husband later arrived, it is as though this remarriage were **a willful** act of **a man with a woman,** and she is penalized like an intentional adulteress. Conversely, if she married **based on** testimony of **witnesses,** it is considered **like an unwitting** act of **a man with a woman.** Either way, **neither** in **this** case **nor** in **that** one, i.e., whether the marriage was in accordance with a decision of the court or based on witness testimony, does she **require a bill of divorce,** as a woman who committed adultery, whether unwittingly or intentionally, does not require a bill of divorce from the adulterer.

HALAKHA

Those with whom relations are forbidden by Torah law do not require a bill of divorce – עֲרָיוֹת שֶׁבַּתּוֹרָה אֵין צְרִיכוֹת הֵימֶנּוּ גֵּט: With regard to all forbidden women, if they married under the mistaken assumption that they were permitted to do so, when they discover their error they do not require a bill of divorce, as the act of betrothal is ineffective in these cases. One exception is a married woman who remarried with the permission of the court, in which case the Sages obligated the second husband to give her a bill of divorce (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:9; *Shulḥan Arukh*, *Even HaEzer* 15:27).

NOTES

Does she…require a bill of divorce – מִי בָּעְיָא גֵּט: There is a difference between the opinions of the Rabbis and Rabbi Shimon here. The Rabbis require the second man to give her a bill of divorce so as to publicize the fact that she is forbidden to the first husband, whereas Rabbi Shimon maintains that the second husband does not give her a bill of divorce at all, so that people not think his marriage was of any validity (Ramban; see *Tosafot*).

אֶלָּא לָאו – רַבָּנַן הִיא.

Rather, is it not the case that this *baraita*, which states that a woman who engaged in forbidden relations, including one who married based on witnesses, does not require a bill of divorce, is in accordance with the opinion of **the Rabbis?** But if so, there was no need to issue a ruling to this effect, as everyone agrees that the *halakha* follows the majority opinion.

לְעוֹלָם רַבִּי שִׁמְעוֹן הִיא, וְתֵרֵיץ הָכִי: רַבִּי שִׁמְעוֹן אוֹמֵר עָשׂוּ בֵּית דִּין בְּהוֹרָאָתָן – כְּכַוָּונַת אִישׁ בְּאִשָּׁה [וּבָעֲיָא גֵּט], עַל פִּי עֵדִים – כְּשֶׁלֹּא בְּכַוָּונַת אִישׁ בְּאִשָּׁה [וְלָא בָּעֲיָא גֵּט].

The Gemara refutes this suggestion: **Actually,** the *baraita* **is** in accordance with the opinion of **Rabbi Shimon,** and you should **answer** the difficulty **as follows: Rabbi Shimon says** that if **the court acted** in accordance **with their** own **instruction,** it is **as though** there was **the intention of a man with a woman,** i.e., as though the man had relations with the woman for the purpose of marriage, **and** therefore **she requires a bill of divorce** from him. Conversely, if she married **based on** testimony of **witnesses** they considered it **as though** there was **no intention of a man with a woman,** as he had relations with her without the intention of marriage, **and** in that case **she does not require a bill of divorce.**

רַב אַשִׁי אָמַר: לְעִנְיַן אִיסּוּרָא קָתָנֵי וְהָכִי קָאָמַר: עָשׂוּ בֵּית דִּין בְּהוֹרָאָתָן – כִּזְדוֹן אִישׁ בְּאִשָּׁה וּמִיתַּסְרָא עַל בַּעְלָהּ, עַל פִּי עֵדִים – כְּשִׁגְגַת אִישׁ בְּאִשָּׁה וְלֹא מִיתַּסְרָא עַל בַּעְלָהּ.

Rav Ashi said that there is no difficulty here at all, as Rabbi Shimon's statement should be explained differently. In fact, Rabbi Shimon **taught** his ruling **with regard to** the **prohibition** involved, not the issue of a bill of divorce, **and this is what he said:** If **the court acted** in accordance **with their** own **instruction,** it is **as though** this was **a willful** act **of a man with a woman, and she is** therefore **forbidden to her husband** like a woman who intentionally engaged in relations with another man. However, if she married **based on** testimony of **witnesses,** they considered it **as though** it was **an unwitting** act **of a man with a woman, and she is not forbidden to her husband.**

Perek **X**
Daf **91** Amud **b**

רָבִינָא אָמַר: לְעִנְיַן קָרְבָּן קָתָנֵי, עָשׂוּ בֵּית דִּין בְּהוֹרָאָתָן – כִּזְדוֹן אִישׁ בְּאִשָּׁה וְלָא מַתְיָא קָרְבָּן, עַל פִּי עֵדִים – כִּשְׁגְגַת אִישׁ בְּאִשָּׁה וּמַתְיָא קָרְבָּן.

Ravina said that this *baraita* **is taught with regard to an offering,**[N] and it should be explained as follows: If **the court acted** in accordance **with their** own **instruction,** it is **as though** this was **a willful** act **of a man with a woman, and she** therefore **does not bring an offering,** as an individual who followed the ruling of the court is exempt from bringing an offering (see *Horayot* 2a–b). If she married **based on** testimony of **witnesses,** it is considered **as though** this was **an unwitting** act **of a man with a woman, and** therefore **she brings an offering.**

וְאִיבָּעֵית אֵימָא: הָא קַמַּיְיתָא רַבָּנַן הִיא, וְתֵרֵיץ הָכִי: חוּץ מֵאֵשֶׁת אִישׁ וְשֶׁנִּיסֵּת עַל פִּי בֵּית דִּין.

And if you wish, say and refute Rav Sheshet's difficulty in the following manner: **This first** *baraita*, which exempts forbidden women from a bill of divorce, **is** the opinion of **the Rabbis,** who prohibit a woman in this situation to her husband, even if she had married another based on witnesses. And you should **answer** the difficulty by reading the relevant clause of the *baraita* **as follows: Apart from a married woman** who married on the basis of witness testimony, **and** this includes one **who married by** permission of **the court,** as she too requires a bill of divorce.

NOTES

Ravina said it is taught with regard to an offering – רָבִינָא אָמַר לְעִנְיַן קָרְבָּן קָתָנֵי: Ravina rejected the previous explanations because he felt that Rabbi Shimon's statement does not refer to the relationship between a man and woman at all, including the issue of a bill of divorce. Rather, it concerns her obligations to God, e.g., the requirement to bring an offering (Ritva).

מְתִיב עוּלָּא: מִי אָמְרִינַן מַאי הֲוָה לָהּ לְמֵיעֲבַד? וְהָתְנַן: כָּתַב לְשֵׁם מַלְכוּת שֶׁאֵינָהּ הוֹגֶנֶת, לְשֵׁם מַלְכוּת מָדַי, לְשֵׁם מַלְכוּת יָוָן, לְבִנְיַן הַבַּיִת, לְחוּרְבַּן הַבַּיִת הָיָה בְּמִזְרָח וְכָתַב בְּמַעֲרָב, בְּמַעֲרָב וְכָתַב בְּמִזְרָח –

§ **Ulla raised an objection** against Rav Sheshet's reasoning: **Do we say** this justification: **What could she have done?** Is a woman considered to have acted under duress when she had no way to avoid sin? **But didn't we learn** in a mishna (*Gittin* 79b): If a man **wrote** a bill of divorce and dated it according **to a kingdom that is not suitable** [***hogenet***],[LN] i.e., one that does not reign over their place of residence; or according **to the kingdom of Media** or according **to the kingdom of Greece,** which are no longer in existence; or if he dated it according **to the building of the Temple**[N] or according **to the destruction of the Temple;** and similarly if the bill of divorce **was** given **in the east**[N] **and he wrote** in it a place **in the west,** or **in the west and he wrote** a place **in the east,** this bill of divorce is invalid.

תֵּצֵא מִזֶּה וּמִזֶּה, וְכָל הַדְּרָכִים הָאֵלּוּ בָּהּ. וְאַמַּאי? לֵימָא: מַאי הֲוָה לָהּ לְמֵיעֲבַד? אִיבָּעֵי לָהּ לְאַקְרוּיֵי לְגִיטָּא.

Consequently, if she married another man **she must leave this one and that one,** both the one who gave her the bill of divorce and the new husband. **And all these matters** mentioned in the mishna here, the penalties imposed on a married woman who remarried unlawfully, apply **to her.** The Gemara asks: **But why? Let us say: What could she have done.**[N] She acted under duress, as she married again only because she thought the bill of divorce was valid. The Gemara answers: This woman did not act under duress, as **she should have had the bill of divorce read** by a scholar, who would have told her that it was invalid.

אָמַר רַב שִׁימִי בַּר אַשִׁי, תָּא שְׁמַע: הַכּוֹנֵס אֶת יְבִמְתּוֹ וְהָלְכָה צָרָתָהּ וְנִשֵּׂאת וְנִמְצֵאת זוֹ אֵילוֹנִית – תֵּצֵא מִזֶּה וּמִזֶּה, וְכָל הַדְּרָכִים הָאֵלּוּ בָּהּ. וְאַמַּאי? נֵימָא מַאי הֲוָה לָהּ לְמֵיעֲבַד? אִיבָּעֵי לָהּ לְאַמְתוֹנֵי.

Rav Shimi bar Ashi said: Come and **hear** a different proof. With regard to **one who married his *yevama*, and the rival wife** of the *yevama* **went and married** someone else, **and this *yevama* was** later **discovered** to be **a sexually underdeveloped woman,** which means that she was never eligible for levirate marriage and therefore her act of intercourse did not exempt her rival wife from levirate marriage, the rival wife must **leave this one and that one,** i.e., her husband must give her a bill of divorce and she may not marry the *yavam*, **and all these matters** apply **to her. But why?** Again, **let us say: What could she have done.** The Gemara answers: This is no proof, as **she should have waited**[N] until it was clearly established that the other wife was not a sexually underdeveloped woman.

אָמַר אַבָּיֵי: תָּא שְׁמַע, כָּל עֶרְיוֹת שֶׁאָמְרוּ פּוֹטְרוֹת צָרוֹתֵיהֶן, הָלְכוּ צָרוֹת וְנִישֵּׂאוּ, וְנִמְצְאוּ אֵלּוּ אֵילוֹנִית – תֵּצֵא מִזֶּה וּמִזֶּה וְכָל הַדְּרָכִים הָאֵלּוּ בָּהּ. וְאַמַּאי? נֵימָא מַאי הֲוָה לָהּ לְמֵיעֲבַד? אִיבָּעֵי לָהּ לְאַמְתוֹנֵי.

Abaye said: Come and **hear:** With regard to **all those with whom relations are forbidden, with regard to** whom the Sages **said** that **they exempt their rival wives,** if these **rival wives went and married, and** one of **these** forbidden women was **discovered** to be **a sexually underdeveloped woman,** which means that the obligation of levirate marriage did not apply to her at all, and it was the rival wives who should have performed levirate marriage, the rival wife must **leave** both **this and that, and all these matters** apply **to her.**[H] **But why? Let us say: What could she have done.** The Gemara answers as before: **She should have waited.**

אָמַר רָבָא: תָּא שְׁמַע, כָּתַב סוֹפֵר גֵּט לָאִישׁ וְשׁוֹבֵר לָאִשָּׁה, וְטָעָה וְנָתַן גֵּט לָאִשָּׁה וְשׁוֹבֵר לָאִישׁ, וְנָתְנוּ זֶה לָזֶה וְזֶה לָזֶה,

Rava said: Come and **hear: A scribe wrote a bill of divorce for the man**[H] **and a receipt for the woman,** so that the man should give the bill of divorce to his wife and she should give him the receipt upon his delivery of the marriage contract. **And** the scribe **erred and gave** the **bill of divorce to the woman and** the **receipt to the man,** leaving them with the mistaken impression that he had the bill of divorce and she the receipt, **and they gave** each other the documents, **this one to that one and that one to this one.**

HALAKHA

The rival wife of a *yevama* who married in error – צָרַת יְבָמָה שֶׁנִּשֵּׂאָה בְּטָעוּת: If a man had two wives, one of whom was forbidden to his brother, both wives are exempt from levirate marriage upon the death of their husband. If the other wife proceeded to marry another man, and it was subsequently discovered that the one who was forbidden was a sexually underdeveloped woman, who does not exempt her rival wife, the rival wife must leave her husband with a bill of divorce, and she requires *ḥalitza* from the *yavam* to permit her to a different man (*Shulḥan Arukh*, *Even HaEzer* 173:10).

A scribe wrote a bill of divorce for the man, etc. – כָּתַב סוֹפֵר גֵּט לָאִישׁ וכו': A scribe wrote a bill of divorce and a receipt for the marriage contract and accidentally gave the receipt to the man and the bill of divorce to the woman, and they failed to notice and simply exchanged the documents. If the woman remarried under the mistaken impression that she was divorced, she must leave both men and all the penalties imposed by the Sages apply to her (*Shulḥan Arukh*, *Even HaEzer* 151:1).

LANGUAGE

Suitable [*hogenet*] – הוֹגֶנֶת: Possibly from the Greek **εὐγενής**, *eugenès*, meaning privileged or wellborn. Other uses of this word may have been influenced by the Greek **εὖγε**, *eugè*, meaning well, right, or proper. Here, however, the word is used in its precise meaning, as an improper kingdom is indeed considered ill-bred or of a lower grade, a description befitting the Roman Empire.

NOTES

A kingdom that is not suitable – מַלְכוּת שֶׁאֵינָהּ הוֹגֶנֶת: According to Rashi and other commentaries, this phrase is a derogatory reference to Rome, which was considered an uncultured dominion by the Sages, notwithstanding its immense power (see *Tosafot Yeshanim*). With regard to the *halakha* itself, a document written in one kingdom that was dated by the years of a different realm is invalid, especially if that kingdom had no proper legal authority. Some commentaries add that due to the importance of a bill of divorce the Sages were more particular about it than about regular documents, as the secular authorities would object if an unofficial date was written in a document of this significance (*Tosafot*).

To the building of the Temple – לְבִנְיַן הַבַּיִת: Some commentaries note that, notwithstanding this *halakha*, over the course of the generations it was the custom to inscribe the year from Creation in marriage contracts. This was permitted because it was the established manner of writing all other types of documents, and the ruling authorities were not particular about documents meant for the internal use of the Jewish community (*Tosafot Yeshanim*).

Was given in the east – הָיָה בְּמִזְרָח: The commentaries disagree with regard to which person was located in the wrong place. Some claim that this is referring to the husband (Rivan), whereas others maintain that it is referring to the scribe (*Tosafot*). Others also state that it refers to the scribe, explaining that as people recognize the scribe's handwriting they might cast doubt on the validity of the bill of divorce, knowing that this scribe was not in the vicinity of the place in which the document was supposedly written (*Tosefot HaRosh*).

What could she have done – מַאי הֲוָה לָהּ לְמֵיעֲבַד: The commentaries explain that this question is raised in cases of ascending order of difficulty. In other words, each subsequent case is harder to explain away as something the woman could have avoided by a simple examination (*Tosafot*). Some add that these difficulties were raised by various Sages from different generations. Since each of them must have known about the previous questions, they would not have posed the same question, and therefore *Tosafot* found it necessary to explain that the difficulties are not the same (Maharsha).

She should have waited – אִיבָּעֵי לָהּ לְאַמְתוֹנֵי: The commentaries state that a woman who turned out to be a sexually underdeveloped woman would have shown some signs of this condition beforehand. Therefore, the rival wife should have waited until her status was fully established (Ritva).

HALAKHA

If he changed his name or his wife's name – שִׁינָּה שְׁמוֹ וּשְׁמָהּ: In a bill of divorce, if a man changed his name or his wife's name, or his town or her town, or even if he added the phrase: Any name he has and any name she has, the bill of divorce is invalid. According to some authorities, this bill of divorce is invalid by Torah law, and therefore all the penalties stated in the mishna apply to her (Rambam). Others maintain that the bill of divorce is invalid by rabbinic law, which means that if she married another man their child is fit to enter the congregation (*Tosafot*). The wording of the *Shulḥan Arukh* does not offer conclusive proof for either ruling (*Beit Shmuel*; Rambam *Sefer Nashim*, *Hilkhot Geirushin* 3:14, 10:4; *Shulḥan Arukh*, *Even HaEzer* 129:3, 150:1).

וּלְאַחַר זְמַן חֲרִי הַגֵּט יוֹצֵא מִתַּחַת יְדֵי הָאִישׁ, וְשׁוֹבֵר מִתַּחַת יְדֵי הָאִשָּׁה – תֵּצֵא מִזֶּה וּמִזֶּה וְכָל הַדְּרָכִים הָאֵלּוּ בָּהּ. וְאַמַּאי? נֵימָא מַאי חֲזָה לָהּ לְמֵיעֲבַד? אֵיבָּעֵי לָהּ לְאַקְרוּיֵי לְגִיטָּא.

And after a while it became clear **that the bill of divorce is in the man's possession and the receipt in the woman's possession,** and no act of divorce had been performed at all. If the woman had married someone else in the meantime she must **leave** both **this one and that one, and all these matters** apply **to her. But why? Let us say: What could she have done.** The Gemara answers: Here too, **she should have had the bill of divorce read** by an expert.

אֲמַר רַב אַשִׁי: תָּא שְׁמַע, שִׁינָּה שְׁמוֹ וּשְׁמָהּ, שֵׁם עִירוֹ וְשֵׁם עִירָהּ – תֵּצֵא מִזֶּה וּמִזֶּה וְכָל הַדְּרָכִים הָאֵלּוּ בָּהּ. וְאַמַּאי? נֵימָא מַאי חֲזָה לָהּ לְמֵיעֲבַד? אֵיבָּעֵי לָהּ לְאַקְרוּיֵי לְגִיטָּא.

Rav Ashi said: Come and **hear:** If a man **changed his name, or** his wife's **name,**[H] or **the name of his city, or the name of her city,** and she remarried, she must **leave** both **this one and that one, and all these matters** apply **to her. But why? Let us say: What could she have done.** The Gemara answers: Once again, **she should have had the bill of divorce read** by a scholar.

אֲמַר רָבִינָא: תָּא שְׁמַע, כְּגוֹן בְּגֵט קֻרַּח – תֵּצֵא מִזֶּה וּמִזֶּה כּוֹ'. אֵיבָּעֵי לָהּ לְאַקְרוּיֵי לְגִיטָּא.

Ravina said: Come and **hear:** A man **married** a woman **on** the basis that she was divorced. However, she had actually received **a bare bill of divorce,** i.e., missing a signature.[B] This is referring to a special type of bill of divorce, one that was folded and sewn up. It requires as many witnesses as the number of lines it contains. If a bill of divorce of this kind does not have enough witnesses, it is invalid. In the case of the *baraita*, if this woman married another man after receiving this bill of divorce, she must **leave** both **this one and this one,** and all these penalties apply to her. Again, the question is: What could she have done? The Gemara answers, as before: **She should have had the bill of divorce read** by someone who could have told her it was invalid.

רַב פַּפָּא סָבַר לְמֵיעֲבַד עוּבְדָּא בִּמְאֵי חֲזָה לָהּ לְמֵיעֲבַד, אֲמַר לֵיהּ רַב הוּנָא בְּרֵיהּ דְּרַב יְהוֹשֻׁעַ לְרַב פַּפָּא: וְהָתַנְיָא כָּל הָנֵי מַתְנִיתָא!

The Gemara relates: **Rav Pappa thought to take action** and permit a woman to return to her husband based on the rationale: **What could she have done.** In a case where she had no means of clarifying the matter, he ruled that she should be considered to have acted under duress. **Rav Huna, son of Rav Yehoshua, said to Rav Pappa: But isn't it taught** repeatedly **in all these *mishnayot*** that this argument is not accepted?

אֲמַר לֵיהּ: וְלָאו שַׁנִּינְהוּ? אֲמַר לֵיהּ: וְאַשְׁכְּחִינְהוּ לֵיקוּ וְלִיסְמוֹךְ? (וּפָסַק).

Rav Pappa **said to** Rav Huna, son of Rav Yehoshua: **And** did **we not resolve** these *mishnayot*, by explaining that in those particular cases she did have the option of clarifying the matter? **He said to him: And shall we stand and rely on answers?**[N] Admittedly, we found some way of resolving these questions, but the accumulation of difficulties indicates that the rationale: What could she have done, is unacceptable. **And** indeed, Rav Pappa **ceased** to follow his original intention and did not issue a lenient ruling.

אֲמַר רַב אַשִׁי: וּלְקָלָא לָא חָיְישִׁינַן. הֵי קָלָא? אִילֵימָא קָלָא דְּבָתַר נְשׂוֹאִין – הָא אֲמָרָהּ רַב אַשִׁי חֲדָא זִימְנָא, דַּאֲמַר רַב אַשִׁי:

§ The Gemara discusses the case of the mishna from another perspective. **Rav Ashi said: And we are not concerned about a rumor.** In other words, if there was an unsubstantiated rumor that the husband was alive, the court takes no notice of it. The Gemara asks: **Which** kind of **rumor** does he mean? **If we say** that this is referring to **a rumor that** spread **after** the **marriage** of this woman to another man, **Rav Ashi has** already **said this once, as Rav Ashi said:**

BACKGROUND

A bare bill of divorce, i.e., missing a signature – גֵּט קֻרַּח: This uniquely bound bill of divorce was originally established by the Sages to discourage priests from divorcing their wives, as a priest cannot marry a divorcée, even a woman that he himself divorced. Therefore, the Sages were concerned that a priest might divorce his wife in haste, due to momentary anger, and be unable to remarry her. To prevent this occurrence they instituted a bound bill of divorce. Since a bound bill of divorce is complicated to prepare and requires many witnesses, this process provides time for the husband to change his mind before the divorce is finalized. Most commentaries maintain that this document involves interspersing written and blank lines, as each written line was folded over a blank line and sewn together. The witnesses would sign on the reverse, exposed side of the bill of divorce, between the rows. If witnesses neglected to sign one line on this document, it lacks the requisite number of signatures and is invalid.

NOTES

And shall we stand and rely on answers – וְאַשְׁכְּחִינְהוּ לֵיקוּ וְלִיסְמוֹךְ: This refers to answers that are somewhat far-fetched solutions, which prove that other explanations are available but hardly offer convincing alternatives. Consequently, the Gemara will occasionally say: The answer we answered is an answer, i.e., the response given is not a mere rejoinder but a reliable claim of substance. In this particular case, the accumulation of difficulties from various *mishnayot*, all of which appear to reject the principle: What could she have done, lead to the conclusion that this principle is not accepted, despite the fact that none of the contradictions are decisive in of themselves (see Rabbi Avraham min HaHar).