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העילוי נשמת ר' יצחק מאיר בן אליהו וברינתא בת אברהם ע"ה ור' גדליה בן אברהם מנחם הכהן ומרים בת ישראל ע"ה

The Laws of *Yichud*

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What situations pose a potential problem of yichud?

Is leaving a door unlocked sufficient to avoid a situation of yichud?

An important but somewhat complex area of halacha is the prohibition of *yichud*, the seclusion of a man and woman. This article will examine the sources and basic laws of this very relevant subject.

The Gemara in Kiddushin (80b) cites a Scriptural source for the prohibition of *yichud*. The Gemara in Avoda Zarah (36b) cites the same source and states clearly that that it is a *diOraysa* (Torah-level) prohibition. The Gemara (Avodah Zara ibid.) continues that the *diOraysa* prohibition only applies to seclusion of a man and a woman regarded by Torah law as an *erva*¹. This includes most forbidden relatives (see below), a married woman, and a woman who is a *nidda*. In today's day and age, any girl or woman (to whom one is not married) who has reached an age where she may be a *nidda* is treated as a *nidda*. Later, says the Gemara, King David expanded the prohibition of *yichud* to include unmarried Jewish women, even one who is not an *erva*. Centuries later, the students of Shammai and Hillel expanded the scope of *yichud* further to include non-Jewish women, as well.

Yichud is permitted with linear descendants, such as parents with their children (Shulchan Aruch, Even Ha'ezer 22:1) or grandchildren (Pischei Teshuva Even Ha'ezer 22:2 quoting the Bach). *Yichud* is also permitted between a brother and a sister on a temporary basis (Bais Shmuel 22:1; Chelkas Mechokek 22:1). They may not live together in the same house for a period of time which exceeds the normal stay of a house guest. Rabbi Moshe Feinstein (Igros Moshe Even Ha'ezer 4:63) permits *yichud* of a nephew with his father's or mother's sister on a temporary basis, as well.

The Gemara (Kiddushin 81a) teaches that there are two scenarios where the prohibition is not applicable. The first scenario is when the woman's husband is in the city. The second scenario is when the door is open to the public domain. The reasoning and details of these leniencies will be discussed below.

There is an argument between Rashi and Tosafos regarding

the first leniency of the husband being in the city. Rashi (ibid. s.v. *ba'ala*) says that this leniency is only an exemption from a punishment of lashes for one who transgresses the prohibition, but there is still a prohibition. However, Tosafos (ibid. s.v. *ba'ala*) argues that there is no prohibition at all in such a scenario.

Rabbi Elazar Menachem Shach (Avi Ezri, Issurei Bi'ah 22:12) explains that the root of the dispute between Rashi and Tosafos is how to understand the nature of the prohibition of *yichud*. Rashi understands that *yichud* is not merely a safeguard to prevent forbidden relations. Rather, the Torah prohibited the actual situation of *yichud*². Accordingly, even when there is a reason to assume that the two people won't come to sin due to fear of the woman's husband, nevertheless, there is a prohibition of *yichud*, since the actual scenario of *yichud* is prohibited *midiOraysa*. Rabbi Shach continues that Rashi understood that the only exemption is regarding *malkus*, and explains that this refers to *malkus mardus*, Rabbinically-mandated lashes administered to stop a person from sinning. Therefore, when the woman's husband is in the city, there is an exemption from these lashes, since there is no fear of sin.

Tosafos, on the other hand, understood that the prohibition of *yichud* is inherently a safeguard to prevent one from sinning. Therefore, when the woman's husband is in the city, it is totally permitted, since we can assume that the two won't come to sin due to the fear of the husband.

The Shulchan Aruch (Even Ha'ezer 22:8) rules leniently, following the view of Tosafos. However, the Aruch Hashulchan (Even Ha'ezer 22:6) cites that some authorities are stringent like the opinion of Rashi. Practically, one can be lenient and follow the opinion of the Shulchan Aruch.

There is another dispute between Rashi and the Rambam regarding the logic behind the exemption of the husband being in the city. Rashi (ibid.) explains that the woman is afraid that her husband will walk in on her. However, the Rambam (Issurei

¹ The prohibition applies to the man and woman equally, although there are certain details that may differ between the two.

² An element of the reasoning behind this new prohibition may well stem from the need for a safeguard, but the actual prohibition is not defined as a safeguard but as a prohibition unto itself.

Biah 22:12) explains that women act differently when their husbands are in the city, and there is less concern that she will behave inappropriately. The Tzitz Eliezer (6:40[5:3-4]) cites *poskim* (halachic authorities) that there is a practical difference between these two viewpoints, namely, when the husband is unaware of his wife's location. According to Rashi, the leniency is not applicable; since the husband doesn't know where she is, she does not fear his sudden appearance. According to the Rambam, however, the leniency would still apply, as she conducts herself differently when her husband is in the city. Rabbi Moshe Feinstein (Igros Moshe, Even Ha'ezzer 4:65[7]) rules in accordance with the opinion of Rashi. He adds that if a woman's husband is imprisoned or not nearby, the leniency is not applicable. Essentially, any scenario where there is no real possibility of the husband walking in would not have this leniency.

Another practical difference between the two aforementioned reasons is whether this logic applies when a man's wife is in the city. The Tzitz Eliezer (6:40[9:1]) suggests that according to Rashi, it is applicable, as the man fears that his wife will walk in on him. According to the Rambam, however, this leniency would not apply, since a man will not be more inhibited when his wife is in the city. The Aruch Hashulchan (ibid.:15) rules leniently in such a case, but Rabbi Moshe Feinstein (ibid.:[6]) argues that there is no such leniency.

The second leniency mentioned is when the door is open to the public domain. There are three opinions regarding the parameters of this leniency. Rabbi Akiva Eiger (Shu"t 1:100) writes that the door must actually be open. However, he cites the Rashba (Shu"t 1:1251) that the door can be closed, as long as it is not locked. Rabbi Moshe Feinstein (ibid.:[4]) is even more lenient, as he rules that the door can even be locked if it's during a time when people would typically come to the door. This is because of a fear that someone will knock on the door and, if it is not opened, suspicions will be aroused. This fear provides enough of an impediment to prevent one from falling prey to sin. If there is virtually no concern that someone will walk in (for example, late at night or in an isolated area), the entire leniency of the open door may not apply. When in doubt, a halachic authority should be consulted.

The Gemara states that there is an exception to the first leniency of the husband in the city. This is when the man and woman are familiar with each other, as there is a stronger concern that they might come to sin since they are relatively comfortable with each other. The *poskim* discuss whether the second leniency of the door being open to the public would be excluded from this scenario, as well. The Chelkas Mechokek (Even Ha'ezzer 22:13) and the Bais Shmuel (ibid.:13) write that the second leniency

would not apply in this case, either. However, the Taz (ibid.:8) writes that the second leniency applies even when the man and woman are familiar with each other. Rabbi Moshe Feinstein (ibid.:[9]) rules leniently in accordance with the Taz.

Yichud is not limited to one man and one woman; there can be issues with multiple men and women who are secluded, depending on the circumstances. If several people, some men and some women, are secluded, and there is no person present who is not subject to *yichud* issues, such as the linear relatives discussed above, a halachic authority must be consulted. The presence of a child who is old enough to realize something is amiss when inappropriate behavior occurs but not old enough to be subject to such temptations may also remove the *yichud* issue. However, the exact age of such a child is the subject of various opinions. In addition, having such a child present is not effective in all situations. Therefore, a halachic authority must be consulted before relying on having a child present.

The Tzitz Eliezer (6:40[12:11]) writes that there is a general concept that a person does not want to ruin his or her reputation. Thus, if one's reputation would be on the line were inappropriate behavior to be discovered, such as an employee who may lose his or her job, one can assume that this would prevent a person from sin and *yichud* would be permitted. Determining exactly which situation would fall into this category requires the guidance of a competent halachic authority.

There is significant discussion as to how long of a seclusion is necessary to transgress the prohibition of *yichud*. In a general sense, the time allotted would be the time it takes to engage in an act of sin. However, there are a number of different opinions as to what exactly the "act of sin" entails. The time allotted may be as short as two minutes. A halachic authority should be consulted on a per-situation basis. It is important to note that a man and woman may not be secluded for any amount of time, even less than the limit prescribed by halacha, if it is possible for them to remain secluded beyond that time. Thus, seclusion in a locked room for even a moment, if the door can remain locked and undisturbed for a longer period, would be prohibited. Conversely, most authorities permit a man and a woman to be alone in an elevator, since the doors will open automatically.³

In conclusion, the prohibition of *yichud* is a serious issue, and one needs to be aware of the potential pitfalls when alone with someone of the opposite gender. Anticipating any problems in advance and discussing resolutions with a halachic authority will help one avoid ending up in an awkward situation.

³ Although in some elevators, one can push a button to keep the door closed, there is no current state of seclusion so long as such a mechanism has not been triggered.

Points to Ponder:

Would there be a yichud issue if a man and woman are alone in a car whose windows are darkened?

Would it be permitted for a man and woman to remain alone in a house when there is a window to the street from which the interior of the house is visible?

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Please consult with a qualified halachic authority for all practical questions of halacha

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