

הלכה ברורה

בס"ד

Halacha Berurah

צעירי
אגודת
ישראל



The Halachos of Yichud (Part Two)

Volume 6, Issue 10.
• Email Edition •

Reviewed by Horav Shlomo Miller

In the last issue, we discussed the basic principles of the laws of Yichud. We discussed various points such as the laws of Yichud with a relative, age, length of time, as well as specific situations where the laws of Yichud do not apply. In this issue, we will discuss some further halachos as well as a variety of practical applications.

Shomer

A shomer is a person who will most likely not engage in any immoral activity in the situation where he is present. Additionally, the shomer's presence will deter any immoral activity from taking place, either because the parties involved would be embarrassed to conduct themselves improperly in front of the shomer, or because the parties are afraid that any immoral activities will be publicized by the shomer.¹

One is permitted to be *misyacheid* with a woman in the presence of his wife.² Additionally, *poskim* permit one to be *misyacheid* with a woman in the presence of his mother, daughter, grandmother, granddaughter.³

There are people who qualify as *shomrim*, although *yichud* with them alone may be forbidden. For example, one may be *misyacheid* with a woman in the presence of the woman's mother in-law or sister in-law. This is true even though the man is now being *misyacheid* with two women, which would normally be prohibited. (As mentioned in the previous issue, according to all *poskim*, a man may not be *misyacheid* with two women). Since in this instance one of the women is a qualified *shomer*, *yichud* is permitted.⁴ Additionally, Rav Moshe Feinstein permits one to be *misyacheid* with a woman in the presence of her mother, daughter, grandmother, or granddaughter. However, other *poskim* do not mention this leniency.⁵ According to all opinions, a woman's sister does not qualify as a *shomer*, and therefore *yichud* with two sisters is forbidden.⁶

As we mentioned in the previous issue, according to the

Rama, a man may be *misyacheid* with a woman in the presence of a second man. This is because the additional man is considered a qualified *shomer*.⁷

The *poskim* mention that children at certain ages may also qualify to serve as *shomrim*.⁸ Rav Moshe Feinstein maintains that a young girl qualifies as a *shomer* as long as she is approximately between the ages of seven and twelve.⁹ A boy who is above the age of seven or so may also qualify as a *shomer*. (See footnotes for other opinions.)¹⁰

A girl above *bas mitzvah* can qualify as a *shomer only* for a girl below *bas mitzvah*. The older girl also requires a *shomer*. In order for the younger girl to qualify as a *shomer* for the older girl, the younger girl must be between the ages of seven and twelve.¹¹ Furthermore, even if the older girl is under *bas mitzvah* but is at least seven years old, she is considered a valid *shomer* for the first girl and the first girl is a valid *shomer* for her, and one may therefore be *misyacheid* with them.¹² However, if one of the two girls is under seven years old, one may not be *misyacheid* with them. This is because there is no *shomer* for the older girl, since the younger girl is not old enough to be considered a valid *shomer*.¹³ In cases of necessity, one may be lenient and rely on a child who is a bit younger than seven years old to serve as a *shomer*. A *Rov* should be consulted.¹⁴

In instances where one is relying on the presence of a *shomer* to permit *yichud*, the *shomer* must actually be present at the place of the *yichud*, and must be awake. At night, where there is a possibility that the *shomer* may fall asleep, an additional *shomer* is required.¹⁵ Once there are at least two *shomrim* present, *yichud* is permitted even if all of the *shomrim* are sleeping. The possibility that one of the *shomrim* may awaken will deter any immoral activity.¹⁶ In such an instance (i.e. at night), if the man's wife is present at the place of the *yichud*, no additional *shomer* is required. This is true even if his wife is sleeping.¹⁷

One who is traveling may require two *shomrim* for *yichud* to be permitted. This is because one of the *shomrim*

Please Note: Due to the intricacy of the material discussed in each issue, and the brevity of its treatment, a *Rov* should be consulted for a final *psak halacha*. In addition, this publication does not intend to be מכריע on issues that are a *machlokes haposkim*. Although we have usually brought the dissenting views in the footnotes, we have selected for simplicity sake to incorporate into the main text the views of the *Mishnah Berurah*, R' Moshe Feinstein, R' Shlomo Zalmen Auerbach and several other preeminent *poskim*. Please send all questions and comments to 1341 E. 23rd Street, Brooklyn, NY 11210 or email to halachaberurah@thekosher.net

might leave temporarily. (See footnotes for details).¹⁸ One who is traveling at night does not require three *shomrim* (i.e. one for the *yichud*, one because he is traveling, and a third because it is at night), and two *shomrim* are sufficient to permit *yichud*.¹⁹

Although a *shomer* must actually be at the place of the *yichud*, the *shomer* is not required to remain there continuously. It is sufficient for the *shomer* to walk out and back in every so often in order to prevent any question of *yichud*. In *halacha*, such a *shomer* is called a *yotzei venichnas*.²⁰

Practical Applications ²¹

Babysitting / Children Playing At a Neighbor's Home

There are many situations of *yichud* that may arise with a babysitter. Additionally, when children are playing in a neighbor's home where the father or mother is home alone with them, a prohibited situation of *yichud* may exist.

A common situation of *yichud* arises when an uncle is requested to baby-sit for a niece. It may be strictly prohibited for an uncle to baby-sit for his niece where they are in a house by themselves. An uncle who is over *bar mitzvah* may not be *misyacheid* with his niece who is more than three years old. In extenuating circumstances, some *poskim* permit the uncle to be *misyacheid* with his niece, if the niece is not more than seven years old.²² A *Rov* should be consulted. Rav Moshe Feinstein permits an aunt to be *misyacheid* with a nephew who is blood related (e.g. her brother's or sister's child). Other *poskim*, however, do not mention this leniency.

In an instance where *yichud* would be problematic, a woman may only baby-sit for a boy if he is younger than nine years old. If the boy is older than nine, babysitting for him in such a scenario would not be permitted, since the babysitter and the boy may not be *misyacheid* in the house by themselves. In such a case, there are various means of avoiding a forbidden *yichud*. A) If the babysitter is married and her husband is in town and knows where she is babysitting, *yichud* would be permitted. B) If the woman is babysitting for two or more boys approximately over nine, *yichud* is permitted. Moreover, many *poskim* permit *yichud* in such a case, even if one of the boys is approximately seven years old.²³ C) If the door is ajar (*pesach posuach l'reshus horabim*), or at least unlocked, *yichud* is permitted. This option is often not practical and in certain neighborhoods and times is *halachically* unacceptable. According to the opinion of Rav Moshe Feinstein mentioned in the previous issue, the *heter* of *pesach posuach l'reshus horabim* applies even if the door is locked, if there are people who will ring the bell and expect to be let in immediately. Not all *poskim* agree with this leniency. D) A common solution in avoiding *yichud* is to leave a key with a neighbor who qualifies as a *shomer* (e.g. another man, or a married woman whose husband is in town and knows that she plans to go over to the neighbor's house), and ask him or her to make unexpected visits to the house.

A man may baby-sit for a girl over the age of three, if he is also watching a boy who is over the age of seven. If one is watching two girls between the age of seven and twelve, *yichud*

is permitted. Additionally, if one girl is seven to twelve years old and the other girl is older than that, *yichud* is permitted. The reason for this is because the seven to twelve year old can act as a *shomer* for the other girl and the older girl can act as a *shomer* for the seven to twelve year old. In a case where one girl is seven to twelve years old, and the second girl is younger than that (i.e. three to seven years old) *yichud* is forbidden. Although the seven to twelve year old can qualify as a *shomer* for the girl who is younger than her, the younger girl does not qualify as a *shomer* for the seven to twelve year old, and *yichud* is thus forbidden.

Alternatively, in the case of a male babysitter, an option would be for him to come with another man (e.g. a *chavrusa*) to the babysitting job. As we mentioned before, a very practical solution to avoid any *yichud* problems is to give a key to a neighbor who will make unexpected visits to the house.

Please note: In a case where one is relying on a second child or friend to serve as a *shomer*, an additional *shomer* is required if the first *shomer* may fall asleep (e.g. at night). If two *shomrim* are present, even if they are asleep, no additional *shomer* is required in order to permit the *yichud*.

Doctors

When visiting a doctor, a situation of *yichud* often arises when the patient is alone with the doctor in the examination room. In certain situations, if there is a secretary or nurse in the office, there is no problem of *yichud*. A *Rov* should be consulted for guidance. An excellent way to avoid the problem entirely is for a husband and wife to accompany each other when being examined by a doctor. It is of utmost importance to bring along one's spouse when one visits a psychologist of the opposite gender (e.g. in a case where one was unable to schedule an appointment by a psychologist of the same gender). If this is not possible and no appointment can be made by a psychologist of the same gender, a *Rov* must be consulted.²⁴

Office

One must be extremely careful to avoid problems of *yichud* in the workplace. In an office where people constantly enter without prior notice, a *yichud* problem is avoided. However, in an office where this is not the case, or after normal business hours, one must be careful not to remain in the office alone with a secretary. Even if the secretary is Jewish and her husband is in town and knows where she is, it is not necessarily permitted for one to be *misyacheid* with her. Since there is normally a closer affiliation between an employer and an employee, the *heter* of בעיר בעלה does not apply in such an instance.

One who is in a private meeting which people will not disturb, may avoid a problem of *yichud* by having a glass window in the meeting room through which people passing by (e.g. in the hallway) can see into the room. A *Rov* should be consulted to determine the best solution for each setting.²⁵

Cleaning Help / Meter Readers, Repair Men

A common situation of *yichud* arises when one is home alone with cleaning help. This is especially common where one

has a live-in maid. Likewise, care must be taken to avoid any *yichud* problems when one is home alone with a meter reader or a repairman.

Dating

When a boy and girl are dating, situations of *yichud* are common. *Yichud* may arise when visiting deserted areas where there aren't other people around, especially at night. (See below concerning traveling in a car together). Rav Moshe Feinstein permits *yichud* with a girl and her mother. Therefore, according to this opinion, if a boy goes to a girl's home and her father is not there, *yichud* would be permitted if her mother is present. However, other *poskim* do not mention this leniency. During their engagement, *chassanim* and *kallahs* must be careful and make certain that no *yichud* situations arise. Therefore, when they go to set up their new apartment or take care of *chasunah* preparations, they must avoid any problems of *yichud*.²⁶

Cars

Rav Moshe Feinstein writes that if one is traveling in a car in a populated area and there are exits where one can easily turn off and be in a secluded area, traveling alone together should be avoided. In extenuating circumstances, (e.g. one was asked to give a ride and it is impolite to refuse), Rav Moshe rules leniently. Other *poskim* are a bit more lenient and permit one to travel in populated areas even if it is not an extenuating circumstance. These *poskim* are not hesitant to permit traveling together in a car, because there is the possibility that others on the road will also exit. However, all *poskim* agree that *yichud* is a problem when traveling in a car in a totally deserted area. This is especially relevant in many areas at night. One should also be careful regarding *yichud* when taking a taxi in such situations.²⁷

Helicopters

One who will be traveling in a helicopter with a woman and will not be accompanied by someone who qualifies as a *shomer* is faced with a *shailah* of *yichud*. The *heterim* that we discussed in the previous issue (i.e. leaving open a door to the street, or if the husband is in town) are obviously not applicable. Additionally, the pilot is normally a *goy* and cannot serve as a *shomer* according to most *poskim*. One who must fly in such a circumstance should make advance arrangements to have others present on the helicopter in order to avoid a problem of *yichud*. If this is not possible, a *Rov* should be consulted.²⁸

Buses

We mentioned that most *poskim* maintain that one man may not be *misyacheid* with several women. Under extenuating circumstances, one may rely on the lenient view which permits one man to be *misyacheid* with three women. A potential question may arise in a case where a male bus driver drives a group of girls on a trip at night and travels on deserted roads. There are grounds to permit it in certain situations. A *Rov* should be consulted.²⁹

Elevators

Most *poskim* maintain that there is no problem of

yichud in a standard elevator, since no *shiur* of *yichud* is possible. Even if one travels in the elevator for many floors, it is usually for less than the *shiur* of time of a forbidden *yichud*. Additionally, the elevator can be stopped at any floor for people to get on.³⁰ With regard to an express elevator where the elevator passes many floors and cannot stop on the way, a situation of *yichud* might arise, depending on the duration of time that the elevator will remain closed. Most express elevators do not remain closed for the amount of time that the *poskim* proscribe.³¹ One must bear in mind that in any scenario where *yichud* is applicable, even if there are other people in the elevator, *yichud* is not necessarily avoided. If two Jewish men are in the elevator, *yichud* is permitted. In extenuating circumstances, *yichud* is permitted if there are more than three women in the elevator, as long as they are not business associates. One may not rely on *goyim* in the elevator to serve as *shomrim*. If there are three men and three women in the elevator, some *poskim* maintain that there is no problem of *yichud*, even if they are all *goyim*.³² However, as we mentioned, most elevators do not present problems of *yichud*.

Adopted Children/Step Children

Rav Moshe Feinstein writes that *yichud* is permitted with adopted children and stepchildren provided that both adopted parents are alive and married. Most *poskim*, however, are stringent in this regard. A *Rov* should be consulted in such a situation.³³

Stores

Yichud is normally not applicable in stores since there is the possibility that customers will enter the store at any time. Even in stores where a buzzer must be pressed in order for one to enter, Rav Moshe Feinstein rules that there is no problem of *yichud*. Additionally, most stores have windows open to the street through which people outside can see what is going on inside the store.³⁴

Adjacent Rooms

Many *poskim* maintain that if a man and a woman are in two separate rooms within the same apartment, but they both have access to the other rooms in the apartment which they use, it is considered *yichud* and is forbidden. This applies even if the door to their rooms are closed and locked. However, if a man and a woman are in two separate apartments, *yichud* is permitted, even if they are in the same building and share a common hallway that exits to the street.³⁵

מראה מקומות

1. ע"י רש"י במס' קידושין שהסביר הטעם שאשה אחת מתייחדת עם שני אנשים שהאחד בוש מחבירו, משא"כ איש אחד אסור להתייחד עם שתי נשים מפני שרעתן קלה ושתייהן נוחות להתפתות ולא תירא זו מחבירתה שאף היא תעשה כמותה. וע"י בש"ע סי' כב סעי' י' שכשיש שם תינוקת קטנה מותר לפי שהיא אינה מוסרת עצמה לביאה ומגלה את סודה.
2. ע"י מס' קידושין פ"ג, וע"י ש"ע שם סעי' ג.
3. ע"י שו"ת אג"מ אבי"ע ח"ד ס"ה: אכן ע"י פ"ת באב"ע שם סק"א.
4. ע"י ש"ע שם סעי' י', וע"י ספר שער היחוד אם נוגע דין של צרות בזמן הזה כיון שאנו בני אשכנז אין עושים יבום, ומסתימות הלשון בכמה פוס' משמע שמהני.
5. ע"י אג"מ שם סוף סי' סד, אבל כמה פוס' לא מתיירים בזה, שכל שמצינו בגמ' הוא ציורים שאינו יכול לזנות באחת מהן וא"כ תבוש חבירתה מלזנות, אבל הכא יכול לזנות בכל אחת מהן, ושייך שהאם ובתה יהיה זנות, וכן שמעתי מהגר"ש מילר שליט"א.
6. ע' אג"מ שם.
7. ע"י רמ"א בסעי' ה.
8. ע"י ש"ע שם בסעי' י'.
9. לכאורה הגיל תלוי בהתפתחות השכל של כל ילד וילדה בפרטות, וכן אותה בשורת ישכיל עברי הכב, ויש כמה שיטות בפוס' באופן כלליות, ע"י במקנה קידושין דף פב, ובנתיבות לשבת כ"ז, דכל שהיא ראויה לביאה נחשבת יודעת טעם ביאה, ויגלה את סודה, דהיינו מגיל ג', ובש"ת

(continued)



Halacha Berurah is a bi-weekly publication affiliated with Zeirei Agudath Israel of Brooklyn, NY

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בלי איש אחר רק עם המנהיג שקיל יותר, ויש לשאול אצל מורי הוראה קודם לכן. ויש לדון עוד באיש או אשה שהולך על אויבן ציבורי שיש שם רק נכרים שדינם כפרוצים, וגם במסילת הברזל שכמה פעמים אין פותחים הפתח עד זמן רב כגון שהולך על גשר, ויש רק פרוצים שם, ואם יש שם הרבה אנשים ונשים באים למח הנ"ל אם היתר זה שייך גם בפרוצים ממש, ויש לעיין, אם יש מירתת שאולי יש שם כשר או אולי יש שם מצלמה, או אם מהני המנהיג להתיר יחוד כיון שלא יכול להצטרף עמהם בשעה שנוהג ואיכ"ל לא שייך פיסו ויש לחשוש שיגלה סודו, וצ"ע.

שמקלים בגיל שומר קטן מיליון 1, ופשוט דאם שניהם צעירים מגיל ט' ליכא איסור יחוד.
24. ע"י אג"מ אב"ע ח"ד סי' ס"ה, ועי' דברות משה מ"ס כתובות בתש"ג אות ד', ועני' תורת היחוד פרק ה' והרבה פעמים בעלה בעיר לא מהני כגון אם יש שייכות ביניהם לזמן רב ושייך לבו גס בה, ואם הוא עכ"ם או פרוץ ע"י לעיל שהאריכו בו, וגם הרבה פעמים אין נוהגים רשות לבעלה לכנס באמצע. וגם אם יש משרת שם שיכול לכנס תוך חדרו אינו כ"כ פשוט שגם ליוצא ונכנס צריכים שומר המועיל כדלעיל, ד"ל"כ כשיכנס יהיה גם אם המשרת איסור יחוד, ומאג"מ משמע שהיתר הוא אף כשאין המשרת נכנס, רק שהוא שם, והרופא יראה מלשהות שם יותר מדי שלא תחשדנה, ויפסידו אומנתו. ובגין שייקאלאניע יצא כמה קול קוראים מגדולי הפוס' כנגד פירצה הזאת, שכמה פעמים שייך לבו גס בה, ואיכ"ל ההיתרים הנ"ל לא שייך, וכמה מכשולים יצא מזה.

צמח צדק אב"ע אל"ט כתב שהוא בגיל ה', ועי' בשו"ת צ"ח אילעור ח"ו דף ק"טו, ואיתא בכמה ספרים בשם הרה"ג ר' משה פיינשטיין זצ"ל שהיא בערך בגיל ז', והיתר זה נמשך עד שהיא מטמור עצמה לביאה, ושוב לא יגלה סודה, ועי' בפ"ת שם סי' יב, שהיא בגיל ט', ועי' בחכמ"א קט"ו,ט, אבל בשו"ת פנים מאירות ח"ב סי' קל"א איתא שהוא בגיל יב', וכן איתא בשם ר' משה זצ"ל.
10. ובענין קטן, ע"י בעזר מקודש בשרע שם שפסתפק אם מועיל קטן שפחות מט' שנים, ולכא"ז ספקתו הוא שכיון שאינו ראוי לביאה עד ט' שנים אולי גם אינו נחשב יודע טעם ביאה, ואם כן לא יגלה סודו, ואף שלא ימסור עצמו לביאה מ"מ ליכא בושה מפני כיון שהוא רק קטן, ואין כאן מירתת ופסול, ועי' בשו"ת טעם ביאה, ואם כן לא יגלה מת יא"ט שמשמע שתלוי הא בהא, אבל עי' בספר המקנה ובתיבות השבט שם שהחליט שמהני בכחות ממו, ועי' בשו"ת חת"ס אב"ע ב"צ שמהני מגיל חמש, ואיתא בשם ר' משה זצ"ל שהוא בערך בגיל ז', ולכא"ז נמשך ההיתר עד שלא יגלה מ"מ בומן שהוא כבר גדול לכא"ז נחשב כב' אנשים שאחר בוש בחבירו שמוטר היכא שליכא פרוצים לפי פסק של הרמ"א.
11. עי' ש"ך שם סי' יב' שהסביר שיחוד עם קטנה אסור שחיששין שמה יבוא וליבה באונס, אבל כשיש גדולה עמה ליכא חשש אונס, ולפתוי לא חיישינן דאינה מוסרת את עצמה לביאה, ושמועתינן מהא שגדולה מהני להיות שומרת לקטנה, מ"מ אין כאן שומרת לגדולה אם הקטנה היא פחותה מגיל שנחשבת יודעת טעם ביאה.
12. שלכא אחת גדולה סודה, וכיון שאינו מוסרת עצמה לביאה אין כאן חשש של נוחות להתפתות דאיכא בשו"ת גדולות.
13. ע"פ מש"כ ב"ע הנ"ל.
14. עי' פ"ה ט' ע"י רמ"א בסע' ה' בענין שני אנשים, ומבואר בפוס' שהיה כל השומרים חוץ מאשתו שמבואר בבשנה בקיבושין שישן עמקן כפונדקי ע"ש. ועי' דברי סופרים סי' ק"י.
15. עי' דברי סופרים שם.
16. עי' פ"ה ט' ע"י רמ"א בסע' ה' בחילוק בין עיר לשרה, ועי' חלקת מחוקק סי' יד בענין דרך כשיש קטנה שומרת, ועי' פ"ת סי' ק"א, ועי' בפרישה שהסביר שבשדה בגין ד"ג שמהני, ושמועתינן מהא, וליכא מירתת שמה יחזור כל רגע מלהשתין, שבשדה יכול לראות מרחוק מתי יחזור, ומש"כ בעיר ששייך יבוא בקרן זוית, ולכא"ז היה בדרך בומן הזה שא"צ ללכת מרחוק בגילוי, ויש לדון כל ציור בפנ"ע.
19. עי' שמוע' מהפוס'.
20. בענין אם מהני יוצא ונכנס להתיר יחוד עי' ברמ"א אב"ע סי' קמ"ח, ועי' תורת היחוד בסוף פ"ח שיש איבוד סודה, ואף שכמה פוס' נקטינן שמהני יש לעיין בנדר ד"ג שמהני, ושמועתינן מהג"ש מילך שליט"א שצריך השומר להיות שם תמיד, רק אם הלך לחרוץ אחר לזמן אין בוה חסרון, ורק באשתו קל קצת יורע, אבל יש חולקים ע"ז וסוברים שכל שומר שדעתו לבוא שם בומן שמתחייב ויכול לבוא בכל רגע מהני שפיר מטעם יוצא ונכנס. לכא"ז משמע מפוס' שליוצא ונכנס צריך איש או אשה שנחשב שומר בה"י יחוד, ואינו דומה לחמה שדנו הפוס' בחיתר פתח פתוח (עי' בשו"ת נחפ"ה בכסף ח"ב סי' י"א, ובשערי יוסף, ועי' באוצר"ה סי' ל"ה), ובתורת היחוד ה"ח, שהתם אפ"י אם איש או אשה שאסורים ביחוד בא, מ"מ איכא מירתת שמה יבוא אחר, מש"כ בשעת שיוצא ונכנס בא תוך חדרה יש איסור יחוד בלי מירתת שמע יבוא אחר).
21. כל מקום שלא הביא מ"מ, עי' לעיל בסדרי הלכות ושם צ"ח המ"מ.
22. וה"ה כל איש, שעי' לעיל שיש פוס' שמקלים ומתירים יחוד עם קטנה עד גיל זה.
23. שכל אחד מהילדים יכול להיות שומר לאחר, ויש

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נצטת בניו
אליעזר, וגרשם
"ישמח משה במצות חלקו כי עבד צאמן קראת לו"