A widow waiting for her yavam who engaged in an act of licentious relations – she is considered a harlot even in that case. This is because it may be argued that a woman awaiting levirate marriage who married or had relations with another man in any event, as a penalty (Shulchan Arukh, Even HaEzer 159:3).

The Gemara asks: But if so, with regard to that which Rav Huna said to the Sages: Examine Rav Nahman when he bathes and if his flesh gives off steam I will give him my daughter for a wife, in accordance with whose opinion did he issue these instructions? Is it not in accordance with the opinion of Rav Huna, who maintains that all the signs must be present, as presumably he could see that Rav Nahman did not have a beard? The Gemara answers: No, Rav Nahman had wisps of a beard, and therefore Ravba bar Avuh wanted to know whether he displayed the other signs of sexual incapacity.

It is taught in the misha that a sexually underdeveloped man does not perform halitza or enter into levirate marriage with his yavam, and similarly, a sexually underdeveloped woman does not perform halitza or enter into levirate marriage with her yavam. The Gemara comments that the tanna teaches the case of a sexually underdeveloped man similarly to that of a sexually underdeveloped woman, from which it can be inferred: Just as in the case of a sexually underdeveloped woman, her disability is by the hand of Heaven, so too, in the case of a sexually underdeveloped man, his disability must be by the hand of Heaven. And this unattributed view in the misha is in accordance with the opinion of Rabbi Akiva, who said: With regard to one whose incapacity was brought about by the hands of man, yes, he is considered like any other man and performs halitza, whereas one who suffers his condition by the hand of Heaven does not do so.

It is further taught in the misha that if a eunuch performed halitza with his yavam, he has not thereby disqualified her from marrying into the priesthood, but if he had intercourse with her, he has disqualified her. The Gemara infers from this wording that the reason for her disqualification is that he, the yavam, had intercourse with her, as she had intercourse with her yavam outside the framework of permitted levirate marriage. But if a different individual had relations with her she would not be disqualified.

Shall we say that this is a conclusive refutation of the opinion of Rav Hamnuna, who said: A widow waiting for her yavam, who engaged in an act of licentious relations, is disqualified from entering into levirate marriage with her yavam, like an ordinary married woman who committed adultery? The Gemara rejects this argument: No, this presents no difficulty for Rav Hamnuna, as it is possible that the same is true even in a case where she had relations with a different man, that she too would be disqualified from marrying into the priesthood. But since the tanna taught the first clause with regard to the yavam himself, he also taught the latter clause with regard to the yavam himself, even though the same halakha applies if she cohabitated with another.

Notes:

Shall we say that this is a conclusive refutation of the opinion of Rav Hamnuna, who said: A widow waiting for her yavam, who engaged in an act of licentious relations, is disqualified from entering into levirate marriage with her yavam, like an ordinary married woman who committed adultery? The Gemara rejects this argument: No, this presents no difficulty for Rav Hamnuna, as it is possible that the same is true even in a case where she had relations with a different man, that she too would be disqualified from marrying into the priesthood. But since the tanna taught the first clause with regard to the yavam himself, he also taught the latter clause with regard to the yavam himself, even though the same halakha applies if she cohabitated with another.

This is because it may be argued that a woman awaiting levirate marriage who married or had relations with another man before halitza has transgressed a prohibition. According to Rabbi Akiva, who equates those who have transgressed standard negative prohibitions with those liable to receive karet with regard to the validity of their marriage, she is considered a harlot even in that case. However, ultimately, the halakha is not ruled in accordance with the opinion of Rabbi Akiva. Therefore, a woman awaiting levirate marriage is not considered like a married or a betrothed woman, and having relations with another man does not disqualify her from marrying her yavam.
It is taught in the mishna: And similarly, with regard to a sexually underdeveloped woman, if one of the brothers performed halitza with her he has not disqualified her, but if he engaged in intercourse with her he has disqualified her. The Gemara infers from this wording that the reason for her disqualification is that he had intercourse with her; but if he did not have intercourse with her she is not disqualified. According to whose opinion was this clause of the mishna taught? One must say that it was not taught in accordance with the opinion of Rabbi Yehuda. As, if one would claim that this teaching is in accordance with the opinion of Rabbi Yehuda, didn’t he say that a sexually underdeveloped woman is considered like a woman who has had sexual relations with a man forbidden to her by the Torah [zona], and so she is in any case disqualified from marrying into the priesthood?

**MISHNA**

If a priest who is a eunuch by natural causes married an Israelite woman, he enables her to eat teruma. Rabbi Yosei and Rabbi Shimon say: If a priest who is a hermaphrodite, possessing both male and female genitals, married an Israelite woman, he enables her to eat teruma.

Rabbi Yehuda says: If a tumtum, whose external sexual organs are indeterminate, was torn open so that his genitals were exposed, and he was found to be a male, he must not perform halitza, because he is treated like a eunuch. A hermaphrodite may marry a woman but he may not be married by a man, as he is considered a man. Rabbi Eliezer says: If one had intercourse with a hermaphrodite, he is liable to receive the punishment of stoning on his account as if he had had relations with a male.

**GEMARA**

The Gemara questions the mishna’s teaching concerning a priest who was sexually impotent from birth: This is obvious; why should such a priest not enable his wife to partake of teruma? The Gemara answers: This halakha is necessary lest you say that since the verse states: “And such as are born in his house, they eat of his bread” (Leviticus 22:11), the allowance to eat teruma depends on the priest’s capacity to father children, i.e., that only one who can father children enables his wife to eat teruma, but one who cannot father children does not enable his wife to eat teruma. Therefore, the tanna teaches us that the priest’s capacity to have children is irrelevant.

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**HALAKHA**

A sexually underdeveloped woman marrying a priest – The mishna taught: It is permitted for a sexually underdeveloped woman to marry a priest, as she is not forbidden to him as a harlot. This ruling is in accordance with the opinion of the Rabbis who disagree with Rabbi Yehuda (Rambam Sefer Kedusha, Hilkhot Ishurei Bais 18:3).

A eunuch by natural causes... enables her to eat – The mishna taught: If a priest who was sexually incapacitated from birth married an Israelite woman, he enables her to eat teruma (Rambam Sefer Zenim, Hilkhot Terumot 7:14).

A tumtum with regard to halitza and levirate marriage – The mishna taught: A tumtum may perform halitza but not levirate marriage, as his status as a man is in doubt. If he was torn open so that his genitals were exposed, and he was found to be a male, he may either perform halitza or enter into levirate marriage, as the Gemara later (8:8) indicates that the Rabbis disagree with Rabbi Yehuda, and the halakha is in accordance with their opinion. Others (Be’er HaGola) maintain that he, too, is considered of doubtful status, and the ruling is stringent, as nowhere is it stated explicitly that the Rabbis disagree with Rabbi Yehuda (Shulhan Arukh, Even HaEzer 172:59).

A hermaphrodite may marry, but he may not be married – The mishna taught: It is permitted for a hermaphrodite to marry a woman. He is likewise considered a male to the extent that if a man had relations with him, he is liable to be stoned, in accordance with the opinion of Rabbi Eliezer and Rabbi Yehuda (Rambam Sefer Kedusha, Hilkhot Ishurei Bais 11:15).

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**NOTES**

One who can father children enables his wife to eat teruma – Rashi and other early authorities explain that this suggestion is based on the verse “And such as are born in his house, they eat of his bread” (Leviticus 22:11). Regardless of the fact that the verse refers to slaves and not children, Rashi still cites it as proof. The underlying idea is that if a man, by his very nature, is incapable of fathering children, his marriage is considered incomplete. Therefore, a woman who is married to a sexually impotent priest is not fully acquired by him, and consequently he does not enable her to eat teruma.
A priest who is a hermaphrodite — כפוף

Since a hermaphrodite has both male and female sexual organs, he constitutes a category of his own. If he is a priest, he does not enable his wife to eat teruma, in accordance with the conclusion of the Gemara on 8:3a. The Rema rules that he has the status of a male, in accordance with the mishna (Bambam, Sefer Zera'im, Hilchos Terumot 2:14, Shulhan Arukh, Even HaEzer 445).

Teruma in the present – מבעアク

The obligation to set aside terumot and tithes nowadays is not by Torah law but rather by rabbinic decree, even in locales that were settled by those who returned to Eretz Yisrael from Babylonia, in accordance with the opinion of Rabbi Yoheanan in explanation of the Rabbis (Vina Gaon; Shulhan Arukh, Yoreh De'ah 7:14; HALAKHA: Hakham B: Sefer Zera'im: 44:5).

The Gemara answers: With what are we dealing here? We are dealing with teruma in the present, after the destruction of the Temple, when teruma is in effect only by rabbinic law. The Gemara asks: But when the Temple is standing, what is the halakha? He does not enable his wife to eat teruma. But if so, there is a difficulty. Instead of teaching that he does not enable her to eat the breast and thigh of peace-offerings, let him distinguish and teach it within the case of teruma itself as follows: In what case is this statement said? It is said with regard to teruma that is in effect only by rabbinic law, but with regard to teruma that is in effect by Torah law this ruling does not apply.

The Gemara answers: That is also what he is saying. In other words, this is actually what Reish Lakish means, as his statement should be understood as follows: When he enables her to eat, he enables her to eat teruma in the present, when teruma is in effect only by rabbinic law, but he does not enable her to eat teruma at a time that the breast and thigh are given to the priests, i.e., when the Temple is standing, not even teruma that is in effect only by rabbinic law. This is due to the concern that perhaps he will bring her to eat teruma that is in effect by Torah law.

It is taught in the mishna that Rabbi Yosei and Rabbi Shimon say: If a priest who is a hermaphrodite married an Israelite woman, he enables her to eat teruma. Reish Lakish said: He enables her to eat teruma, but he does not enable her to eat the breast and thigh of peace-offerings. Rabbi Yoheanan says: He even enables her to eat the breast and thigh of peace-offerings. The Gemara asks: And according to Reish Lakish, what is different about the breast and thigh of peace-offerings? If you say it is that they are by Torah law, teruma is also by Torah law. Why, then, is it permitted for her to eat teruma, but not the breast and thigh of peace-offerings?

The Gemara answers: The issue of teruma in the present time is already disputed by the tannaim. In various forms this disagreement is taken up by the amoraim and early authorities. Some maintain that the opinion that teruma nowadays applies by rabbinic law is based on the assumption that by Torah law the sanctity of Eretz Yisrael has lapsed but the Sages situated the Temple in Eretz Yisrael, and thus the teruma is in effect today by rabbinic law. Others disagree and maintain that even according to Reish Lakish, the advice of the Gemara is that it is only by rabbinic law that the teruma is in effect today, and as for the breast and thigh, the Halakha is as the Gemara stated. The question remains: How do we deal with the breast and thigh of peace-offerings when they are given to the priests? Some maintain that it is only by rabbinic law that the breast and thigh are in effect today, while others maintain that even according to Reish Lakish, the teruma is in effect only by rabbinic law.
A cake of dried figs with other cakes – פירות בעלים עדffee: Some early authorities raise a difficulty here: It is possible that the reason a cake of teruma is nullified by other cakes is that the teruma of fruit applies by rabbinic law, as opposed to Torah-mandated teruma, which is limited to the produce specified by the Torah, i.e., grain, wine, and oil. If so, this case has no bearing on the status of teruma nowadays. Consequently, they explain that this must follow the view that the teruma of fruit is by Torah law, or, as the Ravad explains, that the teruma of the fruit of the seven species of Eretz Yisrael is mandated by the Torah. Otherwise, one could say that if the teruma of fruit is by Torah law, teruma nowadays is not by Torah law, and even if the halakhot of teruma do apply nowadays by Torah law, the teruma of fruit applies by rabbinic law. Either way, there is no proof from here with regard to the halakhot of teruma in general (see Ritva and Meiri).

Nullified (olot) – הולות: Rabbi Avraham min HaHar explains that the word olot, which literally means raised, is used here instead of the more usual term batel, meaning nullified, because even if the halachot of teruma do not apply to the mixture, as it need not be eaten exclusively by priests in a state of ritual purity, the monetary aspect of the obligation is not negated, and the owner must give a priest the value of the nullified teruma cake.

Cake (iggul) – איגה: During the talmudic period figs were preserved in various ways. One method involved drying them after they were harvested and then pressing them into round vessels. A cake of this kind was therefore called an iggul, literally meaning round. After these cakes were removed from these vessels the figs formed the shape of a flat cylinder. These cakes of figs were usually of uniform size and shape, and were often sold wholesale rather than individually.

Clover – קואבי: Tilton has been identified with the clover-like plant fenugreek, which is Latin for Greek hay, or Trigonella foenum-graecum, a plant of the Fabaceae family. It is less than 1 m tall and has white flowers and hollow, hairy, light green leaves that are clustered in sets of three. It produces thin pods, which measure up to 15 cm and contain flat seeds of up to 5 mm in length. Fenugreek is usually cultivated for its seeds, which can be eaten or used in the preparation of many different spices. Its young branches are also used as a spice after they are cooked. In many countries fenugreek is also used as animal fodder and fertilizer.

However, Rabbi Yoḥanan disagrees and says that he even enables her to eat the breast and thigh of peace-offerings. With respect to this dispute, Rabbi Yoḥanan said to Reish Lakish: Since you distinguish between teruma and the breast and thigh, do you maintain that teruma in the present is mandated only by rabbinic law? He said to him: Yes, and the proof is that I teach that a cake of dried figs that became intermingled with other cakes is nullified. If a cake of teruma figs became intermingled with one hundred ordinary cakes, the cake is nullified and it is not necessary to treat them all as teruma. If the cake, which is a food of importance in its own right, is nullified, this must be because the teruma is only by rabbinic law.

Rabbi Yoḥanan said to him: But don’t I teach that even a piece of a sin-offering that became intermingled with other pieces of meat is nullified, as I maintain that the halakha of nullification applies even to Torah prohibitions? Do you maintain that we learned that any object that it is usual to count, i.e., any object that is even occasionally sold by unit, rather than by weight or measure, is considered to be important and therefore cannot be nullified? This is not so, as in fact we learned that only that which it is usual to count, i.e., an object that is always sold by unit and in no other manner, is considered to be important and is therefore not subject to nullification; and cakes of dried figs are not always sold by unit.

The Gemara asks: What is this halakha to which Rabbi Yoḥanan alludes? As we learned in a mishna (Orla 3:6–7): In the case of one who had bundles of clover, a type of legume, of a forbidden mixture of food crops in a vineyard, i.e., clover plants that grew in a vineyard, these bundles must be burned, as it is prohibited for one to derive benefit from a forbidden mixture of food crops in a vineyard. If the forbidden bundles became intermingled with other cakes that are permitted,
The shoots of beet, a member of the Chenopodiaceae family. Its large, fleshy leaves, 15-30 cm long, are eaten only after being cooked, and their flavor is similar to that of spinach. Today the leaves also serve as chicken feed.

nullified in a mixture of one to two hundred – נעלימ

If a bundle of vegetables that are forbidden as a mixture of crops in a vineyard became intermingled with two hundred permitted bundles, or if a fruit that is forbidden as orla became intermingled with two hundred pieces of permitted fruit, the entire mixture is permitted. The halakha is ruled in accordance with the opinion of the Rabbis, against the sole dissenting opinion of Rabbi Meir (Rambam Sefer Kedusha, Hilkhot Ma’akhalot Assurat 16:9).

Perekh nuts, etc. – נעלים

If an object of importance that is forbidden became intermingled with permitted objects, it is not nullified even in a mixture of one to one thousand. This category consists of seven items: Perekh nuts, Badan pomegranates, sealed barrels of wine, shoots of beet, cabbage stalks, Greek gourd, and a homeowner’s loaves. Though they must all be burned; this is the statement of Rabbi Meir.

And the Rabbis say: They are nullified in a mixture of one part forbidden food to two hundred parts permitted food. As Rabbi Meir would say: Any object that it is usual to count renders a mixture prohibited. In other words, objects that are counted and sold by the unit, rather than by weight or estimation, are considered of special importance, and so they cannot be nullified by any majority and therefore must be burned. But the Rabbis say: Only six objects are important enough that they cannot be nullified and therefore render their mixtures forbidden. Rabbi Akiva says: There are seven such objects.

They are as follows: Perekh nuts, high-quality nuts from a place called Perekh; Badan pomegranates, pomegranates from a place called Badan; sealed barrels of wine; shoots of beet; cabbage stalks; and Greek gourd. Rabbi Akiva adds, as his seventh item, a homeowner’s loaves. Different prohibitions apply to these seven items: Those that are fit for the prohibition of orla, fruit that grows in the first three years after a tree has been planted, i.e., the nuts and pomegranates, render the entire mixture orla. Those that are fit for the prohibition proscribing a mixture of food crops in a vineyard, i.e., the beets, cabbage, and gourd, render the entire mixture a mixture of food crops in a vineyard.

And it was stated that amoraim disagreed about the precise wording of this mishna: Rabbi Yohanan holds that we learned: That which it is usual to count, i.e., Rabbi Meir’s stringent ruling is limited to objects that are sold exclusively by unit. And Reish Lakish holds that we learned: Any object that it is usual to count, i.e., even items that are only sometimes sold by unit are considered important and cannot be nullified.

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If a bundle of vegetables that are forbidden as a mixture of crops in a vineyard became intermingled with two hundred permitted bundles, or if a fruit that is forbidden as orla became intermingled with two hundred pieces of permitted fruit, the entire mixture is permitted. The halakha is ruled in accordance with the opinion of the Rabbis, against the sole dissenting opinion of Rabbi Meir (Rambam Sefer Kedusha, Hilkhot Ma’akhalot Assurat 16:9).

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Some authorities maintain that any item that is always counted and only sold by the unit cannot be nullified, and this is the accepted custom. This is the opinion of the Rama, based on Tosafot and others, in accordance with Rabbi Yohanan. The fact that the amoraim disagree in accordance with the opinion of Rabbi Meir indicates that the halakha follows his opinion. Some (Sefer Ha’Arukh; see Vilna Gaon) rule that even objects occasionally sold by number cannot be nullified (Rambam Sefer Kedusha, Hilkhot Ma’akhalot Assurat 16:9; Shulhan Arukh, Yoreh De’ah 110:1).

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And it was stated that amoraim disagreed about the precise wording of this mishna: Rabbi Yohanan holds that we learned: That which it is usual to count, i.e., Rabbi Meir’s stringent ruling is limited to objects that are sold exclusively by unit. And Reish Lakish holds that we learned: Any object that it is usual to count, i.e., even items that are only sometimes sold by unit are considered important and cannot be nullified.
A piece of a ritually impure sin-offering is nullified – הַלַּכּוּת הַגְּדוֹלָה הַנִּשָּׁבָה בְּמֵאָה
The commentators raise a question with regard to this halakha that a piece of such a sin-offering is nullified in a mixture of one hundred to one. Even if this piece is not an item that is invariably counted, there would appear to be another reason why it cannot be nullified, i.e., the principle of: A piece fit to be served. The principle is that a piece that is fit to be served to guests is significant in its own right and cannot be nullified. The Rashba discusses at length the various solutions offered to this problem. He suggests that a piece that is fit to be served to guests that became intermingled with non-sacred food is not nullified, because were it nullified, it could later be served to guests. But in the case of such a piece that became intermingled with sacrificial meat, since it could not be served to guests even after nullification, as it may be eaten only by priests, it is not considered a piece fit to be served. The Ritva rejects this explanation in favor of the Rashi’s suggestion that this refers to an uncooked piece of meat that is not fit to be served, as an item of the entire mixture. In any event the first clause teaches – מֵאָה וּמוֹתֵי. Most commentators maintain that while the first clause of the baraita is referring to a crushed piece of meat, the latter clause refers to a whole piece as well. Any item that has already been nullified and is hence not fit to be served, is fit to be served, as it stands independent of its own right.

A type mixed with its own type cannot be nullified – הַלַּכּוּת הַגְּדוֹלָה הַנִּשָּׁבָה בְּמֵאָה
The reason that the ruling is more stringent with regard to an item that became intermingled with its own type than with one that became mixed with a different type is that in the latter case the nullification is apparent, as the appearance and taste of the forbidden item have become imperceptible in the mixture. However, if an item became intermingled with its own type, it cannot be said that the unique essence of the prohibition has been canceled in the permitted substance.