

## Yichud in a Shul

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**QUESTION:** I am the rabbi of a *shul*, and recently I was working there after it had already grown dark outside. There were two women in the building – one married and one single - and me. We were each on a separate floor. I didn't know it was just the three of us until a woman in the office called with the question. The front door is kept locked, although a number of people other than us do have keys. In the end she jammed an umbrella in the front door to satisfy the requirements of a “door open into the public domain.” This was not a good solution, as we could not keep the door open too long for reasons of safety, so I gathered up my stuff and left soon afterwards.

I thought that one solution would be for her to lock her office door and I would lock mine, but I realized that I have a master key, so that wouldn't accomplish much. There are also cameras in the building but not covering all areas, I was wondering if that would solve the problem.

**ANSWER:** As a general rule, the laws of *yichud* would not allow a lone man to be in a private place with one or even two women (Shulkhan Arukh, Even HaEzer 22:5), so this is definitely the basis for concern. There are a number of factors which are relevant here: (1) one of the women was married, (2) the presence of security cameras, (3) you could lock your doors, and (4) you were on separate floors. Let's explore these one by one.

- (1) One woman was married. A married woman is allowed to be in a private place with another man if her husband is in the city (22:8). However, a number of *poskim* limit this to when she is at home, and not when she is at another location, even if her husband knows where she is (Binat Adam, as quoted in Pitchei Teshuva, no. 7). In addition, even if it is permissible for her to be there, there is still a problem in regards to yourself and the other woman. The married woman's presence is not seen as a sufficient deterrent (see SA EH 22:5, following most *poskim* who assume that three women must be present for it to not be *yichud*). This is especially true at night, when there is the possibility that she may fall asleep, leaving you alone with the unmarried woman. Her presence also may not help in an office setting such as this, where she may need to go off to another place in the building for a significant amount of time (and hence similar to a case of being on a journey where there is a concern that one person will go off to urinate, leaving the other two alone).
- (2) The video cameras. If you have access to the computer that is recording the feed, and can easily wipe the recording without raising suspicion, then the presence of the video cameras would not help. If, on the other hand, you cannot erase the recordings without raising questions, then if you stay in the zone where the cameras operate, it would not be a *yichud* situation. This would be at least as good as פתח פתוח לרה"ר –

having an open door by a public thoroughfare – which also applies to cases where a window allows people see what is happening inside (see Igrot Moshe EH 4:65, no. 2). Although people would not see anything taking place in real time, the presence of the video recording would still serve as sufficient deterrent.

- (3) If you each locked your doors, and you did not have the key, many *poskim* rule that this would not be *yichud* (many allow it even if just she were to lock her door, as the *halakhot* of *yichud* generally work with the assumption that the man will be the initiator). See, among others, דברי מלכיאל ד'ק"ב, וכן משמע ממשנה ברורה, בשעה"צ ס' רל"ט ס"ק י"ז. Although Rav Moshe Feinstein is strict in such cases (Igrot Moshe, EH 4:65, no. 19), the accepted practice is to be lenient. Nevertheless, because you have a master key, nothing is accomplished by her locking her door. One possible solution is to give her your master key and have her give it back when she leaves, although you would still have to navigate the *yichud* situation during that exchange.

The question, then, is whether being in separate rooms with a closed, but not locked door, is still considered *yichud*, especially in a case such as this where the parties are on separate floors. Most *poskim* assume that when only a closed and unlocked door separates two rooms, there is a problem of *yichud*, because there is nothing to prevent the man from entering the room the woman is in.

Nevertheless, it would be possible to argue that even though it would be easy for the man and woman to have sex if they wanted to, that does not mean that they are in *yichud*. If a man and a woman are in different rooms with a door between them – and certainly if they are on different floors – it would seem that *halakhically* they could be defined to be in different places. That is, they are not in *yichud*, but rather in a situation that could easily become *yichud*. Imagine if we were dealing with a man who was renting out a basement apartment in his house to a single woman and he had a master key. Would it be *yichud* just because you could enter her apartment with his key? Would it be *yichud* if she closed her door but did not lock it?

Some of this may, of course, depend on circumstances. For example, two people in different bedrooms in the same apartment would be quite different from the case of the basement apartment, described above. With two rooms in the same apartment, the space is fundamentally a single unit, and a person staying in one room often has to pass through a common space where the other person is likely to be found, and the consensus of the *poskim* is to be strict in such a case in the absence of a locked door between the rooms.

In regards to our case of the *shul* - on the one hand, it is not as black-and-white as that of the basement apartment; there the man has no right to be in the woman's apartment, here, you as the rabbi have the right to be in any part of the *shul* building. Nevertheless, it seems to me that in a case such as this - where the man (you) and women are on different floors, with each having the ability to come and go without crossing the other person's space, and with each being in a room with a closed door, and where you are operating mostly oblivious of the other person's presence – there is strong basis to be lenient and to rule that you are in different places and there is no *yichud*. This is all the more so if the room that the woman is in is locked. While it is possible to gain access with your key, the two of you remain in fundamentally different places.

It should be noted that while Rav Moshe Feinstein is strict about different rooms in the same apartment, he is lenient in another case that is relevant. Rav Moshe rules that when necessary, a man and woman can ride in a car together, even at night and even in a non-populated place, and that this would not be considered *yichud*. Although it would be easy for them to turn off the road and pull into a motel, nevertheless, right now, while they are driving, it is not possible for them to have sex. They are not in *yichud* now, although it

would be easy for them to be in *yichud*, were they to want to do so (see Igrot Moshe EH 4:65, no. 3). The same argument could be made here. (See also 'ס"ק כ"ז אות ד-ט' for an extended discussion of separate rooms with closed, unlocked doors).

One might contend that the above argument is too formalistic, since there is nothing actually preventing the man and woman from having sex. As a general rule, *halakha* mostly works with formalist definitions, so this would not be much of a challenge. However, when it comes to *yichud*, contextual factors often do play a significant role, and this is certainly true for Rav Moshe Feinstein who is lenient in certain cases where the formal rules of *yichud* should forbid, when the circumstances would serve as a constraint against having sex (see, for example, Igrot Moshe EH 4:65, no. 1, 2, 4, 10). He is also strict in cases where the formal rules would permit, if in the particular circumstances real concerns are still present (see *ibid.*, no. 7).

Nevertheless, it seems to me that in this situation, where the man and the woman are on different floors, not seeing each other, working on different tasks, and basically oblivious of one another, there is no practical concern that they will be tempted to have sex, and all the more so because there are two women present. Thus, the formal rules should determine the *halakha*, and – as argued – this case can be deemed to be one in which no *yichud* is present. That being said, if someone is really afraid of their own *yetzer harah* or of concerns of propriety, that's a different story.

As stated, the more widely accepted *psak* is that separate rooms without a locked door between them in a single apartment is *yichud*. If one wanted to extend that ruling to a case such as this - in spite of all the differences noted above - and consider this to be *yichud*, there is yet another way to deal with this situation. Since, as you write, a number of people have a key to the building, you should ask one of them to occasionally drop by unannounced, and then he should do so from time to time. Ideally this should be a man, since this will address more potential *yichud* scenarios (see SA EH 22:5). If this is too burdensome for that person, you can call him when you find yourself in such situations, and let him know that he should feel free to drop by unannounced at any time that night. The fact that he could drop by at any time would serve to define this as a type of פתח פתוח לרה"ר – a door open to the common thoroughfare – and not a case of *yichud*. This follows Igrot Moshe EH 4:65, no. 4, where Rav Moshe rules that if someone feels that they will have to answer the door when someone knocks, it would not be *yichud* to be in the house together behind a closed door. It is hard for me to understand how Rav Moshe's case is not *yichud*, since one could choose to ignore the knocking on the door. Nevertheless, when someone can and may drop by unannounced without knocking, this certainly serves as a restraint on sexual activity, and many *poskim* rule that this would address any *yichud* concerns.

**IN SUMMARY:** There is good reason to assume that separate floors in the same building, when there is the ability to enter and exit without crossing the other floor, and especially when the people are in offices behind closed doors, is not considered to be a situation of *yichud*. If one wanted to be strict, they could also ask someone with a key to make sure to drop by unannounced on some nights.

All of this assumes that issues of propriety are also being addressed. As a *shul* rabbi you need to maintain the highest standards of propriety and to model this for the community. It may be wise from this regard to explain and post what the *shul*'s policies are when the building is closed and some people are still working in the building. You should use your best judgment in how to communicate this and how to use this as an opportunity to educate your congregation both about the *halakhot* of *yichud* and about the need to set the highest standards of propriety - והייתם נקיים מה' ומישראל -