

מצות
לא תעשה
#282

 We learn this mitzvah from Parshas Mishpatim: (שמות כג)

לֹא תִהְיֶה אַחֲרֵי רִבִּים לָרֵעַת

Usually we listen to whatever MOST of the judges say, but for a *Beis Din* to punish a person who might be *chayav misa*, there is a special *mitzvah*: The number of judges who say that the person is *chayav misa* have to be at least two more than the amount of judges who say that he isn't. Unless there are two judges more who say that this person is *chayav misa*, it is an *aveira* to punish the person in this way.

 The details of this mitzvah are explained in Mishnayos & Gemara:
Mesechta Sanhedrin perek Daled

מצות
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 We learn this mitzvah from Parshas Mishpatim: (שמות כג)

וְלֹא תַעֲנֶה עַל רֵב לְנִטָּת

This *mitzvah* is in a case where the *Beis Din* is deciding if someone is *chayav misa* or not (*Dinei Nefashos*): Every judge has to *pasken* the way he understands things himself, not just agree with other judges. He can't rely on what another judge says, even if he respects his opinion, or if most of the other judges are saying the same thing. He needs to *pasken* based on his own understanding.

The Rambam also tells us other things that the *Chachomim* learn from this *posuk*:

- 1) A judge who *paskened* that the person was innocent can't change his mind and say that he is guilty.
- 2) The first judge to say his opinion should be a judge who thinks

that the person is not *chayav misa*.

3) The *Beis Din* can't go back and change the *psak* if they *paskened* that the person was not guilty.

4) The first judge to share his opinion should not be the greatest judge.



The details of this mitzvah are explained in Mishnayos & Gemara:
Mesechta Sanhedrin perek Daled

Deciding Our Own Punishment

In *Pirkei Avos*, the *Mishnah* says, “*Nifra'in Min Ha'adam MiDaato VeShelo MiDaato*” — the *Beis Din Shel Maalah* can punish a person with him knowing about it (*Midaato*), and without him knowing about it (*Shelo Midaato*).

The Baal Shem Tov explains that “*midaato*” means that the punishment is decided from HIS “*daas*” — from his own decision. That means that every person decides for himself how he should be punished.

But who would decide that they deserve to be punished? And when does a person make this decision? “*Shelo Midaato*,” without us realizing it!

The *Beis Din Shel Maalah* shows the person someone else who did something similar to what he did, and asks what punishment the other person deserves. Based on his decision, the *Beis Din* punishes the person himself!

So we see that what happens to a person is decided *Midaato*, “from his knowledge”, because it is decided based on his own opinion, but it is *Shelo Midaato*, because he doesn't realize that what he was deciding for the other person is actually being decided for him!

We don't realize it, but when we are thinking how someone else did something terrible and they deserve to get in big trouble, the *Beis Din Shel Maalah* is making decisions from that for us as well!

The Rebbe teaches us why it needs to be done that way, why the *Beis Din Shel Maalah* can't just decide on its own: Nobody has any control over a Yid — even the *Beis Din Shel Maalah*. The only way something not good can be decided about a Yid is if the Yid himself decides it!

That teaches us to be very careful about judging another person, because really we are judging ourselves!

On the good side though, if we look at someone else and think that they are doing something good and deserve to be rewarded, that's how we are treated too!

See Likutei Sichos chelek Daled p. 1207

מצות
עשה
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 We learn this mitzvah from Parshas Ki Seitzei: (דברים כב:נד)

וְסִקְלָתָם אֹתָם בְּאֲבָנִים וּמָתוּ

Beis Din needs to keep the *halachos* of *Sekilah* (one of the ways a *Beis Din* punishes). The Rambam writes the punishment for each *mitzvah* when we learn that *mitzvah*.



The details of this mitzvah are explained in Mishnayos & Gemara:
Mesechta Sanhedrin perek Vov

מצות
עשה
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 We learn this mitzvah from Parshas Kedoshim: (ויקרא כב:נד)

בְּאֵשׁ יִשְׂרְפוּ אֹתוֹ וְאֶתְהוֹן

Beis Din needs to keep the *halachos* of *Sereifah*, another way a *Beis Din* punishes.



The details of this mitzvah are explained in Mishnayos & Gemara:
Mesechta Sanhedrin perek Zayin

Rambam: Hilchos Sanhedrin

PEREK DALED

We learn about a special kind of *Semicha*, which passes down a *koach* of Hashem to judge as part of the *Sanhedrin*. This *koach* was passed down from one judge to another, and goes all the way back to Moshe Rabbeinu!

Unfortunately, for certain reasons we don't have this kind of Semicha nowadays — it was not passed down all the way to our times.

PEREK HEY

In this *perek* we learn what each type of *Beis Din* is able to *pasken* on. For example, setting up a king can only be done by a big *Sanhedrin* of 71 judges, and a case where someone might be *chayav misa* can only be done by a *Beis Din* of at least 23 — a small *Beis Din* of 3 is not allowed to *pasken* in such a case.

PEREK VOV

In this *perek*, we learn what happens if the *Beis Din* made a mistake. We also learn that if someone is afraid a *Beis Din* might make a mistake, he can sometimes choose to go to a bigger one.