

# יִיחֻד

## מדרשת תהילה

### A] YICHUD

1. **מתני'.** לא יתייחד אדם עם שתי נשים, אבל אשה אחת מתייחדת עם שני אנשים. רבי שמעון אומר: אף איש אחד מתייחד עם שתי נשים בזמן שאשתו עמו וישן עמהם בפונדק, מפני שאשתו משמרתו. מתייחד אדם עם אמו ועם בתו ..... **גמ'.** ..... מנא הני מילי? א"ר יוחנן משום ר' ישמעאל: רמו ליחוד מן התורה מנין? שנאמר: (דברים יג:) **כִּי יִסְתַּף אֶחֶיד בְּךָ אִמְךָ.** וכי בן אם מסית, בן אב אינו מסית? אלא לומר לך: בן מתייחד עם אמו, ואסור להתייחד עם כל עריות שבתורה.

קידושין פ:

*The Gemara learns the issur of Yichud from the verse of the 'meisit' - a person who secretly tries to entice another to break the Torah. The Torah unusually uses the expression **בן אב** to describe such a secret meeting, from which Chazal learn that a son may be locked in a room with his mother, but with not other 'arayot'.*

2. .... ואיסור ייחוד העריות מפי הקבלה

רמב"ם הלכות איסורי ביאה פרק כב הלכה ב

*This derivation of yichud is not the 'pshat' in the verse of mesit but is rather a 'smach'. The actual halacha is learnt from the Oral tradition<sup>1</sup>.*

3. אמר רב יהודה אמר רב: באותה שעה גזרו על הייחוד, ועל הפנויה. - **ייחוד? דאורייתא הוא! ...**

סנהדרין כא.

*The Gemara clarifies that the mitzva of yichud with arayot is Min haTorah. Chazal later extended this to all other men and women.*

4. **שלא להתעדן באחת מכל העריות** ..... ואפילו בלא ביאה כגון חיבוק ונישוק וכל הדומה לאלו הפעולות .....

ועוד אמרו רבותינו זכרונם לברכה במצוה זו שאסור להתייחד עם כל העריות, רצוני לומר עם כל העריות דבר תורה, בין זקנה בין ילדה, שהייחוד לגלות ערוה הוא גורם. חוץ מן האם עם בנה והאב עם בתו והבעל עם אשתו נדה שמוותרין .... כשאירע מעשה אמנון ותמר, גזר דוד ובית דינו על ייחוד דפנויה. שמאי והלל גזרו על ייחוד גוים. ....

ספר החינוך מצוה קפח

*The Sefer HaChinuch explains that Yichud is a Torah mitzvah to protect against sexual contact. However, Yichud is not only a biblical 'fence' to sexual relations but also a separate prohibition of 'closeness' in its own right. The Yichud itself is an invitation to intimacy, as we see at a wedding when the chatan and kallah enter a 'cheder yichud'. After the events of Amnon and Tamar it was extended rabbinically to include relationships which are not arayot.*

6. ... ופנויה נידה היא ערוה ככל העריות

ערוך השולחן אבן האור כב:א

*Nowadays when single women do not go to the mikvah, Yichud between singles will be considered to be between 'arayot' and thus min haTorah, even if there is no sexual contact between them.*

7. אין אפוטרופוס לעריות!

כתובות יג:

*When it come to sexual temptation, no one is immune!!! As such Yichud is not just a halachic issue but also a very useful and valuable social tool to avoid moving beyond a 'point of no return'.*

1. The expression מפי הקבלה in the Rambam is subject to a debate. Some explain that it means a Rabbinic law. In the case of Yichud most Rishonim understand that the law is min haTorah and the Mishneh LeMelech explains that the Rambam also rules this way. Many acharonim understand that the issur of one man and one women is min haTorah and the issur of multiple people (where prohibited) is rabbinic.

**B] CRASH COURSE IN HILCHOT YICHUD****B1] THREE SCENARIOS**

- Man and woman?:
  - in same room
  - in same house/office in different rooms when no one else is in the house/office
  - in a remote outside area with no disturbance
- Applies irrespective of age or attraction - אין אפטרופוס לעריות.
- Issues of ma'arit haayin/social or secular legal concerns even where yichud does not technically apply.

**B2] THREE LEVELS OF ISSUR**

- Alone with an 'erva' (including isha niddah) - min haTorah.
- Alone with multiple people - sometimes derabbanan - see below.
- Alone with a non-married woman who is not an erva (today under age 12) - derabbanan from David Hamelech.
- Alone with a non-Jew - derabbanan from Hillel and Shamai.

**B3] RELATIVES**

- Muttar:
  - Grand/daughter, Grand/mother
  - Husband and Wife niddah (unless they are just married and have not had sexual relations - 'chuppat niddah' requires a chaperone couple).
  - Siblings, but not permanent living - more than 1 month a/c some. Rav Moshe Feinstein (RMF) - only problematic if a longer than stay of a normal house guest .
- Assur:
  - Aunt - RMF allows in same ways as sibling
  - Niece, cousins
  - In-laws - mother/father; son/daughter; brother/sister
  - Step-relations - parents/siblings/children
- Questionable:
  - Adopted children/siblings. Stringent opinions: Lubavitcher Rebbe, Chazon Ish.
  - Lenient opinion: Tzitz Eliezer IF adopted before age of yichud/familiarity. RMF - ok as long as both parents are married.

**B4] CHILDREN**

- Over bar/bat mitzvah with girl from 3 and boy from 9. RMF was mekel in extreme circumstances for yichud with a girl of 7
- We are not machmir for yichud between children.

**B5] HETERIM****(a) Multiple People**

8. וכן לא יתייחד איש אחד, אפילו עם נשים הרבה. הגב: וי"א דאשה אחת מתייחדת עם שני אנשים כשרים, אם הוא צעיר, וסתם אנשים כשרים הם. אבל אם הם פרוצים, אפילו עם י' אסור. וכל זה צעיר, אבל בשדה, או בלילה אפילו צעיר, צעיקן שלשה אפילו בכשרים. ויש מתירין איש אחד עם נשים הרבה, אם אין עסקו עם הנשים

שולחן ערוך אבן העזר סימן כב סעיף ה

2. There is no automatic halachic issur of Yichud between two men or between two women, but in the even of same-sex attraction it is appropriate that the principles of yichud should be applied.

- 1 man + 1 woman is an issur Torah<sup>3</sup>.
- 1 man + 2 women is assur except in certain relationships - mother/daughter-in-law, stepmother/daughter.
- 1 man + 3 women is muttar according to some poskim (Rema) but assur according to the Rambam/Shulchan Aruch. Even the poskim who allow it permit only by day and NOT if he is personally close to these women. Many poskim are more stringent that 1 man should not be in yichud with even multiple women.
- 1 woman + 2 men is ok but only if men are 'כשרים' - reputable. Rambam/S.A. - need at least 2+2 (according to some 3+3) but most, including Sefardim, are lenient in the case of 1w + 2m in a case of need.
- If men are not shomer negiah, they are not called 'כשרים' and you need at least 2+2.
- At night/secluded area - need 1 woman + 3 men.
- Even in situations where there is technically no issur yichud - eg a sleep-over party with 10 boys and 10 girls together - it may be a BAD idea! Appreciate the hashkafa of Yichud too and use your common sense.

#### (b) Shomer

- Heter if chaperoned ('shomer'). Which women can be a shomer for a man? Wife and a/c RMF mother, daughter, grandmother.
- Only one of the people in the room needs a shomer.
- Young boy/girl can be a shomer if old enough to understand intimacy issue but not too old to cover up: age 5/6 to 11/12.
- At night an extra shomer is needed. OK even if both shomrim are sleeping as they wake easily.
- Young children cannot be shomrim when asleep as they do not wake easily.
- A shomer is good even if they are walking in and out, if they could return unexpectedly. If the shomer could return suddenly and has a key the door could even be locked.
- Two sisters can't be shomrim for each other.
- A Jewish wife is a good shomeret but a Jewish woman can't be in yichud with a non-Jewish man even if his wife is there.
- Sister-in-law and mother-in-law of the woman are good shomrim.

#### (c) Husband in town

- Ok if she's at home and a/c some even she's if not at home - psychology. If the husband does not know where she is, some poskim do not allow the heter. Others allow it since it is based on the psychology of the wife. Can rely on the lenient opinion in a case of need.<sup>4</sup>
- No heter if the relationship is close/familiar - eg employer/ee, relatives, teacher/student?
- If there is a personal closeness then it is assur even by day, even if the husband is in town.
- Not if husband can't come back or has fixed hours. Ok if he makes own hours even if he works on the other side of town.
- She should tell him that husband in town.
- Rav Willig - Riverdale & Staten Island are not same town. Rav Rimon - Y-m is 'one town'. One municiple area of small villages is 'one town'. Two municiple areas close by is a question.

#### (d) Wife in town?

- No heter if wife is 'in town'. Ok if wife is very close by and could walk in at any time.

#### (e) Parents in town?

- Babysitting for a child may be ok where the parents could walk in at any moment.

3. If one of them is a child the issur will be derabbanan. The issurim for multiple people scenarios are rabbinic.

4. e.g. 1 man and 2 women, or with a non-Jewish person or a child

(f) Door open to street

9. בית שפתחו פתוח לרשות הרבים, אין חשש להתייחד שם עם ערוה
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שולחן ערוך אבן העזר סימן כב סעיף ט

- No problem of yichud with an 'open door'. Doesn't have to be open directly to street, just that there is real possibility of being interrupted.
- Best not to rely on if there is closeness or familiarity.
- Ok if they are clearly visible from outside even if the door is shut/locked - importance of windows in doors.
- Door to stairs in building is ok if they could in fact be interrupted.
- Not good at night - Chazon Ish said open door was good in Bnei Brak until 10pm
- Assur if sitting in the dark, even if door open to street.
- Closed door but unlocked - only good if people would walk in or would expect to be answered. A door should really be left a little open unless there is a real need and then only if the issur would otherwise be rabbinic<sup>5</sup>.
- Ok if door is locked but several family members have keys and could return at any time.

**B6] COMMON CASES**(a) Medical treatment

- Ok if door could be opened - e.g. by workers, even if familiar with woman. It helps if there are people waiting outside - some women may bring a friend to sit outside.
- In halacha a doctor has a professional reputation and we normally say that he would not jeopardize this.
- RMF - outside office hours the husband or child should chaperone.

(b) Hotel rooms

- Separate rooms are ok. Adjoining rooms with connecting door are technically ok but a BAD idea, unless locked.
- May be a problem if no one else is in the corridor. Clearly a problem if no one is in the building.

(c) Cars

- Ok during day if windows are clear - some are machmir - RMF didn't like it.
- Ok with non-Jewish driver if there are passersby.
- Taxi driver - ok as we assume 'professional' concern. But always consider safety issues too.
- Problem at night unless on well-lit city streets where there are people around. Maybe leave a light on in the car.
- Intercity at night is a problem.
- If assur, 1 man + 2 women will not help. 2 men + 1 woman, shomer etc will help. Tzitz Eliezer allowed 2 men and one woman on J-m to T-A highway since cars pass every few seconds.
- Husband in town is weak heter here but can help.
- Late night rides 1 on 1 are very problematic. In situations where one needs to give a ride to someone late at night and it would be dangerous to leave them by the road, at the very least a light should be turned on in the car.

(d) Workers in the home

- Ok if husband in town.
- Ok if a shomer in the house.
- Ok if door left a little open, or at least unlocked if there is a real possibility that someone could walk in.

5. e.g. 1 man and 2 women or with a non-Jewish person, or a child

(e) Elevators

- Time in elevator is insufficient for yichud (35 s to 3m).
- Also like door open to public.
- If more than 3 minutes or woman is not tzanuah - potential problem.
- But, even if not an issur of yichud, it may be a BAD idea (open to accusations?)

(f) Tiyulim

- Yichud also applies in isolated open areas.