



## לא באתני אלא לעורר

### YICHUD

#### RABBI ELI GERSTEN

RC Recorder of OU Psak and Policy

**MASHGICHIM** at times are required to visit factories late at night or on weekends, after regular operating hours. At these times the factories might be quite empty with minimal factory personnel present. The *mashgiach* is usually the only *Yid* in the building. Depending on who else is present, there might be a concern of *yichud*. Although *lichatchila* one might not wish to place themselves in this type of situation, often the situation is unknown to the *mashgiach* until he arrives, and it is important to know when at least *bidi'eved* it is *mutar* to remain and what can be done? Here is a quick review of some of the *halachos* of *yichud* that are relevant to *mashgichim* visiting factories.

*Yichud* of a Jewish man and a married Jewish woman (or other Torah forbidden relations) according to most Rishonim is an *issur Torah*.

*Yichud* of a Jewish man and a *nachris* is only *assur mid'rabbanan* (Shulchan Aruch EH 22:2)

*Yichud* of a Jewish man and two women is only *assur mid'rabbanan* (Pischei Teshuva EH 22:1)

The Rema (EH 22:5) permits *yichud* of two Jewish men with a woman during the daytime, provided that they are not *prutzim*. Late at night there must be three men, since there is a concern that one of the men will fall asleep.

#### WHAT IF THERE IS A NACHRI PRESENT TOGETHER WITH THE MASHGIACH?

A common scenario that a *mashgiach* might find himself in is that he is alone in a factory with a *nachri* and a *nachris*. There are two men present, but a *nachri* is assumed to be a *parutz*. Does the heter of the Rema only apply if both men are not *prutzim*, or is it enough if one is not a *parutz*? This is a *machlokes ha'poskim*. The Maharshal (Yam Shel Shlomo – Kiddushin 4:21) is *maikel*, but most *poskim* are *machmir*. The Shevet HaLevi (5:202) implies that if there is a *tzorech* one could be *maikel* like the Maharshal. Furthermore, the Shev Yaakov (siman 19) writes that although a Yisroel who is a *parutz* may not serve as a *shomer*, a *nachri* can serve as a *shomer*. This is because the Yisroel will be concerned that the *nachri* will not be discreet and will reveal his secrets.

#### WHAT IF THERE ARE NO OTHER MEN PRESENT, BUT THERE ARE THREE OR MORE WOMEN PRESENT?

There is a *machlokes* Rishonim as to whether it is *yichud* if a Jewish man is together with three women. Rashi is *maikel* (provided the man is not employed in a business that deals with women), but the Rambam and Rabbeinu Tam are *machmir*. Shulchan Aruch (EH 22:5) follows the opinion of Rambam, but Rema writes that some are *maikel* like Rashi. Although many *poskim* write that *lichatchila* one should be *machmir* like the Rambam, the Divrei Malkiel rules that one may be *maikel* like Rashi, based on *safek d'rabbanan P'kula*. The Shevet HaLevi (3:183) as well writes that if there is a pressing need one can be *maikel*. Sefer Atzei Arazim and Dvar Halachah (10:2) write that this leniency applies to three *nachriyos* as well.

#### WHAT IF THERE ARE VIDEO CAMERAS AROUND THE FACTORY?

There is a discussion among *Poskim* as to whether video cameras

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MDS in A VISIT OU program with their Rebbeim Rabbi Genack and Rabbi Cohen



Students looking at one of Rabbi Chaim Loike's exhibits

## LO BASI

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can serve like a window that you can see through. Although at any given moment it is unlikely that anyone is watching the monitors, but it certainly is possible, and this too can create an element of *mirsas*, similar to an open window (see Nitei Gavriel 45:8). Rav Elyashiv ז"ל though is quoted as being *machmir*. He argues that since the situation is one of *yichud*, we cannot use our own *sevaros* to permit (Ha'interet B'Halacha pg. 33). But certainly this can be used as an additional mitigating factor, especially when dealing with *yichud* with a *nachris* which is only an *issur d'rabbanan*. If there are no video cameras, but the *mashgiach* has Skype capability on his phone, he could arrange for a friend to act as a *shomer* through Skype. (Note: One should make sure to get permission from the plant personnel before videoing the plant.)

### IS THERE A CONCERN OF YICHUD IF A MASHGIACH IS ACCOMPANIED BY A NACHRIS AROUND THE PLANT?

Often a *mashgiach* will need to visit rooms in the plant that are otherwise unoccupied (boiler rooms, warehouses, freezers, label rooms etc...). Today it is common to have locks on these doors, and one is required to have a passcard to allow entry into these rooms. Is this a concern of *yichud*? Although technically the doors are locked, since there are many other workers in the factory that also have passcards to enter these areas and the *mashgiach* has no idea when one of those workers will need to visit these rooms, it is not *yichud*. The *yotzei v'nichnas* aspect of the workers in the factory, allows the *mashgiach* to do his job of being a *yotzei v'nichnas*!

### WHAT IF ONE IS UNSURE WHO ELSE IS IN THE PLANT?

Often the *mashgiach* does not know if there are other workers in the plant. Even the plant personnel who are accompanying the *mashgiach* might not know who else is still in the building. If the situation of *yichud* is one of *safek*, can one be *maikel* based on *safek d'rabbanan l'kula*? The Shevet Halevi (5:201:1) writes that *yichud* is a more *chamur issur* and even in cases of *yichud d'rabbanan*, one may not be *maikel* based on *safek d'rabbanan*. However, he acknowledges that the Nesivas Shabbos (quoted by the Dvar Halacha 15) is *maikel*. Igeros Moshe (EH 4:65:12) writes that *safek yichud d'rabbanan* is *l'kula* just like every other *safek d'rabbanan*. Rav Schachter ruled that this particular *safek*, that perhaps other people are present, is a much better *safek* that would negate even *yichud d'oreissah*. In this case, regardless of whether anyone else is actually in the building, the *mashgiach* would be *mirsas*, since he does not know if someone might walk in. ■



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SUNDAY, JANUARY 13, 7:30 PM

HARRY H. BEREN



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