

Halachos of Yichud: Part II Shiur

YICHUD IN THE PRESENCE OF A SPOUSE

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A TRANSCRIPTION OF THE YORUCHA CURRICULUM WEEKLY SHIUR VIDEO

IF THE HUSBAND IS NEARBY:

The Gemara in Kiddushin states that there is no prohibition of *yichud* for a man and woman to be alone together where it is *ba'aloh b'ih*, the woman's husband is in the same city.

The Gemara proceeds to relate a story. It says that Rav Bibi was staying in Rabi Yosi's home. When he went up to the attic, where he was sleeping, Rav Yosi instructed the people to remove the ladder leading upstairs so that Rav Bibi would be unable to come down so there would be no problem of *yichud*.

The Gemara asks why there would be a problem of *yichud* with Rabi Yosi's wife if Rabi Yosi was in the city? It answers that Rav Bibi was "*libo gas bah*," he had a personal relationship with Rabi Yosi's wife and was comfortable with her. In such a case, the leniency of *ba'aloh b'ih* does not apply.

LIBO GAS BAH:

The exact definition of *libo gas bah* is somewhat vague, so if one is uncertain whether it applies to him, he should discuss the matter with a Rov. We can, however, give some general guidelines.

In some offices, the interactions between the genders are kept very formal, for example, they will only refer to each other as Mr. ____ or Mrs. _____. In other offices, the interactions are more friendly, and men and women refer to each other by their first names. While it is more ideal for coworkers of opposite genders to only refer to each other by their last names, this is not always possible and is sometimes not the case. It would seem that in offices where coworkers feel comfortable referring to each other by their first name, there is more of an aspect of *libo gas bah*, which could disqualify the leniency of *ba'aloh b'ih* if the coworkers would be alone together.

Alternatively, the atmosphere in the office can also be discerned based on what coworkers talk about with each other. In some offices, conversations revolve solely around work. In others, coworkers will occasionally "*shmuz*" and discuss more personal issues. Again, it is more ideal for the conversations to be kept formal and to focus on work, but if the conversations are occasionally informal and more personal, it would seem that there is a level of comfort that could be considered *libo gas bah* and could eliminate the leniency of *ba'aloh b'ih*.

WHAT QUALIFIES AS A CITY?

While we say that *yichud* does not apply when the husband is "in the city", it is difficult to determine what exactly the parameters of "a city" are in regards to this halacha.

While New York City is one city, Brooklyn and Manhattan are quite a distance from each other and it would take a while to get from one to the other. If a woman knows that her husband is in Manhattan, she can be sure that it would take him some time to get home to Brooklyn. In

such a case, would *ba'aloh b'ih* still apply?

Conversely, sometimes two cities are very close to each other. For example, Lakewood borders Jackson, New Jersey. If a husband is in Jackson, but is just two minutes away from his home in Lakewood, would that be considered the same city, or do we say that it is technically two cities so the leniency does not apply? Since the exact guidelines are unclear, one should consult with his own Rov for a *psak*.

WHEN THE HUSBAND IS AT WORK:

What if the husband is in the city but he is at work? If the wife knows that her husband works every day from 9 to 5 and does not come home during those hours, does the leniency still apply?

Rav Moshe Feinstein differentiates between cases where a man is his own boss and cases where a man works for someone else. He says that if a man is his own boss, he can always choose to surprise his wife and come home in the middle of the day. Similarly, if a man is learning in Kollel and is able to decide on his own if he wants to come home during the day and surprise his wife, the leniency would apply. If, however, he works for someone else and needs his boss's permission to leave during the day, even if his boss is a nice man and will probably grant permission, the leniency does not apply because the man does not have his own freedom of movement.

The Chazon Ish is quoted as being more lenient, saying that the leniency applies even if a man needs permission to leave work. He explained this with a Yiddish expression: "*Ba'aloh b'ih iz a nerv*." In other words, the basis of *ba'aloh b'ih* is psychological. As long as a wife knows that her husband is in town and could technically come home at any time, she will be scared to do an *aveirah*.

On the other hand, the Shevet Halevi takes a more stringent approach and says that the leniency does not apply at all if the husband rarely comes home from work during the day, since in this case, a wife will not feel any fear.

The Minchas Yitzchok takes a middle-ground approach and says that one cannot unilaterally rely on the leniency when the husband is at work; however, if another leniency can be combined, then one can rely on the combined *heter*. For example, we said in Part 1 of this series that there are times when one has to be stringent and not rely on the leniency of having an open door if the door is closed but unlocked. The Minchas Yitzchok says that if the husband is at work in the same city, and the door is closed but unlocked, one may be lenient.

WHEN A NON-JEW'S SPOUSE IS IN TOWN:

The leniency of *ba'aloh b'ih* applies to cases where a Jewish man is secluded with a Jewish woman and her husband is in town. The leniency does not apply when a Jewish man is secluded with a non-Jewish woman and her husband is in town because she would not have the same fear of being caught by her husband that a Jewish woman



would have.

Similarly, a Jewish woman is not allowed to be secluded with a non-Jewish man, even if her husband is in town, as the non-Jew is not necessarily scared of being caught and he may forcibly cause the Jewish woman to do an *aveirah*. The Chazon Ish says that one could be lenient if the woman's husband is in town and she is in a place where she could scream for help if the non-Jewish man tried to abuse her. This would be relevant in a case where a Jewish woman has to have a meeting with a non-Jewish man in an office building. If she could scream for help, and others outside the office would hear her, she would be allowed to be secluded with him, provided that her husband is in town.

WHEN THE WIFE IS NOT AT HOME:

Another case we need to discuss is when the husband is in town, but the wife is alone with a man in a place other than her home. For example, if a woman is a real estate agent who shows houses to potential clients, she may have to show a house in a secluded area to a male client. It is very possible that her husband would not know where to find her even if he wanted to. Would the leniency of *ba'alach b'ih*r apply in such a case?

The Chochmas Odom says clearly that the *heter* would not apply in such an instance. The Chazon Ish is quoted as being lenient and says that the fear of the husband being in town is still enough to negate the prohibition of *yichud*.

Rav Moshe Feinstein writes that although the leniency would apply even if the wife is not at home, it would be difficult to permit this if the husband has no idea at all where his wife is. We would suggest that if a wife works in a profession similar to the real estate agent we mentioned above, she should provide her husband with her daily schedule so that he knows where he could find her if he wanted to. This would lessen the problem and allow us to rely on the *heter* of *ba'alach b'ih*r.

DOES LIBO GAS BAH NEGATE PESACH PASUACH?

We said at the beginning of this shiur that when a man is comfortable with a woman, the leniency of *ba'alach b'ih*r does not apply. Is the same true of the leniency of *pesach pasuach* that we discussed in the last segment? If a man is comfortable with a woman, is it permitted for him to be alone with her in a room with an open door or is this leniency negated in the same way that *ba'alach b'ih*r is?

The Shulchan Aruch rules that *ba'alach b'ih*r does not apply in a case of *libo gas bah*, but he does not make this distinction when talking about the leniency of *pesach pasuach*. The Chelkas Mechokeik, however, cites a Terumas Hadeshen which he interprets to be saying that the leniency of *pesach pasuach* also is negated in an instance of *libo gas bah*. The Taz argues and says that the leniency still applies.

The common practice is like the Taz that the leniency of *pesach pasuach* does apply even when the man and woman are comfortable with each other. If individuals want to be stringent, we would suggest that they leave the door unlocked, in order to add another degree of leniency.

IF A WIFE IS IN TOWN:

Does the *heter* of *ba'alach b'ih*r also work the other way? If a man's wife is in town, is it permitted for him to be alone with a woman?

Rav Moshe Feinstein rules that it does not. He explains that although we do find a concept of a wife acting as a "*shomer*" to watch her

husband and protect him from the problem of *yichud*, this only applies if she is in the actual vicinity. For example, if a male therapist is meeting in his home office with a patient, his wife can act as a *shomer* if she is in the house; however, it is not enough for her to be somewhere else in the city.

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