A daughter of a Levite from the tithe…from the tithe.

Some commentaries state that even Rabbi Meir agrees that a Levite woman who engages in licentious sexual relations is not disqualified from partaking of teruma. However, others apparently maintain that Rabbi Meir is of the opinion that a daughter of a Levite is banned from teruma and tithes but is permitted to eat 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 – Rav Pappa said:

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 indeed penalized her in that case, as rabbinical enactments are generally instituted on the model of Torah law (Ramban; Rashba).
Sages did not decree that any aspect of levirate marriage should apply in this case (Rashash). Others suggest that he 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 commentators ask: It is clear why he performed halitza, but the Gemara has not explained why he cannot consummate levirate marriage, as she is not considered a wife (Rashba; see Rabbe Yehoshua, Rabbi Yose). 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 (Rashi; see Tosafot).

The Gemara clarifies this statement: 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 sexual intercourse, which is a prohibition, they did penalize her.

In contrast to Rav Huna, Rabbi Yohanan said: The first Sages concede to the last ones, but the last ones do not concede to the first Sages. According to Rabbi Yohanan, 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.

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.
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.

§ 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 Nahman 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.

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.

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.

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 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.

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 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 adulterer. 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.
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.

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.

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.

Ravina said that this baraita is taught with regard to an offering, 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 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.

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.

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**NOTES**

Ravina said it is taught with regard to an offering – רבי עקיבא איגותא הרמזא ויכן דא. 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).
The rival wife of a yevamah who married in error – קתת תקע תיב תושב תונכ. 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 nifloz from the yevamah to permit her to a different man (Shulhan Arukh, Even HaEzer 139:10).

A scribe wrote a bill of divorce for the man, etc. – קתת תקע תיב תושב תונכ. 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 (Shulhan Arukh, Even HaEzer 151:1).

The rival wife of a yevamah who married in error – קתת תקע תיב תושב תונכ. It was permitted because it was the established manner of the prevailing custom. In other words, each sub-

A kingdom that is not suitable – קתת תקע תיב תושב תונכ. According to Rashi and other commentators, this phrase is a derogatory reference to Rome, which was considered an uncultured domains by the Sages, notwithstanding its immense power (see Tosafot Yeshanah). 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 commentators 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 official date was written in a document of this significance (Tosafot). To the building of the Temple – קתת תקע תיב תושב תונכ. Some commentators note that, notwithstanding this halakha, 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 Yeshanah).

Was given in the east – קתת תקע תיב תושב תונכ. The commentators 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 (Tosafot HarHosh).

What could she have done – קתת תקע תיב תושב תונכ. The commentators 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 of the documents rather than about regular documents, as the secular authorities would object if an official date was written in a document of this significance (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 were not the same (Maharsha).

She should have waited – קתת תקע תיב תושב תונכ. The commentators 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 (Riva).
A bare bill of divorce, i.e., missing a signature – רבע עשר. 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 who 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 inter-spersing 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.

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. Rav Ashi said: Come and hear: If a man changed his name, or his wife’s name, 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.

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. 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.

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?

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? 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.

Some of 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: