

Halachos of Yichud: Part I Shiur

THE PROHIBITION OF YICHUD

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A TRANSCRIPTION OF THE YORUCHA CURRICULUM WEEKLY SHIUR VIDEO

THE DEFINITION OF YICHUD:

The Mishnah in Kiddushin says that a man should not be in solitude with two women. Therefore, it is obvious that a man should certainly not be alone with one woman. The reason for this prohibition is because of concerns that a man who is alone with one or two women may come to do an *aveirah*. According to the Mishnah, one woman being alone with two men is not a transgression of *yichud* [This will be qualified below].

The Gemara asks: Where do we find a *remez* (hint) to the prohibition of the *yichud* in the Torah?

The Gemara answers that the verse says, "If your brother, the son of your mother, convinces you to sin..." Why does the *pasuk* refer to your brother as "the son of your mother"? Would the son of your father be any different? The Gemara says that this hints to the fact that a son may be isolated alone with his mother, but is prohibited to be alone with any other woman because he might come to sin.

Here, the Gemara refers to this as a "*remez*" to *yichud* from the Torah. It is not clear if it is saying that *yichud* is actually forbidden *m'dohraysia*. The Gemara in Avodah Zara, however, seems to say clearly that it is forbidden *m'dohraysia* for a man to have *yichud* with an "*ervah*," a woman who is forbidden to him, such as a married woman. The *beis din* of Dovid Hamelech then enacted a Rabbinic prohibition for a man to be alone with an unmarried woman. Later, in the times of Hillel and Shamai, a new Rabbinic prohibition was enacted to forbid *yichud* even with a non-Jewish woman.

It should be mentioned that a *niddah* is also an *ervah*. In olden times, even single girls would go to the mikvah, and therefore, were not always assumed to be *niddahs*. Today, single girls do not go to the mikvah; therefore, we can assume that any girl above the age of *bas mitzvah* is a *niddah*, which would mean that there is a prohibition *m'dohraysia* to be alone together with them. The only times when *yichud* would be *d'rabanan* would be if a male was alone with a female under the age of *bas mitzvah* or a non-Jewish woman.

Additionally, the Acharonim say that it is only prohibited *d'ohraysia* for one man to be alone with one woman. If a man is alone with two women, this is only prohibited *m'derabanan*.

A ramification of whether cases of *yichud* are forbidden *m'dohraysia* or *m'derabanan* will be in cases of halachic uncertainty, as we know that one must always act stringently in cases of *d'ohraysia*, and one may sometimes be more lenient in cases of *d'rabanan*.

WHEN YICHUD MAY NOT APPLY:

The Gemara discusses a number of cases where the prohibition of *yichud* may not apply.

For example, the Gemara says that if the woman's husband is in town, there is no concern of *yichud*. Since the husband may come at any time,

there is no concern that the man and woman will sin together, which exempts this case from the prohibition (Rashi seems to learn that this does not mean that *yichud* in such an instance is permitted, rather, the Gemara merely means that the man and woman are not punished if they do *yichud* when the husband is in town. Tosafos, however, learns that the Gemara's intent is that *yichud* is permitted, and the Shulchan Aruch rules like Tosafos). The practical applications of this will be discussed in a later shiur.

AN OPEN DOOR:

The Gemara further says that if a man and woman are secluded in a room but the door is open to a public place, there is no problem of *yichud*. Because passersby could come in at any time, there is no concern that the two will commit a sin, so the prohibition of *yichud* does not apply.

This is very relevant in an office setting and leads to a common question. A male boss may need to meet with a female employee. While there are many people working in the larger office, the boss and female employee are alone in his private office. Would the problem of *yichud* be averted if the door is closed but left unlocked? When the Gemara permits *yichud* in cases when the door is open, does this mean that it literally needs to be wide open, or is it sufficient for the door to be unlocked?

Similarly, what if a man and woman are working alone in an office, but the door is left unlocked to the rest of the office building, where many people are walking around in the hallway? Is the closed but unlocked door sufficient to permit them to be alone in their office?

The Rashba (Teshuvos Harashba) seems to say that a door does not need to literally be open to avoid a problem of *yichud*, and an unlocked door would suffice. The Rabenu Yona (Sefer Hayirah) and Radvaz (Teshuvos HaRadvaz) seem to say the same.

However, there is a *machlokes* amongst the Acharonim regarding this. In a correspondence with Rav Akiva Eiger (cited in Teshuvos Rav Akiva Eiger), the Bais Meir says that he believes that it is obvious that the door has to actually be open, and being unlocked is not enough. He suggests that the abovementioned Teshuvah of Rashba, where he seems to permit *yichud* with a closed but unlocked door, is actually a printing mistake, and Rav Akiva Eiger seems to agree with him. However, other Acharonim, including the Binyan Tzion, do quote this Rashba as the practical halacha.

CONTEMPORARY OFFICE SHAILOS:

As a practical matter, this question actually comes up quite often, as it is usually not practical to actually leave the door open during a private business meeting and a male and female often need to meet privately to discuss business matters. There is a major *machlokes* amongst



contemporary Poskim regarding the practical halacha in such a case.

The Chazon Ish is quoted (in Sefer Devar Halacha and Kraina D'Igresa) as taking a lenient approach that a man and woman would be afraid to sin behind an unlocked door, so no problem of *yichud* would apply even if the door is closed.

Rav Yaakov Kamenetsky (Sefer Emes L'Yaakov) is quoted as suggesting a different approach. He said that it would depend on societal norms. In some places, it is accepted that a person could knock on a door, and, if it is unlocked, simply walk in on his own. In such places, there would be a fear that someone could come in at any time, so there would be no prohibition of *yichud*. In other places, it is accepted that even after a person knocks on a door, he does not walk in on his own until being allowed in. In such places, there is no fear that anyone will suddenly walk in even if the door is unlocked, so there would be a problem of *yichud* unless the door is actually open.

PRACTICAL APPLICATION:

Practically speaking, since the halacha is unclear, Rav Yaakov ruled that in instances where the prohibition would be a *d'ohraysa*, such as one man being secluded with one Jewish woman, one should be stringent and not be secluded when a door is closed and unlocked. Whereas, if it is only a question of a *d'rabanan*, such as one man meeting with two women or with one non-Jewish woman, he can be lenient in such a situation.

It should be noted that there are some instances where even cases of *d'rabanan* would be prohibited. For example, accountants tend to stay very late at work during tax season. If one male and two female accountants stayed at work until 9 or 10pm, when the rest of the office building is deserted, leaving the door unlocked would not be a solution at all, as it is open to an empty place and not to a public area.

Rav Moshe Feinstein (Igros Moshe) takes a different approach. Rav Moshe explains that in some settings, it is expected for a person to answer the door when someone knocks. For example, if someone is home at 2pm and his friend knocks on the door, he is expected to open it. If he wouldn't open his door, his friend would wonder what was going on. For this reason, the door is considered "open", and there would be no problem of *yichud* at such times.

On the other hand, at 9 or 10pm a person may choose not to open his door to a visitor, and this would not be considered unusual; therefore, the door is considered "closed", as the people inside would not be afraid to commit a sin, and it would be a problem of *yichud* even if the door is unlocked unless it is literally wide open for the public outside to look in.

Accordingly, in an office setting, if it is normal for employees to knock on the boss's door and to expect him to let them in, there would be no problem of *yichud*. If, however, it is normal for the boss to ignore knocks on his door, he would have no fear of being caught doing a sin, so there would be a problem of *yichud* even if the door is unlocked and the only solution would be to actually leave it open.

It should be added that there are other possible ways to avoid the problem altogether. For example, if there is a large window through which passersby can see into the office, and the meeting is at a time when there are others around, there would be no problem at all.

NON-JEWISH PASSERSBY:

What if the door opens to a public area, but all the passersby in that area are non-Jews? Is that sufficient to take care of *yichud* problems?

This problem often comes up when Jewish people work in non-Jewish homes. For example, there are Jewish therapists who provide services to non-Jewish children in their homes, which may be located in a non-Jewish city. Sometimes, the only ones in the house are the therapist, the very young child and the child's father. Would leaving the door open take care of the *yichud* problem?

To answer this question, we first would have to determine if it is forbidden *m'dohraysa* or *m'derabanan* for a Jewish woman to be secluded with a non-Jewish man. We previously said that a Jewish man being alone with a non-Jewish woman is only forbidden *m'derabanan*. Is the same true about a Jewish woman with a non-Jewish man?

The answer is no. The Biur HaGra says clearly that it is forbidden *m'dohraysa*. This would mean that according to Rav Yaakov, the door would have to actually be open to a public place to avoid *yichud* problems and being unlocked would not be enough. According to Rav Moshe, it would be permitted only if the situation were such that the man would feel compelled to open the door if someone knocked.

In any case, even these leniencies would only apply in this instance if non-Jewish passersby have the same status as Jewish people regarding this halacha. I asked this question to Rav Yaakov Forcheimer, and he answered that the fact remains that people would be afraid to commit a sin when other people are passing by, even if they are not Jewish; therefore, non-Jewish passersby would have the same status as Jews.

A SCREEN OR STORM DOOR:


I also heard from Rav Forcheimer that even in the instances discussed above where halacha mandates that a door be actually left open, it is acceptable for a screen or storm door to be left closed but unlocked.

As long as the main door is open, the fact that a screen door or storm door is closed is not a problem because people coming to knock on the door will typically open the screen or storm door, lean in and knock on the open main door, which means that the fear factor would still exist.

IF THE NON-JEWISH WOMAN IS MARRIED:

We mentioned that in a case where a Jewish man is alone with a non-Jewish woman *yichud* is only prohibited *m'derabanan*; however, some Poskim say that this is only the case if she is unmarried, but if she is married it would be prohibited *m'dohraysa*.

They explain that there is a positive mitzvah of "*v'adavak b'ishto*" that applies to non-Jews, which means that a married non-Jew must be faithful to their partner. If *Yichud m'dohraysa* applies to any forbidden relationship, then it would be *Yichud m'dohraysa* to be secluded with a married non-Jewish woman. According to this opinion, if one follows Rav Yaakov's approach it would be forbidden to be alone with a married non-Jewish woman behind a closed but unlocked door. Other Poskim disagree with this and opine that seclusion with a married non-Jewish woman would not be *Yichud m'dohraysa*. When I spoke about this question with Rav Shmuel Kamenetsky, he told me that one can rely on the lenient opinion.

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