

Complete Hilchos Yichud Notes

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Hilchos Yichud Shorthand

This section of the document is intended to be just a summary of the Piskei Halacha which came out of the limud, for quick answers to relevant shailos. It leaves out most of the poskim, analysis and sevaros, which are all spelled out more in-depth starting on page 9, with the "Introductory Points" section.

- I. Yichud is defined as being secluded with someone from the opposite sex, such that they have no concern of being discovered if they were to do an aveirah together
- II. We paskin Yichud is deoraisah, at least with arayos and potentially other women as well (see below), but it is never Yehareg V'al Ya'avor.
 - A. An Issur Yichud whenever there's more than two people will always be דרבנן. The Issur deoraisah only exists when there's only two people.
- III. The concern of Yichud is for פתוי specifically, although it could be the concern with a קטן/קטנה is due to אונס.
- IV. Even when two people had Yichud, אין אוסרין על היחוד: we do *not* assume they had zenus
- V. One is allowed to put themselves in a situation where they're one step away from Yichud (e.g. drive in a car on a street where one *could* turn onto another secluded street), so long as Yichud could occur only if one intentionally created the Yichud situation. Only if Yichud would be created automatically (e.g. by לילה + דרך discussed later on) are we מחמיר.

The Shiur Yichud

- I. **Most acharonim** give specific numbers, ranging anywhere from 35 seconds to 5 minutes. **Rav Moshe + Chelkas Ya'akov** have the most compelling opinion that it's dependent on context – however long it would practically take to seduce the woman/women and get dressed again.
 - A. If the time alone together will necessarily be less than whatever the shiur yichud is, it's מותר to get into that situation. For this reason, elevators do not pose a Yichud problem.
 - B. The vast majority of poskim assume you don't need to actually have Yichud that long to violate the Issur, but so long as you *could* wait that long uninterrupted, you *immediately* violate the Issur Yichud. A minority opinion (**Tzitz Eliezer**) disagrees, but should not be relied upon alone.
 - C. The shiur will be doubled, tripled, etc. in cases of one man with multiple women, as it needs to be possible for the man to have relations with all the women in that situation. In contrast, for cases of 2+ perutzim men with one woman, the shiur is not increased.

Various Relationships Which Carry an Issur Yichud

- I. Yichud with a single woman who is not a Niddah, as well as with a Goyah, is an Issur דרבנן.
- II. However, Yichud with a Niddah is generally accepted to be deoraisah. Once a girl reaches 12 years old, she should be assumed to be a Niddah.
- III. A married Jewish woman having Yichud with a non-Jew is deoraisah
- IV. There is an unresolved machlokes whether Yichud with Issurei Asseh + Chayavei Lavin is deoraisah or דרבנן.
 - A. The big נפקא מינה is a Goyah who is married, as there's an Issur asseh of דובק באשתו. One should treat Yichud with her as a safek Issur deoraisah.
- V. There's an Issur דרבנן for a Jewess to have Yichud with even many non-Jews, and even if their wives are there with them. Public places (even if locked) like an airplane aren't considered being מתייחד for this.

Women You're Allowed To Have Yichud With

- I. One can have Yichud with their mother, daughter, grandparents and grandchildren
- II. Yichud with one's sister is allowed so long as they aren't "living/דר" together. What's this mean? **Most poskim** say this means one can be sleeping over until 30 days.
 - A. **Rav Moshe** is meikil for an elderly brother and sister to permanently live together
- III. One can have Yichud with their father or mother's sister as well when there's a need. This is only a biological aunt, and not one through marriage.
- IV. See main notes re: an Issur Yichud between two people who are חשוד על משכב זכור.
- V. See main notes re: Yichud with an adopted child or a step-child.

Ages for Yichud

- I. The Issur Yichud only applies once a boy reaches 9 years old and a girl above 3. There's no Issur for a woman to be alone with an ≤ 8 year old boy or a man to be alone with a ≤ 2 year old girl. See main notes for potential tzedadim lehetter for girls above this age.
 - A. A man can't babysit a Ketanna, and a bas mitzvah girl can't babysit a 9+ year old boy, as there's an Issur yichud. However, a woman could babysit a boy and girl so long as both are the age that they'd be shomer, and a man could babysit two girls so long they're the age of Shemirah as well. One needs an extra person if they babysitting at night.
- II. Surprisingly, there's no din of chinuch to prohibit two children from having Yichud: Me'ikar hadin, two children below bar and bas mitzvah are allowed to be together alone.
 - A. However, one still shouldn't allow a child who is a bar chinuch to be alone with a non-Jew of the opposite sex. See main notes for the reason.
- III. Yichud with an older man or woman is still אסור. One can be meikil by Yichud דרבנן with a man who is old enough that it can be assumed is unable to have תשמיש המיטה. If a doctor can say he's completely impotent, one could be meikil on Yichud deoraisah as well.
 - A. As such, if an older man needs an aid, and it needs to be a woman for whatever reason, make sure she's not Jewish (and ideally not married).
 - B. However, Yichud still applies to those with severe mental illness, so long as it's שייד to have biah with them.

One Man With Multiple Women

- I. One man is אסור to have Yichud with two women, and the concern is specifically that he will be both בעל women. The shiur Yichud is accordingly doubled in this situation.
- II. The **Rema** notes that some allow for a man to be with 3 women as long as he's not עסקו עם הנשים. We only rely on this in a sha'as hadchak.
- III. The concern of עסקו עמהן is that they'd be מחפה for him even if they weren't involved in the aveirah.
 - A. One should be מחמיר even in a case of לבו גס בהן (e.g., cousins or family friends) unless there's a שעה"ד גדול, as the same reason for this Issur should apply then.
- IV. What counts as עסקו עם הנשים?
 - A. Certainly, if he has a job where he helps women and they need him (e.g. doctor, tailor)
 - B. If someone's job is to do something for children and he therefore regularly sees their mothers, that's עסקו עם הנשים as well.
 - C. If someone is עסקו עם הנשים, it ruins the hetter of 3 women only if he's עסקו עמה with at least one of those women. If he has no relationship with any of those women, there's still a hetter.
- V. The hetter to be with three women is not impacted by whether they're פרוצות; it seems it should be allowed if he's a parutz as well, although it might not be a good idea practically.

- VI. At night, one should ideally need a 4th woman to rely on this kula, but there's room to be meikil in a צורך גדול or great שעה"ד with just 3 women, per **Rav Moshe + others**.

One Woman With Multiple Men

- I. Two men are allowed to be with one woman unless they're perutzim. If they're perutzim even 10 men with one woman is אסור. **Sefardim** consider everyone perutzim, but there's room for them to be meikil like the Ashkenazim in a big sha'as hadchak as well.
- II. If one is kosher and one is parutz, one can be meikil in a sha'as hadchak. When the parutz is a goy (as opposed to a Jewish parutz), one can be meikil לכתחילה if he might tell others if he did an aveirah with a Jewish woman.
- III. A שומר תורה ומצוות is considered a Kasher. A Frum person becomes a parutz only if they're known to be particularly inappropriate/lewd, or watches explicit content on the internet
 - A. If he's a known avaryan in another area (e.g. a ganav), he's still not considered a parutz.
- IV. In theory, one needs an extra man whenever traveling on the דרך, lest one man go far away when he needs the bathroom. Practically, this is only ever relevant on a long hiking trip; there's no concern on a roadtrip when people use gas stations to relieve themselves.
 - A. Even if hiking, if the trip is short enough that they can reasonably expect not to need the bathroom, it's מותר without an extra person.
 - B. **Rav Moshe** is meikil in a sha'as hadchak to rely on **Rabbeinu Yerucham** that no extra person is needed whenever the men aren't supposed to be guarding/protecting the woman, as the men will then be careful to avoid Yichud and go to the bathroom together.
- V. One needs a 3rd man at "night," due to the concern that when one man falls asleep, the other will be comfortable doing an aveirah with the woman. Once there are 3 men, we aren't concerned, even if two are asleep.
 - A. "Night" is defined by a place and time where people *intend* to go to sleep. In an office setting, or home one isn't sleeping in, no extra person is needed even if very late at night
 - B. See main notes that there's room to meikil against this when one has other צירופים.
 - C. One can also be meikil against this in a שעה"ד when the situation is only an Issur דרבנן (e.g. Goyah, ketanna, or multiple women)
 1. When being meikil, it's good to make sure rooms are lit, as that adds another צירוף להקל.
 - D. 1 kosher and 2 perutzim at night is still an issue, since if the kosher is asleep, there's still an issur yichud. If there's two kesheirim and one parutz, there's room to be meikil.

Many Men and Women

- I. For Sefardim who generally don't allow Yichud with two men and one woman, they can still be meikil when they have הרבה אנשים עם הרבה נשים. Ideally, this means 3 and 3. In a sha'as hadchak, one can rely on 2 and 2. [For Ashkenazim, 2 kosher men is already מותר.]
 - A. Whenever Sefardim have 3 and 3, they don't need more people even בדרך or at night
- II. For Ashkenazim, 2 kosher men is already מותר. If they're perutzim, Ashkenazim should not rely on this kula, although **Rav Elyashiv** is quoted as being meikil.

Adjacent Rooms

- I. If there are 3 men in an inner room and 3 women in an outer room (or vice versa), and it's not פ"פ לרה"ר, there's no problem until a man enters the women's room, with some guarantee that the other men won't follow.
- II. However, if there's only one man and one or two women, it's אסור even if they remain in separate rooms.

- A. In this case, if the woman/women lock their door, it's matir Yichud. If the man locks his door, one can be meikil on Yichud that's only דרבנן, or with other tzeirufim.
- III. See main notes for potential שעה"ד kullas in particular room arrangements

בעלה בעיר/Ba'alah Ba'ir

- I. When a woman's husband is in town (בעלה בעיר), there's no Issur Yichud for her to be secluded with another man, so long as they don't have a close relationship (לבו גס בה).
 - A. Even if she's a פרוצה and he's עסקו עם הנשים, it's מותר, although not advisable.
- II. The reason for this Hetter is either because she's worried her husband will come at any moment (**Rashi**) or because "אימת בעלה עליה" (**Rambam**). The acharonim debate whether this is a machlokes, or both agree to each other (in either direction). Whether this is a practical concern (like Rashi) or a psychological reality (like Rambam) is still debated.
 - A. As such, if a woman's husband is in town but doesn't know where she is, she should ideally be מחמיר and tell/text him where she is.
 - B. Similarly, if a woman knows her husband won't come home, but her husband knows where she is, there's room to be meikil on a דרבנן shailah, or even on a deoraisah shailah if the door is also unlocked. One can certainly be meikil if there's even a minute chance he could come right now.
- III. This hetter exists even if the woman's husband expects her to be alone with this other man (unlike the **Chochmas Adam**).
- IV. If her husband may or may not be in the city, but she's worried her husband will come at any moment, there's room to be meikil if needed
- V. If she thinks her husband is in the city but the man she's with knows he's not, he should be מחמיר. However, if both of the מתייחדים incorrectly believe he's in the city, there's no Issur and the husband doesn't need to inform her otherwise.
- VI. There's a machlokes if בעלה בעיר exists when a non-Jewish woman's husband is in town; one should be מחמיר about this.
- VII. This hetter is only relevant when a Jewish couple is halachically or civilly married, and plan on staying together.
- VIII. How do we define an "עיר"? No matter how big a city is, it still counts as one "עיר." Further, we follow אדם בני לשון in determining what counts as a city. In a sha'as hadchak, there's room to be meikil with two cities which run contiguously from one into the other.
- IX. What's the definition of לבו גס בה? Not clear; people who have a closer pre-existing relationship by being related, growing up together, close neighbors, etc. People who do favors + help each other gratuitously due to their relationship certainly qualify.

אשתו בעיר (אשתו משמרת) and Wife Nearby

- I. Can a husband have Yichud if *his wife* is in town ("אשתו בעיר")? If it's even unlikely she will come home soon, we don't rely on this, although it may be a senif with other tzeirufim.
- II. However, if she's in the house with him, he can even lock the door in seclusion with another woman, as there's a hetter of אשתו משמרת.
 - A. This kula only helps when it's the wife of a Jew, not if it's the wife of a non-Jew.

Pesach Pasu'ach Lirshus HaRabim

- I. There's no issue of Yichud when you have פתח פתוח לרשות הרבים, since you're always worried someone will come and see you. This hetter exists either if the door is ajar, or if the door is closed and unlocked, but there's a chance someone might actually walk in. [We don't rely on having the door unlocked when you don't think anyone would practically walk in, although some poskim thought this worked, so it can be a senif with other hetterim.]

- A. Leaving the door unlocked will therefore only work at times of the day when people are still walking around outside.
- II. Eitzos for when you don't expect anyone to walk in uninvited:
 - A. Keep the door ajar
 - B. Put a sign on the door telling neighbors they can enter without knocking
 - C. Ask a friend/neighbor to come over at random times. This only works so long as someone might actually come
 - D. Recordings which are automatically sent to others suffices me'ikar hadin.
- III. Even when you have פ"פ לרה"ר, you can only stay in an area that someone entering might actually enter and see you. As such, you still can't be alone in a bedroom or upstairs if you expect that only neighbors (as opposed to the בני הבית) will come by.
- IV. Me'ikar hadin, it's considered פתוח לרה"ר so long as even one person might come into the house, even if that person wouldn't be מציל מיחוד (e.g., another woman or parutz).
- V. We also consider it פתוח לרה"ר when at least one person is by a window that's open to the public or other people's apartments. This works so long as he/she is visible enough that someone outside would be able to sense if two people were having tashmish inside. Me'ikar hadin, one can be meikil at all times of day and night when in a lit room by an open window or with the door wide open.
- VI. Along similar lines, there's no Yichud in a car when you can be seen inside. As long as a car passes every ~10 minutes where you are, this suffices.
 - A. Cabs and Ubers have an added senif of אומן לא מרע אומנתיה, and are certainly מותר when they have a closed-caption camera recording you.
- VII. Many poskim say there's no hetter of פ"פ when the man and woman are defined as לבו גס בזה. **Rav Willig** applies this only to very strong relationship (e.g. dating/engaged couple). **Rav Schachter** says one should be machmir not to rely on an unlocked door, but one could be meikil when currently visible to the public (e.g. through a window or when in a car).

Being in Another Room and Locking the Door

- I. See above that if they remain in separate rooms and the woman makes sure to lock her door, one can be meikil that this isn't Yichud. If the man locks the door, one can be meikil only if it's a דרבנן shailah or with other tzeirufim.

Cameras, Recordings and Phone Calls

- I. If there's a camera with continuous surveillance or which records and will certainly be seen by someone (and the recording can't be accessed by the מתייחדים), it saves those on the screen from an Issur Yichud, mimicking the hetter of פ"פ לרה"ר.
- II. If it's unlikely that someone will ever watch it, many argue this won't suffice. Such an Eitzah should only be relied upon in a שעה"ד, for a short time, and ideally with other tzeirufim.
- III. Can one call their spouse to create a form of עליה (או אשתו)? **Most poskim** aren't comfortable with this. It shouldn't be relied upon without another tzeiruf, and even then, one should specifically tell their spouse the call is intended to help with Yichud.
 - A. However, if one were to FaceTime their spouse and tell them they're trying to fix Yichud, one could certainly be meikil on Yichud דרבנן, and even a deoraisah in a שעה"ד.

Pairs of Women Who Hate Each Other

- I. It's מותר for a man to have yichud with two women who have one of the following relationships: step-mother/daughter, mother/daughter-in-law, or sisters-in-law (irrespective of if they are both married to two brothers, or one is the sister of the other's husband).

- II. The above is true even if they have a great relationship, and is מותר even if the man is עסקו לבו גס בהן, עם הנשים, a parutz, or a goy.
- III. Unlike other shomrim, this hetter suffices on the דרך also. There's room to be meikil at night also in a שעה"ד.
- IV. When you have two women from the above pairs, it's matir Yichud with a third woman as well, even לכתחילה (i.e., they serve as shomrim for other women).

Children as Shomrim

- I. If there's a child (either male or female) between the ages of 5-9 in a room, a man and woman can be לכתחילה there. In a שעה"ד, one can be meikil until the year before bar/bas mitzvah: 11 for a girl and 12 for a boy.
 - A. Lower range: the age of 5 can be a year older or younger depending on how mentally developed the child is. So long as the child might say something incriminating, one could be meikil בשעה"ד.
 - B. This is true even if the Kattan is the child of one of the מתייחדים.
 - C. This is matir even when one of the מתייחדים is a goy.
- II. At night, one needs a 2nd child to matir yichud. There's a machlokes whether one can be meikil in a case of דרך to have just one kattan.

Other Shomrim

- I. Whenever you have a woman you're allowed to have Yichud with, she's shomeres for all the rest of the people there. As such, if anyone there has אשתו משמרתו, or בעלה בעיר, include ב' נשים השונאות זא"ז, there will never be an Issur Yichud.
 - A. Note that אשתו משמרתו doesn't work for a married goy and Goyah to help with Yichud
- II. The man's mother, grandmother, daughter, granddaughter, or sister is matir yichud
- III. In a sha'as hadchak only, if two women there include a mother/daughter, or grandmother/granddaughter, one can be meikil that there's no Yichud. However, two sisters will not be matir Yichud.

Introductory Points

Definition and Hashkafa

- I. Yichud is defined as being secluded with someone from the opposite sex, such that they have no concern of being discovered if they were to do an aveirah together: **Radvaz 1:121** writes the geder is "שיהו שניהם במקום אחד שאם ירצה לבעול לא יראה אותם אדם."
- II. The gemaras in **Kiddushin 81a** talk about how our greatest Amora'im were one step away from messing up in areas of *arayos*, or were incredibly close to doing so had הקב"ה not made the Satan stop. Likewise, **Rambam** ends Issurei Biah by saying that there's no kehilla which doesn't have פרוצין בעריות ובביאות אסורות
- A. **Rambam** adds that one therefore has to be very careful about all things which lead to getting too close to people from the opposite sex who we're prohibited to, and Chazal and our Chachamim worked hard to talk about it openly with their talmidim to break the taboo about our yetzer hara for *arayos*. He One of his last lines is that "יזהר מן הייחוד" שהוא הגורם הגדול

Is Yichud deoraisah?

- I. **רמז** ליחוד מן התורה מניין? כי יסיתך אחיך בן אמך, וכי בן אם מסית בן אב **Kiddushin 80b** אינו מסית? אלא לומר לך בן מתייחד עם אמו ואסור להתייחד עם כל עריות שבתורה.
 - A. It sounds like as language of "Remez" is used.
 1. At the same time, **Ramban in SHM Shorashim 3** notes 'רמז' often means deoraisah, like "רמז לעדים זוממין מה"ת מנין" and a few other examples he gathers. Remez just means the פשט is only known midivrei Kabbalah, and not something we could have darshined on our own.
 - B. However, **AZ 36b + Sanhedrin 21b** both say explicitly that Niddah with an ervah is deoraisah.
- II. Rishonim:
 - A. The vast majority of Rishonim paskin it's deoraisah. These include: **Rashi** Shabbos 13a, **Tosfos HaRosh** there, **Tosfos** Sanhedrin 37a, **SHC** 188, **Ramban** SHM Shores 3, **Shu"t HaRashba** 587 + **Tur** here.
 - B. **Rambam IB 22:2**: Divrei Kabbalah. He never quotes a pasuk and explains it was creates גורם לגלות ערוה. What's he mean?
 1. **BY** is unclear – he says it's not mefurash or כתוב בתורה, but just a Remez.
 2. **Bach 22:1** understands he means דרבנן, as does the **Terumas Hadeshen 242**. **Terumas Hadeshen** explains he learns the gemaras in AZ + Sanhedrin to mean "רמז דאורייתא" but not really. **Gra 4** says the same.
 - a) **Gan Na'ul** notes **Rambam 22:10**'s Lashon supports this, as when he says what the age of yichud that's אסור is, he says "לא גזרו" on yichud at less than these ages. It makes it sound like the Issur yichud is *a/ways* miderabanan.
 3. **Mishnah Lemelech Sotah 2:1** says Rambam means deoraisah, and מפי הקבלה always means for the Rambam just anything that's not mefurash bakasuv. He notes that **Maggid Mishnah** on the Rambam quotes the gemara that calls it deoraisah, and clearly didn't think there was a stirah.
- III. See **Gan Na'ul 1:2** who notes the vast majority of Rishonim and acharonim¹ hold deoraisah, although there are opinions on all sides about what the Rambam held. We paskin yichud is deoraisah.

¹ Such as **Chavos Yair** 73, **Gra** 115:19 (unlike what he says beda'as HaRambam here), **Chochmas Adam** 126:1, **Prisha** 22:1, **MLM** Sotah 2:1 + **IM** 4:65:12.

Explaining the Drasha

- I. What's the drasha? We were talking about your brother being Meis you to Avodah Zarah, and somehow learned something about Yichud with your mother?!
 - A. **Pnei Yehoshua there + משמע in Yerushalmi** - Says he figured out the drasha after 30 years: The Torah says it's your brother who is convincing you and not your sister since there's an איסור yichud with her (and thus couldn't have been alone with her) and therefore we have a ק"ו to all other arayos. Since your mother *is* in the Pasuk, it's coming to tell us that only to her can you have Yichud with.
 1. This is strange since there *isn't* a normal איסור Yichud with your sister, just an איסור to live with her בקביעות. The **Rogotchover (Nesivos Chayim Siman 2)** is מחדש based on this and other sources that the only איסור יחוד מדאורייתא is to live בקביעות, but to simply be secluded is only a דרבנן. His chiddush is largely rejected though by the later poskim.
 - B. **Yad Rama Sanhedrin 21b** - The pasuk is specifying that it would be אחיך בן אמך who is מסית you. Why? It must be because both you and your brother are מצויין תדיר אצלך, which teaches us that you're allowed to have yichud with your mother; that's why you and your maternal brother would be מצויין תדיר together. From the fact that the Torah needed to teach us this, it implies that there's generally an Issur otherwise to be with other arayos.
 1. This is presumably why it's just a "remez" – either this is just an asmachta, or it's a deoraisah, but a drasha that one would never have come up with this on their own without a Kabbalah to learn this way.
 - C. Strange point about this drasha: It seems to imply that the only עריות which is allowed is a mother and son, but we know there other arayos that are allowed: Father and daughter, brother and sister, grandfather + grand-daughter, etc!
 1. **Rav Schachter** explained that the Drasha is telling you that Yichud is directly related to how much of a Yetzer Hara one has for the woman: Thus, all of the above are allowed since they are examples of minimal Yetzer Hara Arayos.

Yehareg V'al Ya'avur

- I. A נפקא מינה of what the level of issur is lichorah whether it's yehareg v'al ya'avur. See **Rema YD 157:1** that any lav is lichorah ואל יעבור because it's אביזרייהו.
 - A. Per the above, it seems like the Issur yichud is most likely deoraisah, but only an asseh, so wouldn't be יעבור ואל יעבור. However, see **Sefer Hachinuch 188** who seems to subsume the issur yichud under לא תקרבו. **Shach in 157** paskins like Rambam that לא תקרבו is deoraisah. Sefer Hachinuch was likely giving פשט in the difficult Rambam above, and it *would* be יעבור ואל יעבור.
 1. **Rav Shlomo Kluger in Tuv Ta'am Veda'as 1:YD:192 + Shem Aryeh EH 33** assumed this way lehalacha, that it *is* יעבור ואל יעבור. **Shevet Halevi 3:36** assumes this way based on those poskim.
 2. However, **most poskim** assume Yichud is *not* a Yehareg V'al Ya'avur. **Rav Schachter** told me that's the psak. See **Tzitz Eliezer 6:40:1:8 + Toras HaYichud pg. 214** for more. **Gan Na'ul in Yesodos Hayichud** comes to the same conclusion. The basic tzedadim to say this are:
 - a) It's not so clear that avizrayhu is yehareg v'al ya'avur in general (although Reme definitely paskins this way)
 - b) It's not so clear that Yichud is deoraisah (i.e. the shitas HaRambam according to many)

- c) Even if it's deoraisah, it's almost definitely an asseh, and the **SA, Rema + others** all imply only by a lav do you have a din of יהרג ואל יעבור.
- B. The huge נפקא מינה is the famous case where a woman jumped off the ski lift when she got stuck overnight with her date (See Friedman v. State of NY [1967]).
- II. Related to the above discussion, should one violate Shabbos to prevent a woman from being in a Yichud situation when she's in a matzav of piku'ach nefesh? Specifically, if a woman is in labor and needs to get to the hospital but doing so will put her into Yichud with the driver, should a man join just to save her from yichud? [All this is assuming that the woman doesn't need your help to advocate, etc., and it's just about you going to help with Yichud. In most cases, it's פשוט you'll go regardless, just in order to help out your wife/the woman.]
- A. **Gan Na'ul 1:50**: There are reasons to be mechalek between Yichud דרבנן and deoraisah, as well as whether chillul shabbos is deoraisah דרבנן, and poskim really go in all directions on this shailah.
1. Nowadays that joining an uber will almost always be דרבנן (it's amirah lenochri, techumin will be דרבנן, etc.), there's room to say one should go. At the same time, a driver has a camera often, and the whole shailah is only if going at a time or route where there'd be Yichud. Whatever you do, there's a shitah in contemporary poskim saying to do that way.

What's the Concern for Yichud – Pitui, or Also Ones?

- I. The simple פשוט is that it's only a concern of Pitui. If there was a concern of אונס, why would בעיר בעלה be a hetter (according to those who are meikil even when he's known not to be around)? **Chochmas Adam** (binas Adam Beis Anashim 26) makes this point. Other Halachos as well make it seem like our only concern is פיתוי.
- II. At the same time, Rambam writes that one can't have yichud with a ketanna even though she isn't לביאה עצמה. **Bach 22** argues this is because we're worried about Ones. **CM on seif 11** (SK 15) sounds this way as well, as does the **ARUH 10 + others**. This is also supported by the fact that Dovid was gozer on yichud of a penuyah after the story of Amnon and Tamar, which was a case of אונס. See **Binas Adam 26** who explains how to deal with that: Had there been an Issur yichud, it never would have led to the אונס, even though that's generally not our concern.
- A. **Gan Na'ul** notes that **Behag** (end of hilchos Yibum) writes that the concern by a Ketanna is שלפעמים מתפתה, and not that it's Ones. However, the acharonim weren't aware of this, and it's unclear if the Behag alone would have made them back off.
- B. Another way to deal with the Ketanna question is given by **Rav Elyashiv (Kovetz Teshuvos 2:75)** that we're worried about Ones specifically by a Ketanna where sexual abuse is more likely.
- C. Regardless, **Rav Moshe 4:65:12** concludes we aren't concerned for ones, as does the **Chazon Ish EH 35:3**. Chazon Ish argues even some of the acharonim (like CM) who say we're concerned for אונס really mean פיתוי, but because of אונס הוא, but because of אונס.
- III. Because the entire concern is assumed to be פיתוי (at least by adults), acharonim sometimes invoke sevaros lehakel when it's (nearly) impossible to be mefateh a woman. A few such examples (although many of these we'll still paskin lechumrah):
- A. If she's in the middle of labor. See **Gan Na'ul 1:30** for discussion. Lema'aseh, in that case, there's always נפש פיקוח involved, so there's no real מינה נפקא.
- B. If a woman has a dangerous disease or STD (**Gan Na'ul 1:40**)

- C. See **Minchas Asher 1:87** who is meikil though in a case of a 2-person airplane that would go down if the pilot stopped working the controls.
- IV. It's important to note that Gemara says אין אוסרין על היחוד. Even though these are the *concerns*, we don't assume they actually had zenus to אסור her to her husband or a koveh.
- A. [There's a discussion though when they were זנות לשם, i.e. there was clear prelude to their seclusion and implied they were trying to do something together. See **Rema EH 7:11** who says one should be מחמיר about this. At the same time, in Siman 178, the **SA** says we aren't osser even in this case. The Acharonim have various answers whether Rema disagrees with SA entirely (**BS 178:6**), is מחמיר only when she's alone with a goy but not when alone with a yid (one answer of **BS on EH 7:11**), is מחמיר only to an אשת כהן but not to an אשת ישראל (**BS's** other answer), or the **Rema** is telling you what the husband should be מחמיר but **SA 178** is teaching that we aren't kofeh (**Beis Meir**). See **ARUH 7:22** who summarizes.

Are We Concerned You Might Be Machnis Yourself into Yichud? / Being One Step Away

- I. Is one allowed to put themselves in a situation where they're one step away from Yichud (most of this section is taken from Gan Na'ul Hakdama Os 9)?
- A. Bepashtus, this is מותר, as evidenced by Pesach Pasuach being a hetter, and we aren't worried you're going to lock the door. **Dvar Halacha 3:29** writes this way, and **RSZA** in **Minchas Shlomo 3:103:13**, **Chelkas Yaakov 65** + **Tzitz Eliezer 6:40:8:1** from **Chikrei Lev** all assume this way.
1. The poskim who are meikil to stand near an open window when the house is locked are also assuming this kula.
- B. At the same time, there seem to be stiros to this:
1. We say by a derech that you need an extra shomer because it will lead to yichud. You see the halacha bans one from getting into a situation one step away!
 - a) There are a couple acharonim who seem to take this approach generally:
 - (1) **Eizer Mikodesh on Seif 9** is מחמיר that if there are parts of the room you can't be seen in through the window, the fact that you're by the window doesn't help.
 - (2) More famously, **Rav Moshe 4:65:2** is osser being by a window if you could walk into another room where people could no longer see you.
 - (3) In **4:65:3**, Rav Moshe is מחמיר not to go into a car on the highway at night, since you could get off to a מקום סתר. He's meikil only in a sha'as hadchak, but defines that pretty loosely – if you'd look bad (like a צר עין) if you wouldn't drive her, or because of eivah from a non-Jewish woman.
 - (a) He explains that he thinks this question is fundamentally a machlokes between **Rabbeinu Yerucham** and **Maharshal + Beis Shmuel** about whether the din of derech applies to people who aren't assigned to be her Shomer. Rabbeinu Yerucham is meikil because he says both men will make sure to go to the bathroom together to avoid yichud – you see that R' Yerucham isn't worried that you'll put yourself into an Issur yichud. In contrast, Beis Shmuel and Maharshal are מחמיר. He thinks we should be מחמיר for Maharshal + Beis Shmuel לכתחילה, but one can rely on Rabbeinu Yerucham in a sha'as hadchak, as it sounds like **Prishah** holds that way.
 - b) **Gan Na'ul** (end of yesodos) thinks Rav Moshe's comparison of derech to this general question isn't a good comparison - maybe we're worried about Yichud

when it will happen mimeilah without any negative intent (like by the derech), but we're not worried that someone is going to try and create yichud for the purpose of doing aveiros/yichud. It's for that reason most poskim paskin against Rabbeinu Yerucham, because the Yichud would happen mimeilah just by one person walking away. However, in most other cases where someone would have to actively/intentionally create a yichud situation, we aren't choshesh:

- (1) That's why **SA** paskins like Rambam that we aren't worried in the case of **חדר לפרנסים מחדר** until someone is actually poreish.
 - (2) Similarly, for Pesach Pasu'ach, we aren't worried someone is just going to lock the door to create yichud.
 - (3) For that reason, he doesn't think it makes sense to be מחמיר on the car shailah, since the concern is only that they'll go off the path to try and do an Issur. Also, no reason to be מחמיר by the Chalon, since they're being cognizant to avoid the Issur yichud.
- C. Lema'aseh, I think we're generally meikil about this shailah, although Rav Schachter quotes Rav Moshe as though that's the halacha.

Amount of Time for Yichud

- I. The vast majority of poskim assume that there's some shiur to the Issur yichud. If you know that you're going to be alone with a woman for just a few moments, that's not an Issur yichud, and the poskim all try and determine exactly how long you have.²
- II. Our Gemara gives no hint for the זמן Yichud; **Rambam + SA** also say nothing here. However, **Sotah 4a** discusses the shiur for stirah, and we paskin (see **Rambam Sotah 1:2 + SA EH 178:4**) that it's the זמן לצלות ביצה ולגומעה, like R' Akiva there. **Many poskim** use that shiur and apply it to determine the זמן of Yichud. How long is this?
 - A. **Dvar Halacha Hosafos Chaddashos 15:2** - 35 seconds Lechumra
 1. He gets this very surprising shiur from a diyuk in a Sefer called Lechem Rav (**Siman 27**) where there's a story of an Eid who went to go wash his hands, feet, and face while witnessing yichud of a couple, and when asked whether it was a shiur of לצלות ביצה, he said yes. Dvar Halacha argues you see that the time to wash your face, etc. is the same shiur, and after doing some tests, he concluded 35 seconds. The other Acharonim are docheh that it was just that specific story that the person knew it took that long, but it doesn't mean a standard quick wash of hands and face is the shiur!
 - B. **Rav Elyashiv quoted in Toras Hayichud pg. 29** - between one and 1.5 minutes
 - C. **Lehoros Nassan 1:58**: Three minutes
 - D. **Minchas Yitzchak (4:94-97)** - Five Minutes
 - E. **Rav Moshe IM 4:65:22** disagrees with the assumption of all the above acharonim: He argues the shiur isn't just the shiur for stiras Sotah, but has to include enticement, as well as changing out of and then back into clothes afterwards. It's completely dependent on your relationship with that specific woman to determine the shiur of ritzui. The shiur

² As an aside, **Gan Na'ul** notes that all these poskim clearly hold (what we would have intuited) that the issur yichud is specifically a concern lest one have biah, and not just for חיבוק ונישוק, despite that the latter is also an Issur deoraisah. Otherwise, the shiur would have been even seconds. That Yichud is specifically a concern only if the two could have biah is what almost all the poskim say. Although **IM YD 2:82** sounds like he's soser his other teshuvos and is worried about even חיבוק ונישוק, he writes in a journal (quoted by Gan Na'ul Yesodos to Yichud) that he wasn't saying there's a formal Issur of yichud when it could only lead to חיבוק ונישוק but just that it's ra'ui le'esor.

by sotah alone is because they're already chashud to have an intimate relationship. By Yichud, the shiur can't be shorter than whatever amount of time it would take for him to seduce her and have enough time to have biah with her, and get away with it afterwards (i.e. to get dressed up again afterwards). **Chelkas Yaakov 65:1 says the same.**

1. Further, If two women, then another shiur לרצות ולבעול שניהם. (He clearly assumes that the concern with two women is that you'll be bo'el both of them, like Rashi, and unlike the Ritva.)
 2. This shiur is lichorah the most mistaber, and explains why the SA + Rambam never gave a specific time as the shiur.
- III. If the time alone together will necessarily be less than whatever the shiur yichud is, it's מותר to get into that situation. This is said by all the gedolei haposkim, including **Minchas Shlomo 1:91:22, Tzitz Eliezer 22:40, + IM 4:65:16.**³
- A. As such, it's always מותר to enter an elevator with a woman.⁴
- IV. Can one put themselves into a situation where they could theoretically continue until a shiur, but are careful to do so for less than a shiur tum'ah? E.g., if I close/lock the door for just one minute, or run into a makom seser to grab something, is that a problem?
- A. **RSZA** (in his Haskama to Dvar Halacha + in Minchas Shlomo 1:91:22), **Shevet Halevi 3:182 + Kovetz Teshuvos 3:187** all say that this is אסור. **Betzel HaChochmah 2:70:7,15** says the same. Being in a metzius where you could continue for a shiur tumah uninterrupted is itself the issur yichud.⁵
1. **Shevet Halevi** proves this from the fact that the poskim never discuss a shiur and the shiur of biah only comes up by stiras sotah. The reason is because even a moment can be an Issur so long as it could continue to an amount of time that they'd be able to have biah.
 - B. However, **Tzitz Eliezer 6:40:22:5** is meikil, and argues this is no different than pesach pasu'ach, that the Torah isn't osser you from being a step away from yichud – so too, so long as you choose to stay alone for less than the shiur, the Torah isn't osser you from being in that situation for a short period of time.⁶ He (and others) quote a Teshuvos **Imrei Eish EH 107 והנה הביא ד"ה** brought in the otzar haposkim who says this way.
 1. **Betzel Hachochmah 2:70:15** brings a ra'ayah that the **Tifferes Yisrael** held this way, as he says on **Mishnah Ohalos 18:7** that there's no yichud issue because the

³ The **Maharil Diskin** (Kuntress Acharon 5:206) says that even a short time is אסור due to שיעור חצי. However, **Minchas Yitzchak 4:94, Tzitz Eliezer 6:40:22 + Shevet Halevi 3:182** all think he only means when it's actually לאיצטרופי חצי and you could have reached a shiur by staying there.

⁴ Cf. **Shevet Halevi 3:182** who concludes lehachmir since any amount of time alone is still לקריבה גורם. See there for a big chiddush that Yichud is אסור not just due to the potential for biah, but because of the Kiruv hada'as it creates in the long-term. **Lehoros Nassan 1:58** also thinks there might be ani Ssur דרבנן even though there's certainly no issur deoraisah of chatzi shiur, but gives no justification whatsoever for where that Issur דרבנן would come from.

⁵ This is also supported by **Beis Shmuel 22:9** who says you violate yichud even when intending to wake up your friend if he falls asleep, since in those few econds, you've violated yichud. The hesber is that since he wasn't going to wake up behechre'ech, those few seconds are already an Issur because they could have continued to a shiur.

⁶ The response to this is that it's not "one step away" from Yichud at that point, but being alone with knowledge that you could stay there for a shiur biah is the issur Yichud. See RSZA + Shevet Halevi's teshuvos.

woman was יוצאת ונכנס – by definition, that means she could have decided to stay, but by walking out, it means there was no yichud.

2. Lema'aseh, this is a bit of a da'as yachid, and although **Gan Na'ul 2:1** thinks this is the ikar ledina, his arguments are all about Chatzi shiur and don't address the basic issue. The vast majority of poskim (above) don't paskin this way, but the Tzitz Eliezer can count as a senif.

Multiplying the Shiur Yichud

- I. **Gan Na'ul 1:24** notes that the shiur for Yichud (whatever you hold it is) will be doubled when with two women, since we paskin Rashi's lomdus, that there's only Yichud with a multiplicity of women if you could be bo'el all of them. (This is said clearly by **Rav Moshe above**, although **Betzel Hachochmah 2:70:10-11** disagrees, since he thinks we paskin the Ritva's lomdus.)
 - A. Similarly, in case of 1 man and 3 women: If being מחמיר like most Rishonim that this is always אסור, it's the shiur of biah with 3 women. However, if being מחמיר because it's עסקו עם הנשים, then the shiur is to have one biah, since **Rashi** explains the reason to be מחמיר is because the other women would be מחפה, since they have a relationship with you, even if they didn't have biah (**Gan Na'ul 1:25**).
 - B. At the same time, **Gan Na'ul 1:24 + 1:25/1** argues that when the case is one or many parutz men and one woman, the חשש isn't that they all need to have bi'ah, but they're just not מזוה זה בזה, and mimeilah the shiur is one biah.

With Whom Is There an Issur Yichud?

Various Relationships Which Carry an Issur Yichud

Penuyah and Goyah

- I. **Gemara AZ** and **Rambam beginning of 22nd Perek** spells out yichud penuyah is דרבנן from Dovid. And with Goyah is made by ב"ד של ב"ש + ב"ה in the דבר י"ח.
 - A. See **ARUH 3** who is מחדש misvarah that having yichud with a penuyah can't really be מותר mideoraisah. Rather, he thinks Chazal were only osser yichud עראי, but בדרך, but אסור was already קבע. He defines Keva to include spending the night alone together, and therefore struggles with the story of Rus and Bo'az.
 1. It's an enormous chiddush with no earlier mar'eh mekomos to back it up. **Gan Na'ul** rejects this, and notes the gemara **Sanhedrin 22a** assumes yichud between Dovid and Avishag was only דרבנן, as that was better than divorcing one of his 18 wives. This is true despite that she would warm him at night. Lema'aseh, this ARUH isn't accepted.
- II. See below re: a married Goyah, that there's reason to say yichud with her is deoraisah due to פשוט באשתו, although this is far from דבק.

Niddah

- I. What about a single girl nowadays - she's both a single girl and a Niddah - so which level of איסור is she?
 - A. The **Taz Even Ha'ezer 22:1** says the גזירה was only a single Jewish girl since נדה יש and not on a non-Jew since they can't be a Niddah. You see that the he thinks a single girl who is a Niddah is a גזירה. (This is how **Tzitz Eliezer 6:40:8:9** reads it; **Shevet Halevi 5:201** thinks you can't prove anything from this, as he just means that they were gozer when she's not a Niddah at when she would be a niddah. The simple read is like Tzitz Eliezer though.)

1. **Noda Biyehuda's** son in 2:37 held this way as well, and **Rashi in Avos 2:10** says this as well. This is also משמע from **Tosfos in Sotah 7a** who says Yichud is only יש היתר לאיסורו whenever there's דרבנן.
- B. However, The **Aruch Hashulchan 22:1** disagrees and thinks she's a דאורייתא **Rivash 425** says this way befeirush, as does the **Chochmas Adam. Igros Moshe EH 1:61** takes it as a davar פשוט it's deoraisah. **Shevet Halevi 5:201** paskins this way, as do all the contemporary acharonim (see footnote for list⁷).
- C. When do you assume a girl is probably a Niddah? **SA 190:2** says 12 years old; **Rav Moshe OC 26** (in the context of kol islah) says once she's 11 you assume she's a Niddah since women become niddos earlier nowadays.
 1. However, most poskim just quote the SA. Further, Google says that although there's certainly a wide range, most girls don't have their periods until 12 or 13 years old. If so, lichorah you can be meikil until the time in the SA.

Issurei Lavin

- I. **Rambam Ishus 1:7⁸** lists 9 issurei lavin including mamzeres to yisrael, and kohen to gerushah, challalah and zonah.
- I. It's a machlokes acharonim whether chayavei lavin are included in the Issur deoraisah of yichud:
 - A. **Prisha 22:1, Beis Shmuel 1, Chochmas Adam 126:1 Chazon Ish Ishus 34:6, Rashash Sanhedrin + Aruch Hashulchan 22:2** - דאורייתא: David was only gozer on a penuya (Prisha's proof) + gemara in **Sotah 7a** that applies an Issur yichud to a ספק סוטה (Chazon Ish's proof)
 1. The **notes on the bottom of the Tur** point out the Dovid proof isn't so strong, since maybe David was gozer on everything from a Penuya and up, and the gemara was just teaching us the biggest chiddush that even a Penuya is אסור now.
 2. **Rav Eliyashiv** - Yichud with Sotah is different since we're worried about erasing God's name for no reason, but we can't learn to other chayavei lavin. **Others** give a more obvious dechiyah that there, there's no greater גס לבו than a husband and wife, but you can't learn from there to other chayavei lavin + asseh.
 - B. **Kevod Chuppah** on **Sha'ar Hamele'ch's Kuntress Chassanim 10:8**: Rambam just says Arayos, which implies the chiyuvei kareis.
 1. Also, he (and Minchas Chinuch) ask on the Prishah that Rambam thinks Penuyah is an issur deoraisah of kedeisha, so why did Dovid need to be gozer? (One could answer that's only when מופקרת ומזומנת לזנות). Further, Rambam thinks that chayavei lavin are only if קידש ובעל, which isn't relevant to these women before Kiddushin, so won't be relevant anyway.

⁷ וכן פסקו שיחוד עם פנויה נדה הוי מדאורייתא בשו"ת חקרי לב (ס' יז) ובשו"ת טוט"ד (יור"ד ס' ה) וערוך השלחן (ס' כב סע' א) וערוגות הבושם (שם ס' ק א) ונתיבות השלום (נתיב ט ד"ת ס' ק ג), וכן משמע מהגהות כבוד החופה (בהגהותיו על שער המלך בחופת חתנים סע' ט) ובשו"ת זית רענן (ח"א אבהע"ז ס' א) וכן משמע מהחכ"א (כלל קכו סע' א) ובספר טהרת ישראל (ס' כב אות ט). והח"ח בספרו נדחי ישראל (פכ"ד אות א) כתב שפנויה נדה היא ככל העריות. וכ"פ בשו"ת אג"מ (ח"א ס' סא ס' סה אות יב) ושו"ת שבט הלוי (ח"ה ס' רא) וכך פסקו הדברי חכמים (פ"א ה"א) והדבר הלכה (ס' א סע' ג) וכן נראה שסובר הגר"ש אלישיב בקובץ תשובות (ח"א ס' פב). וכעת ראיתי בספר תורת היחוד (פ"א סע' ג) שכתב שפורסם מכתב בשם הגר"ש אויערבאך זצ"ל שכתב בזה"ל "יחוד פנויה בזמן הזה הוי נמי מן התורה מחמת איסור נדה" עכ"ל.

⁸ תשעה הן, ואלו הן: (1) אלמנה לכוהן גדול; (2) גרושה או (3) זונה, או (4) חללה—בין לכוהן גדול, בין לכוהן הדיוט; (5) וממזרת לבן ישראל, וכן בת ישראל לממזר; (6) ובת ישראל לעמוני, ומואבי; (7) ובת ישראל לפצוע דכא, וכרות שופכה; (8) וגרושתו, אחר שנישאת לאחר; (9) ויבמה שנישאת לזר ועדיין רשות היבם עליה.

- C. **Toras Chessed 12:6** similarly seems to paskin lekula. He notes that **Rambam's** lashon, as well as **Smag LT 126, Rosh** (Kitzur Niddah at the end) + **Diyuk in Shu"t Rashba 589** all sound like they're דרבנן. If it's the Rishonim against the acharonim, we paskin like the Rishonim.
1. **Rav Schachter** says the simple understanding is that yichud deoraisah only applies to arayos, and I think that's the accepted approach amongst YU poskim. I also saw **Minchas Asher 1:86** is מתפלל on all the acharonim who argue it's deoraisah against the simple משמעות of the Rambam that it only applies to arayos. Despite this, most acharonim really think it's deoraisah. Still, lichorah the Toras Chessed's teshuva alone is reason to paskin against the Drisha. וצ"ע.
- D. Big נפקא מינה is a goyah who is married, which we say has an Issur asseh of דבק באשתו. **MC 188:5** raises this point, that they'd be an Issur deoraisah according to the Prishah.
1. **Shevet Halevi 6:191:3** quotes from the sho'el another tzad lehakel even if generally מחמיר for chayavei lavin, that it's not פשוט that there's an Issur asseh to have biah with a married goyah: Although **BS 16:1** paskins that way, **PT there** notes various Rishonim don't think there's any such issur. [Shevet Halevi is still מחמיר on the shailah there, but it sounds like he's מחמיר despite being modeh that it's only a safek if deoraisah or certainly דרבנן.]

Single Woman With a Goy

- I. **Gemara AZ 22a**: A girl (even unmarried) isn't allowed to have yichud with a goy, and gemara says that's מפני שחשודין על העריות. This is true even with many goyim, and even if their wives are there (**SA YD 153:49**).
- A. There's a machlokes Rishonim whether there's a hetter for an אשה חשובה. **Rif, Rambam + SA 153:4** never quote such a hetter, but **Rosh AZ 2:3** thinks we paskin this way.
 1. The machlokes hinges on whether we're concerned for both Pitui and Ones (**SA**) or only אונס (**Rosh**)
- B. **Chazon Ish EH 35** discusses what אשה חשובה means: Is it just that they'd punish someone who rapes a Jewish woman (in which case we can be meikil in 1st world countries) or is it specifically that she's close to the government. Even if the latter, he says there might be a kula.
 1. He has another tzad lehakel that since the concern is for ones according to the Rosh, if a woman is "בריאה" (tough?) such that there's no concern of אונס, she can have yichud with them. In the new versions of Gan Na'ul, he argues that there's a lot of room to be meikil for the concern of אונס. The only thing left is pitui.
 2. It seems the minhag is that we're meikil about this; e.g., women work in locked offices with groups of co-workers even when they are the only Jew there, and I've never heard anyone raise this issue. I don't yet know the Minhag is based on.
- II. There's a discussion about whether a woman can go onto a plane with many goyim (even if there wives are there). The פשוט application of the halacha would be the somewhat ludicrous conclusion that it's Yichud for her to be on a plane with hundreds of goyim on it, due to Yichud. **Gan Na'ul 1 fn. 113** quotes **Shevet Shevet** that there has to be a ge'ul for when it's considered a makom tzibor and no longer Yichud. See there for other sevaros specific to the plane situation.

⁹ לא תתייחד ישראלית עם עובדי כוכבים, אפילו הם רבים ונשותיהם עמהם.

Married Woman with a Goy Being Deoraisah

- I. **Nimmukei Yosef, Tosfos Sanhedrin, Terumas Hadeshen 242 + others** all say that Esther having biah with Achashverosh would be gilui arayos. Based on this, it seems that yichud of a married woman with a goy is an Issur deoraisah; **Terumas Hadeshen** says this explicitly.
 - A. **Rema EH 115:1, BS 20 + Gra 19** there agree with Terumas Hadeshen, and paskin yichud of an eishes ish with a goy is an Issur deoraisah.
 1. Although **Rema YD 157:1** sounds like biah with a goy isn't ג'ע, **Taz + Shach** explain he's talking only about a penayah.
 - B. Consequently, when we say that Yichud with a goy/goyah was a גזירה of hillel and shamai, that really just means in a case where the Jewess isn't already an אשת איש.

One's Wife When Permanently אסור to Each Other

- I. There's a discussion in poskim about whether one is allowed to have Yichud with their wife if she became assurah to him because she was mezanah. **Rema in EH 117** seems clear that this is אסור, and **most acharonim** paskin this way. However, **BS 117:8 + Chida** think there's room to be meikil since she's מאוסה בעיניו והוא שונא אותה.
 - A. Lema'aseh, we assume there *is* an Issur Yichud – see **Chelkas Ya'akov 1:155 + Shvus Yaakov 1:119** who say we don't rely on the mekillim on this. If a husband and wife stay together, there's a very strong concern that they'll end up having biah.
 - B. For the same reason, if a man becomes a פצוע דכא, they then have an issur Yichud. Here, you don't even have the sevaros lehakel given by BS + Chida.

Women You're Allowed To Have Yichud With Mother, Daughter, Grandparents + Grandchildren

- I. Gemara says mother is מותר from the drasha. The poskim all assume the same is true for a daughter, as it's the same level of kurvah.
 - A. There's a slight discussion about grandchildren and grandparents. The **Eizer Mikodesh** seif 1 is מסופק about this and **NB 2:EH:18** seems to think there's no hetter for Yichud with a grandchild. **Ran** is also משמע that it's אסור. However, the **Bach** says as a Davar פשוט that grandchildren/grandparents are identical to parents/children, like we say for other harchakah me'arayos in Siman 21, and the poskim (see **PT 2**) therefore say this is מותר.
 1. **Gan Na'ul 2:15** quotes every major contemporary acharon, including **Rav Elyashiv, R' Vosner 5:198, Rav Ovadya, etc.**, who say we're meikil about this לכתחילה, based on **Shach 362:3 from Maseches Semachos**.
 - a) Cf. **Rav Moshe** who is mechalek between בת בתו (which he thinks is מותר) and בת בנו (which he thinks might not be), but all the acharonim reject this.]

Sister

- I. **Mishnah Kiddushin 80b** says a man can have Yichud with their mother or daughter. **Kiddushin 81b** then has a complicated 2-part machlokes:
 - A. **Rav Assi** - Can have yichud with sister, and even be *dar* (live) with one's mother
 - B. **Shmuel** - It's אסור to have yichud with all arayos including animals.
 1. 1) The gemara then says it's a מח' tannaim; 2) R' Meir + R' Tarfon said "הזהרו בי" from my sister and daughter-in-law; 3) a talmid made fun of R' Tarfon and ended up being *nichshal* with his mother-in-law; 4) bunch of stories where Rabbanim are makpid like shmuel.

2. For psak halacha, each step of the gemara seems to lead us in the direction that we would paskin like Shmuel

II. Rishonim

- A. **Rambam 22:1-2** paskins all arayo except for one's mother, daughter, and beheimah. He never mentions one's sister, so it sounds like he split Rav Ashi's psak: מותר by animals and mother, but never mentions there's a hetter by a sister! [**Rashba 1188 + Radvaz 7:32** are osser a sister explicitly.]
- B. The **Rosh Siman 24** says **Tosfos** paskin like Rav Assi since he was greater than Shmuel. Similarly, **Ran 32b BDPH** is meikil.
 1. He says the amoraim were just being מחמיר on themselves - the chiddush is that "והמחמיר תבוא עליו ברכה."
 2. **Tosfos** on our page is only about the story of being with animals and he then says we aren't nechshad on animals and משכב זכר. It seems Tosfos might actually be osser one's sister, mother, and daughter-in-law. The Rosh is really extending what Tosfos say to all of the stories.

III. Psak halacha:

- A. Surprisingly, **SA**, based on the Rambam, never records any hetter.
 1. **Beis Shmuel 1** thinks that maybe Tur, Rambam + SA are splitting the psak that there's a hetter for animals, daughter and mother, but not a hetter for sister. [**Gra** also seems to have learned the SA this way – he says he paskined the Mishnah due to סתם ואח"כ מח' בברייתא, but the Rosh paskins like Rav Assi.]
 2. **Chelkas Mechokek 1** though writes as a Davar פשוט that it's מותר.
 - a) Similarly, **PT 1** quotes **MLM Sotah 1:3** who disagrees with **BS**, and is medayek from **Rambam + SA** (178:5) saying there's a chiddush that kinui works even to אסור a woman to her brother that yichud with one's sister is generally מותר. Even though this isn't explicit, they clearly agree to it בהבלעה.
 - b) **ARUH 61** assumes this way lekula, as does **IM 4:65:8**, and he thinks a sister is even matzil from yichud, like ba'alah ba'ir.
 - c) **Chazon Ish quoted by Dvar Halacha**: We're meikil because it's the pashtus hasugya. This is the minhag and is the מסקנה of the vast majority of contemporary poskim, including **ARUH**, **IM EH 4:65:11**, **Chofetz Chaim in Nidchei Yisrael 24:4**, **Emes Leya'akov here**, **Tzitz Eliezer 6:40:20**, + **Shevet Halevi 5:201:2**.
 3. See **IM 4:64:1** who says all this applies in a case where one or all of the krovim converted to Judaism, as the same lack of yetzer Hara exists regardless. Further, the hetter with one's sister is true for even a half-sister (**Dvar Halacha Hosafos 2:2 + Divrei Sofrim 5**).

IV. Assuming a sister is מותר, what constitutes the איסור of "living Bikvius"

- A. **Imrei Yosher 2:43** says the time is up until 30 days without spelling out where that number came from. Acharonim (See **Gan Na'ul 2:fn. 26**) point to various dinim where we see dirah is defined by 30 days, such as the חיוב mezuzah by a rental and who counts as a דר for Shitufei Mevo'os (SA 370:8). Other ra'ayos include that we asses someone can control their yetzer Hara for up to 30 days in the context of a Yavam and shomeres yavam in **Yevamos 101b**.
 1. Many poskim, including **Rav Elyashiv**, **R' Chaim Kanievsky** + **R' Neventzahl** paskin this way. **Rav Schachter** (in a shiur on Yichud) paskins this way.
- B. **Rav Vosner in Shevet Halevi 5:201** disagrees and says this shiur is too large and isn't supported by the Rishonim at all. The basic Lashon of Dirah implies that living together in any form is אסור, and potentially that means even a single night. He entertains that 3

days would also be OK, based on a Sefer called דבש צוף quoted in the Otzar Haposkim, but rejects the Imrei Yosher.

- C. **Rav Moshe (4:64:3)** doesn't give a fixed number of days, but probably lands somewhere between 3-30 days. He argues it's מותר for a brother and sister to live normally in a house together as part of a larger family, based on a gemara in Sotah. He says one shouldn't consistently leave their kids alone at night for multiple hours on end, or leave them home alone for weeks at a time, as that might step into being "דר" together.
 - 1. He then adds that he can't give a clear shiur on Kvius and it should all be based on the parents' assessment of their kids
 - 2. Once not living at home, his fundamental hagdara is that whatever is considered by people to be a normal "visiting" amount of time is מותר, while something that would be an abnormal amount of time to visit is אסור. This is all based on how far they're visiting from and the circumstances. He adds that if you're not sure, it's אסור due to ספק מחמת חסרון ידיעה.
- V. **Rav Moshe EH 4:64:3** thinks it's מותר to live with one's sister even for long periods of time if either she or him are sick or very old, such that there's no חשש aveirah. Once we see that the Issur for a sister is impacted only by a חשש עבירה, when no חשש exists, he thinks one can be meikil. [Other poskim, like Rav Neventzahl and Rav Vosner, are מחמיר (see **Gan Na'ul 2 fn. 35**), but lichorah one can rely on Rav Moshe in a sha'as hadchak.]

Other Krovim

- I. **Gan Na'ul 1:13** discusses that there might not be an Issur yichud to be with one's mother-in-law-, daughter-in-law, and other arayos of kurvah, although he comes out leehachmir.
 - A. The reason to be meikil is based on Kiddushin 81b saying yichud with one's sster (be'a'ai) is מותר. Rashi explains this is because the Anshei Knesses Hagdeolah got rid of the taivah for arayos of kurvah. If so, should the same exist for many others? It's clear from SA 21:7 (by touching arayos) that sister and aunt are identical in term of their (lack of) ta'avos. **Some acharonim** (Atzei Arazim, etc.) ask this, but aren't meikil lema'aseh.
 - B. **Rashash** there though is meikil black on white.
 - 1. **Imrei Yosher 2:43, Be'er Moshe 4:145** both attack him for this, unaware of the mar'eh mekomos below.
 - 2. However, there are earlier mekoros for this: **Rabbeinu Yerucham 23:1** understands that **Tosfos** thinks it's מותר not only with אחותו, but other kurvos as well, and includes one's aunt in that list. (He thinks Rambam disagrees, and that Rambam is right, but the point is that he learned Tosfos this way). **Chikrei Lev EH 17** says he would champion this shitah if it weren't for the fact that he hasn't seen any posek before him say this.
 - 3. **Avos Derebbe Nassan 3 + Medrash Rabbah Nasso 10:8** say it's מותר with mother-in-law and daughter-in-law.
 - C. **Radvaz 7:32** says the same halacha lema'aseh that Sha'ar Arayos are like achoso.
 - 1. **Tosfos HaRosh on Kiddushin** there is explicit that the hetter by achoso is true for other Krovos as well. [fn. on **Tosfos HaRosh** argues we can take this opinion more seriously now that we have the Tosfos HaRosh saying it]
 - 2. **Salmas Yosef 34** also says for mother and daughter-in-law that they should be like sister.

3. **Rav Moshe 4:64:1 + He'aros Rav Elyashiv to Kiddushin¹⁰** think the Rashash is correct, but only with respect to Krovim who are blood relatives without Kiddushin getting involved. One's mother or father's sister wouldn't be a yichud problem then!

Questionable Cases

Adopted Children

- I. Starting point: Based on **Rashi in Kiddushin 81b**, there's a heter to have yichud with certain krovim because Chazal davened to get rid of the yetzer hara, as mentioned in Sanhedrin. It makes sense then to argue that natural lack of yetzer hara only exists when you actually have a blood relationship, but otherwise not.
 - A. Based on the above, the vast majority of poskim are מחמיר that one can't have yichud with an adopted child. These include the **Minchas Yitzchak 9:140**, **Shevet Halevi 6:196** **Teshuvos Vehanahagos 1:777**, **Chazon Ish** quoted by **Dvar Halacha**, the **Steipler**, **Rav Elyashiv**, **RSZA + Rav Ovadya** (all quoted by **Gan Na'ul 1:17**). It was well-known that the **Lubavitcher Rebbe** was very מחמיר about this (see **Iggros Hakodesh 24:130**).
- II. The two mekillim on this issue are the Tzitz Eliezer and Rav Moshe:
- III. **Tzitz Eliezer 6:40:21 + 7:44/45**: Argues that if you adopt and create a parental relationship with the children before they reach the age of yichud (3 and 9), you can continue to have yichud with them.
 - A. Main heter is based on a **Levush** who gives his own reason for the heter yichud between parents and children that because they're constantly together, it's abnormal to have a romantic relationship between them.
 1. He adds on other senifim lehakel, like it being a יחולין לעמוד גזירה שאין רוב הציבור יכולין לעמוד בו, that it wouldn't be נועם דרכי to make them separate when the kids grow up, and a decent ra'ayah from Avos **Derebbe Nassan 16** that R' Eliezer raised his niece and slept in the same bed with her from when she was a baby until she was a bas mitzvah. Sleeping in the same bed is allowed, and presumably they were having yichud.
 - a) Based on this, he's matir as long as the children were adopted before they reach the age of ראו לביאה (3 and 9). He says this also allows for חיבוק ונישוק. He writes at the end that he's writing this only as a limud zechus because people do this anyway, but from his later teshuvos (7:45-46), he clearly thinks this is a very legitimate limud Zechus.
 - B. In a later Teshuva (7:45), he quotes the **Sefer Hamiknah 81b** who asks why Rashi gives the reason that the אנשי כנה"ג davened to get rid of the yetzer Hara only when discussing yichud with one's sister, but not about yichud with one's mother. He explains that mideoraisah, there's no yichud with either "כיון שנתגדלו ביחד"; however, when Dovid was gozer on penuyos, he was gozer on sisters as well, as that was mamash the story with Amnon and Tamar, but was never gozer on daughter or mother. To explain why a sister is מותר, Rashi explains that once the אנשי כנה"ג davened to get rid of the yetzer Hara, they rescinded the Issur yichud on a sister.

¹⁰ הערות הגרי"ש אלישיב מסכת קידושין דף פא עמוד ב

שם. ומסתבר דכמו דמותר ייחוד עם אחותו כן מותר ייחוד עם אחות אביו ואחות אמו. אבל קרובות שבאו ע"י אישות כמו חמותו וכלתו ואשת אחיו ואחות אשתו ואשת אביו פשוט דאסור. ומש"כ הרש"ש דכלתו כבתו ודאי א"א לומר כן ופשוט שאסור וכנ"ל.

Gan Na'ul quotes that **ר"מ גרוס** writes in the journal תל תלפיות that he asked **Rav Elyashiv** if this psak in the He'aros was correct, and he said yes – that's correct הלכה.

1. Either way, what comes out is that the Makneh thinks there's no Issur deoraisah whenever they grow up together, and Tzitz Eliezer argues that an adopted child has that same level of relationship as a father and daughter / son and mother such that Dovid was never gozer on such a relationship.
- C. **Rav Schachter** quotes **Rav Soloveitchik** as agreeing with this Tzitz Eliezer. It can be found in print in Rav Melech Schachter's article about adoption in RJJ Journal vol. 4.
- D. **Minchas Yitzchak 9:140** attacks the Tzitz Eliezer's teshuva:
 1. For being doresh ta'amah dikra.
 - a) [This isn't such a strong kashya – there are many reasons to say this isn't an issue here:
 - (1) **Tosfos HaRosh BM 90b** : everyone agrees we're דרשינן טעמא דקרא when it doesn't contradict the פשוט פשט of the pasuk.
 - (2) **Rav Willig** (Beis Yitzchak 39 pg. 324) argues that we are דורש טעמא דקרא when it's a drasha
 - (3) **Some Acharonim** argue that since Yichud is only taught through a Remez, it's לא מסרה הכתוב לחכמים in its application (e.g. see Gan Na'ul fn. 52)
 2. He says the **Levush** never meant to make any hetterim and he deals with the proof from the Miknah as well. He's shocked that someone would come up with a hetter from just sevarah without precedent from rishonim or acharonim.
 3. Again, he says Rashi who says there's a hetter because they davened is a biological fact, not due to growing up together. **Shevet Halevi 6:196** says the same, and thinks the Tzitz Eliezer's teshuva doesn't suffice even as a limud Zechus.
- IV. **Rav Moshe 4:64:2:**
 - A. Starts by saying it's אסור not to tell one's child that they aren't the child since it can lead to tons of issues by yibum, chalitzah, mamzerus, and yerushah.
 - B. Notes that there's not going to be a problem of חיבוק ונישוק since that's only אסור דרך לא תאווה וחיבת ביאה. He points to **Shach YD 157:10** who spells out that the lav of לא תאווה is only when it's done בדרך חיבת ביאה, and Rav Moshe notes it sounds like there's no Issur whatsoever (as Shach notes the amora'im hugged and kissed their daughters and sisters).
 1. Agav, this seems like a crucial line for general Hetterim of hugging/kissing grandparents, sisters, aunts, וכדומה, and supports (or may be the source for) Rav Schachter's psak that there's really no Issur to hug one's sister.
 - C. He proves from **Sotah 43** (despite that the Gemara concludes we don't paskin that way) that there must not be any difference between how a father treats his daughter and his step-daughter, as the gemara has a הו"א that a son can't marry a step-daughter since people won't know she was only a step-daughter – if you couldn't hug/kiss them or have yichud with them, it would be obvious to everyone that she wasn't really your daughter!
 1. He says the hetter must be that the father is always afraid to do something with his step-daughter or adopted daughter since he knows his wife would find out (as they all live together) and he'd be afraid for her to find out. Same in reverse for a woman and step-son or adopted son.
 2. However, if the adopted mother dies, he thinks there's no room to be meikil.
- V. Some נפיקא מינה between Tzitz Eliezer and Rav Moshe:
 - A. Rav Moshe is meikil even if you adopted the daughter after she's three. Same thing if you're a step-father.
 - B. Rav Moshe is מחמיר if the mother passes away, since the fear goes away.

Minimum and Maximum Ages for Yichud Children, and Babysitting

- I. Gemara never gives you an age; however, **SA 11**, based on **Rambam 22:10**,¹¹ says it's based on "Ra'uy le'biah" which he defines as 9 for a boy and 3 for a girl (based on **Rambam 22:10**). Maggid Mishnah says this definition is משמע from the Yerushalmi.
 - A. The **Aruch Hashulchan seif 10** says this age only applies to yichud דרבנן (based on the לשון of ...לא גזרו אלא על... and therefore if a father was mekadesh his 1-year-old child, there would be an איסור דאורייתא of yichud with her despite her young age.
 1. **Toras HaYichud pg. 35** **הערה + others** - the ערו"ה is difficult since the kid isn't raiui lebi'ah, so what would the torah be worried about?
 2. In terms of the diyuk in the Rambam + SA, there are two potential other ways to explain why it uses a Lashon of לא גזרו:
 - a) Some argue from here that you see Rambam really held that Yichud is only דרבנן, and this is a ra'ayah to those who think that's what Rambam meant by "דברי קבלה"
 - b) Alternatively, **Gan Na'ul 1:18** argues that although yichud with a ketanah is deoraisah, that's only once she reaches the age of מוסרת עצמן לביאה (9 for a girl and 13 for a boy), and not just לביאה.
 - B. [The **Bach** claims since the Tur left out the ages that Yichud applies to it must be the Tur disagrees with the Rambam (this is problematic since the Tur explicitly gives the age of 3 at the beginning of the siman). Instead, he claims the Tur's שיטה is that the girl's age is also a 9 year old (based on מוסרת עצמה לביאה).]
- II. Despite the psak of the SA, **Rav Moshe EH 4:65:12** says it can't be there's an איסור yichud at age 3 since any girl from age 3-7 would be in a lot of pain and tell the world about what happened; we always find that Yichud doesn't apply when you'd be worried the word will get out, so how can it be איסור here? He thus paskins that "I don't want to say if it's מותר or איסור, but I'm not mocheh against those who are meikil." **Rav Lebowitz** says this means "I don't want to disagree with the שו"ע, but I disagree with the שו"ע."
 - A. **Gan Na'ul 1:18** quotes from both **RSZA in Halichos Shlomo 20:31** and **Rav Elyashiv** from another Sefer that one can't just throw out an explicit seif in **SA** that no one has until now taken issue with. **Other acharonim** (below by babysitting discussion) assume we follow the **SA** as well.
 - B. Although in sevara Rav Moshe has a great point, I don't think we rely on this – although it might be used as a senif. The **Lev Avraham 100** makes similar points and argues there's room to be meikil only with other senifim.
 - C. At the same time, there's another sevara to be meikil here, which we didn't yet see the poskim raise: The sho'el (**R' Meir Shterin**) to **Chavos Yair 66** argued there should be a hetter to have yichud with a goy when the state punishes anyone who has biah with a Jew. **Chochmas Adam 26** thinks this is correct but only so long as they punish both for אונס and for פיתוי, as both need to be dealt with. If so, lichorah the same hetter should apply by a child – not only is there bushah in case the child tells someone, but in a country where they're מכין ועונשין for pedophilia (like America), it should be פשוט this is מותר. Certainly when just dealing with an Issur yichud דרבנן (e.g. penuyah who is not a Niddah), there should be room to be meikil.

¹¹ תינקת שהיא פחותה מבית שלש ותינוק פחות מבן תשע, מתיר להתיחד עמה, שלא גזרו אלא על יחוד אשה הראויה לביאה ואיש הראוי לביאה

1. I asked **Rav Willig** who said, "it's a tzad lehetter," but didn't say that would suffice to be meikil
- III. So a man can't babysit a Ketanna, and a bas mitzvah girl can't babysit a 9+ year old boy, as there's an Issur yichud. See **Shevet Halevi 10:237** who spells this out.
 - A. **Teshuvos Vehanhagos 2:657** discusses this and notes that people need to be careful to either leave the door mamash open (not just closed if no one practically would come in), or to tell neighbors to please come by without knocking.
- IV. At the same time, if besides the gedolah and Kattan, there's another Ketanna (i.e. babysitting a boy a girl), the Ketanna is a shomeres for the gedolah so long as she's יודעת טעם ביאה. What about two girls? Can an adult male babysit two girls? **Gan Na'ul 3:3** discusses:
 - A. **Divrei Sofrim Os 821** notes it should be תלוי on whether the concern by a ketanna is for *ones*, as Shevet Halevi thinks, in which case it should be אסור; or if the concern is for pitui, and that it's unlikely you can be mefateh two girls who aren't לביאה, and should be מותר. He leaves it as a צ"ע, as does the **Dvar Halacha 4:31**.
 - B. **Shevet Halevi 10:236** says misvara this should be אסור: If we're worried by a Ketanna that a person is going to be me'anes her, why should it be any better if there's two of them? The ketanna only helps when there's a gedolah, as the ketanna is shomeres the gedolah from pitui, and the gedolah is shomeres the ketanna from Ones. **Rav Elyashiv** (quoted in Gan Na'ul 3 fn. 10) thought the same.
 - C. However, it's meduyak in **Prishah 22:18 + Taz 22:9** that this is מותר, as they say in a case of Derech, if you have an adult woman and two girls, it's מותר. It sounds like even if the woman will leave to the bathroom, Yichud with the two girls is מותר.
 1. **Toras HaYichud 8:7 + Nit'ei Gavriel 27:10** are meikil at least by an Adam kasher based on this. **Gan Na'ul** thinks one can be meikil once both girls are old enough to tell if they saw something.
 - a) As such, **Gan Na'ul 1:fn. 51** summarizes that if there's two ketanim during the day, or 3 at night, one can be meikil. However, a katan/ketanna who is only 3 years old or the like can't be a shomer since they couldn't/wouldn't describe what they saw.

Chinuch for Children

- I. The **Yam Shel Shlomo Kiddushin 4:22** paskins based on his read of **Smag 126** that there's not a concern of Chinuch by Yichud: Two kid who aren't חיוב can have yichud together. In other words, although an adult can't be with a 3+ year old girl and 9+ year old boy, two children who are both below bar and bas mitzvah *are* allowed to be together. The **Bach 22:7** also understands this way in the **Rambam**.
 - A. **Dvar Halacha 2:8 + Rav Elyashiv** (quoted in Toras Hayichud 1:18) say we paskin like these mekillim.
 - B. **Shevet Halevi 5:204:3** is מתפלא why there isn't a din of chinuch but doesn't explicitly disagree. He's quoted in Kovetz Beis Levi as saying it's "ra'ui" lehachmir, sounds like midina he's meikil.
 1. Later poskim say unfortunately we've had bad ma'asim happen with older children, so good to make a gedder sometimes, even if there's not a formal Issur. **Gan Na'ul 2:3** pushes towards being מחמיר considering a Chiddush so big should have been said by SA + Rambam explicitly, and their silence on the issue is tantamount to saying that there *is* chinuch outright. Considering the sevara to say this isn't so clear, it's kedai to be מחמיר even if me'ikar hadin it might be OK.
 - C. What *is* the sevara to say such a thing?

1. **Divrei Sofrim Beirur Halacha pg. 133** suggests that there's never an Issur Yichud whenever there's no **biah** even **רחוק** על צד רחוק. As such, by a Kattan and Ketanna, since there's essentially no concern in that situation, there's no mitzvas chinuch either. **Gan Na'ul fn. 9** makes a similar suggestion that Chinuch isn't **שייך** to the Issur Yichud because it's not **שייך** in this case that an aveirah could happen. [Along similar lines, **R' Lebowitz** invoked Rav Moshe YD 1:167 re: his application of the machlokes MA + MB pertaining to coeducation (see notes to Arachin for more about this).]
- II. Assuming the above is **מותר**, is it also **מותר** for a Kattan whose a bar chinuch to have Yichud with a goy? Here also, there's no one whose a bar **חיוב**?
- A. **Nitei Gavriel 6:7** is meikil, while others, like **Chayei Halevi EH 78:9** aren't sure. **R' W.** Thought the **פשוט פשוט** was that if we're meikil by Kattan and ketanna, we're meikil by a katan and Goyah as well.
 1. As noted, **Gan Na'ul fn. 9** argues the reason chinuch might not be **שייך** is because when all are ketanim, no one is going to be mefateh anyone, so there's no concern. However, once there's a goy in the mix, Chinuch *may* apply, since an aveirah *is* **שייך** to this case. The same would come out from the Divrei Sofrim's logic.
 - a) **Gan Na'ul** notes this isn't muchrach, but since the whole Yam Shel Shlomo is a chiddush, **לכאן** if we can think of a **לחלק**.
 - (1) Considering we have no other way explaining why there's no din of chinuch, lichorah this is the correct psak, certainly **לכתחילה**.

Yichud With Older Men and Women

- I. **SA 1** from **Rambam** is clear that Yichud applies equally **בין זקנה בין זקנה**, so there won't be any specific **הטת** to have Yichud with an older woman.
- II. However, what about with an older man (**Gan Na'ul 2:14**)?
 - A. The **Zayis Ra'anah EH 1:1** (written by **MLM**) says it's **אסור**. There's support to this from the gemara's story on **81b** with **Rav Chiya Bar Ashi** who was poreish from his wife for years due to old age, but when she tricked him into thinking she was actually a famous Zonah, he regained his ko'ach and was bo'el her.
 - B. However, **Rav Moshe 4:65:10** thinks one can be meikil by Yichud **דרבנן** once he's old enough that you (and he) assume that he's unable to have tashmish. If a doctor can say it's impossible for him to have Biah, one could be meikil on Yichud Deoraisah as well. **Tzitz Eliezer 6:40:22:8 + 7:46** is willing to be meikil as well even on deoraisahs.
 1. As such, if an older man needs an aid, and it needs to be a woman for whatever reason, make sure she's not Jewish (and ideally not married).
- III. However, See **Gan Na'ul 1:34** from other poskim (**Nitei Gavriel, Dvar halacha + others**) that Yichud still applies to the mentally ill so long as it's **שייך** to have biah with them. **Teshuvos Vehanhagos 5:331:9** says the same about someone with Alzheimers

Yichud With More Than Two People

One Man and Multiple Women

- I. Yichud with 2 women is clearly **אסור** from the Mishnah, and gemara explains because **נשים** דעתן קלות. What's this mean?
 - A. **Rashi נשים ד"ה עם ב'** (echoed by **Ran there**) explains **שתיהן נוחות להתפתות**, and they'll be mezanah together. The reason one isn't worried about being mezanah is because she knows her friend will do the same.

B. **Ritva there** has a different פשט that even though only one will be mezanah מחפזת אהדדי ולא מיכספי מהדדי.

C. Which reason do we accept?

1. **Betzel Hachochmah 2:70** argues that **Tosfos 82a, Rosh 4:27, Rambam IB 22:8 + SA 22:5** all hold like Ritva since they're osser three women with one man, despite that one man can't have biah with three women (see below).

a) It's also slightly משמע this way from **Rambam 22:9 + SA 10** by נשים ששונאות זא"ז as well, that one can have Yichud with them since they won't be מחפה for each other because they hate each other. It sounds like the issue with two women is just that they'd be מחפה (even if not מזנה), although this isn't muchrach: **Gan Na'ul fn. 67** (end) argues he might mean that even if they are mezanah, they'd still tell on each other in order to ruin each others' lives.

2. However, **Rav Moshe 4:65:14** explains that Rambam דעימיה just think that there are individuals who can be bo'el 3 or 4 women (he brings a ra'ayah from Zimri in **Sanhedrin 82**), and the גזירה is a lo plug due to that concern. Fundamentally though, everyone could accept Rashi's lomdus that it's only a concern if they'll all be מזנה. [He gives the Betzel Hachochmah's explanation as well as a "ואולי," but his main explanation seems to be the one above.]

a) **Gan Na'ul 1:24** notes that it's muchrach this way in **Nimmukei Yosef**, who says Rashi's פשט in דעתן קלות and still says that more than 2 women is אסור. If so, you have to say like Rav Moshe's first tzad for Nimmukei Yosef, so mimeilah that could be the פשט in Rambam, SA, etc. See there that he notes one could even read the Ritva as agreeing to Rashi, as he doesn't mention he's disagreeing, although this is dachuk and the pashtus is that this is a Maclhokes.

3. Lema'aseh, **Rav Wiederblank** said the poskim generally accept Rashi's explanation. It's for this reason that **Rav Moshe** thinks the shiur yichud is doubled when there's one man and two women, since he'd need to be meratzeh and bo'el both of them. This is also why he says at the end of **Siman 64** that there's no yichud if the two women are mother and daughter since the mother wouldn't be *mezaneh* in front of her daughter, even though they'd obviously be mechapeh for each other post-facto.

II. At the same time, the **Mishnah on 82a** says one who works with women (מי שעסקי עמ) (הנשים) can't be alone with women. What's the Chiddush?

A. **Rashi** explains that it's adding that you can't even have yichud with more than two women.

1. **Rashi** clearly understands the mishnah earlier to mean *davka* 2 and not more. What's the sevara for why 3 is better?

a) **Rosh** explains that it's either because practically the man won't be able to be bo'el all 3 (and Rashi is leshitso that they need to be מזנה in order to be מחפה for each other), or because one of the three women would certainly tell others, so none of them will do anything. In contrast, **Rashba in Teshuva 1178** says it's because when there's that many people, a sense of bushah sets in, such that the women wouldn't listen in the first place.

2. The big ra'ayah against Rashi, which Tosfos brings, is that the gemara says נשים מבחוץ ואנשים מבפנים or the reverse could be an Issur yichud because of a case where a man slips into the room with the women. If three women is always מותר, what's the problem? A few answers in achronim:

a) **CM 8 + others**: That discussion must only be talking about where the man is עסקיו עם הנשים

- b) **Bach**: 3 women is מותר only when it's set up that way, but if a man sneaks into a room with three women בחשאי, even Rashi will agree that this is a problem.
[נתת דברך לשיעורין as it's a little hard to understand this answer]
- c) **Taz 5**: the gemara there just means, "you could have a problem if the man slips into the women's room in a case where the numbers are a problem." I.e., it could be there's only two women in the room in that case.
- B. Tosfos** disagrees and says you're never allowed to have yichud with any multiplicity of women (unlike Rashi); rather, this Mishnah is adding that עסקיו עם הנשים can't rely on the hetter of Ishto Imo.
1. He probably understands Ishto Imo to mean that she's *around*, not that she's literally right there, since then his שיטה makes no sense - she would stop you from having a *biah* with your clients if she's right there. **R' W.** Made this same point that Tosfos must have assumed a more robust form of אשתו עמו.
 2. **Rambam 22:8** also thinks it's אסור to be with a multiplicity of women
- C. Rabbeinu Chananel** quoted by the **Rosh**, the **Rambam 22:8** + the **SA 22:7** - the הו"א was that we could be more מקל - not more מחמיר, so קא משמע לן that they're exactly the same
1. **Rabbeinu Chananel** thinks the הו"א was based on the fact that he's busy doing his work, and בעבדיתיה טריד; the **Rambam** (as expressed in פה"מ) thinks the הו"א was based on the fact that he needs it for his Parnassa.
- D. Lema'aseh** though it comes out that Tosfos and Rambam think that even a multiplicity of women is generally אסור, even if it's more than two. **SA 22:5** paskins this way. However, **Rema 22:5** quotes **Rashi** as a "יש מתירין" that one man and 3 women could be alone together.
1. There's a discussion whether we can rely on Rema לכתחילה, considering that a) most of the other major Rishonim don't seem to learn this way¹² and b) the Rema's Lashon is itself unclear if he intends to fully paskin this way:
 - a) **Tzitz Eliezer 6:40:2:1, Dvar Halacha 10:1 + others** learn he paskins this way – since the Issur is anyways דרבנן, Rema was comfortable being meikil this way. (Note they aren't necessarily saying we paskin that way – just that Rema paskined this way.)
 - (1) **Divrei Malkiel 4:102** notes most rishonim disagree, but we can be meikil since anyways it's a shailah on an Issur דרבנן.
 - (2) **Gan Na'ul 3:4** relies heavily on klalei hapsak and argues that Ashkenazim always follow the Rema; he therefore concludes that it's מותר for ashkenazim מהמחמיר תע"ב.
 - b) In contrast, **Shevet Halevi 3:183** thinks **Rema** is just mentioning the deiah without endorsing it, and therefore thinks we should be מחמיר unless there's a צורך גדול or other senifim lehakel. [It's also clear that **Eizer Mikodesh 5** is uncomfortable relying on the Rema alone, without other senfiim.]
 - (1) **Rav Moshe EH 4:65:14** says we should paskin like the Rambam, etc. against Rashi. **Divrei Sofrim 7:7** also says to be מחמיר, and **Pesach Habayis 6:1** argues that one should be מחמיר as well without a שעה"ד after showing that the vast **majority of major Rishonim** (including Rabbeinu Chananel, Rambam, Maggid Mishnah, Tosfos, Ri, Rabbeinu Tam, Rosh, Ramban, Ritva, + Ran) disagree with Rashi. **R' Wiederblank** in shiur also

¹² Although Rashba in Teshuva 1178, Smag Lavin 126, Tosfos Ri Hazaken, Meirii + Yad Ramah there hold like Rashi as well

said we try not to rely on this kula unless there's a real need/with other tzedadim lekula.

Rules of Yichud With 3 Women

- I. What comes out is that in a real sha'as hadchak, one could be meikil to have yichud with three women, as long as one isn't עסקו עם הנשים.
 - A. What counts as עסקו עם הנשים? **Rashi** explains that if עסקו עם הנשים, the women need him (הנשים צריכות לו) and will cover up for what he does since לבו גס בהן.¹³ In defining עסקו עם הנשים, part of the question is whether the key point is just לבו גס בהן, as that alone should be reason enough that they'd be מחפה, or if you also need it to be צריכות לו.
 1. Many poskim (**Rav Elyashiv** quoted in Toras Hayichud 3:29, **Divrei Sofrim 68** + others, based on **Chochmas Adam 126:4**) assume that the same would be true of עסקו עמהן (e.g. the women are your cousins), even if לבו גס בהן is reason enough for them to be מחפה. It's also משמע this way in the Lashon of Rashi, and the Rishonim who quote him, as well as **Tifferes Yisrael 4:14**.
 - a) **Gan Na'ul 3:18** is mefakfek about this and thinks one can be meikil in a sha'as hadchak, but he doesn't have any poskim who are meikil explicitly, and the Pashtus from the above is that this is אסור.
 - B. Specific examples: The braisah **82a** gives examples of נקורות, רוכלין, סריקים, צורפים, גרדיין, ספרים + כובסים.
 1. **Rashi on 82a** defines it as: שמלאכת אומנותו נעשית לנשים והנשים צריכות לו. In other words, anyone whose job is to help out women is עסקו עם הנשים.
 - a) What about a teacher? **Shevet Halevi 3:183** quotes an earlier Acharon who thinks that's not עסק עמהן since the man isn't telling them about what fits them, what wares are good on them, etc. (unlike a רוכל or חייט). **Gan Na'ul** though is surprised by this, since the braisah the gemara quotes includes ספרים, which Rashi translates to mean someone who gives haircuts that the women's children need! You see someone who is involved with women – nothing to do with their aesthetics – is still עסקו עם הנשים!
 - (1) This is a Klal – anyone whose job is to deal with children who are brought by their mothers is also עסקו עם הנשים.
 - b) **Some Acharonim** (מהרי"א הלוי ט"ז + **Melech Shlomo Kiddushin 4:14**) argue that any men who hang out with women, even if just for שחוק and not their jobs, is considered עסקו עם הנשים.
 - (1) This is lichorah תלוי on the above about whether לבו גס בהן alone is sufficient to create a problem, although they seem to be saying that this is even definitionally עסקו עם הנשים.
 - c) A doctor for women is עסקו עמהן, as clear from the Braisah re: גרע (a bloodletter)
 - (1) There's an important he'arah that the **Gan Na'ul 3:18+** raises on many of these examples: Assuming they don't have such a close relationship, the idea that someone with a certain profession is נשים צריכות לו, such that the

¹³ Cf. **Rashba in Teshuva 1:1178** who agrees with Rashi lehalacha, but has a completely different explanation: when there's 3 women, the hetter isn't that it's impossible to be bo'el all of them, but because a sense of bushah sets in at that many women. By עסקו עם הנשים, there's no bushah with those women, but one could say he thought you need a shiur of 3 bi'os. Since BY + others don't quote the Rashba as the source for this hetter though, we follow Rashi's lomdus, not the Rashba's.

women might cover up for them is rarely the case anymore. Now that for every type of doctor or profession, there are 5-10 easy alternatives, it's rare that someone would feel like they "need" this specific person, such that it would prevent them from telling others about the impropriety they witnessed.

- d) The **Kloisenberg** in **Divrei Yatziv EH 45** deals with a question with one male lifeguard and many women in a pool. He understands this isn't עסקיו עם הנשים since he defines it as when the man is working *for* the women, and not for the municipality or pool-owner. [He still notes that the man is a parutz, and would be subject to the discussion below.]
- C. Can someone who is עסק עם הנשים have yichud with 3 women which he doesn't have עסק עמהן; e.g., can a doctor have yichud with 3 women who aren't his patients?
1. **Rashi + Ri Hazaken** say the reason for this exception is because לבו גס בהן and they'll cover up for him; it's logical that this is only true for the women he has a relationship with. This is the Lashon of most Rishonim.
 2. **Nitei Gavriel 22:2 + Toras Hayichud 3:16** are Osseer, and the latter quotes that **Rav Elyashiv** was osseer as well.
 - a) However, **Gan Na'ul 3:12** argues that the sevara and leshonos of Rishonim don't bear this out, and on a safek דרבנן, one can certainly be meikil. His argument is compelling.
 - (1) However, if he's עסק עמהן with even some of the women, one should be מחמיר, since there's still a concern that the man will davka be bo'el the one or two women who aren't עסק עמהן, knowing the other woman/women will be mechapeh. Thus, one can be meikil only when he's not עסקו עמהן with *any* of the women.
- D. Is the above true even if the man is a parutz?
1. **Gan Na'ul 3:17** notes that since the **Rosh** argues the reason for this din is because he can't be bo'el all of them, or one who is not involved would certainly tell, that still applies to a parutz, and therefore it should be מותר. [They aren't צריכות לו, so have no reason to be מחפה.] For the **Rashba** though who says that a) the women are מוזר בושות זו מזו when there's 3 and b) the man is בוש מהן, lichorah you only have the first reason but not the second.
 - a) He also notes that the **Meiri 80a** seems to be meikil explicitly (although you have to make what seems like a necessary hagah in the text)
 2. Lema'aseh, it's an unresolved machlokes: **Dvar Halacha 10:3** is meikil, and sounds that way from **Tzitz Eliezer 6:40:19:5**. However, **Miknah 82a לא יתייחד** as well as **Maharsham 3:152** are מחמיר. In contemporary poskim, **Rav Elyashiv** (quoted in **Toras Hayichud 3:35**) paskined lechumra, as does the **Pesach Habayis 6:3. Nit'ei Gavriel 22:7** paskins to be מחמיר לכתחילה but could be meikil if there was a שעת הצורך.
 - a) Per the sevaros above, it seems like there's room to be meikil, unless it's למגדר מילתא.
 3. There's similarly no real chiluk between women who are כשרות and פרוצות (**Lehoros Nassan 7:93 + Rav Vosner** quoted in **Gan Na'ul fn. 49** note this), but once again, one should use their שכל before matiring, especially if it's a פרוץ עם פרוצות.
- E. Does the din change if on the derech?
1. **Gan Na'ul 3:15** quotes **Pnei Yehoshua 80b + a few others** who assume you'd need 4 women in a case of Derech to have a hetter.
 2. At the same time, he notes there's a sevara to say we only require an extra person on the derech when it could lead to yichud deoraisah, which isn't the case when

there's already 3 women.¹⁴ Although there might be other senifim lehakel, like **R' Yerucham** who thinks we only require another shomer on the derech when people are shomrim of the women or will definitely lead to a yichud situation, he says we should be מחמיר.

F. Does the din change at night?

1. **PY Kiddushin 80b, Nitei Gavriel 21:7, + some others** assume you should need 4, just like we always require one more shomer at night.
2. However, **Rav Moshe EH 4:65:20** discusses this question and argues there's no increased חשש at night – even if one of the people fall asleep, it takes זמן מרובה to be bo'el two women, and one would be worried that the third might wake up in that time. Nonetheless, he says one should only be somech on this in a sha'as hadchak, since there's no ra'ayah berurah to this. [This is all within the shitah of Rashi; however, Rav Moshe himself thinks we should generally be מחמיר for the Rambam, as noted.]
 - a) **Gan Na'ul 3:16** paskins this way (i.e. that one can be meikil in a Sha'as Hadchak) considering that a) **Rema 22:5** never mentions anything about night, and in **Shu"t Rema 14**, he approvingly quotes **הגר"נ הירץ** who was meikil about this, and b) not all Rishonim agree night is any more chamur than daytime to begin with.
 - (1) Considering one has to first rely on Rashi's kula before even getting to this discussion, I think one should only rely on this kula only in a שעה"ד או צורך and not a שעה"ד גדול.

Deoraisah or דרבנן?

- I. In cases of yichud with a total of 3 people or more, is it still an Issur deoraisah or is it דרבנן now?
 - A. **Shoe'i** in **Rashba Shu"t 587+1178¹⁵**, as well as **PT 22:1** from **Chavos Ya'ir 73 + Chochmas Adam (Binas Adam 16 (26))** all think it's only דרבנן once there's three people.
 1. Ra'ayos to this:
 - a) The Remez is specifically about two people.
 - b) They note הואיל ונשים דעתן קלות עליהן implies it's דרבנן since if it were just part of the Issur deoraisah, you wouldn't need a sevara.
 - c) **Pesach Habayis 1:4** also notes a ra'ayah to this from the fact that **Rambam + Rabbeinu Chananel** learn the הו"א about הנשים עם איש שעסקו is that it's מותר for him to have yichud with multiple women due to עבדיתיה טריד (**Rach**) or parnassah (**Rambam**) – lichorah such a הו"א makes no sense if it's an Issur deoraisah.
 - (1) Although, one could be docheh that this might be a tenable הו"א if you say Yichud is לא מסרה הכתוב אלא לחכמים.
 - d) We also thought it was meduyak this way since Abba Sha'ul is comfortable saying that the Issur yichud with two women would change in cases of aninus /

¹⁴ This is how **Shevet Halevi 5:202:1** explains the shitah of **Rav Hirtz** quoted in **Teshuvos HaRema 14** who thinks Yichud with 3 women at night is מותר.

¹⁵ Rashba in his teshuva doesn't specifically addresses whether he agrees to this point, although various acharonim argue he agrees since he never rejected this point the sho'el argued.

burying a child. It's hard to imagine that a sevara alone would matir the Issur deoraisah, but if it's all דרבנן, this is easier to understand.

2. This is generally the accepted psak in acharonim, including **Shevet Halevi 3:183, Divrei Chachamim 1:6, Dvar Halacha 1:8 + many others**.
 3. What's the sevara to be mechalek between one and two women if both are a concern that it will lead to an aveirah? **Gan Na'ul 1:fn. 52** suggests that the יצה"ר is stronger with one man and women – one and one is much more intimate. The Issur דרבנן exists because there's still a little concern that something could happen, but it's much less of a קירוב דעת once there's three people.
- B. However, there are also sources that imply it might be deoraisah:
1. In terms of acharonim, the **MLM Sotah 1:3** is משמע a bit that it's deoraisah, as is the **Chasam Sofer EH 2:102. Tzitz Eliezer 6:40:2:2** also notes simple Lashon of Mishnah is this way, although he doesn't paskin that way.
 2. A number of Rishonim in **Niddah 5b** might sound this way as well: The gemara implies that when three women are together, it's a reshut hayachid with respect to safek tum'ah, and the Rishonim are bothered why this should be if we generally say that three is a rabim for tum'ah. One answer which they quote is that this is because safek tum'ah is learned from stirah in hilchos sotah: Because two women with one man would be stirah in hilchos sotah, as evidenced by the din that one man and two women is yichud, it's considered a רה"י for tum'ah as well. The simple read is that they mean this is yichud deoraisah (which is why we know it's stirah deoraisah). Although many Rishonim reject this answer, **Tosfos HaRosh, Ran + Ritva** all like it. See also **Tosfos HaRosh 73b שלש נשים**.¹⁶
 - a) **Maharsham 3:153** is medayek from here that it's deoraisah. (He's medayek it from Rishonim which reject the answer, like the Rashba + Ramban; some acharonim pick on this, but the ra'ayah is still good for the above Rishonim who like the answer)
 - b) The dechiyah of this ra'ayah is given by Pesach Habayis 1:3 + Divrei Sofrim (eimek Davar 9): They note there's a yesod developed in acharonim that the rules of Stirah are more chamur than yichud: **Chasam Sofer EH 2:102, Netziv + others** note that you can have Stirah without yichud, e.g. with pesach pasu'ach, בעלה בעיר, or with two men (see **SA 22:8** from **Terumas Hadeshen 244**). The פשט is that Yichud creates a sense of ta'avah for each other and *leads* to issurim without any pre-existing relationship, while Stirah is whenever it's לביאה ראויה, even if it's not conducive to cause it. As such, they argue that those Rishonim were just saying since there's an Issur דרבנן of yichud, mimeilah there's stirah mideoraisah. If there's an Issur דרבנן, that means it's ראויה to have biah, which by definition means that it's stirah mideoraisah.
 - (1) Although it's a little dochak that the Rishonim don't spell this out, **Nitei Gavriel 17:1, Hafla'ah Kuntress Acharon 115:1 + others** all take this general approach.
 - (2) What comes out is that there's no Rishonim who certainly disagree with the accepted psak of the acharonim. As such, the poskim assume like the Acharonim quoted in PT that three people will always be דרבנן.

¹⁶ תוספות הרא"ש מסכת קידושין דף עג עמוד ב

שלש נשים שהיו ישינות במטה וכו'. ואין לטהר מטעם ספק טומאה ברה"ר כיון דאיכא שלש נשים כדאמר' בריש ב' נזירים דהיכא דאיכא ג' בני אדם חשוב רה"ר, משום דחשיב מקום סתירה אפי' היכא דאיכא נשים הרבה כדתנן לא יתייחד איש עם שתי נשים וספק טומאה גמרינן מסתירת סוטה

דרבנן When Yichud is נפקא מינה

- I. The most basic נפקא מינה of when Yichud is deoraisah or דרבנן is whether we'll say safek deoraisah lechumrah or safek דרבנן lekula. For דרבנן cases, we can go lekula on sfeikos.
 - A. The above assumption – that we'll say safek דרבנן lekula on Yichud when it's דרבנן, is the assumption of most acharonim (listed by Gan Na'ul fn. 59), including the **Hafla'ah** in **Nesivos Leshabbos 22:1, Divrei Malkiel 4:102, Tzitz Eliezer 6:40:1, + IM 4:65:12.**
 - B. However, there's another shitah of the **Shevet Halevi 5:201:1 + 205:1** who thinks that we'll go lechumrah even by yichud דרבנן because of how chamur the results could be ("לחומר האיסור לגדר עריות"). He brings a ra'ayah in **205:1** that the **Prishah** seems to go lechumrah on a safek דרבנן.
 1. Although his opinion isn't the accepted פשט, there is a **Tosfos HaRosh in Kiddushin 81b** who seems to hold something similar, and explains that since Yichud is עיקרו דאורייתא, we'll go lechumrah even on sfeikos on דרבנן shailos. [This is really a more general shitah though that any דרבנן that's עיקרו מה"ת goes lechumrah, and nothing specific to Yichud/arayos.]

Two Kasher Men and one Woman

- I. The **Gemara 80b-81a** says that two men and one woman would be מותר, if they're kesheirim but not if perutzim. If they're perutzim, even 10 men is אסור.
 - A. The next amud (**81a**) gives a story where Rav and R' Yehuda are apparently considered *perutzim*: א"ל מי יימר דבכשרים כגון אנא ואת? אלא כגון מאי כגון רבי חנינא בר פפי וחביריו.
 - B. The **Ran** **לא שנו ד"ה לא שנו** is very bothered by this: That the mishnah would say a stam din implying that in general one woman and multiple men if it basically never applies to anyone is very strange! He says (along with **Ritva** **לאו כשרין** and implied by **Rif + Rosh** leaving this out) that really your average person is a *kasher*, but Rav was just being extra מחמיר on himself. [**Ritva** writes that only someone who is "מוחזק בפריץ" is a problem.]
 1. **Michael** noted there's a ra'ayah to this from the fact the gemara says you need an extra man on the Derech, lest one of the two men go to the bathroom and create a yichud situation. If that person would allow the other two to get into yichud, clearly they aren't such great tzaddikim, and yet they're considered ksheirim!
 - C. The **Rambam 22:8**¹⁷ however paskins that one woman can't ever be with many men. Two understanding of the Rambam:
 1. The **Ran + Maggid Mishnah** both understand that the Rambam is saying that סתם פרוצים בני אדם are considered פרוצים.
 - a) The **Shut HaRashba** **ח"א קכב** rejects the Rambam since then you would never have the Talmidei Chachamim required to go with the Sotah and avoid a yichud problem.
 - b) The **Kesef Mishnah** says it's a stirah in the Rambam since in **Avel 12:1** he says two men can go out with a woman to bury a fetus!?
 - (1) **KSM** answers that even Perutzim aren't a problem when it's outside and not in an enclosed/locked room. [Difficult since the story in the gemara with Rav + R' Yehuda was outside and still they thought there was a yichud problem]

¹⁷ The **Smag Lavin 126, Orchos Chaim Issurei Biah + Ra'avad in Ba'alei Hanefesh Prishah 1** are the only other significant Rishonim who hold this way, although the Ra'avad is soser himself elsewhere.

- (2) **Lechem Mishnah** there argues we're meikil in conjunction with the sevara that people don't have such a ta'avah when they're in aveilus (like Abba Sha'ul said on 80b).
- c) **Gra 9** brings a ra'ayah to this understanding from Pirkei Derebbe Eliezer which says kesheirim is only true when they're "ת"ח גדולים"
2. The **MLM Sotah 1:3** says everyone is misunderstanding the Rambam. Really he holds like the Ran that lehalacha we paskin that stam people are kasher, but the Rambam paskined like Rav that it's ראוי להחמיר. [This is very difficult, as the Rambam made it sound like it was actually a problem of Yichud and doesn't even mention another possibility].
- D. Lehalacha, The **SA 22:5** surprisingly paskins like the **Rambam** that multiple men is still a problem, despite that everyone disagrees with him. The **Rema** paskins like the **Ran + Rif** that stam people are considered kesheirim + two men is מותר, with the caveat that at night and if you're on the derech, you need a third man (more on this below).
1. **Tzitz Eliezer 6:40:3** makes a big deal about how just about every single Rishon disagrees with the Rambam, and argues the Beis Yosef wouldn't have paskined this way had he seen the above Rishonim. [In the BY, he quotes none of them besides the Rambam.]
2. Similarly, **Gan Na'ul 4:2** has a long discussion about whether even Sefardim can be meikil against the SA, since a) Over 15 Rishonim disagree with this, including the Rif and Rosh, who are two of the עמודי הוראה the SA claims he generally paskins like¹⁸, b) **R' Chaim Palag'i, Knesses Hagedolah, + Ben Ish Chai** all paskin against the SA, and c) this shailah will always be about an issur דרבנן, since there's more than 2 people present.
- a) He concludes that they can after quoting that **Rav Ovadya Yosef** paskined (ba'al peh) that one could be meikil with two men in a sha'as hadchak. He quotes **R' Ratzavi + R' Shimon Bedni** who were meikil as well.
- II. Thus, for Ashkenazim, 2 men and one woman is מותר as long as the men are kesheirim, while for Sefardim – unless it's a big sha'as hadchak – it will be אסור no matter how kasher they are until one has his wife there; this is true no matter how many men there are.
- III. What's the sevara for why two kesheirim is מותר?
- A. **Rashi + Nimmukei Yosef**: Each man is embarrassed to do anything in front of the other man, so neither will have zenus with the woman.
- B. **Ramah there**: They don't have bushah to do the ma'aseh Issur itself, but are afraid the other man will tell others about it afterwards.
1. According to either explanation, if one of the two men is senile (e.g. very severe/late-stage Alzheimers), it's פשוט that they won't save from Yichud, as one doesn't have bushah and there's no fear that they'd tell anything over afterwards (**Gan Na'ul 4:4.1**)

¹⁸ See there for a fantastic discussion about whether a) Sefardim can paskin against SA in a sha'as hadchak – he quotes **Ma'amar Mordechai 514:1+4, Kaf Hachaim 447:247, Zivchei Tzeddek, Nichpeh Bekessef + Chikrei Lev** that one can be meikil against Maran in a הפס"מ + שעת הדחק, unlike the **Rav Pe'alim 2:YD:7**. B) Can we say that "אילו ראה מרן" certain Rishonim, then we'd change the psak – R' Ben Tzion Abba Sha'ul thinks we never say + **R' Yaakov Chaim Sofer** in Bris Ya'akov quotes and agrees with this. However, Rav Ovadya in **YO 10:CM:1** writes that we *do* say this Klal and quotes many gedolei acharonim including the Chida who argued this way.

2. The Issur by perutzim then must be for **Rashi** because one parutz isn't embarrassed in front of the other, and for the **Ramah**, either he isn't worried the other parutz will tell people, or he doesn't care even if he does.¹⁹

IV. What about if one is a kasher and one is a parutz?

- A. **Rema's** Lashon is that you can be meikil "עם שני אנשים כשרים" – it sounds a bit like it's only when both are kasher.
 1. **PT 4** talks about a case where a woman was going to travel with 2 kasher men and the non-Jewish wagon-driver. The **sho'el to the Shev Ya'akov 19** thought this should be מותר – even if one person goes to the bathroom, you'll still have one kasher and one parutz – while the **Shev Ya'akov** thought it's אסור if one is a parutz. **NB 1:69** fundamentally agrees this setup is אסור.²⁰ Besides the **Shev Ya'akov + NB**, the **Miknah Kiddushin 80b** ד"ה ועוד, **Chida in Rosh Dovid + others** are מחמיר as well.
- B. However, **Yam Shel Shlomo Kiddushin 4:21** is meikil, and argues that the Parutz won't do anything, because he's worried the kasher won't join him. **Erech Shai 22:5** agrees, and argues we can't be medayek in Rema's Lashon so much. **Maharil Diskin Pesakim 2** was also meikil, **Shevet Halevi 5:202:1** leans this way based on Maharshal, and **Toras Hayichud 3:4, Nit'ei Gavriel 19:1, + Pesach Habayis 5:3** paskin this way, since it's a safek on a דרבנן.
 1. In contrast, **Gan Na'ul 4:15** thinks one should only be meikil in a Tzorech Gadol, since most poskim are מחמיר, and Rema's Lashon sounds this way bepashtus.
 2. Either way, when the one parutz is a goy, even **Gan Na'ul 4:16** is meikil, because there's an added sevara that a goy will be mezaneh and tell everyone about it (see previous footnote for machlokes about this). See **Chazon ish EH 35:2** who sounds like he's meikil (based on his own analysis), although he ends with, "וצ"ע".

Who is considered a Parutz for ashkenazim?

- I. **Rema 5** based on the **Ran, Ritva + Rashba (Shu"t 1178)** writes "וסתם אנשים כשרים הם". The Rishonim say that only someone who is ידוע to be a parutz is considered as such, and a long line of achronim paskin this way.
 - A. Consequently, your average שומר תורה ומצוות is considered a kasher, not a parutz. All the poskim agree that someone who isn't Frum isn't considered a kasher though, based on all his exposure and presumed actions of pritzus.
- II. When do we consider a "Frum" person a parutz?
 - A. **Tzitz Eliezer 6:40:3:8** defines a Parutz as someone who is chashud to be involved with pritzus: He's known (or even rumored) to be lightheaded around women, doesn't consider Yichud to be a big deal, hangs out with women or speaks inappropriately to/with them.
 - B. **Rav Moshe EH 4:65:17** has a unique definition that a parutz could be someone who has never done an איסור; the only way to be a kasher if the individual is confident in

¹⁹ As an aside, for this halacha, whether the woman is a כשרה or a פרוצה is irrelevant. It also doesn't matter if the man is עם הנשים or עסקו עם הנשים. All of this is because of the reason for the heter above – see **Gan Na'ul 4:10-12** who spells this out with all the mekoros (although there are da'as yachids who disagree with each of these).

²⁰ They have a side machlokes whether there was some kula since the "parutz" here is a goy rather than a Yisrael Parutz (**Shev Ya'akov**), and there's more reason to be meikil since the goy will happily tell everyone everything that happened (unlike a yid). **NB** rejects this.

himself that he wouldn't have such a strong ta'avah for zenus when in front of another man that he'd consider being מזונה in front of him.

1. Thus, Rav Moshe's definition of a kasher and parutz is self-defined. **Gan Na'ul** and some others ask how someone can be me'id on themselves "Bari li" with respect to arayos, when the gemaras in Kiddushin are replete with stories of great tannaim nearly messing up in this area. Even Yosef Hatzadik almost messed up! This isn't really such a ta'anah though, as **R' Wiederblank** noted, since Rav Moshe wasn't saying the person claims to have no ta'avah in general, but just that he knows himself that he wouldn't consider zenus in front of another person watching.
- C. Most interesting opinion is found in **Shevet Halevi 5:202:1**: Anyone who watches TV is a parutz, even if they're otherwise frum.
 1. The **Nitei Gavriel 19:16** says this only makes sense for those who were raised in an environment where TV was recognized as חוץ למחנה. But those who are in communities where that's normal aren't perutzim, since it's societal. **Rav Elyashiv** is quoted by **Toras Hayichud 3:fn. 4** as saying the same.
 - a) Others (**Gan Na'ul**) disagree: At the end of the day, TV exposes people to zenus and terrible things; even if he doesn't know how terrible the issur is, it might be worse since he's been desensitized to the issur.
 - b) **R' Wiederblank** in a shiur quoted **Rav Schachter** as saying in our communities such a person is *not* a parutz, as he's following the norm (i.e. not מוחזק לדבר), and we can assume he hasn't lost his sensitivity to arayos just because he's exposed to it. **Rav Willig** told me the same and defined a parutz as someone who dresses inappropriately, speaks inappropriately with women, or watches explicit content on the internet.
 2. [See also **Avnei Yoshfeh** (quoted in **Shu"t Mitzion Teitze Torah pg. 505**) who is meikil until you know that the person watches פריצות של דברים on the TV (although lichorah nowadays that's most things). **Rav Willig** mentioned a similar sevara as well.]
- D. If someone is known to be an avaryan for some Issur (e.g. was part of a Kashrus or geneivah scandal), but isn't known to be a parutz le'arayos, is he a kasher still?
 1. **Tzitz Eliezer** (above) is meikil, as is the **Shevet Halevi 5:202:1** (barring issurim chamurim like חילול שבת). Rav Elyashiv is quoted in Minchas Ish 5:8 as being meikil as well. This is mistaber, since the two people will still be embarrassed in front of each other, as they have no history with arayos, and they also wouldn't want their names to be smeared with a different type of scandal.
 2. **Gan Na'ul 4:9** recommends being מחמיר unless there's a צורך גדול though, because he thinks **Chochmas Adam 126:5** is משמע this is a problem, and **Chofetz Chaim** in **Nidchei Yisrael 24:5** paskins his lashon.
 - a) However, we thought the diyuk wasn't muchrach, the sevara to say this was difficult, and that one didn't need to be so מחמיר against all the above acharonim.

Derech Requiring an Extra Person (22:5)

- I. The gemara says that even two kasher men is a problem if they're on the Derech, since one of the two men might go to the bathroom and create a yichud situation. (The Rishonim have different girsa'os about whether the issue is that they'll go להשתין or לנקביו/gedolim.) However, if there's three men, it's מותר.

- A. **Rosh** quotes the din, as do the vast majority of Rishonim, and **Rema 5** paskins this way.
- B. Surprisingly, **Rif + Rambam** skip the halacha that Derech requires more. For Rambam, this isn't really a kashya, since he thinks we never rely on kasher men. However, for Rif, it's a kashya.
1. **Michael** (+ Gan Na'ul 4:fn. 49 quotes **many acharonim** who say this): Maybe that's because in the next gemara, Rav + Rav Yehuda are walking and bump into a woman; when Rav says to run, Rav Yehuda asks him what the problem is, since they're two kasher men. Why did he think this was fine if they were on the Derech?! If so, Rif understood that we don't paskin this way.²¹
 2. In contrast, and to defend how we paskin, **Maharsha** says other men must have been there. Alternatively, **R' Shteinman + Hagahos Radal** say that the din is only when they go on a trip together, but not when they bump into each other, as they won't necessarily run into this yichud situation.
- C. There's a shitah of **Rabbeinu Yerucham beshem Ramah** (quoted in BY) who thinks that we only require an extra person if the men are sent לשמור את האשה, since then they aren't allowed to leave her alone, and when one goes to the bathroom, the other man and woman will have yichud. But if that's not the case, we can assume the two men will travel together to the bathroom to prevent a yichud situation, so there's no problem. He presumably learned it from the same ra'ayah we brought to the Rif + Rambam's hashmata (**Miknah, Radal here + others** say this).
1. However, **BS 9** notes that **SA** doesn't even quote this sevara, and so we shouldn't be somech on it at all. [He also argues the Ra'avad about night requiring an extra person is in machlokes with Rabbeinu Yerucham, but many acharonim note there's no hechrech to this.]
 2. **Eizer Mikodesh** used his shitah as a senif (and was meikil for 3 women and one man only in this case). It also sounds this way from Chochmas Adam 126:5 that he thinks **Rabbeinu Yerucham** is the Pashtus, although he's modeh we should be מחמיר due to the Beis Shmuel.
 3. **Rav Moshe 4:65:3** thinks one can rely on Rabbeinu Yerucham in a sha'as hadchak, as the Prishah seems to hold that way.
- II. If you have one kasher and two parutz men on the derech, it's still אסור, since we need to be concerned the kasher will need the bathroom, thus creating yichud (2 perutzim and one woman). If, however, it's one parutz and two kesheirim, there's more room to be meikil, since even if one kasher leaves, you still have one kasher and one parutz, which itself is a shailah whether this is אסור.
- III. What's considered a "Derech?"
- A. Because the whole concern is for when one would have to go to the bathroom, if the trip is short enough (even by car) that we wouldn't expect them to necessarily *need* to go to the bathroom, it's מותר without a third person. This hagdara is based on **Radal** by the ma'aseh with Rav + Rav Yehuda, **Rashash** by the din of beis hakvaros, **Lehoros Nassan 7:92:4 + others**.
 - B. **Gan Na'ul 4:28-29** notes that there's reason to be meikil entirely with this din, since even when people need to go to the bathroom on long trips, they go to a gas station or the like and the people in the car are then no longer in Yichud, as gas stations are frequented by others. Even if you're גורס להשתין, although people *will* urinate on the side of the road, people don't generally go too far away, and there's no reason to assume a yichud situation would occur. As such, he says one can be meikil whenever

²¹ Rashba in Teshuva 1178 also seems to think there's no extra person needed בדרך.

there's a שעת צורך when traveling in a car. He quotes such a sevara from the author of the **Pesach Habayis, Tzitz Eliezer 6:40:15:12**, and **Toras HaYichud 4:13**

1. Lema'aseh then, this whole חשש of adding an extra person on the derech will very rarely come up, unless people are actually hiking alone together.

Night Requiring an Extra Person

- I. Based on this halacha, **Ra'avad in Ba'alei Hanefesh (שער הפרישה)** argues that the same should be true at night, that if people are alone at night, we shouldn't rely on 2 men alone, but should need 3 men, as one of the men might fall asleep, and then the remaining man and woman might do an aveirah together. He uses this to explain why (leshitaso) the din by chuppas Niddah is הנשים בין הנשים והיא ישנה בין, i.e. that you need two men as shomrim. **Rema 5** paskins this way.
 - A. **Gan Na'ul 4 fn. 87** notes that the majority of Rishonim actually don't seem to hold this way – **Smag 111, Mordechai Shvuos 2:741, Sefer Haterumah Niddah 109 + Ba'al Hame'or Hassagos** all think that in case of חופת נדה, the chosson and Kallah just need one Shomer at night. You see 2 men and one woman isn't a problem of Yichud even at night. Furthermore, from all the Rishonim (e.g. Rambam, Ramban, etc.) who never mention such a crucial din, it's clear they don't hold this way. There's also the senif lehakel that the whole din of derech isn't paskined by the **Rif**, and certainly they'd be meikil by night as well..
 1. Based on all this, **Gan Na'ul 4:33** paskins that even Ashkenazim can be meikil in a sha'as hadchak, against the Rema. I don't think we'd paskin this way, as none of the acharonim are comfortable with such a kula (and misvara it's a bad idea), but It's a good senif to know about when there are other factors lekula.
 2. I then heard **Rav Wiederblank** say in a shiur that a posek told him something similar, that Ra'avad is really a da'as yachid, and in a sha'as hadchak and with other tzeirufim, we could say we're סומך on the other Rishonim, against the Rema.
- II. **Most poskim** say (or assume) the same is true for yichud with a woman who would only be an Issur דרבנן (such as a Goyah, penuyah tehorah, or ketanna). The Rema never makes any distinction, and **Mahari Vail 55** is befeirush this way. However, **Rav Moshe EH 1:61** says one can be meikil Bish'as hadchak, as the requirement of having an extra shomer at night isn't so פשוט, and misvara it seems like less of a concern than the derech.
 - A. **Shevet Halevi 5:202:1** also raises the possibility that an extra shomer is only necessary when there's a concern for yichud deoraisah, but not for yichud דרבנן, and argues that's what ר"נ הירץ (the sho'el) in **Shu"t Rema 14** thought.
 - B. As such, one can rely on **Rav Moshe** in a sha'as hadchak with such a woman. **Gan Na'ul 4:34** recommends making sure there's light as well based on the **Eizer Mikodesh** below, although he doesn't think that's necessary.
- III. What's considered "night?"
 - A. **Gan Na'ul 4:36** quotes **Dvar Halacha 9:17, Pesach Habayis 5:8:3 + others** who say that the concern is only if people actually intend to go to sleep. If they're up at night and with no intent to go to sleep, 2 men and 1 woman suffices.
 1. In contrast, **Shevet Halevi 5:202:1** is מחמיר about this, since the earlier poskim didn't spell out this difference. Gan Na'ul argues that even the machmirim would agree you can be meikil if you're in a place like an office which has no beds or way to "sleep over."
- IV. Mixes of perutzim and Kesheirim:
 - A. As above by derech, if there's one kasher and 2 perutzim, you should be מחמיר, since if the kasher is asleep, you'll still have a yichud problem. If there's two kesheirim and one parutz, you have room to be meikil.

- V. **Eizer Mikodesh 5** has a huge kula that if you have a נר דולק, you might not need to worry about yichud when people are sleeping because they could see you if they wake up.
- A. **Shevet Halevi 5:202:1** says one should not be meikil based on this, as none of the other poskim agree. **Divrei Sofrim 388 + Gan Na'ul 4:37** say the same.
- VI. **Eizer Mikodesh 5** has a big yesod that although we worry about one person falling asleep, it's clear we're never worried about that happening to two people. If you have 3 men at night, it's automatically מותר for that reason. He suggests this is because even if someone would be comfortable relying on one person staying asleep, no one is comfortable relying on the fact that two people will stay asleep. **Rav Moshe 4:65:20** has the same yesod in his discussion of night time being allowed for 3 women and one man.

Many Men and Women/נשים הרבה עם אנשים הרבה

- I. At least for Sefardim, **Rambam + SA 6** say that נשים הרבה עם אנשים הרבה is מותר. What's the shiur? **CM 7** raises a safek whether the number is 2 and 2, or 3 and 3, and these are the two main shitos in acharonim:
- A. 2 and 2: **Bach, Taz 3 + Radvaz 4:207** think you only need 2 and 2; their main proof for this is that if Rambam thought two men and many women were a problem, he shouldn't have said, "many men and one woman" and "one man and many women" are אסור, but should have given the bigger chiddush that this is true even when it's many of one gender with *two* of the other. Rather, it's פשוט that 2 and 2 is always מותר.
1. It's also clear that **Smag** held this way, as he thinks 1 man and 3 women is already מותר, so the hetter he then says of הרבה עם הרבה must be 2 and 2, or there's no chiddush.
- B. 3 and 3: **BS 8 + Chida (quoted in PT 5)** hold this way. **Maggid Mishnah** says Rambam learned this from the din of הנשים בין הנשים והיא ישנה בין האנשים by a Chuppas Niddah, and understood they're all in the same room together. It sounds like you need a total of 3 and 3. **Rav Moshe 4:65:15** paskins this way. **Gan Na'ul 5:1** says this is how we paskin, although 2 and 2 is a big senif due to how many acharonim think that way (he thinks you can be meikil in a sha'as hadchak for this shitah).
1. The other ra'ayah the poskim bring to this is that Rambam paskins that if you have one woman with many men, it's a problem "עד שתהיה אשתו של אחד מהם שם" – it sounds like he's saying there's many men and 2 women, but it's מותר only if one of those women is the wife of one of the men.²²
2. **Chida** (+ **Gan Na'ul**) also just notes that if Rambam meant 2 and 2, he could have dropped the word "הרבה" and it would automatically mean 2 and 2. By saying הרבה, it sounds like he means 3 of each.
- C. For ashkenazim, two kasher men is always מותר as long as they're kesheirim. What if they're perutzim – does this hetter apply even for Ashkenazim in a case of perutzim mamash?
1. **CM 9** argues that if the men are (all) perutzim, נותנת הסברא that many men and many women would also be אסור. **BS 11** quotes this, and **Chochmas Adam 126:5, Chida** (paskined in **PT 22:5**) + **Shevet Halevi 5:202:2** are מחמיר. Although sefardi poskim are meikil (see **Radvaz 3:481**), **Gan Na'ul 5:2** says it seems Ashkenazim

²² See **Bach** who argues there's some רבנות of this case over a normal case of 2 and 2, since you might have thought we should say the couple is כמאן דליתא. Later acharonim note this is a difficult sevara. **Taz** answers differently that the Rambam means many men and one woman but it's מותר when that *one* woman is a wife of one of the people there.

should be מחמיר about this, although **Rav Elyashiv** is being quoted as being meikil in a מקום צורך.

a) The difficulty with this though is that we're meikil for one man and 3 women even when the man is a parutz (as he still can't be bo'el 3 women), so how does this make any sense? See **Gan Na'ul fn. 10** who raises the possibility that here all the women *could* be נבעלות, but this doesn't suffice since then permutations where that's not the case, like 3 men and 10 women, should still be מותר. He leaves it as a צ"ע.

b) R' W. Similarly said the consensus of poskim is that we should be מחמיר about this and not rely on 3 and 3. He quoted that **Rav Willig** has his own shiur of 5 and 5 since we have to draw the line somewhere.

II. When you have 3 and 3, see **Gan Na'ul** (end of perek 5) who argues this is matir both on the derech and at night, and we don't require another Shomer. [Note that for Ashkenazim, you'll have a hetter already with 3 men and 1 woman, so you don't need this kula.]

A. Ra'ayos to this by derech:

1. **Rambam + SA** never mention that the hetter of הרבה עם הרבה requires an extra person when it's on the derech.
2. **BY** is only bothered why Rif leaves out the din of derech requiring an extra man, but not Rambam. Why not? **Beis Meir + Tzitz Eliezer 6:40:15:4** both say that it's because there's no נפקא מינה for the Rambam, as he thinks multiple men will always be אסור even בעיר. However, **Gan Na'ul** notes that if you needed an extra person for the case of הרבה עם הרבה, you should still need Rambam to say it! From the fact that this isn't an issue, you see דרך doesn't require another person when it's already 3 and 3.

a) Gan Na'ul argues the reason for this is that the requirement to have another person by the derech is only when it could lead to yichud deoraisah (if one of two men leave, you have one man and one woman together). But when the entire חשש אטו yichud דרבנן, there's no gezeirah by derech.

- (1) The issue with this is that we still should need this din in the case of חמש נשים ששונאות זו"ז, where if one were to leave you could have yichud deoraisah, and Rambam + SA still don't quote it there! Perhaps it's because there's less of a חשש by the שונאות, since they're always worried the other one will wake up / fake going to sleep / come back quickly from the derech in order to catch the other woman they hate. See there that he also deals with why it's not relevant to a case with a tinokes as a shomer, as the tinok won't ever go to the bathroom alone, and so won't lead to יחוד דאורי'.
 - (2) Gan Na'ul thinks we can certainly be meikil though based on some sort of sfeik sfeika – maybe the חשש of derech is only in cases that could lead to yichud deoraisah, and even if that's not the case, maybe 2 and 2 is already rabim, so you don't have a חשש even if one person leaves when you started with 3 and 3. **Dvar Halacha 9:16 + Nit'ei Gavriel 23:1** paskin this way as well.

(3) [In contrast, **Divrei Sofrim Os 70** thinks you might need an extra male and female on the derech, but even he isn't sure about this.]

B. In terms of the din at night, all the above tzedadim lekula apply, but it's even more פשוט to be meikil here. The whole source for 3 and 3 according to the **Maggid Mishnah** to be the din of האנשים ישן בין. There, we're literally dealing with nighttime and sleeping and yet you see a total of 3 and 3 is the shiur to make it מותר! Further, you can always throw in the fact that the whole din of requiring an extra shomer is a chiddush of the

Ra'avad and – although we *do* paskin like the Ra'avad – a handful of Rishonim (including **Mordechai**, **Smag** + **Ba'al Hame'or**) disagreed.

Adjacent Rooms (חדר לפני מחדר)

- I. **Rav Kahana** says that if you have two rooms: one within the other, then if you have women on the inside and men on the outside, אין חוששים משום יחוד. However, if the men are on the inside, then there's a problem since a man wanting to leave will have to pass through the women's section. A **braisah** (במתניתא תנא) teaches the exact opposite way of Rav Kahana - that the problem is only when the women are on the inside since we are worried that a man on the outside will slip inside, and no others would follow. In the reverse, there's no yichud since one of the other men on the inside might leave to the outside at any point.
 - A. If multiple men are on the inside, why is there a worry if one walks out into the women's room? There's still another guy in the inner room, and he's going to have to come out at some point. Why doesn't that make a hetter like פ"פ לרה"ר to prevent yichud, since you know someone is going to walk into the outer room?
 1. **Beis Meir** (quoted in **Shu"t RAE 100**) proves from here that even if people could come in, the hetter of פ"פ לרה"ר is only if the door is literally open. Here that the doors between rooms are closed, there's no hetter.
 - a) We don't paskin this way though (see separate section on פ"פ לרה"ר), and so we'll need one of the other answers.²³
 2. **Binyan Tzion 138** rejects the above Beis Meir and argues that closed doors are considered פתוח לרה"ר so long as it's possible that someone might come in. However, in this case, there's an understanding that the men and women are supposed to stay in different rooms, and the man who sneaks into the women's room is therefore confident that no one else will follow.
 3. **Chazon Ish** (quoted in **Dvar halacha 3:fn. 6**): Argues that any time someone might walk in, that's just not a מקום סתר, and has nothing to do with פ"פ לרה"ר. The hetter of פ"פ לרה"ר is even when you *know* no one will actually come in, but despite that, there's a psychological block from being מזנה since the door is unlocked to the Rabim and thus they theoretically "could" walk in. As such, he says our case must be that you know no one is coming in, and he explains the case is איירי באופן שאין חשש שיכנסו, שחבריו חולים או אסורים
 - a) **Divrei Sofrim 2:20** asks how he could make such an enormous *ukimta* in our gemara. Rather the case is where you happen to know they're busy and won't leave (business meeting, etc.)
 - b) **Rav Greineman in Zecher Shmuel Kiddushin 81a** argues that's exactly what the Chazon Ish meant. Not that they're *actually* sick, but just as a mashal – you know with certainty that they're unable to come.
 - c) What comes out is that the answer to the above question according to all the Acharonim (**Binyan Tzion**, **Chazon Ish**, + **Divrei Sofrim**) is just that you happen to be confident no one else will come in. If you didn't have that conviction, it would indeed be מותר.
 - B. The gemara says that since Rav Kahana says one way and the Braisah the other way, we go lechumra for both cases such that all permutations are אסור.
 1. The answer is very surprising. Yichud with 3+ people is דרבנן, so why not apply safek דרבנן lekula?

²³ See **Chida** (in **Sha'ar Yosef 4**) for two other answers from his Rebbe, the **נחפה בכסף**, that we don't paskin like.

- a) The **Divrei Malkiel 4:102** points out that this is very similar to the **Ran by Pesachim 108** by the safek if leaning is required for the first or last two cups that we lean for all four: If being meikil would necessarily mean you uproot the din entirely, we say instead to go lechumrah in both places.
- II. At what point is there a problem?
- A. **Rashi + others** learns the situation itself is אסור as a preventative measure, as that's the Pashtus in the gemara's lashon. However, **Rambam 22:8** says it's only אסור when "פירשה אשה לבין האנשים, או איש לבין הנשים"
1. The **Tur + SA 22:6** paskin like the Rambam and **Rema** doesn't comment. However, the nos'ei keilim (**CM + BS**) quote shitas Rashi as if to say that we should be מחמיר like him.
- a) Although the **Dvar Halacha 11:2** quotes that the **Chazon Ish** thought we should be מחמיר about this, **IM EH 4:65:17** says we can be meikil like the Tur/Rambam, and we're not worried about one being Poreish. [He says one should be מחמיר like Rashi in a case of עסקו עם הנשים, but see **Gan Na'ul 6:6** who is meikil on this, as is the **Dvar Halacha 11:1**]
- III. Does the same discussion apply with one man and one or two women – i.e., if you have a locked house, one person is in an outer room and another in an inner room, is it yichud?
- A. Lichorah the answer is פשוט that this is assur, and that's also the Pashtus in the gemara with Rav Bibi, that he and her being in different rooms (attic and area below) would be an Issur yichud if they had access to each other.²⁴
1. Another ra'ayah to this approach is that the **Chida (Sha'ar Yosef 2) + Nachalas Tzvi 22:9** both explain אנשים מבחוץ + נשים בפנים is mutar until someone is poreish (leshitas HaRambam) specifically because it's like יחוד of הרבה נשים עם הרבה אנשים until then. According to this, it's פשוט it's assur with one and one, since it's as if they're already in yichud.²⁵
2. A long list of poskim argue or assume this way, including **Chelkas Ya'akov 2:17:1 + Rav Moshe 4:65:19**. This is also משמע in **MB 239:Sha'ar Hatziyun 17** who is meikil only when the door is locked. **Rav Elyashiv** also (quoted in Gan Na'ul 6 fn. 30) paskined lechumrah. **Shevet Halevi** (quoted below) thinks we should be מחמיר as well, although not because he thinks this is shitas HaRambam, but because we should be מחמיר for Rashi in a case of 1 and 1.
- B. However, this actually isn't so פשוט.
1. The simple reading of **Chochmas Adam 126:7** is that he thinks Rambam would be meikil on this shailah, as he learns **Rambam + SA** think there's no yichud prior someone being poreish because it's simply not a matzav of Yichud until all parties are in the same room.²⁶ However, he himself thinks that one should be מחמיר for

²⁴ This is likely תלוי on machlokes Rashi + Tosfos whether it was already considered Yichud when the ladder was there, or was just a concern it would lead to Yichud (as Rashi says); but we paskin like Tosfos that בעלה בעיר is always a matir, which implies it was already Yichud in that gemara

²⁵ Accordingly, you can have an Issur Yichud due to being in a house together – cut off from the רבים outside – and an *additional* Yichud if someone goes into a room within that house where they're confident the others in the house won't follow.

Other acharonim in the list of ossrim (like **Binas Adam** and **Shevet Halevi**) think that although it's not *currently* Yichud, we should be מחמיר for shitas Rashi that we're osser when one step away in cases of חדר לפנים מחדר.

²⁶ Some acharonim are madchik in his Lashon to say he was only meikil in a case of two separate houses, but **Gan Na'ul fn. 31** shows this is a big dochak.

shitas Rashi on a deoraisah shailah (**Binas Adam 18**). Similarly, **Chazon Ish Ishus 34:4** has a safek about this very question. Gan Na'ul notes support to this from the simple reading of the **Rema 192:4** by Chuppas Niddah who says just to keep the Chosson and Kallah in separate "חדרים;" although the contemporary acharonim reject that one could rely on this (and argue Rema really means separate houses), the **Levush + a few others** seem to have taken Rema literally.

- a) What about Rav Bibi? **Chazon Ish** argues the story with Rav Bibi may have just been him being machmir on himself, but there wasn't really a yichud concern yet since they were in different rooms. Alternatively, **Rav Elyashiv 1:82** argues that Rav Yosef was speaking and saying to get rid of the ladder so no one would unintentionally go to the other's room, but there was no Issur Yichud being violated yet. The gemara then asks why he was trying to prevent an Issur Yichud if it would anyways be מותר due to בעלה בעיר, etc.
 - b) **Dvar Halacha 11:1** paskins lekula that this is מותר (!). Some later Acharonim also think Rambam would be meikil (such as **Shevet Halevi 5:202:2 + Rav Elyashiv ibid.**), although they think we should still be מחמיר for shitas Rashi in this specific case.
2. In sum, the **Chochmas Adam, Chida, Nachalas Tzvi, Chelkas Ya'akov, Mishnah Berurah, Rav Moshe, Rav Elyashiv, + Shevet Halevi** are all מחמיר in a case of 1 and 1. The **Chazon Ish** was מסופק and **Dvar Halacha** is the only meikil. I think the accepted psak is that we're מחמיר on this per the vast majority of acharonim above, and it also seems inadvisable to be meikil about this. (**R' W.** In shiur said you can use this as a senif with other kullas, like an unlocked door to the רה"ר, when dealing with Yichud (דרבנן). This is in contrast to **Gan Na'ul 6:9** who thinks me'ikar hadin one can always be meikil even by cases of 1 and 1, since he thinks all we care about is what the shitas HaRambam is, and is meikil לכתחילה (in **6:10**) in cases that would only be yichud דרבנן at worst.
- a) In cases of one man and two women, **Gan Na'ul fn. 10-11** has what I think is a very bad diyuk (which he invokes multiple times): **Chazon Ish** and **Chelkas Yaakov 2:17** say that Rambam is meikil only when there's הרבה people, but he'd be osser if it were 1 and 1. Gan Na'ul argues you see they think it's פשוט it's מותר when it's more than 1 and 1, e.g., 1 man and 2 women. However, this seems unlikely, and they were really just saying, "it's אסור when the number of people in the house would be an Issur Yichud," and not just that 1 and 1 is a problem. The Gan Na'ul's argument only makes sense within the Chochmas Adam who is mechalek between יחוד דרבנן + דאור.
- IV. However, if the man and woman are in different rooms, and the woman locks the door between them, this suffices to matir the Issur Yichud (**Kovetz Teshuvos 5:194, Divrei Malkiel 4:102, Shevet Halevi 5:202:2 + Chazon Ish 34:2**). Even when the man locks the door, there's room to be meikil at least on Yichud דרבנן or with other tzeirufim, per **Salmas Chaim 717** and **MB in Sha'ar Hatziyun 239:17**.
- A. See separate section on this topic in the "heterim" section to lock the door, based on the sugya of שקולו דרגא מתותי ביבי.
- V. Different arrangements of מחדר לפנים מחדר:
- A. If two rooms don't directly connect, and each one has its own exit, it's not an Issur Yichud, even if they connect through a middle room, e.g. two hotel rooms next to each other which connect to a hallway, or two apartments which have a joint, locked hallway to the outside. This is מותר even if there's no one else who uses the hallway but those two rooms, as lema'aseh it's not a פנימי וחיצון (**Chazon Ish 34:1** [beda'as

haRambam²⁷], **Tzitz Eliezer 6:40:8 + Divrei Sofrim 75**). Despite this, **Shevet Halevi 3:180:3 + others** note that even if it's technically מותר, one should try not to rely on it since it's not a good idea.

1. However, two rooms are only considered separate so long as there's a door between them and it's closed. If it's open, or there's no door, it's considered one big room (**Dvar Halacha 11:3, Divrei Sofrim 78 + Pesach Habayis 8:6**).
 2. Furthermore, although there's no Issur while they're in their own separate rooms, they still aren't allowed to be alone in the joint hallway (locked to the outside) as then there's certainly an Issur yichud.
- B. **Chazon Ish 34:1** has an even bigger chiddush, that even if two rooms *connect to each other*, so long as both of those rooms have their own exit (like in connected hotel rooms), אין בנו כח לאסור, since it's not a פנימי וחיצון. This would be true even to sleep in such a house, and even if both doors to the outside are locked! **Dvar Halacha 11:5, Pesach Habayis 4:6 + others** all paskin this way.
1. Once again, even if technically מותר, this doesn't seem like a good idea, and another solution should be sought if there's a chance it could lead to a מכשול.
 2. **Gan Na'ul fn. 48** quotes **Dvar Halacha pg. 215 in the Hosafos**, who quotes a letter from the **Chazon Ish**, where he was meikil in the above case even if the two rooms also connected to a joint hallway on one end. Despite that there's a פנימי וחיצון there, since they can each take the other exit, it doesn't have a din of פנימי וחיצון.

Hetterim in Hilchos Yichud

Ba'alah Ba'ir (81a)

- I. **Kiddushin 81a: רב ביבי איקלע לבי רב יוסף** ייחוד משום חוששין בעיר אין חוששין משום ייחוד? שאני רב ביבי דשושבינתיא הואי וגייסא ביה
- A. **Rashi there** says Ba'alah Be'ir isn't a היתר, but rather just a פטור from Malkus if you did it. (There's an issue that we don't give malkus to an eishes ish. See **Hagahos HaBach** that he's explaining according to Mar Zutra, who we don't paskin like, and **Taz on 22:8** for another answer.)
 1. Where'd Rashi get this from?
 - a) The **Radal** says he probably thinks this way based on the לשון of חוששין אין חוששין rather than מותרין. The issue with this is that the next gemara with לפנים חדר has one case which is אסור and the other that's מותר, and uses the same Lashon of "אין חוששין משום ייחוד" to describe this.
 - b) **Chida (Sha'ar Yosef 3)** argues this understanding is an outgrowth of **Sukkah 25b**, which says there's a yichud concern if a chosson were to go relieve himself

²⁷ He himself appears to have been מחמיר about this in a letter printed by the **Dvar Halacha pg. 215**. The **Gan Na'ul 6:fn. 58** suggests that this is because Chazon Ish leshitaso thought one should be מחמיר for shitas Rashi, and even though there's no current Issur for the Rambam, Rashi would still say we're concerned the man is going to try and enter the woman's room, וצ"ע.

and his שושביניו would be left with his kallah in the sukkah, despite that there's obviously בעל בעיר.²⁸

2. See **Avi Ezri Issurei Biah 22:12** who argues beda'as Rashi that it's still an Issur deoraisah, while **Chochmas Adam** (Binas Adam 17) says it's only an issur דרבנן.
- B. **Tosfos + almost all rishonim** disagree based on the gemara's ensuing story where Rav Bibi (or Rav Yosef) said to remove the ladder connecting Rav Bibi to Rav Yosef's wife. The Gemara then asks: "But wasn't there בעל בעיר?" If there was still an איסור, then of course we still want to avoid that איסור! As such, Tosfos argues it's hetter gamur.
 1. The defense for Rashi, as explained by **Pnei Yehoshua**, is that he's leshitaso: he says that the point of removing the ladder is: "שקולו דרגא מתותב ביבי שלא ירד." Thus, Rashi thinks there isn't an איסור of Yichud yet while Rav Bibi is still in a different room/floor, but Rav Bibi thought being one step away from Yichud was also problematic (like Rashi interprets by מחדר לפנים מחדר), and therefore said to remove the ladder. Then, the gemara's question is "but isn't Ba'alah Be'ir enough of a היתר to negate the issue of being one step away?"
 - a) Thus, **Rashi** thinks actual Yichud is פטור אבל אסור with בעל בעיר, but that when in a different floor/room, there's no formal yichud, although it's still אסור due to being so close to Yichud. בעל בעיר is enough to end a חשש of being one step away from Yichud.
 - (1) For other answers, see **Radal** who says if the husband mamash there with her, Rashi agrees there's no Issur, but if he's just in the city, there's an Issur דרבנן. **Taz 7** gives a different פשט that Rashi really agrees it's totally מותר, but used the Lashon of אין לוקין to dispel a different ה"א – see there.
 - b) The **Rambam 22:3** thinks there's no malkus by Yichud with an Eshes Ish, so he can't learn like Rashi that Ba'alah Be'ir would prevent Malkus, but must think it's היתר gamur with ba'alah Ba'ir. This is how we paskin in **SA 8** (although **Bach** thinks we should paskin like Rashi, and the machlokes is mentioned by **CM 11 + BS 12**). The vast majority of poskim (including **IM 4:65:7 + Shevet Halevi 5:203:1**) say we accept the psak of the SA.
 - (1) Interestingly, **Yad Rama Kiddushin 81a** says אדם כשר וצנוע should avoid relying on בעל בעיר.

II. Why is בעל בעיר a hetter?

 - A. **Rashi** writes השתא אתי דמסתפי מבעל השתא אתי; i.e. you're worried that the husband is actually about to come.²⁹ It would seem this would only be a hetter if this is a reasonable possibility then.
 - B. However, **Rambam** explains מפני שאימת בעלה עליה. Is this disagreeing with Rashi?
 1. **Binas Adam 126:27** thinks Rambam holds like Rashi that the אימת בעל עליה means she's worried he'll come in.

²⁸ The **Acharonim** answer for the other rishonim that a) this is because שושביניו are often גס לבה בהם, b) that one should be more מחמיר in a makom of שכרות, c) that the בית הכסא in their times was outside the city or d) that we paskin like Rava in that gemara, who rejects Abaye's Yichud concern, potentially because בעל בעיר is indeed a bona fide hetter.

²⁹ For Rashi, you have to explain what the chiluk is between pesach pasu'ach and בעל בעיר, since lichorah ba'alah ba'ir is just the same as פתח פתוח. It could be that בעל בעיר requires a lower threshold of expectation that he might come in than you have by פ"פ. Alternatively, פתח פתוח is only when there's a certain number of people who might come in (see below for more on this) while בעל בעיר is a chiddush because it's a fear of just a single person.

2. However, **Yad Eliyahu** (quoted by Chida in Yosef Ometz 97) thinks this is subject to the machlokes Rashi + Rambam. According to Rambam, even if she knows he can't come any time soon, there's a psychological umdena that whenever the husband is in town, a woman won't come to sin.³⁰
3. On the opposite side of the Chochmas Adam, **Chida** (ibid. + Shiurei Bracha 22:1) thinks *all* Rishonim would be matir this, and even Rashi agrees to the Rambam about this.

III. Details of the hetter:

A. Does the husband need to know where his wife is?

1. **PT 7** from **Chochmas Adam** says Ba'alah Be'ir only works if she's in her home (i.e. that there's a possibility her husband would come), but not if she's in a place her husband would never walk into. This seems to take Rashi's perspective on the Issur.
2. In contrast, **Chida Yosef Ometz 97 + Yad Eliyahu** thinks there's a hetter any time the husband is in town automatically, even if he doesn't know where she is, in line with the Rambam.
3. Lema'aseh, this is still a machlokes:
 - a) **Shevet Halevi 5:203:1 + Chofetz Chayim in Nidchei Yisrael 24:6** paskin lechumra. **Rav Moshe EH 4:65:7** seems to take Chochmas Adam's position as well, as he thinks there's no hetter of בעיר בעלה when the husband is locked in jail, and quotes Chochmas Adam as support. [Although see **Gan Na'ul 9:12** that some poskim think a jail is worse since he's forcibly restrained and the couple isn't even living in the same home on a daily basis.]
 - (1) **Rav Moshe 4:65:21** notes that even the Chochmas Adam would be meikil if she's in a place where the husband knows to check if she's not at home (e.g. she always goes to a neighbor's house to hang out when she's not home).
 - b) However, **many others**, including **Chazon Ish** (quoted by Dvar Halacha 7:2), **RSZA** (in יבול לא יבול ב:קפד), + **Pesach Habayis 2:2** are meikil.
 - c) **Gan Na'ul 9:9** paskins one can be meikil on a דרבנן shailah, as well as on a deoraisah if there's a צורך, as the majority of poskim are meikil. [He doesn't quote Rav Moshe though, so not sure I'm comfortable relying on this for a deoraisah shailah.] The simpler Eitzah is just that a woman should always tell her husband where she is in such a situation to avoid the machlokes.

B. Similar to the last question, what if the husband is in the city, but she knows he's not going to be able to come home right now (e.g., she recently FaceTimed him and saw he was in his office an hour away)?

1. As mentioned, **Binas Adam 126:27** thinks Rambam holds like Rashi that אימת בעל עליה *means* she's worried he'll come in, so this is assur. The **Chida** holds the reverse that everyone holds this will be מותר, and **Yad Eliyahu** (quoted by Chida in Yosef Ometz 97) thinks this is subject to the machlokes Rashi + Rambam.
2. The same list of poskim who are meikil on the last shailah are generally meikil on this one, and the machmirim there are מחמיר here – e.g. **Nishmas Avraham 22** quotes **RSZA** as being meikil, and **Rav Moshe 4:65:7** is מחמיר. **Rav Elyashiv** in **Kovetz Teshuvos 2:75** is also מחמיר. However, **Rav Moshe + others** spell out that this is only when you know he can't come back – if work is a little more flexible or there are times when he could come back quicker than expected, you still have a hetter.

³⁰ See **Gan Na'ul fn. 3** for a discussion about the relevance of this umdena today, and that we don't assume it's impacted by women's improved status in society over the centuries.

3. Some poskim, like **Minchas Yitzchak 9:142:1**, say to be meikil only in conjunction with leaving door unlocked even if not expecting anyone.
 - a) Lema'aseh, it seems one should try and be מחמיר, but has room to be meikil on a דרבנן, as well as in conjunction with unlocked door. [Many poskim, including **Rav Elyashiv 2:75** (+ in **He'aros to Kiddushin**), **Rav Moshe 4:65:7+21**, + **Tzitz Eliezer 6:40:7:6**, are meikil as long as there's still a חשש רחוק that he'll come now, such as if he's in the middle of shacharis, at kollel seder, or could theoretically come home from work early.]
- C. There's a discussion if one is worried that their husband would come at any moment, but he started outside the city (e.g. he comes home at some point from outside the city) if you have a hetter. **Chazon ish** (quoted in **Dvar Halacha 7:3**) is meikil, while **R' Shternbuch** (ההלכה במשפחה חו 15:fn. 51) is osser. **Gan Na'ul** thinks one should be מחמיר, but lichorah it's mistaber like the Chazon Ish.
- D. Whenever you have a hetter, it's clear this is matir what would otherwise be actual Yichud. As such, even if she locks the door and the husband doesn't have a key, it would be matir. The hesber for this (if you think it's a concern of השתא אתי) is that if he comes, he'll knock on the door and become suspicious if she doesn't open it up quickly and there's someone there.
 1. See **Gan Na'ul 9:3** who quotes **Dvar Halacha 7:2**, **Pesach Habayis 7:2** + others who all say this.
- E. Does the hetter exist if the husband gave her permission to be alone/speak with this other man?
 1. The **Chochmas Adam** is quoted by **PT ibid.** as saying that if the husband gave her permission to be alone with this person or to go to that person's house, there's no hetter because there's אימת בעלה no.
 - a) This is a big chiddush, since why wouldn't she be afraid of being caught in the act of Zenus? **Chochmas Adam** in **Binas Adam** argues the hetter is specifically lest you get caught *having yichud* after the zenus, but not a concern lest they catch you having zenus. He argues this because of the din of לבו גס בה – why should that ruin the hetter if obviously the husband would be upset if she's having biah even with someone who is לבו גס בה! It must be that her general concern isn't about being caught in the few minutes it takes to have biah, but in the aftermath, and is generally worried the husband will be חוקר her and figure out what happened if he finds she was isolated with another man.
 - (1) See **RAW 1:86:7** who calls this a dochak, and notes the reason libo gas bah is אסור is just because the אימת בעלה עליה is counteracted by the closeness they already have together, such that they might decide to do the aveirah despite בעיר בעלה. Fundamentally though, the fear is always about being caught in the act of ביאה, not the Yichud afterwards.
 - (a) **Gan Na'ul** comes to the same conclusion, and notes the story with Rav Bibi where the gemara asks "wasn't it בעיר בעלה" seems to be a direct stirah to the Chochmas Adam. The gemara is asking that such a hetter should exist even though Rav Bibi was in Rav Yosef's attic with his permission! See there for possible defenses, none of which are very satisfying. **Rav Moshe 4:65:18** is also meikil if there's a need.
- F. If a woman thinks her husband is in town but he's in fact not – and the man with her knows that to be the case – do they have a hetter to have Yichud?

1. Fundamentally, the hetter of בעיר בעלה is a hetter relating to the woman's state of mind (this is clear from Lashon of **Rambam + SA** that it's אימת בעלה עליה).³¹ As such, **RSZA (91:22 + in his *haskama to Dvar Halacha*)** argues that this should be מותר since lema'aseh she has אימת בעלה עליה. He adds that even if the other man were to tell her that the husband isn't in the city, she wouldn't believe him. He writes this Lashon with hesitation (belashon "מסופקני"), but leans towards the above tzad.
2. In contrast, **Rav Elyashiv** is quoted as being osser, with the hesber being either that it's a lo plug chachamim and only applies when the husband is actually in the city (harder sevara) or that we have to be concerned she'll believe the man in the room with her if/when he tells her.
 - a) **Gan Na'ul 9:21** paskins lechumrah, as what would stop the woman from believing the man if he could convincingly say where the husband is? Lichorah, this is a good sevara.
 - b) However, it seems in a case where *both* the woman and the man there incorrectly think the husband is בעיר, the husband has no אחריות to tell her the truth, as the hetter certainly exists due to their (incorrect) expectations.
- G. Ba'alalah Ba'ir helps even for someone who is עסקו עם הנשים and even if she's a פרוצה; see **Rashash Sotah 7a** by a Sotah that בעיר בעלה still helps. However, **Gan Na'ul 9:42** per **Shevet Halevi 5:203:1** recommends one be מחמיר if the woman knows her husband won't be coming home.
- H. Is there a hetter of ba'alalah ba'ir when with a non-Jewish woman? I.e., does her non-Jewish husband being in town create a hetter to have Yichud with her?
 1. **Eizer Mikodesh 22:3** (end) sounds like this works, and the basic sevara is that non-Jews are equally or more makpid on their wives than Jews are.
 - a) **She'arim Hametzuyanin Behalacha 152:KA:4** says one can be meikil באקראי but not בקביעות.
 2. However, others (see **Tzur Ya'akov 16**) understand him to mean that there's a hetter because the husband is עמה, i.e. right there with her, but there's no hetter just because he's בעיר.
 - a) **Dvar Halacha 7:21, Divrei Sofrim** (Emek Davar 530), **Chayei Halevi 78:31 + others** (mentioned in Gan Na'ul fn. 119) are מחמיר as well.
 - b) **Gan Na'ul 9:44** thinks one can be meikil, but has some strange sevaros that the nochri might kill you if mezaneh with his wife. I think it's more mistaber to be מחמיר about this, especially considering that infidelity carries much less of a stigma in the non-Jewish world currently.
- IV. There's a discussion about what counts as "married" with respect to the hetter of ba'alalah ba'ir. See the end of **Gan Na'ul Perek 9** for details.
 - A. The summary is that people who live together but aren't married don't have such a hetter, while two Jews who are even civilly married *do* have a hetter when she's worried her husband could come any moment, etc.
 - B. If two people are halachically married but plan on getting divorced, there's no hetter. If they're fighting but still holding out they can save the marriage, the hetter still applies. All these require שיקול הדעת and a shailah.
 1. In all these מותר cases, one should only be meikil if there's really a concern that the husband might come, but not if just relying on the אימה טבעית understanding.

³¹ See **Gan Na'ul fn. 57 + 58** for an excellent discussion of the Rishonim on this issue. There are Rishonim (like **Yad Rama**) who sound like the hetter is מצד the man, but they're the mi'ut, and not how we paskin.

What Defines a City?

- I. Size doesn't matter:
 - A. Assuming she doesn't know exactly where her husband is, **Eizer Mikodesh on 22:5** says even a huge city (גדולה כאנטוכיה) has this heter. **Chazon ish** (quoted in Dvar Halacha 7:21), **Rav Ovadya + others** all say that Tel Aviv is one city. This is also משמע from **IM 4:65:7** who says New York City counts as one city. Cf. **Shevet Halevi 3:180** who says one should be מחמיר if he's known to work somewhere far away בקביעות.
 - B. **Rav Shternbuch in Teshuvos Vehanhagos 5:331:3** has a surprising shita that the shiur is 20 minutes, but he's a da'as yachid.
- II. What differentiates one city from another?
 - A. **Toras Hayichud 7:9** from **Rav Elyashiv** says it follows Lashon Bnei Adam, which is mistaber since it's about some inherent feeling the woman has when her husband is in (what she considers) the same city.
 - B. **R' Moshe Shternbuch in ההלכה במשפחה 15:23** argues it's based on the boundaries the local government is assigned to govern, and once the authority changes, that's no longer considered באותו עיר (lichorah this is less mistaber).
 - C. **The Steipler in Kraina De'igressa 2:122** thought Bnei Brak and Tel Aviv were like one city because there's no break between the two of them. That's also mistaber as you can argue there's אימת בעלה עליה there too. **Nishmas Avraham 22:8** quotes the same from **RSZA**.
 1. **Gan Na'ul** thinks we should follow Rav Elyashiv's shita, and can be meikil for The **Steipler + RSZA** in a sha'as hadchak.

Libo Gas Bah / לבו גס בה

- I. The gemara's conclusion is that when you have לבו גס בה/an extra level of closeness between them, there's no heter of ba'alah ba'ir.
 - A. This is paskined by most Rishonim and **SA 22:8**.
 1. Surprisingly, the **Rif** and the **Rosh** leave this out.
 - a) **Some (Kissei Eiliyahu 22:2)** have argued that this is because they think בעלה בעיר is still אסור but just not lokeh (like Rashi), but this is hard to say, since Tosfos haRosh explicitly rejects that פשט, and **Tur** understood (in Kitzur Piskei HaRosh) that the Rosh thought ba'alah ba'ir was a heter from Yichud as well.
 - b) **Others (Pnei Moshe Mareh Hapanim 22:10)** think they understood that לבו גס בה was Rav Bibi's personal chumrah, and we don't accept that it makes a difference. However, this is still a da'as yachid, and we'll follow the psak in SA against whatever פשט we give in the Rif + Rosh.
 - B. Why does לבו גס בה ruin the heter?
 1. Presumably, the fact they're so close just ruins the protection offered by the regular fear-factor that's added. For **Rashi** that she's afraid he'll walk in, this is a little harder to understand, but could still be the same general idea, that she'll do something against her better judgement.
 2. [Cf. **Binas Adam** who understands this completely differently, that the concern of ba'alah ba'ir is that the husband will see them *having yichud*, and לבו גס בה ruins the heter because the husband wouldn't mind if they were ביחד.]
- II. What's the definition of לבו גס בה?
 - A. **Rashi** says Rav Bibi and Rav Yosef/his wife were בעלי ברית; unclear exactly what this means.
 - B. **Rambam** defines it as they grew up together or are related. The basic idea is the same that they have a closer relationship than two stam men and women.

1. The geder for all this is very unclear though – when do two men and women who have some level of relationship become גס בה? Many poskim mention this lack of clarity, and note that it's תלוי in metzius of how close the two are, and often requires a שאילת חכם – see **Chayei Halevi 78:27**.
- C. The **Aruch Hashulchan 6** says if the two do business (or work) together³², it's also לבו גס בה
 1. The **Tzitz Eliezer 6:40:12 + Dvar Halacha 7:17** wonder where the ARUH got this from and disagree. They think that if it's not an affectionate relationship, then it's not considered לבו גס בה
 2. **Shevet Halevi 5:203:3** says that although in sevara there should be a chiluk, we see nowadays that men and women in the workplace can have a close relationship and that one should therefore be machmir about this.
- D. **Rav Shlomo Zalman (Nishmas Adam 22:1)** says a family doctor is לבו גס בה.
 1. He was talking about a רופא בית (house call doctor) though, and others have argued (like **R' Greineman** is Zecher Shmuel) that a doctor at a hospital you visit wouldn't be considered גס בה.
- E. **Gan Na'ul** gives examples of close neighbors, and ba'alei teshuva with women they were previously close with. **Dvar Halacha 7:15** defines it as people who help and do favors for each other when they need it because of their closer relationship.

Wife Nearby (אשתו משמרתו) + is There a Hetter of Ishto Ba'ir?

- I. **SA 3** from **Kiddushin 80b** spells out that so long as a man has אשתו עמו, there's never an Issur Yichud for him to be with another woman, since אשתו משמרתו. However, this hetter is true only for married Jews, not non-Jews.
- II. What's the hagdara of "עמו"?
 - A. **Tzitz Eliezer 6:40:12:12 + others** say as long as she's in the same home, that suffices. She doesn't need to be literally right next to you.
 - B. **Tzitz Eliezer ibid., + Dvar Halacha 6:4** say this is מותר even for the man to lock the door with this other woman (e.g. if he's a doctor), since his wife might still try and figure out what's going on. **Gan Na'ul 10:3** also notes **Rav Moshe 4:65:4** would certainly be meikil as he considers locked doors which one would have to open if another knocked as פתח פתוח לרה"ר. Although regularly that sevara is hard to understand, in this case, it makes a lot of sense.
- III. **Beis Shmuel 22:22** writes that אשתו בעיר is a hetter as well. **Prisha YD 245:20**³³ sounds this way too. **ARUH 22:15** paskins this way (even if you're teaching in a different house) and explains this is true so long as the concern of עת בכל אליו applies. [משמע that if she wouldn't come, there's no hetter, unlike by ba'alah ba'ir according to some.]
 - A. **Maharasham 4:148** is unsure about this and argues we shouldn't be meikil misvarah, since there's more of a fear of the husband than the reverse.

³² 'שיש להם איזה הכרה ע"י ענייני מסחר וכיוצא'

³³ פרישה יורה דעה סימן רמה

(כ) מי שאין לו אשה לא ילמד תינוקות וכו'. וכתב הרמב"ם פרק כ"ב מהלכות איסורי ביאה דאין צריך שתהיה אשתו שרויה עמו בבית הספר אלא היא בביתה והוא מלמד במקומו עכ"ל וכ"כ רבינו באבן העזר בסוף סימן כ"ב. והטעם כיון דאשתו עמו בעיר מירתת תמיד דשמא פתאום תבא אצלו דדרך האשה לבוא תדיר אצל הבעל:

1. **Dovev Meisharim 1:5³⁴** is surprised Maharsham doesn't quote Beis Shmuel and concludes that if it's yichud with two women, since yichud is דרבנן, one can be meikil like the beis Shmuel due to בעיר אשתו.
2. **Rav Moshe 4:65:6** rejects the hetter of the **Beis Shmuel**, and says it's only a hetter when the wife actually there in the house (אשתו עמו). **Meiri 80b + Eizer Mikodesh 22:5** sound the same.
3. Note that the poskim who are meikil here (even if one were to rely on this as a senif) are only meikil if it's actually שייך the wife might come home at any point, but not to the extent that we're meikil by בעיר due to an אימה טבעי.

Pesach Pasu'ach Lirshus HaRabbim

- I. **Kiddushin 81a + SA 9** say no yichud problem when Pesach Pasuach Lirshus Harabbim. However, there's a fundamental machlokes what the definition of פתח פתוח is – does this mean it needs to be just unlocked or literally open?
 - A. **Pischei Teshuva 22:8** quotes **Beis Meir + RAE (in Shu"t RAE 100+101)** who both say the door has to be *open*, not just unlocked, and **Gan Na'ul fn. 5** notes the **Yad Ramah on Kiddushin 81a + Ri Milonil** there say the same.³⁵ This is the psak of **Shevet Halevi 5:203:4**.
 1. One of the biggest supports to this shitah is that the din of מחדר לפנים מחדר, where you can have Yichud if a man goes into an inner room with women, implies that there isn't a din of פ"פ לרה"ר despite the fact that the outer people are certainly able to walk into the inner room. The same is true about the reverse case. The **Beis Meir** argues that this clearly implies that a closed but unlocked door is still an Issur Yichud.
 - a) The dechiyah must be that for whatever reason, the מתייחדים *know* that those people on the outside won't be entering (as mentioned in the notes there). See below for more on this as it relates to פ"פ לרה"ר.
 2. Within this shitah, **Gan Na'ul fn. 5** notes there's two sevaros given for why it's matir. **Ri Milonil, Chida, Beis Shlomo + others** sound like the hetter is specifically because someone could look in and see you without entering. However, **Ramah + Rav Moshe** (quoted in Mesores Moshe 3:33) say the hetter is because it's so easy and likely someone would enter once the hetter is ajar. The נפקא מינה is how open you need the door to be.

³⁴ דובב מישרים חלק א סימן ה

ועפ"ז י"ל דגם היכי שאין הבעל של הנשים בעיר רק שאשתו של האיש המתייחד היא בעיר, יש להתיר ביחוד ב' נשים כהיתר של הבינת אדם הנ"ל, דהא כפי מה שהביא הבית שמואל בסי' כ"ב ס"ק כ"ב בשם הכסף משנה [פ"ב מהל' ת"ת ה"ד] מבואר דאשתו בעיר מהני כמו בעלה בעיר עי"ש. [ויש לדקדק מדברי הרע"ב בפ"א דשבת מ"ג ד"ה אבל] שכתב וז"ל, ומהאי טעמא נמי איכא למ"ד דאשה שומרת לבעלה אין שמירתה שמירה שאין אימתה עליו, ועי' בב"י או"ח סי' ער"ה [ד"ה כתב בעה"ת] שהביא דעה זו דאסור לקרות אם אשתו משמרתו דדעתה קרובה אצלו, ועי' בשו"ת אמרי יושר ח"ב סי' ט' אות ח', וצ"ע דבשו"ת מהרש"ם ח"ד סי' קמ"ח נשאל בזה, וכתב בקיצור שאין להקל באשתו בעיר, דלא מצינו בש"ס רק בבעלה בעיר, וצ"ע שלא הביא מדברי הבית שמואל בשם הכסף משנה הנ"ל.

³⁵ The diyuk is from the fact that Yad Ramah explains the din of פ"פ לרה"ר that "והוא דפתוח" **Minchas Asher 1:86:6** quotes rejects the diyuk in Yad Rama since the same word is used in the gemara, and we still have a machlokes. However, he seems to have missed the hechrech – it's not the *translation* of "והוא דפתוח", but from the fact that he had to write that in explanation of פתח פתוח לרה"ר implies he's trying to say it needs to be ממש פתוח, since if that weren't the case, he shouldn't have said anything at all.

- B. However, **Shut Harashba 1:1251**, **Radbaz 1:121**, **Rabbeinu Yonah in Sefer Hayir'ah**, + **Mabit** are meikil, so the **Binyan Tzion** + most **poskim** paskin unlocked door is sufficient. See **Gan Naul 8:2** for a list which includes the **Steipler**, **Chazon Ish**, + **Rav Elyashiv**, and that this is משמע from **Rema 11:1** as well. **Chazon Ish** is meikil so long as there's other senifim lekula as well.
1. Much of the discussion revolves around the **Teshuvos HaRashba** (above) who says "הגפת דלתות שאמרת אין זה יחוד עד שיהא בית נעול." **Beis Meir** argues there's a ta'us Sofer and should say "אין זה יסוד," as the first versions of the BY quote it this way, and **RAE** agrees to this גירסא. The later acharonim are all bothered, since that hagah doesn't read straight in the Rashba at all, and doesn't explain how you could read the Rashba as being on their side. **Gan Na'ul 8 fn. 5** quotes that in the new Shu"t RAE, they bring a picture of the original handwriting of the Rashba who wrote "אין זה יחוד"
- C. Assuming we're meikil for this, **poskim** (**Dvar Halacha 3:3**, **Dovev Meisharim 1:5** + **others**) all say the same is true if the door is locked but there are בני הבית who have a key and could enter anyway, so long as it's possible those people might be around.
- D. **Rav Moshe 4:65:4** is מחדש that you have a היתר of pesach pasuach even when the door is locked since you are socially required to open the door when someone knocks or rings, and the person knocking would notice something is strange if you didn't answer. However, the contemporary acharonim are מתפלג about this, since there's many good reasons someone might not answer the door, and we don't rely on this even as a senif.
- II. Assuming unlocked door suffices me'ikar hadin, is that true only when people have reshus to enter / are known to enter without reshus, or even when no one has reshus to enter and you don't expect anyone to walk right in?
- A. **Rashba's (ibid.)** lashon is that they'll enter without reshus, but it's unclear if this is talking about a metzius where you'd never expect that to happen practically, or if this was somewhat of a norm. **Chazon Ish** is quoted by **Dvar Halacha 3:2:6** as being meikil about this entirely, as there's always an אימת רבים that someone *could* (theoretically) come in, even if it's never happened before.³⁶ Some others, including **Rav Ovadya** (mipi hashmu'ah – see **Gan Na'ul 8:3**), are meikil as well.
 1. **Tosfos Shabbos 13b** implies this as well: They say פלטי בן ליש avoided Yichud with Michal through Pesach Pasu'ach Lirshus HaRabim. It sounds like even at night when no one was awake this worked, which lichorah is a ra'ayah to this shitah.
 - B. However, **Radvaz 1:121** argues there's no hetter if you don't expect anyone to come in, and quotes the Rashba as supporting him; he clearly understood Rashba was dealing with a metzius where people sometimes enter without reshus. **Minchas Yitzchak 7:73** says it's פשוט that if people definitely won't come, it doesn't help, and this is clear from **Rav Moshe 4:65:5** as well. **Dvar Halacha 3:2** paskins this way, and **Halichos Bas Yisrael 8:fn. 16** quotes the same from **Rav Elyashiv** + **R' Scheinberg**.³⁷

³⁶ **Many** note that **Chazon Ish** is leshitaso in his understanding of both ba'alah ba'ir and pesach pasu'ach, that both create a psychological block from doing zenus. This is true even without the practical concern or likelihood that the husband or someone from outside would actually come in. In contrast, **Rav Moshe** is leshitaso that the hetterim are just practical: If the husband might come in or someone might come from outside (see **4:65:5**), only then is there a hetter.

³⁷ See **Shu"t Minchas Asher 1:86:6** who argues against those who say to be more מחמיר nowadays that people rarely enter a home without knocking first. He says there's no reason to think the metzius has changed, and quotes **Gemaras in Pesachim 112a** + **Niddah 16b** that say one is mechuyav to knock on a door even to one's own home before entering! He comes out arguing that one can be meikil as long as it's *possible* someone could come in without reshus, like the **Chazon Ish** argues.

1. To answer the ra'ayah from Tosfos, you'd have to give the (dachuk) פשט that PT quotes from the Chida that Palti lived in a place where there was constant traffic at all hours of the night, and even that there was a chance someone might come in (!). Alternatively, you'd just say we don't paskin like that Tosfos, and follow the Radvaz, although it would be strange to be machri'a like a Radvaz against a Tosfos.
2. **R' Wiederblank** said the minhag is to be מחמיר unless the door is a little open or there's a chance someone might actually walk in (i.e. we don't rely on the Chazon Ish לכתחילה). **Gan Na'ul** similarly says this is the ikar dei'ah.
- C. See **Gan Na'ul 8:9** from **Dvar Halacha** who says that to be מחמיר for the **Radvaz's** shitah that you need to expect people to come in, if you otherwise wouldn't expect it, you can hang a sign on your door which tells people they're welcome to come in without reshush.
- D. Similarly, one can ask a friend to come over at random times and without reshush (**Dvar Halacha Hosafos pg. 188**). Some recommend to do so to two neighbors and not just one (**Teshuvos Vehanhagos 2:657:2**). This works so long as there's a reasonable chance they'll come, even if they don't end up doing so (see **Gan Na'ul 8:11** from **Nit'ei Gavriel + Halichos Bas Yisrael**).
- III. **PT 9** from **Kenesses Hagedolah**, followed by a **long list of acharonim**, argues this hetter is only if people are awake at that time that they might actually come by the door. Different poskim gave different definitions for how late this is based on the metzius in their time + place. Lema'aseh, it's תלוי on locale and what's normal – are people walking through the streets/hallways at that time?
 - A. This is the accepted psak, although it should be noted that **Tosfos Shabbos 13b** above seems to disagree and is matir in all cases.
 - B. A window or door that's mamash open to the reshush harabim is matir at *all* times though, since one always fears that someone might pass by and see. This is true so long as the room one is in is well-lit so people can see inside (**Radvaz 1:121, Dvar Halacha 3:35 + Tzitz Eliezer 6:40:11:2**).
- IV. Even when you have a hetter of פתח פתוח, if you're in a place that even if someone were to come in, they wouldn't find you, or in an area like a חורבה that no one would ever think to enter, there's no hetter (**Radvaz 1:121 + Binyan Tzion 138**).
 - A. Similarly, although poskim are meikil that you don't need to be in the room right by the door (**Dvar Halacha 3:9, Eizer Mikodesh 22:9 + Binyan Tzion 138**), one still has to be in a room that someone might enter into after opening the door. If you're in your private bedroom or upstairs where guests never enter, this would be אסור (**Teshuvos Vehanhagos 2:657, Toras HaYichud 5:10**). If there are other Bnei Bayis you're relying on, and not just guests, this would be mutar, as the people living there would obviously walk around their own home (**Gan Na'ul 8 fn. 39**).
 1. **Shevet Halevi 6:191:3** notes there's no hetter if you have a warning before someone comes in (e.g. a ring doorbell) and you're far enough into the house that you could be מסתיר your actions before the person saw you. All this is basically just sevara peshutah about how people's psychology / fear of being caught works
- V. What's considered a "Reshus HaRabim?" For example, if your door opens to a private enclosure/חצר where only neighbors have access to, how many neighbors must you have who could theoretically walk by your door?
 - A. The shittos abound on this question: **Radvaz 1:121** implies one person is enough, as do the **Binyan Tzion 138 + Yam Shel Shlomo 4:21** by the sugya of מחדר לפנים מחדר. **Ritva** in that sugya might imply the same, or think you need two people, while the **Chida** thought it has to be people who would be matzil from Yichud (e.g. another kasher, a husband and wife, etc.). **Many acharonim** assume you need 3 people (**Chochmas Adam 126:7, Tzitz Eliezer 6:40:11:13**), based on the din of ברה"ר.

1. **Gan Na'ul 8:15** is meikil that me'ikar hadin, you just need one person, and that even lechumra, he thinks one should just be concerned for the shitah of the Chida, but not that you ever need 3 people.
2. **R' Wiederblank** quoted that **Rav Willig** doesn't think you need to be מחמיר for the Chida. Even if it's just one person who isn't matzil, the fact that someone could walk in means people wouldn't do an aveirah together in the first place.³⁸
3. [This is a very relevant psak – even if a security camera recording is sent to a person who isn't matzil from Yichud, that suffices. Similarly, even if you're worried a second woman or a non-Jew(ess) might walk in, that's matzil from Yichud.]

VI. Windows for Pesach Pasu'ach:

- A. **NB Kama EH 71** writes that if there are windows to the reshus harabim, there's no issue of Yichud. In theory, this is true even if the door is locked. **Eizer Mikodesh 9 + Rav Moshe 4:65:2** are both meikil even when you can't be perfectly seen, so long as those on the outside can be "מרגיש" what's going on (unclear if that means the window is a little dirty, that you could see shadows, hear noises, or something else).
 1. Some poskim, like **Rav Moshe + Eizer Mikodesh** above, are מחמיר any time you could walk into an area where you can't be seen by the window, but see separate section on being one step away from Yichud that we're generally meikil about this. **Gan Na'ul 8:16** paskins lekula per the above sevara, as well as the leshonos of the **NB above + Maharsham 2:76**, and because the **Dvar Halacha 3:13** is meikil too.
 2. **Rav Willig** paskins lekula on this, and therefore allows and recommends a Rav (or therapist) have a camera in his office that records the video (not audio) of just where the Rabbi sits (even without the other person who is there). As long as the rav is makpid not to leave his chair when with a female congregant, there's no Issur Yichud.
 3. You see from the above, and this is mevuar in **Gan Na'ul 8:fn. 69** as well, that you just need one person to be visible in the window or camera, and not both.
- B. One can be meikil by a higher-up apartment window so long as there's another building opposite you where someone there could see you – it doesn't davka need to be the whole reshus harabim can see you (**Dvar Halacha 3:12 + Tzitz Eliezer 6:40:11:8**)
- C. For the same reason, **many poskim** (see Gan Na'ul 8:22 for the list) are meikil that there's no Yichud in a car so long as people pass by and could see inside. Heavily tinted windows would be more problematic though.
 1. **Rav Willig + R' W.** quote **Rav Elyashiv** (in **Toras Hayichud 4:fn. 9**) that as long as a car passes by every 10 minutes or so, there's no Yichud problem.³⁹
 2. By a woman getting in a car with a cab or uber driver, there's an added senif lehakel of אומן לא מרע אומנותיה (see **RSZA** in Nishmas Avraham 22:1 + **Rav Moshe 4:65:1**), and a legitimate stand-alone heter if you're being recorded.

VII. Is Pesach Pasu'ach מותר even when it's לבו גס בה? One of the ways to understand this question is whether פ"פ is fundamentally Yichud, but just that you have a heter, like by ba'alah ba'ir, or is it not even considered a matzav of Yichud. If the latter, it would be impossible for it to be אסור under any circumstances; if the former, we could understand why it might be אסור in a case of לבו גס בה.

³⁸ **Rav Schachter** mentioned in the context of cameras that if they're sent to a goy who doesn't care if two people are having biah, then it's not matzil. It seems to be he thinks that פ"פ לרה"ר is only matir if you're concerned that someone who would be matzil Yichud walks in.

³⁹ Although the shiur Yichud is shorter than this, if they come every 10 minutes, you'd be afraid a car would come sooner than that, since the cars don't come in a scheduled manner.

- A. The gemara only ever teaches us the din of לבו גס בה by Ba'alah ba'ir, and never mentions it by פתח פתוח. As such, the starting point would be that it doesn't apply. This seems to be how **Rambam 22:12** understood – he writes an exception by בעלה בעיר, but never quotes this exception by פ"פ. This also seems to be clear from **Tur** and **SA**, who use similar leshonos, as **IM 4:65:9** points out.
1. There's also a ra'ayah to this from **Tosfos Shabbos 13b מטה ד"ה** who say that פ"פ לרה"ר avoided yichud with Michal his whole life through פלטי בן ליש. Presumably, after being roommates for such a long amount of time (they were "married" for somewhere close to 9 years), they'd have a din of לבו גס בה!
 2. **Taz 22:8, Magihah LeTaz, Chida, + Shu"t Or Same'ach 1:4 עתה ד"ה** are all meikil per the above. **Tzitz Eleizer 6:40:12:4** is meikil, as is the **Gan Na'ul 8:25**, based on the above ra'ayos.
- B. However, **Terumas Hadeshen 244⁴⁰** says that if a husband was מקנא his wife, and she had Yichud with him with פתח פתוח, we're 'חוששין לה משום יחוד', and quotes a **Tosfos in Sotah** to this effect. Terumas Hadeshen proves from there that the same is true by בעלה בעיר that it's not matir when he was קינא already. Based on this, the **CM 13** argues that the same way there's no hetter of פ"פ when קינא לה, there's no hetter of פ"פ when לבו גס בה as well. **BS 13** quotes him approvingly, and **NB 2:EH:18 והנה ד"ה** (השני), **ARUH 6 + IM EH 4:60** are all מחמיר based on this.
1. It's noteworthy though that it's not clear the above Havana of the תורה"ד is correct. Although he uses the Lashon of Yichud, the case he brings is specifically about a man and woman who were *already* misyached and the question is presumably whether we should consider her assurah to her husband as a result. It's clear that he meant this because the Tosfos he quotes is found in our **Tosfos Shantz to Sotah 25a** and he's clearly discussing the Issur Leba'al and not an Issur Yichud. **Chasam Sofer EH 2:96** spells out that he was talking *only* about an Issur leba'al and not an Issur Yichud.
 - a) **Chasam Sofer** uses this to explain how Chanah could say in **Brachos 32a** that she'd have stirah in order to have children. How could she violate an issur? The answer is that if she did so with פ"פ, there's no Issur Yichud, but would still create an Issur Leba'al which would require the מי סוטה. This same basic chiluk/yesod is given by **Meromei Sadeh there**.
 - b) Nonetheless, it's clear that **SA 8** understood the Terumas Hadeshen as a din in yichud, as he paskins (in our siman) that one can't rely on the hetter of בעלה בעיר in a case of קינא לה.
- C. Lema'aseh, **Rav Schachter** paskins lechumrah when it's a case of פ"פ of Yichud with a hetter (e.g. unlocked door), but meikil when it's not even Yichud (in his lashon). For example, if by a window, in a car, or with the door wide open, he thinks one can be meikil even by לבו גס בה. **Shevet Halevi 5:23:7** is meikil as well when it's ממש פתוח ממש.
1. **Rav Willig** is מחמיר when very לבו גס בה, like by a couple that's seriously dating or engaged. I assume he'd be meikil in the above instances of "currently visible" though as well.

⁴⁰ תרומת הדשן סימן רמד

שאלה: הא דאמרין בעלה בעיר אין חוששין לה משום יחוד, אם קנא לה כבר מאותו האיש ונתייחדה עמו כשבעלה בעיר מי חוששין ליחוד כה"ג או לא?

תשובה: יראה כיון דקנא לה כבר מאותו האיש חוששין לה משום ייחוד אפי' כשבעלה בעיר, דהואיל וקנא לה ועברה על דעתו חציפותא מיקרי וחוששין לה טפי מבאשה אחרת. וכן מצאתי בתוס' במס' סוטה /פסקי תוס' סוטה כג' לעניין פתח פתוח לרה"ר דקאמר תלמודא דאין חוששין לה משום ייחוד ואי קנא לה כבר חוששין, ונראה דכ"ש לעניין בעלה בעיר, הנראה לע"ד כתבתי.

“שקולי דרגא מתותי ביבי” and Locking the Door

- I. As Chazarah from the בעיר בעלה section, Rav Bibi (or Rav Yosef) said to remove the ladder connecting him in the attic to Rav Yosef's wife below. The Gemara then asks: “But wasn't there בעיר בעלה?” And answers that גס בה ruins the hetter of ba'alay ba'ir.
- II. **Chazon Ish EH 34:2 + Chida** (Shiurei Bracha EH 22:8) ask how this helps – it's true that Rav Bibi won't be able to come down, but isn't the woman still violating yichud since *she* can access *him* by bringing the ladder?
 - A. **Chazon Ish** suggests that the concern of Yichud is that the man will entice the woman, so as long as *he's* “locked out,” it suffices. However, he wouldn't give a hetter in a case where the man is the one locking the door. Although he leaves this hetter as a צ"ע in his sefer, he's quoted as being meikil ba'al peh: As long as the woman locks the door, he was matir, but not if the man locks the door.
 1. The **Tzitz Eliezer 6:40:8:4** doesn't like any of this. He says you can't learn from Rav Bibi – maybe the ladder was moved somewhere where Rav Yosef's wife couldn't get it either. He especially doesn't like the Chazon Ish's chiluk. If it's מותר for a woman, it's מותר for a man. And if it's assur for a man, it's assur for a man. But you can't make such distinctions!
 - B. There are ways of being docheh this ra'ayah:
 1. **Chazon Ish** in the previous Os had suggested that Rav Bibi was just being מחמיר on himself; if so, there's no ra'ayah that locking the door would actually matir Yichud, but was just enough for his personal chumrah. Alternatively, you could say like **Rav Elyashiv 1:82** that Rav Yosef was speaking, and was just saying to remove the ladder as a preventative measure so neither would unintentionally enter a situation of Yichud by going into the other's room. However, this wasn't matzil from a current Yichud prohibition.
 - C. **Salmas Chaim EH 92**⁴¹ (from R' Chaim Sonnenfeld) argues that since they're in different rooms and put a “lock” of sorts on one side, that takes care of the Issur yichud. He argues this from the ma'aseh with Rav Amram and the Shvuyos he had in the attic, but that's not a great ra'ayah since it took 10 people to move that ladder. **Tzitz Eliezer 6:40:8:5** argues it must be a ta'us Sofer, and the ra'ayah is from our gemara with Rav Bibi.
 1. The **fn.s on the Salmas Chaim** quote that someone asked the **Chazon Ish** about this, and he said “ההיתר של רבינו (השלמת חיים) יש לו מקור.” This is also meduyak in **MB Sha'ar Hatziyun 239:17**⁴². See **Gan Na'ul 6:fn. 37** for more sefarim which discuss this hetter.
 2. In contrast, **Rav Moshe 4:65:19** explicitly rejects such a hetter. **Rav Lebowitz** thought one could be meikil. **Rav Willig** also thinks one can be meikil, at least when the woman is the one locking the door. [Unclear if even when the man locks himself in if he'd be meikil; the shailah he was asked was about the woman locking herself

⁴¹ שו"ת שלמת חיים אבן העזר סימן צב

נעילה ודאי מהני כנראה דע"ז לא גזרו. וכן מוכח ממעשה דרב עמרם שם בקידושין (פ"א ע"א) דהרי אפשר ליקח סולם לעלות, וע"כ כל דהיכא דעבד דבר היכר והוא בחדר מיוחד שוב לא שייך ייחוד

⁴² (יז) מגן אברהם בשם מהרי"ל. לפי זה הישן בחדרו יחידי, אף שבבית יש אנשים צריך לזהר שלא יהיה נעול רק פתוח לבית, והעולם נוהגים להקל בזה. ונראה לי אף להמחמירין, אם בבית יש שם אשה לבד, ועל ידי זה שיהיה פתוח יהיה אסור יחוד, לא יפתחנו ולא יגיע לו שום ריעותא, כי שומר מצוה לא ידע דבר רע:

in.] Lichorah, one can be meikil when the man is locking the door on a shailah, in conjunction with the poskim (**Chazon Ish's safek, Dvar Halacha 11:1 + Gan Na'ul**) who think two individuals in separate rooms is already not Yichud.

Cameras, Recordings, and Phone Calls

- I. Does a video recording prevent an Issur Yichud? The mechanism for such a heter would be to say that this is like פ"פ לרה"ר – you don't do anything when you know that you could be caught in the act. So, too, even if in a locked room, the fear of being caught on video should deter two people enough from having biah such that there's no Issur Yichud.
- II. The analysis can be divided into two categories: where someone will certainly see what you're doing and where someone might not. In the former category are constant-surveillance video cameras and recordings which are always watched. In the latter category are video cameras + recordings where someone might not necessarily be watching or look at the recording.
 - A. One might have thought that there's a distinction between someone watching right now (like a surveillance camera) and someone who will watch in the future (as in a recording), that your yetzer Hara is stronger when no one is *currently* watching, but **Gan Na'ul** notes that we see from the din of שמירת תינוקות that this isn't the case: you aren't embarrassed there by the child watching, but your concern is that they will tell in the future, and that's enough to matir Yichud.
- III. In terms of constant-surveillance video recordings:
 - A. **Some** (including **Rav Vosner, Rav Nissim Karelitz, Rav Elyashiv** – all מפי השמועה) are quoted in **Gan Na'ul fn. 102** as being מחמיר even for this, because it's really a matzav of Yichud at the end of the day, and we can't come up with new heterim on our own which Chazal didn't give us. See that fn. for some of the difficult sevaros given, such as that you have a pachad only when you see an actual person (which is lichorah נסתר from the din of פ"פ), that one could cut the wire (although we generally are meikil on being one step away from Yichud), etc.
 - B. However, **Nitei Gavriel 49:14, Rav Ovadya** (quoted in מעין אומר 13:EH:1), **Rav Belsky** (quoted in Ohel Yaakov Teshuvos 12), **Rav Harfenes** (#21 there) + **R' Zalman Nechemiah** (quoted in קובץ עז עמ' קנה) are all meikil.
 1. The **OU website** (presumably based on Rav Belsky's psak) is meikil too.
 2. The פשוט פשוט is that this matirs even if there are places you could escape to which don't have a camera seeing them, just like we generally matir one to be one step away from Yichud, and **Rav Willig** paskins this way. Cf. **Gan Na'ul fn. 97** for a chumra from **R' Nissim Karelitz**.
 3. Presumably, a recording which you know will be watched has all the same dinim. However, this only works if you don't have access or a way of deleting the recording before it's seen.
 4. When I spoke with **Rav Schachter**, he said for all the above cases, he didn't think it was matir if the person watching was a goy or parutz who wouldn't care if two people were having biah. It seems he thinks that פ"פ לרה"ר is matir only when the Rabim include people who would be matzil from Yichud, but I have to verify this. As noted there, **Rav Willig + R' W.** are meikil on that shailah.
 - C. In terms of recordings or non-constant surveillance, it's not so פשוט one can be meikil.
 1. **Many poskim** (including **Rav Belsky ibid.**) are מחמיר, and warn against relying on this, as people know that often the video will never be looked at and their yetzer Hara can get the best of them.
 2. **Rav Schachter** once told me you could rely on a nanny or security camera in your home only if that's the only option you have, but he didn't seem to think it was a

good idea. Similarly, **Rav Karp** (quoted in 67 קובץ אור ישראל) is meikil עראי but מחמיר to try and use this as a long-term solution.

- A. Rav Willig** is meikil about this me'ikar hadin as well: If there's a video that records and is automatically sent to someone who could view it now or later and see if something happens, that suffices. However, he doesn't recommend it לכתחילה. It could be that he's more meikil on a recording than on just a live-stream which you know is unlikely to be viewed.
- IV. Can one call their spouse in order to save them from Yichud?
- A.** The hetter here would presumably be based on בעיר משמרתו / אשתו עמו. I would have thought that while speaking with your wife or husband, there's no greater way than that to establish a מירתת. However, all the poskim in writing are very hesitant to rely on this.
1. R' Oelbaum in **Minchas Chein 3:EH:1** is the only one to accept above sevara, and argues one can be metzaref this in a sha'as hadchak. However, she has to tell him that she's speaking on the phone davka in order to solve a Yichud issue, so that he'd be suspicious if she hung up.
 2. A long list of poskim brought by **Gan Na'ul fn. 135** (including the **Avnei Yoshfeh**, **R' Brandsdorfer** in Ohel Ya'akov #8, + **Rav Neventzahl** in תקכה עמ' תורה) who all thought it was insufficient, since there's no way for the husband to ever catch her in the act as he's not around. Further, the poskim are concerned that she'll find an excuse to cut off the call or make it seem like she lost service.
 - a) Lichorah, the pushback on this is that many poskim follow the Rambam that it's more of a psychological block and not a concern of actually being found. Although we certainly don't rely on that in a normal case, in a sha'as hadchak for a short period of time and on Yichud דרבנן, this seems like a reasonable tzeiruf. If one were to add another tzeiruf, like an unlocked door despite not expecting anyone, it seems reasonable to be meikil on Yichud דרבנן at least when you're otherwise stuck. In terms of the second concern, we generally aren't choshesh for being a step-away from Yichud, so why are we worried she'll disconnect the call?
 - b) I asked **Rav Schachter** though and he also wasn't so comfortable with this. He seemed more open to considering it בעיר, but less so to consider it אשתו משמרתו. He said "you need to be a psychologist" to determine if this actually creates the necessary מירתת.
- B.** However, if one were to FaceTime their spouse, **Gan Na'ul 135*** is willing to be meikil on a דרבנן shailah in a sha'as hadchak. Here, you see each other face-to-face which increases the מירתת, you see if the other person is paying attention, and that prevents them from being נתפתה by the other person. The only concern is still that you could disconnect your phone, pretend it died, etc. The pushback though is that once again, we aren't concerned for being a step away from Yichud.
1. Here, too, you have to say that it's being done to save from Yichud so the other person knows to be suspicious if it's cut off, and doesn't hang up themselves.
 2. Lema'aseh, **Rav Schachter** thought this would suffice to matir Yichud. **Gan Na'ul ibid.** is meikil for derabanans and as a senif with another safek for deoraisahs.

Shomrim From Yichud

Pairs of Women Who Hate Each Other

- I. Per **Kiddushin 81b** + **SA 10**, It's מותר to have Yichud with two women when they have any of the following relationships: They're co-wives (not relevant for us), a woman and her

mother-in-law, a woman and her stepdaughter/stepmother, a woman and her mother-in-law's daughter (e.g., a man's wife and his sister), and two women who are married to two brothers. These last two cases mean that a woman and her sister-in-law will always be מותר, irrespective of whether one or both of them married into the family. To summarize, one can have Yichud with two women who are step-mother/daughter, mother/daughter-in-law, and sisters-in-law.

- A. The gemara says that these women are assumed to hate each other, and therefore one would never have zenus in front of the other, for fear that the other would tell. Why do they hate each other? Based on **Yevamos 117a + Rashi**:
 1. **Sisters-in-law** (ב' יבמות) are concerned about becoming co-wives (see below whether this still applies nowadays).
 2. **Mother-in-laws** hate their daughter-in-laws for consuming the family inheritance, and a the mother-in-law's daughter hates her sister-in-law because her mother hates her, or because of her concern for the lost inheritance as well.
 - a) It should be noted that this is מותר only if it's actually her husband's mother, but if it's just her father-in-law's (second) wife, there's no hetter (**PT 22:11**)
 3. **Step-daughters** hate their step-mothers for taking the place of their actual mother and benefiting from all that they established.
- II. The above is a Klal for all pairs of such women, and is an exclusive list: The hetter exists for these pairs even if we know they have a great relationship (**Chasam Sofer EH 1:49 + ARUH 17:38**), and there's no hetter for other women even if we happen to know they hate each other (**Chazon Ish 22:7**)
- III. The hetter exists even when it's an איש שעסקו עם הנשים (**Levush + BS 14**), even if he's לבו גס בהן (**Dvar Halacha 5:23 + Gan Na'ul 7:6**), and even if he's a Parutz (**Dvar Halacha 5:24 + many others**). These women can have Yichud with a goy as well (**Dvar Halacha 5:24, Divrei Sofrim 109, + others**)
- IV. It's מותר when one man is with a pair of these women even on the derech (**Taz 9, Yam Shel Shlomo 4:24 + Shevet Halevi 5:204:2**). This is either because women go to the bathroom together (יש"ש), or because one woman will always be concerned the other woman is trying to catch her in the act (**Ein Yitzchak 77:7**).
- V. It's a machlokes whether this hetter exists at night as well:
 - A. **Ein Yitzchak 77:7** is meikil, based on the above sevara. On top of that, the whole din of לילה is a chiddush of the Ra'avad which many Rishonim disagree with. As such, **Dvar Halacha 5:26 + Gan Na'ul 7:11** are meikil.
 - B. **Shu"t Or Same'ach 4** assumes it's assur, **Shevet Halevi 5:204:2** raises both possibilities, but sounds a little like he's noteh lechumrah, and **Nit'ei Gavriel 24:16** thinks one should be meikil only in a sha'as hadchak.
- VI. Does the hetter for two yevamos (two women married to two brothers) apply even when they know they'll never become tzaros? Halachically, this comes up if they both have children or are sisters themselves; practically, if they're Ashkeanzi, they know their husbands woulddo chalitza and not Yibum.
 - A. According to Rashi's explanation above, presumably, there'd be no reason to be meikil here.
 - B. However, **Rambam Geirushin 7:2-3** writes in the context of women who can't bring a Get ממדינת הים that a Yevamah can't bring it even if she's אחותה, such that they couldn't become צרות.
 1. **Maggid Mishnah** explains he got this from the **Yerushalmi 15:4**, and that Rambam thinks there's some שנאה עצמית as opposed to **Rashi's** reason, which is why we always assume they hate each other. If so, you'd have a hetter here as well.

2. However, **Mishnah Lemelech 12:16** thinks Rambam might agree to Rashi's reason, but just think there's a lo plug lechumrah by that din in Gittin. By Yichud and a potential Issur deoraisah, we presumably wouldn't say לא פלוג לקולא.
 - a) Both **Korban Ha'edah (in Shiyarei Hakorban) + Pnei Moshe** in fact learn that the Yerushalmi there (which Rambam is quoting) holds of a lo plug sevara, and not like the Maggid Mishnah. **Korban Ha'edah** notes he doesn't understand the Maggid Mishnah: Where does this שנאה טבעית come from if there's no reason?
 - b) **Meiri** learns it's either a lo plug or is because the women tell on each other to the other's husband.
 3. Despite that there seems room to think we should be osser, **Shevet Halevi 5:204:2** says the stimas halashon of SA + Rema is that we're meikil even in these cases. This is also משמע from all the Ashkenazi poskim who all paskin this din (e.g., **Taz 22:9, Chochmas Adam 126:8, ARUH 22:10, etc.**), despite that Ashkenazim never do yibum nowadays.
- VII. if one is with two of the women who are assumed to hate each other (mother-in-law, sister-in-law, and step-daughter/mother), they're matir Yichud with a third woman even for the machmirin by one man and 3 women (see below for the Klal).

Children

- I. **SA 10** says that if one is with a ketana who is יודעת טעם ביאה and not yet old enough to be מוסרת עצמה לביאה, then there's no Yichud with another adult woman there.
 - A. What's the פשוט that it helps even though there's an Issur Yichud with the Ketanna herself? **BS 15 from Bach** explains the חשש with a Ketanna is *ones*, but when there's a gedolah, she's shomeres from אונס, and the Ketanna is shomeres her from פיתוי, since she'll tell everyone what she saw, and won't be מוסרת לביאה.
 - B. The same is true for a male Kattan, as evidence by **Rema 292:4** who says a קטן works for חופת נדה. **Yam Shel Shlomo Kiddushin 4:27, Beis Shlomo 22:9, Chochmas Adam 126:9 + others** all say the same, and this is paskined by **Rav Moshe 4:65:12, Shevet Halevi 5:204:1**, and other contemporary achronim.
 1. This works even if it's the son or daughter of one of the מתייחדים (**Chasam Sofer EH 2:96, Dvar Halacha 4:1 + many others**).
- II. Age of the kattan/ketanna: The lower limit is defined by when they're יודע טעם ביאה, which is certainly some time later than 3 years old, and the upper limit is based on the time until they're still עצמן לביאה (i.e. they don't have a yetzer Hara for biah). The ages though abound for this:
 - A. **Bach + PT 12 from Zechor Le'avraham** says she's not mosseres herself until 9 years old
 - B. See **Eizer Mikodesh 3 וגבול ד"ה** who argues that until she's 12 years old, she counts as מוסרת עצמה לביאה. He also says that if you don't know if she's old enough to be considered יודעת טעם ביאה, you can be meikil misafek.
 1. Similarly, **Shu"t Or Same'ach 4** says a 10 year old girl is still not מוסרת עצמה לביאה (the girl in the shailah was 10 years old, although he might have agreed the same for an 11 year old).
 - C. In terms of boys, for some reason the poskim are more hesitant to invoke a younger age: **Miknah 82a + Chochmas Adam 126:9** say the boy needs to be 9 years or older. This is unlike **Eizer Mikodesh** who assumes that *less than* 9 is what we're talking about.

- D. Lema'aseh, **Gan Na'ul 11:2** based on **Teshuvos Vehahanhagos 2:658** paskins that a child is shomer certainly from ages 5-9, and in a sha'as hadchak until 11 for a boy and 12 for a girl.
1. There's some subjectivity to this shiur though: **Shevet Halevi 5:204:1** argues the shmira starts not specifically at 5, but (at least for a girl), once she's uncomfortable walking around unclothed. Similarly, **Yaskil Avdi 5:22 + Chasam Sofer YD 2:144 וראיתי במקור ד"** both say that if a child is particularly bright, the shiur could even start before 5 years old. Presumably, the same is true in the reverse if the child is slow.
 2. There's room to be meikil as early as 3 as long as the kid would be mesaper beshuk – **Miknah Kiddushin 81b, Mishneh Halachos 9:276** beshem **Maharam Mirotenberg** and others are meikil at least in a sha'as hadchak for 3 years old. **R' W.** In shiur said that as long as you'd be mefached that the child would say something incriminating, it seems that's mistaken it would matir Yichud.
- III. Does this work baderech?
- A. **Bach + Maharshal**, paskined by **CM 14, BS 15 + ARUH 10**, say you can't be meikil since they might go to a makom tzanu'a and have zenus. Presumably, even two tinokos wouldn't help then.
 - B. However, the **Taz 9** is meikil, and **Eizer Mikodesh 5** says the Minhag is lehakel.
- IV. What about at night?
- A. At night, the above sevara isn't relevant (since they have nowhere to run to), but you need two children, because we worry one will fall asleep (**Divrei Sofrim 110, Dvar Halacha 4:9 + others**)
- V. There's a discussion if a Kattan will enable a woman to have Yichud with a goy (see **Gan Na'ul 11:14**), although most acharonim are meikil.
- A. **Tosfos AZ 25b** is clear that שמירת תינוקת doesn't help for a goy. **Shevet Halevi 5:24:1** notes this is pretty clear, and he doesn't know why acharonim are madchik in Tosfos.
 - B. However, the sevara for this seems to be that a goy would be me'anes the adult woman, and wouldn't care if the Ketanna would tell people. Mitzad the woman, she still wouldn't be נתרצה to a goy knowing that word would get out. This may be why the vast majority of acharonim (including **Prishah 22:12, Taz 9 + others**) assume this is fine, as we generally aren't concerned about אונס as long as it's a punishable offense in that locale. Consequently, **contemporary acharonim (Dvar Halacha 4:26, Nit'ei Gavriel 27:7, Gan Na'ul 11:14 + others)** are meikil, against this Tosfos.

Other Shomrim

- I. The basic Klal is that whenever you have a woman who has an independent reason why she won't have biah and therefore doesn't have an Issur Yichud, she acts as a שומרת to save the rest of the group from the Issur, as they wouldn't have biah in front of her.
 - A. **Rav Schachter** quoted that **Rav Soloveitchik** thought it was a דבר פשוט that whenever there's a יחידה yichud with one of the women, there's no problem to be with the other as well, unlike the משמעות in **PT 22:2** from **Zachur Le'avraham**.
- II. As such, if a Jewish woman is there with ba'alah ba'ir, she saves the entire group.
 - A. This is תלוי on the machlokes **Rashi + Ritva** whether the concern with 2 women is that they'll both be mezanah [Rashi] or one won't tell on the other [Ritva]. **Gan Na'ul 12:1** notes it's a machlokes, but is meikil per Rashi and many acharonim (**Dvar Halacha 8:2, Divrei Sofrim 39, Tzitz Eliezer 6:40:10 + others**), although **Or Same'ach IB 22:12 + Shevet Halevi 5:202:1** are noteh lehachmir/unsure.

- III. **SA 3**: If one is with his wife, she saves him (and the other woman there) from all yichud issues (e.g. with another woman); this is referred to as **אשתו משמרתו**
- A. However, this hetter only exists for Yidden (including perutzim), but **SA 3** spells out that no such **היתר** exists with a goy and his wife. E.g., a Jewish woman cannot seclude herself with a non-Jewish couple. Similarly, a parutz cannot seclude himself with a non-Jewish couple, as there's two perutzim with one woman and the fact that they're married doesn't make a difference.
1. See **Eizer Mikodesh 3** who says that this is a Lo Plug and even when Nochrim aren't the same level of perutzim that they'd be mezaneh as a couple together, we still don't allow for this.
- IV. As mentioned, if one is with two of the women who are assumed to hate each other (mother-in-law, sister-in-law, and step-daughter/mother), they're matir Yichud with a third woman even for the machmirin by one man and 3 women.
- V. The man's mother, grandmother, daughter, granddaughter, or sister can serve as a shomeret according to many, although others disagree:
- A. **Eizer Mikodesh 22:1** is unsure about this; **Chida** thinks it's פשוט that they don't help. This is also משמע from **PT 22:2** from Zachur Le'avraham.
- B. **R' Chaim Palagi** in **Chaim Vehashalom 19** is meikil; **Tziz Eliezer 6:40:14:10** is meikil, and **Chazon Ish** is quoted by **Dvar Halacha 8:4** this way. **Rav Moshe 4:65:8** writes all three of these are good shomrim, as does **R' Moshe Shternbuch** in **Teshuvos Vehanhagos 2:658**. **Rav Soloveitchik** above would also be meikil on this.
1. As such, lema'aseh we're meikil to rely on this
2. [**Gan Na'ul 12:2** argues it's תלוי on whether the reason a shomer works (or doesn't work) is because of a concern that they'll be mechapeh on those who do the Issur (in which case there's still a problem, as the relative wouldn't tell on him) or if it's because the bo'el would be too embarrassed to be bo'el in the first place, as **Rashi**, **Tosfos + others** seem to say (in which case we'd have a hetter).]
- VI. The woman's mother, daughter or sister is less פשוט.
- A. **Most poskim** think that there's no special hetter here. The gemara only ever mentions two women who hate each other as a hetter, but never two women who are relatives. **PT YD 192:7** sounds like he thinks mother and daughter won't help, and **R' Chaim Palagi** in **Chaim Veshalom 1:16** is also מחמיר. **Gan Na'ul 12:4** shows **Minchas Yitzchak 7:73**, **Shevet Halevi**, **Toras Hayichud**, + **others** are all machmir.
- B. However, **Rav Moshe 4:64** thought that a mother and daughter of the woman worked as shomrim, while two sisters did not. **Chavos Ya'ir 108** sounds this way as well.
1. As such, there's some room to be meikil by mother and daughter, but sisters certainly won't help.

Miscellaneous

- I. Causing Yichud: There's a discussion about whether one is allowed to leave a room/bus/home, knowing that by doing so, the people remaining there will be left in a matzav of Yichud. Certainly, if you warn them that they should leave, you've fulfilled your **חיוב**. But if you won't or you know it's not שייך that they'd listen, are you allowed to walk out, or is it a violation of lifnei iver?
- A. **Avnei Yashpeh 8:120:2** is meikil since he thinks you aren't creating an Issur, but just getting rid of their hetter by walking away (interesting idea). See **Gan Na'ul 1:43** for others who are מסופק, but it seems poskim lean lekula that you don't need to tie yourself down if you have some need to go somewhere.

- II. **Eidus**: If someone violates Yichud deoraisah bemeizid, i.e. they know that it's an Issur deoraisah and they choose to violate it anyways, they become לעדות on a פסול level. This is based on **Rema CM 34:2**. This is only if there's eidus that they did so; al pi eidus atzmo, we still don't use them as an Eid לכתחילה (see **CM 34:25**).

Women Going to a Male Doctor or Therapist (+ vice versa)

- I. The poskim discuss at length if and what the hetter is for a woman to go to a male doctor without her husband. In many doctors offices, nurses knock and come in and out, and the מוצא ונכנס will make it מותר. But in other offices where it's understood privacy is needed, nurses and staff won't just barge in, so what's the hetter? This is a shailah about Yichud deoraisah if the Jewish woman is married.
 - A. First, if you leave the door unlocked, the **Chazon Ish** thinks that alone is a matir if many people walk by, since אימת רבים עליהם, even though you're confident no one will come in. However, we generally don't rely on that alone.
 - B. It's a senif lehakel if you have ba'alah ba'ir, certainly with the **Chazon Ish's** definition, but it doesn't seem like a reasonable hetter to rely on, since we aren't meikil for this in a case where the woman is *certain* her husband won't walk in (unlike the **Chazon Ish**).
 - C. **Shevet Halevi 5:203:6 + Rav Moshe 4:65:1** invoke בעבדותיה טריד, but **RSZA in Nishmas Avraham 22:1** rejects that – we never say such a thing by a Rav, despite that he has to look into the psak halacha. And at some point, the doctor stops doing his physical check-in, and the patient and doctor discuss, in a way that should negate a hetter of טריד בעבדותיה.
 1. Rav Moshe specifically invokes it though with respect to the fact that there are other people waiting for him, and the rush to get to the next patient(s).
 - D. **Shevet Halevi 5:203:6, Tzitz Eliezer 6:40:12:11, Rav Moshe ibid. + Dvar Halacha 3:43** all invoke לאומנותיה לאמר. If the doctor were to make advances and the woman would withstand them, the doctor could lose his license, job, etc., and therefore we can assume he won't do so.
 1. It's clear though that they aren't willing to work with that idea alone though without other hetterim.
 - E. In terms of where poskim practically draw the line:
 1. **Tzitz Eliezer 6:40:12** is very meikil. He allows one to be in a locked room as long as the woman's husband is בעיר (like the Chazon Ish), and he allows a closed, unlocked door as long as there are a few people outside.
 2. **Rav Moshe** is meikil even if you know you're the last patient, since you can still rely on the fact that the nurse or secretary will notice something strange if you're alone for too long, and the doctor won't do anything because he's worried this will lead to him losing business.
 - a) The only time that Rav Moshe is מחמיר is if she's the last one for the day and she knows that there's no one left in the office (e.g. secretary or nurse) who would notice if they're alone for a long time.
 - b) [In terms of בעלה בעיר, Rav Moshe's shitah in general is that this doesn't help if you know she won't come.]
 3. However, **Shevet Halevi 5:203:6** is more מחמיר and says a woman should only see a male doctor at a time when other patients are regularly seen. He adds that one should be sure to leave the door unlocked.
 - F. Going to an opposite-gender therapist/psychologist is even more tricky, since you *know* no one is going to come in if there's no manager or the like to check in on you, and you have a session that is certainly a shiur Yichud. The theoretical hetterim are the Chazon

Ish's בעל בעל + Pesach Pasu'ach, as well as אומן לא מרע אומנתיה. However, a good therapist is someone who by definition you're גס בה and so פתח פתוח + בעל בעל already are negated or questionable.

1. **Rav Willig** thinks you should ask a manager to knock and come in once in awhile, as well as to try and find a way to record yourself if that's legal/possible.⁴³ See above for the same Eitzah by a Rav in his office.

⁴³ Just the therapist's seat, not the patient's, and only the video, not the audio, in order to maintain confidentiality