

# Laws of Idolatry, Chapter 4 (Auto Translated)

English

Auto Translated

## Shiur Overview

### Summary of the Lecture: Rambam Hilchos Avodah Zarah, Chapter 4 — Ir HaNidachas

#### Introduction to the Chapter

The fourth chapter of Hilchos Avodah Zarah deals with **mesis u'medi'ach** and **ir hanidachas**. By avodah zarah there exists a special din that doesn't exist by other aveiros: by other aveiros, the one who speaks to another is perhaps over on lifnei iver, but he is not a part of the aveirah itself. By avodah zarah, however, the mesis u'medi'ach receives very harsh punishments with specific lavin, even though he himself didn't serve avodah zarah. So too ir hanidachas — a din that exists only by avodah zarah, not by chillul Shabbos or other aveiros.

**[Chiddush — why ir hanidachas is central by the Rambam:]** The Rambam laid down in chapter 1 that avodah zarah is a "slippery slope" — it begins with a half-mistake of a navi or chacham, afterwards the hamon am takes it further, mesi'im u'medi'achim come, they make a new religion, they serve forms and stars. Ir hanidachas is the end of this process — an entire city becomes drawn after avodah zarah. This fits with the Rambam's framing of how avodah zarah develops.

**[Chiddush — ir hanidachas as a false religion:]** Ir hanidachas is not just that individual people serve avodah zarah — it means that an entire group was drawn after avodah zarah and became people of a false religion. The Rambam views it as a religious rebellion, not just individual aveiros.

#### Halachah 1 — Laws of Medi'achei Ir HaNidachas and Anshei Ir HaNidachas

**The Rambam: "Medi'achei ir from Israel are stoned, even though they didn't serve avodah zarah but only incited the inhabitants of their city until they served... And anshei ir hanidachas are killed with the sword. And this is only if they served avodah zarah or accepted it upon themselves as a god. And from where is the warning on medi'achim? The Torah says 'lo yishama al picha'. It doesn't become an ir hanidachas unless the medi'achim are two or more than two, as it says 'yatz'u anashim bnei veliya'al'. And the medi'achim should be from that tribe and from that city, 'mikirb'cha', 'vayadi'chu es yoshvei iram'. Until they incite the majority."**

#### Pshat

The Rambam lays down the foundations of ir hanidachas: (1) The medi'achim — those who incite the city to avodah zarah — receive sekilah, even if they themselves didn't serve avodah zarah. (2) The anshei ha'ir — those who were nidach and actually served avodah zarah or accepted elohus — receive sayif (killing with sword). (3) The azharah (lav) on medi'achim is "lo yishama al picha". (4) There must be a minimum of two medi'achim (lashon rabbim — "anashim bnei veliya'al"). (5)

The medi'achim must be from the same tribe and the same city. (6) They must be medi'ach the majority of the city.

#### Chiddushim and Biurim

**[Chiddush — mesis vs. medi'ach:]** "Mesis" means to incite, to agitate — that is the act of speaking. "Medi'ach" means the result — one is successful in taking away the other, making him turn from the good path. The lashon "medi'ach" is from the same root as "v'nidachu v'hishtachavitem" — being pushed away from the correct path. "Medi'achei ir" means those who carried out the pushing away of the city.

**[Chiddush — why the medi'achim didn't serve themselves:]** The medi'ach himself doesn't serve avodah zarah because "the bluffer is smarter — he knows it's junk." The medi'ach is the manipulator who knows it's false, but he talks others into it.

**[Chiddush — why sayif and not sekilah for anshei ir hanidachas:]** Usually we say that sekilah is more severe than sayif. This means that anshei ir hanidachas receive a "kula" regarding their death. The fundamental chiddush:

Ir hanidachas shouldn't be viewed as a regular punishment, but as a **war**. The Rambam in **Moreh Nevuchim Part 3 Chapter 42** also says it this way. Only with this pshat can one understand various halachos:

- 1. Why one may kill innocents** (women, children, property) — by a regular punishment we look at each person individually, but by a war it's different.
- 2. Why sayif** — sayif is a warlike way of killing. One cannot take hundreds of people and throw each one from a roof (sekilah) — that's not practical. Sayif is the natural weapon of war.
- 3. Precedents of war against avodah zarah** — Pinchas ben Elazar killed with a romach (spear), which was also a declaration of war. "Kana'in pog'in bo" is not in the manner of punishment but in the manner of war. So too by the eigel — "cherev ish b'achiv" — when there is such a great chillul Hashem, it is a matter of rebellion against Malchus Shamayim, and one must declare a war.

**[Chiddush — the mudach as "tinok shenishbah"-like:]** The mudach is not exactly a tinok shenishbah, but he is a mudach — they talked him into it, poor thing. He is killed with the din of ir hanidachas, which is a different kind of din, and it is less severe (sayif instead of sekilah) because he was only nidach.

**[Chiddush — parallel to shiv'ah amamim:]** Shiv'ah amamim (Canaanite, Hittite, etc.) is also a kind of ir hanidachas, because their aveirah is also the avodah zarah part. As we see in Parshas Shoftim, that the problem of sparing the shiv'ah amamim is because "afterwards your children will be nidach to avodah zarah through them." One can see that the general dinim should be similar — both are a war against avodah zarah as a system.

**[Chiddush — if only one medi'ach:]** If there is only one medi'ach, there is no din of ir hanidachas. But the people who served avodah zarah still receive their regular punishment — *sekilah*. On the contrary, without ir hanidachas they receive a greater punishment (*sekilah* > *sayif*), but then the *cherem* on their money and the killing of the entire city falls away.

**[Chiddush — why so many limitations:]** The many limitations (two medi'achim, from the same tribe, from the same city, majority of the city) fit with the approach that "ir hanidachas lo hay'sah v'lo niv'r'ah" — the Torah made various limitations because there must be such a halachah so the world should know the severity of avodah zarah, but it's not necessarily meant that one should be able to easily carry it out.

---

#### Halachah — Minimum and Maximum of Anshei Ir HaNidachas

**The Rambam:** There must be **the majority** of the city that was nidach, and the mudachim must be a minimum of **one hundred** people, and a maximum of **up to the majority of a tribe** — but not the majority of a tribe itself. "**V'lo kfar katan**" — not a small village, "**v'lo kerach gadol**" — not a large city. **Anything less than one hundred is a kfar**. A **kerach gadol** is when the majority of a tribe lives there. **If they incited the majority of a tribe — they are judged as individuals.**

#### Pshat

The minimum for ir hanidachas is one hundred people, and the maximum is up to (but not including) the majority of a tribe. A place with less than one hundred is called a kfar katan, a place with the majority of a tribe is called a kerach gadol — both cannot become ir hanidachas. When the majority of a tribe is nidach, they are not freed, but each one is judged as an individual.

#### Chiddushim and Hisboros

**[Chiddush — the source for "v'lo yimacheh shevet miYisrael":]** The limit of majority of a tribe is learned from the lashon "v'lo yimacheh" — one should not wipe out a tribe from Israel. It is also compared to the lashon by **yibum** where it says "v'lo yimacheh sh'mo miYisrael". The conclusion is that **apparently it is a gezeiras hakasuv.**

**[Chiddush — the incident of pilegesh b'Giv'ah:]** By **pilegesh b'Giv'ah** there was a kind of ir hanidachas — not for avodah zarah, but a sort of ir hanidachas.

**[Chiddush — the calculation of "one hundred":]** If one hundred must be the **majority**, shouldn't the city have almost two hundred people? The answer: **one hundred can be the entire city as well** — it can be that **the entire city** was nidach, not just the majority. The din of **majority** is only **regarding the tribe** (one may not kill the majority of a tribe), but **regarding the city** it can be even the entire city.

**[Chiddush — comparison to megillah:]** By **megillah** there is also a distinction between kfar and ir, but there the criterion is **asarah batlanim**, whereas here by ir hanidachas the criterion is **one hundred people.**

**[Chiddush — a sevara why kfar katan doesn't become ir hanidachas:]** A small village that serves avodah zarah is **not a rebellion against Malchus Shamayim** — it's not an uprising that requires a warlike response. And **the majority of a tribe** is already **too large a rebellion** — it becomes a

"civil war" — and one cannot judge it that way. But it can also be a simple gezeiras hakasuv without a sevara.

---

#### Halachah — Who Must Be Medi'ach: Conditions of the Medi'achim

**The Rambam:** Ir hanidachas only occurs when **two men** (minimum) were medi'ach. But if **women or minors** were medi'ach, or a **single individual** was medi'ach, or only a **minority** of the city was hudach, or they were **hudchu me'aleihen** (on their own without a medi'ach), or **people from outside** the city were medi'ach — in all these cases there is **no din of ir hanidachas**, rather **they are like individuals who served avodah zarah — all who served are stoned, and their money goes to their heirs.**

#### Pshat

When one of the conditions of ir hanidachas is missing, each ovoid avodah zarah receives the regular din of *sekilah* as an individual, with all the dinim of misos beis din (witnesses and hasra'ah). Also the din of money is different: by ir hanidachas the money is burned, but by individuals the money goes to the heirs.

#### Chiddushim and Hisboros

**[Chiddush — women and minors as medi'achim:]** Even minors and women can actually lead a movement — the example of **Joan of Arc** (the woman who led the war in France), and the example of **"the child who cries that the king is naked"** — but from a din perspective it is not ir hanidachas.

**[Chiddush — "hudchu me'aleihen" — without a formal medi'ach:]** This is an interesting category — people erred on their own. Apparently there must also be someone who taught them false interpretations, but he didn't have the formal din of *mesis u'medi'ach* — he didn't operate in the manner that the Rambam will later describe how a medi'ach works.

**[Chiddush — connection to "oso ha'ish":]** **Oso ha'ish** (Yeshu) perhaps had a din of **mesis u'medi'ach**, but we don't see that there was a din of **ir hanidachas** there. Perhaps that's why he's called "oso ha'ish" — because he was a **single** medi'ach, and by a single individual there is no din of ir hanidachas.

**[Chiddush — the process of hadachah:]** The process of hadachah is a "slippery slope" — one begins, he is medi'ach a second, the second is medi'ach a third, and so on. The Rambam will later in the halachos explain more how a medi'ach operates.

---

#### Halachah — Lashon Rabbim and Specific Avodahs of the Medi'achim

**The Rambam:** The medi'achim must say **"neilech v'na'avod"** — in lashon rabbim. **"And they heard and served it in its manner of service or one of the four avodahs or accepted it upon themselves as a god."**

#### Pshat

The medi'achim must speak in lashon rabbim — "let us go", "neilech v'na'avod" — because that's how it says in the pasuk. They must incite to specific avodahs that are chayav misah — the main avodahs of avodah zarah: **zove'ach, maktir, menasech, mishtachaveh, or accepting it as a god.**

#### Chiddushim and Hisboros

**[Chiddush — the medi'ach must be "humble":]** The medi'ach must be "humble", because if he is a ba'al ga'avah, the world won't follow him.

**[Chiddush — simply "let's become goyim" is not enough:]** If the medi'ach says simply "let's become goyim" without a clear avodah zarah — just a bit of negligence or goyishness — that is **not din ir hanidachas**. It must be a clear avodah zarah, literally "neilech v'na'avod".

**[Chiddush — the medi'ach must be "part of the movement":]** The medi'ach himself doesn't need to serve avodah zarah (he is stoned even if he himself didn't serve). **But** — he must make himself appear that he wants to serve, he must be part of the group. Even if he turns out in the end, he must be part of the movement.

**[Chiddush — connection to the first chapter:]** If it were an incident of medi'ach like in the first chapter, where one makes only a small mistake (for example, the Almighty wants us to honor the stars), that would **apparently not have any din of ir hanidachas**. One must go to the end — actual avodah zarah. **But** — if someone says simply "neilech v'na'avod" without any reasons, just with a calculation, he is still a mesis u'medi'ach.

---

**Halachah — Ir HaNidachas Is Only Judged by Beis Din HaGadol of Seventy-One**

**The Rambam: "Ir hanidachas is only judged by the Beis Din HaGadol of seventy-one."** The source: "**V'hotzeisa es ha'ish hahu o es ha'ishah hahi... el sh'arecha**" — from this we learn that **individuals** are judged in **the beis din of each and every city** (each city's own beis din), **but ir hanidachas are killed by the Beis Din HaGadol**.

**Pshat**

Usually for dinei nefashos a beis din of twenty-three is sufficient, but for ir hanidachas one needs the Sanhedrin HaGadol.

**Chiddushim and Hisboros**

**[Chiddush — "sha'ar" as a symbol of beis din:]** In the ancient cities the **city gate** was the symbol of the city — each city with its own gate had its own beis din. The pasuk "el sh'arecha" therefore means beis din.

**[Chiddush — the logic of Beis Din HaGadol:]** A city is one level, and the **Beis Din HaGadol** is **above all cities**, therefore it fits that a din that concerns an entire city should go to the highest beis din.

**[Chiddush — connection to war:]** The Rambam assumes that ir hanidachas has **warlike elements**, which also fits with the fact that war also requires Beis Din HaGadol.

---

**Halachah — Arei HaMiklat Don't Become Ir HaNidachas**

**The Rambam: "One of the arei hamiklat doesn't become ir hanidachas"**, because it says "**b'achas sh'arecha**" — "sh'arecha" means cities that belong to the tribe, but **arei hamiklat don't belong to a tribe**, rather they are cities that the tribes **gave away for Klal Yisrael**.

**Pshat**

arei hamiklat cannot become ir hanidachas because they are not "sh'arecha" — not your cities.

**Chiddushim and Hisboros**

**[Chiddush — machlokes Rambam and Ra'avad:]** The **Ra'avad** argues and says that arei hamiklat were **indeed** once owned by the tribes — the tribes **inherited** them and **afterwards** gave them away for arei hamiklat. Therefore it is indeed called "sh'arecha". The **Rambam** however holds that "**sh'arecha**" **means what is now yours** — and since arei hamiklat are in practice given away, they are no longer "sh'arecha", even though they once inherited it.

---

**Halachah — Yerushalayim Doesn't Become Ir HaNidachas**

**The Rambam: "And Yerushalayim doesn't become ir hanidachas, because it was not divided among the tribes."** Yerushalayim belongs to **Klal Yisrael**, not to a specific tribe.

**Pshat**

Yerushalayim cannot become ir hanidachas because it was never divided among the tribes.

**Chiddushim and Hisboros**

**[Chiddush — the Ra'avad agrees by Yerushalayim:]** Even the Ra'avad who argues by arei hamiklat, **agrees** that Yerushalayim cannot become ir hanidachas, because Yerushalayim was **never divided** among the tribes.

**[Chiddush — the distinction between arei miklat and Yerushalayim according to the Rambam:]** The Rambam did **not** say by arei miklat the lashon "lo nischalku" — because arei miklat **were indeed** divided (and afterwards given away). The Rambam's sevara by arei miklat is different — it goes on the **kinuy "sh'arecha"**, which means what is **now yours**.

---

**Halachah — Ir HaNidachas at the Border of Eretz Yisrael**

**The Rambam: "And one doesn't make ir hanidachas at the border"** — a city that is at the border of Eretz Yisrael cannot be made ir hanidachas, **"so that goyim won't enter and destroy Eretz Yisrael"** — because if one burns a city at the border, goyim will enter from the other side and destroy Eretz Yisrael.

**Pshat**

A border city cannot become ir hanidachas due to strategic considerations.

**Chiddushim and Hisboros**

**[Chiddush — proof that ir hanidachas has warlike elements:]** By a regular aveirah (like chillul Shabbos) one does **not take any political/strategic considerations** — one kills the transgressor and doesn't look at consequences. But here by ir hanidachas **one does indeed take into account** strategic considerations — which proves that it is a **warlike din**, not just a dinei nefashos din.

**[Chiddush — comparison to Shabbos at the border:]** Even by **Shabbos** there is a din that at the border one may be mechalel Shabbos when goyim come — but there it is **pikuach nefesh**. Here by ir hanidachas it is **not pikuach nefesh** in the same sense — it is more a matter of **binyan ha'aretz** and protection of Eretz Yisrael as a whole.

**[Chiddush — who protects Eretz Yisrael?]** With a bit of irony: it turns out that **ovdei avodah zarah** are the protectors of Eretz Yisrael at the border! We leave them there

because we need the city. "**Avadai hem v'lo avadim la'avadim**" — even idolaters, they are **our** idolaters.

**[Chiddush — perhaps it doesn't go on the people but on the land:]** Perhaps the matter is not to protect the **people** (ovdei avodah zarah), but to protect the **land** — one shouldn't have a destroyed city. The source: the Torah says "**pen tirbeh alecha chayas hasadeh**" — if one expels too quickly, the land becomes destroyed. A destroyed city becomes a destruction for the entire region.

[Digression: It is noted that nowadays one also sees how important the people are who live at the border.]

[Digression: The matter of mesis u'medi'ach has practical relevance — in **prisons** people become vulnerable, seek spirituality, and many become ba'alei teshuvah, but there are also people who go after cults and other movements.]

---

### Halachah — One May Not Make Three Ir Hanidachas

**The Rambam: "And one doesn't make three arayos nidachos." "And if they built it, it is like all cities."**

#### Pshat

One may not make three cities ir hanidachas, because it will become a "karachas" — a hole in Eretz Yisrael.

#### Chiddushim and Hisboros

**[Chiddush — machlokes about the reason:] One approach** is that the reason is because it makes a "hole" in Eretz Yisrael — a great destruction of an entire area. According to this approach, if the three cities are **not next to each other** (for example, one in Yehudah and one in Galil), one can indeed give a din of ir hanidachas on each separately.

**The second approach** holds that the din of three arayos nidachos is **a principled din**: a beis din cannot make din ir hanidachas on three cities — "it's too much, one doesn't kill so many Jews." Even if one is in Yehudah and one in Galil, it makes no difference. "**Bas achas**" means **at one time** — one cannot make three ir hanidachas even many years apart. But when it's two separate countries (like Yehudah and Galil), it's far enough that it's considered two separate countries.

---

### Halachah — Order of Carrying Out the Punishment: Drishah V'Chakirah, Sending Talmidei Chachamim, War

**The Rambam: "And how is the din of ir hanidachas? The Beis Din HaGadol sends and investigates thoroughly until they know with clear proof that the entire city or its majority was nidach and returned to avodah zarah. Afterwards they send to them two talmidei chachamim to warn them and return them. If they returned and did teshuvah — good. And if they stood in their foolishness — all of Israel is commanded to go up against them to battle, and they besiege them and wage war with them until the city is breached."**

#### Pshat

The order is: (1) Beis Din HaGadol (seventy-one) sends emissaries who make a thorough drishah v'chakirah; (2) they send two talmidei chachamim to warn them and bring them back; (3) if they do teshuvah — good; (4) if not — Klal Yisrael goes up like an army, besieges the city, and wages war until the wall is broken.

#### Chiddushim and Hisboros

**[Chiddush — drishah v'chakirah more than regular testimony:]** The Rambam's lashon "dorshin v'chokrin... ad sheyeid'u b'ra'ayah b'rurah" shows that **it's more than regular testimony**. Beis din sends "inspectors" who make a serious investigation. Practically: when such a thing begins, all kinds of rumors come — "you have no idea what's going on in that chassidus" — but rumors are not enough. One needs clear proof.

**[Chiddush — "chazru la'avodah zarah" — meaning of "chazru":]** The lashon "chazru la'avodah zarah" refers to "techilah ovdei avodah zarah hayu avoseinu" — Jews were once ovdei avodah zarah, and now they are "chozer" back. **More than that:** "chazru" means that **the city as a city** became a "converted" city to avodah zarah — not just that a bunch of people each serve avodah zarah separately, but that **the city as a whole** gave itself over to avodah zarah. This is the distinction between individuals who serve avodah zarah and ir hanidachas.

**[Chiddush — two talmidei chachamim: not hasra'ah but kri'ah l'shalom:]** The **Ra'avad** asks: "Good that teshuvah should help them, but we don't find teshuvah helping after hasra'ah and action" — how can teshuvah help when there was already hasra'ah and action?

**First answer (certain mefarshim):** By ir hanidachas there is **usually no formal hasra'ah** on each individual. When a majority city gets "excited" about something, there is no personal hasra'ah. The two talmidei chachamim **are** the hasra'ah, and if one doesn't follow afterwards, only then does one proceed further.

**The Ra'avad's problem with this:** In certain versions of the Rambam it says that beis din must investigate that there was **already** a hasra'ah earlier, before the drishah v'chakirah. If so, what helps a **second** hasra'ah?

**The main chiddush:** This is **not a din of hasra'ah at all, but a din of kri'ah l'shalom**. Because the Rambam describes the entire process with lashonos of **war** — "all of Israel is commanded to go up against them **to battle**, and they besiege them and wage **war** with them until the city is breached." Just as by every war there is a din of "v'karasa eilehah l'shalom" (the Rambam says that even by Amalek there is kri'ah l'shalom), so too by ir hanidachas — the specific kri'ah l'shalom is the sending of talmidei chachamim to return them in teshuvah.

**Question on this chiddush:** Is the lashon "I'tzava" the Rambam's **own chiddush**, or does it already appear in the Gemara? Because **in the Gemara with Rashi and mefarshei Rashi it sounds like a beis din procedure, not like a war**. The Rambam introduced this.

**[Chiddush — source from Sefer Yehoshua:]** From **Mikoros V'Tziyunim of Frankel**, in the name of **R' Chaim Kanievsky**, a source is brought from **Sefer Yehoshua**: when the people of Gad and Reuven made a separate mizbe'ach in Ever HaYarden, Klal Yisrael (Yehoshua) sent **Pinchas HaKohen with ten nesi'im from ten tribes** to warn them — "what's going on with you? Why are you rebelling against Klal Yisrael?" This is exactly like a **kri'ah l'shalom** before a war. **The Rambam himself brings this source in Moreh Nevuchim.**

**This is the answer to the Ra'avad:** The Ra'avad asks that teshuvah doesn't help after hasra'ah and action. The answer is

that **ir hanidachas has a din of war**, and by war there is a **kri'ah l'shalom** which is a separate din — not a regular hasra'ah. The real reason why one goes to war is not because there was a kri'ah l'shalom, but on the contrary: because it's a din of war, therefore there must be a kri'ah l'shalom.

**[Chiddush — a deeper explanation about hasra'ah and teshuvah:]** Where does it say in the Torah at all that one must make a **hasra'ah**? The **main foundation** of hasra'ah is — **hasra'ah is a din in teshuvah**. Hasra'ah means: I give you an opportunity to do teshuvah. We learn this from **Yechezkel** and the nevi'im — how the nevi'im make hasra'ah. Hasra'ah must be **effective** — a way that can cause the other to be chozer b'teshuvah. Therefore the Ra'avad's question is not so strong: to say that teshuvah doesn't work after hasra'ah, is like saying that teshuvah doesn't work after trying to do teshuvah — like "**mi she'amar e'evor v'ashuv**". The entire goal of hasra'ah is teshuvah.

**[Chiddush — the din of melamed zechus:]** The din of **melamed zechus until the last moment** is also connected to this — the melamed zechus means that one didn't truly give him a chance, the hasra'ah wasn't a real hasra'ah that he could do teshuvah.

**[Chiddush — the lashon "techilah":]** The Rambam's lashon that one should "**first**" send talmidei chachamim — it's almost a kind of **chassidus**, a "good word of Torah mitzvah". The Rambam rules that one should **begin** with this step of teshuvah.

**[Chiddush — teshuvah in beis din shel matah:]** From here one sees a **clear source** that teshuvah **indeed** helps in **beis din shel matah**, against many acharonim who derive from a Gemara that says that teshuvah doesn't help in beis din shel matah.

**[Chiddush — why specifically talmidei chachamim:]** (1) Because they are **wise** and can outsmart the mesi'im u'medi'achim. (2) Because it is a **politically difficult thing** — one must enter a city that is perhaps closed, and one must find a way how to speak to the people. They are **diplomats**, and diplomats must be clever Jews. (3) One needs more chachamim **besides** the beis din — talmidei chachamim means that one sends more chachamim, students who go to learn halachos and discuss

it with the people.

**[Chiddush — ir hanidachas is essentially a civil war:]** Ir hanidachas is **basically a civil war** — a great danger, not a simple thing to do. The Rambam brings the halachos here mainly because he wants to explain that **avodah zarah is not just a private matter** — avodah zarah can be a **communal matter**, a different kind of din.

[Digression: Amalek and kri'ah l'shalom — the Rambam says that one must negotiate even with **Amalek**. Even by Amalek there exist **laws of war** like kri'ah l'shalom.]

---

**Halachah — Setting Up Batei Dinim, Witnesses and Hasra'ah on Each Person**

**The Rambam:** One sets up various batei dinim, and one brings two witnesses on each person that he served avodah zarah after he was warned. **If all the ovdim together are only a minority** — one judges them like **individuals** with **sekilah**, and the rest of the city is saved. **If the majority**

**gathered — they are brought up to the Beis Din HaGadol.**

**Pshat**

After the talmidei chachamim were not successful in returning them in teshuvah, one sets up batei dinim that judge each person separately. One brings two witnesses on each one, writes him down, and makes a list. If all the ovdim together are a minority — one judges them as individuals with **sekilah**. If they are a majority — one brings them to the Beis Din HaGadol.

**Chiddushim and Hisboros**

**[Chiddush — from here the Ra'avad saw that there was actual hasra'ah:]** The Ra'avad's question stems from here — he sees that we're talking about witnesses and hasra'ah on each one, and therefore he wonders what helps the returning them in teshuvah. But as explained, the hasra'ah is itself a din in teshuvah.

**[Chiddush — by ir hanidachas itself there apparently is no regular din of hasra'ah:]** "On the surface it appears that by ir hanidachas there isn't even a din of hasra'ah in the regular sense." This is a distinction between din ir hanidachas and din yachid.

---

**Halachah — Din of Killing: Sayif for Anshei Ir HaNidachas, Sekilah for Medi'achim**

**The Rambam:** "And they complete their judgment there, and kill all those who served with the sword... striking every human soul in it by the sword." "**Whether the entire city was nidach or its majority, the medi'achim are stoned**" — the mesi'im u'medi'achim receive **sekilah**, not sayif.

**Pshat**

The Beis Din HaGadol rules, and one kills all ovdei avodah zarah with **sayif** (sword), not **sekilah** like by an individual. The medi'achim however receive a **more severe death** — **sekilah**. Besides the ovdim themselves, one also kills **the wives and children of the ovdim** (the women and children of the ovdei avodah zarah).

**Chiddushim and Hisboros**

**[Chiddush — innocent people:]** By ir hanidachas one also kills people who didn't themselves serve (like children). The answer is that the beis din is **very careful** with issuing such a ruling, and the nature is like a **war** — by war there are such dinim.

**[Chiddush — machlokes Tanna'im about children:]** There were **Tanna'im who say that one doesn't kill the children** even. The Rambam goes **stringently** — he kills the wives and children of the ovdim.

**[Chiddush — the Ramatz (Rash"sh of Shantz):]** He says that what the Rambam says "**we strike the wives of the ovdim**" he means only **the wives who incited them** — the women who talked them into serving avodah zarah. But **righteous women** — pious women who didn't agree — are not killed. This comes from the **Gemara** which asks: what does one do with righteous women in ir hanidachas?

**[Chiddush — the Rambam never kills a person who didn't serve avodah zarah:]** Only the household (family) of the ovdim. A **woman** can herself be an ovedes avodah

zarah, but **minors** — that is the chiddush, because minors cannot be ovdim.

---

### Halachah — Shalal: Gathering in the Street

**The Rambam: "And they gather all its spoils into its street"** — one gathers all the property of the city in the street. **"If it has no street"** — if it doesn't have a main thoroughfare, **one makes one for it. "If the street is outside it, they build a wall outside it until they bring it inside"** — if the street is outside the city, one builds a wall around so that it should be **inside** the city.

#### Pshat

The pasuk says "el toch rechovah" — one must burn in the street, and the street must be inside the city. "Rechov" apparently means the "marketplace" — the main place where people gather, the central public place.

---

### Halachah — Killing of All Living Creatures (Animals) and Burning

**The Rambam: "And they kill every living soul in it"** — one kills all living creatures in the city. **"All its spoils with the city by fire"** — one burns everything. The burning is a mitzvas asech — **"and you shall burn with fire the city and all its spoils"**.

#### Pshat

One slaughters the animals first (killing), and afterwards one burns. "Es ha'ir" apparently means all living things, "v'es kol sh'lalah" means the property.

#### Chiddushim and Hisboros

**[Chiddush — comparison to bi'ur chametz:]** Just as one burns chametz, so one burns the avodah zarah. Both have a din of burning, and both are "balev" — chametz shebalev (the chametz that is in the heart, the yetzer hara) and avodah zarah which is also a matter of the heart.

---

### Halachah — Property of Tzaddikim Within It

**The Rambam: "The property of tzaddikim within it"** — the money of the "tzaddikim" in the city is also burned. **"Since they lived there, their money is lost."**

#### Pshat

"Tzaddikim" doesn't necessarily mean people at the level of tzaddikim. It means **"the rest of the city's inhabitants who were not nidach"** — those who didn't follow the mesis u'medi'ach. They are called "tzaddikim b'dineihem" — tzaddikim in comparison to the resha'im. Their bodies are saved, but their money is burned as part of the city's spoils.

#### Chiddushim and Hisboros

**[Chiddush — proof from Avraham Avinu by Sedom:]** "Are there fifty tzaddikim within the city" — also there "tzaddikim" doesn't mean people at the highest level, but "the smart Jews who don't fool around after" the resha'im. Tzaddikim b'dineihem. Also "u'vasha'ar yashvu Lot" — Lot's property was also burned as part of the spoils.

**[Chiddush — the reason why their money is lost:]** This is connected to the principle **"oy l'rasha oy l'shcheno"**. Why did they go live there? Because there was a large settlement there — they went for livelihood/money. This fits with what the Rambam learned earlier that one may not live

with resha'im. Why didn't he go away to a desert? Because he needs to be a normal person with a livelihood. There is a penalty for this.

**[Chiddush — Lot as an example:]** Avraham saved Lot's money the first time (from the kings), but when it came to the destruction of Sedom (which is like ir hanidachas), they only saved Lot's body, not his money.

---

### Halachah — Benefit from Shalal Ir HaNidachas

**The Rambam: "And anyone who benefits from it receives one lashing, as it says 'and nothing from the cherem shall cling to your hand.'"**

#### Pshat

One who takes benefit from the spoils of ir hanidachas receives one malkos.

#### Chiddushim and Hisboros

**[Chiddush — "achas" — only one malkos:]** In chapter 7 the Rambam brings that benefit from avodah zarah itself (not ir hanidachas) is "lokeh shtayim" — two lavin. But by ir hanidachas there is only one lav — "v'lo yidbak b'yadcha me'umah min hacherem".

---

### Halachah — Ye'ush: Anyone Who Seizes Their Property Acquires It

**The Rambam:** When there was already a final judgment on a city as ir hanidachas, and someone grabbed property from the city, and later it turns out that the city is not ir hanidachas — the one who grabbed it has acquired it. **"For each and every one already made his property ownerless at the time of the final judgment."**

#### Pshat

This is not a din in avodah zarah, but a din in **ye'ush/hefker/aveidah**. At the final judgment each one despaired of his money, therefore it became ownerless, and the one who took it acquired it.

#### Chiddushim and Hisboros

**[Question:]** The person who lives in the city knows that he is innocent — he feels that he is a tzaddik. Why should he despair?

**[Chiddush — answer from the Aruch LaNer (from Gemara Kerisos):]** On the contrary! The person makes his money ownerless specifically **because** he knows he is a tzaddik. He says: "I am a tzaddik, the other majority of the city sinned, but I am a tzaddik." As a tzaddik he knows that his money will be lost (like the din of property of tzaddikim within it), and he makes his possessions ownerless "on the understanding" that he is a tzaddik who unfortunately loses his money. If he thought he was guilty, he wouldn't despair, because they haven't yet ruled.

**[Another explanation:]** Presumably, if one wants to say it "piously", something was "fishy" (suspicious) in the city — they don't deserve their money. We're already past the point where emissaries were sent to return them in teshuvah. It can even be that they actually served avodah zarah, but there weren't two kosher witnesses.

---

### Halachah — "Lo Sibaneh Od": One May Not Rebuild

**The Rambam: "And it is not rebuilt forever, and anyone who builds it receives lashes, as it says 'lo sibaneh od.'" But "it is permitted to make it gardens and orchards" — one may make gardens and fruit orchards. "One may not rebuild a city as it was."**

**Pshat**

The ir hanidachas may never be rebuilt as a city. "Lo sibaneh m'dinah k'mo she'hay'sah" — one may not remake a city as it was. But gardens and orchards are permitted.

**Chiddushim and Hisboros**

**[Chiddush — "L'olam" means literally forever:]** "L'olam" doesn't apply to one person — it's a din on the place, not on a person. This is different from "lo yavo b'kahal Hashem" by Ammoni and Moavi, where we say that nowadays there is no longer Ammoni and Moavi (because Sanheriv mixed up the nations). But a city always remains in its place.

**[Chiddush — question about doubtful ir hanidachas:]** If one doesn't know where an ir hanidachas was, may one not build? This is compared to the **famous lamdishe question of nachal eisan** — we say that one doesn't plow in nachal eisan (where they performed eglah arufah), and if we say "kol kavu'a k'mechtzah al mechtzah", every place should be a doubtful nachal eisan. **Answer:** Presumably beis din must place a monument at an ir hanidachas. But this is not a good answer for nachal eisan, because nachal eisan is not such great publicity — but an ir hanidachas is a huge event that must be recorded in history.

**[Chiddush — what does "build it" mean?]** "Lo sibaneh m'dinah k'mo she'hay'sah" — one may not remake a city. But may one build small houses (not a city)? "K'mo she'hay'sah" is a limitation. If one builds a city with a new name on the same place — does that mean "lo sibaneh od"?

[Digression: Beis Shemesh and Purim — a halachic question about Beis Shemesh is mentioned, where there are people who say that nearby there was a city "Mishmos Yashvu Binyan", and others claim that one is building in the same area but it's not the same city. This has a practical difference for the laws of Purim (mukafes chomah).]

---

**Halachah — A Caravan Passing from Place to Place: Travelers in Ir HaNidachas**

**The Rambam:** A caravan traveling from place to place that stopped in an ir hanidachas — if they also followed the ovdei avodah zarah: if they were there **thirty days** (residents of the city), **"they are killed with the sword and their money is lost"** — they receive the din of ir hanidachas. If they weren't there thirty days — **"with sekilah, and their money to their heirs"** (din yachid).

**Pshat**

The measure of thirty days — as by other halachos (Pesach, mezuzah) — makes one part of the city. Until thirty days one is a "guest" and receives the din of an individual oved avodah zarah.

**Chiddushim and Hisboros**

**[Chiddush — double distinction:]** The distinction between din ir hanidachas (sayif, money lost) and din yachid (sekilah, money to heirs) is double: both in the death (sayif vs. sekilah), and in the money (lost vs. to heirs).

---

**Halachah — Property from Other Cities Deposited in Ir HaNidachas**

**The Rambam: "Property of people from another city that was deposited within it" — money of people from other cities that was deposited in the ir hanidachas — "even though they accepted responsibility for it" — even though the anshei ir hanidachas accepted responsibility — "since it is not theirs, it belongs to its owners" — one returns it to the owners, "for it is not spoils".**

**Pshat**

Even when the anshei ir hanidachas have responsibility for the deposit (which by other halachos, for example chametz, makes it like theirs), by ir hanidachas it doesn't remain theirs — because "shalal" means only their own things.

**Chiddushim and Hisboros**

**[Chiddush — "d'lo shalal chavrusa":]** Even in a manner where responsibility makes it halachically like his (for example by chametz that he accepted responsibility for), by ir hanidachas the din is different — it's not "shalal" because it's essentially not his.

---

**Halachah — Property of the Resha'im Deposited in Another City**

**The Rambam:** Property of the anshei ir hanidachas (resha'im) that is deposited outside the city: **"If it was claimed together with them" — if it was gathered when judging them — "it is burned with them". "And if not" — if it remained in the other city — "it is given to their heirs".**

**Pshat**

"Shalal" means when it's there in the city. If the money of the resha'im is outside, it doesn't automatically become shalal — only if it was physically brought in.

---

**Halachah — An Animal Half of Ir HaNidachas and Half of Another City; Dough**

**The Rambam:** An animal that is half owned by a man of ir hanidachas and half by a man of another city — **"it is forbidden"** — the entire animal is forbidden. But **dough** that is in partnership — **is permitted, "for he can divide his dough"**.

**Pshat**

By an animal one cannot divide, because the life force is one — every drop of blood belongs to both partners. By dough however one can simply divide into two halves, and the kosher portion remains permitted.

**Chiddushim and Hisboros**

**[Chiddush — the foundation of this distinction:]** An animal is a "davar echad" — a living thing that one cannot divide without killing it. When one cuts an animal in half, it doesn't survive. Therefore every part of the animal is automatically belonging to both partners, and the entire animal becomes forbidden. Dough however is something that one can divide without any loss. **Lashon of the Gemara:** "she'yachol k'zayis bazeh v'chazayis bazeh" — by dough one can divide k'zayis k'zayis, but by an animal not.

---

**Halachah — Animals of Ir HaNidachas That Were Slaughtered**

**The Rambam:** Animals of ir hanidachas that were slaughtered — they are **forbidden in benefit** like other slaughtered animals that are forbidden in benefit.

**Pshat**

Usually one kills the animals with the sword (with sayif), but if they were already slaughtered, they remain forbidden in benefit like all other property of ir hanidachas.

---

#### **Halachah — Hair of the Head and Artificial Wig**

**The Rambam: Hair of the head**, whether of men or women in it — **is permitted in benefit**. But **artificial wig hair** — it is included in its spoils and **is forbidden**.

**Pshat**

The natural hair from people's heads is permitted in benefit, because it's not "property" and not "people" (it's a part of the body that is killed). But an artificial wig is a cheftza, a separate vessel, and it's included in shalal and is forbidden.

#### **Chiddushim and Hisboros**

**[Chiddush — the distinction between hair and artificial wig:]** Hair that grows on the head is part of the person's body — it's not "shalal" (property). But an artificial wig is a separate cheftza, a vessel that one uses, and therefore it falls into "sh'lalah". This is also connected to the principle of "**mechusar kevitza**" — hair that is still on the head is not yet "gathered" as spoils.

---

#### **Halachah — Attached Fruits (Date Palms Within It)**

**The Rambam: Date palm fruits within it — are permitted.**

**Pshat**

Fruits that still hang on trees in the ir hanidachas are permitted (not specifically dates, but all trees).

#### **Chiddushim and Hisboros**

**[Chiddush — mechusar t'lishah u'kevitza:]** The foundation is that attached fruits are "mechusar t'lishah u'kevitza u'sreifah" — they still need to be picked, gathered, and then burned. Therefore they are not included in "shalal" that must be burned. The Rambam uses the same principle of mechusar kevitza to explain both dinim — hair of the head and attached fruits. **Things that were already picked** but not yet gathered in one place — that is "mechusar kevitza" and one must indeed burn it.

---

#### **Halachah — Consecrated Items Within It: Kodshei Mizbe'ach and Kodshei Bedek HaBayis**

**The Rambam: Kodshei mizbe'ach — should die** (because "zevach resha'im to'eivah", one cannot offer it). **Kodshei bedek habayis — should be redeemed and then burned, as it says "your spoils and not the spoils of Heaven"**.

**Pshat**

Consecrated items that people from ir hanidachas consecrated:

- **Kodshei mizbe'ach** (animals with kedushas haguf): one cannot offer them because "zevach resha'im to'eivah", and one cannot eat them because they are kodshei mizbe'ach — therefore they should die.

- **Kodshei bedek habayis** (animals with only kedushas damim): one redeems them (pidyon), and afterwards one burns them.

#### **Chiddushim and Hisboros**

**[Chiddush — "shalal v'lo shalal shamayim":]** The pasuk teaches that consecrated items are not included in "shalal" that one must simply burn — they belong to "Heaven". Therefore by kodshei bedek habayis one can first redeem (buy out), in order to save the hekdeshe's money, and afterwards one burns the animal.

**[Difficult question — who redeems?]** Who will want to redeem an animal if he must burn it afterwards? One cannot take money from ir hanidachas because that is also "shalal". One must find a donor from outside who wants to give money for hekdeshe so that the Beis HaMikdash should not have a loss.

**[Chiddush — the Ra'avad's dispute:]** The Ra'avad disagrees and says that consecrated items one shouldn't burn at all, because once the person consecrated it (gave it away to the Beis HaMikdash), it is no longer "his property" — it's like a gift that already belongs to the other. This is "actually a good question".

**[Difficult passage in the Rambam:]** The Rambam's lashon "they are redeemed and then burned, as it says shalal v'lo shalal shamayim" is difficult — the pasuk "shalal v'lo shalal shamayim" is the reason why one can indeed redeem it (because it's not included in shalal), but then one burns it. Without this pasuk one wouldn't be able to redeem at all, because the hekdeshe also wouldn't be allowed to benefit from it according to the din of "kol sh'lalah tiyeh".

---

#### **Halachah — Firstborn and Ma'aser Within It**

**The Rambam: The firstborn and ma'aser within it, which are kodshei mizbe'ach — should die.**

**Pshat**

Firstborn and ma'aser behemah are kodshei mizbe'ach, one cannot offer them (zevach resha'im to'eivah), therefore they should die.

#### **Chiddushim and Hisboros**

**[Chiddush — unblemished vs. blemished:]** By unblemished — they should die, because one cannot offer them and one cannot eat them (because they are kodshei mizbe'ach). But by **blemished** — the din is different: because the owner could have redeemed it and eaten it (a blemished firstborn the kohen eats, a blemished ma'aser the owner eats), this means it's "included in his" — it's included in the animals of those killed, not "spoils of Heaven". Therefore it is killed like all other animals of ir hanidachas. **The distinction:** By unblemished — it belongs only to the altar, therefore "spoils of Heaven". By blemished — the owner has a portion in it (he can eat it), therefore "his".

---

#### **Halachah — Terumah Within It**

**The Rambam: Terumah within it — if it reached the kohen's hand, it should rot. If it is still in the Israelite's hand, it should be given to a kohen from another city.**

**Pshat**

If the terumah is already with the kohen (from ir hanidachas), one lets it become rotten (spoiled). If it's still with the Israelite, one gives it to a kohen from another city.

#### Chiddushim and Hisboros

**[Chiddush — why rot and not burning?]** Because terumah has kedushah, one may not simply burn it. One lets it become rotten. Rashi says that one lets it lie until it becomes a "vessel made to rot".

**[Chiddush — if still in the Israelite's hand:]** It's not his (it belongs to the kohen), therefore one gives it to a kohen in another city — it's a gift of kehunah, "nachas ruach l'shamayim", with kedushas haguf, and the kohen can eat it as usual.

---

#### Halachah — Ma'aser Sheni and Sacred Writings Within It

**The Rambam: Ma'aser sheni and money of ma'aser sheni — and sacred writings — require burial.**

##### Pshat

Ma'aser sheni (or money of ma'aser sheni) essentially belongs to the owner (he eats it in Yerushalayim), but it has kedushah. Sacred writings one may not burn. Both must be buried (genizah).

#### Chiddushim and Hisboros

**[Chiddush — the parallel:]** Ma'aser sheni by tumah must be burned (because it's disrespect to kodashim), but one also may not simply eat it (only the owner in Yerushalayim). By ir hanidachas — one cannot burn it (because it has kedushah) and one cannot eat it — therefore genizah. Also sacred writings one may not burn, therefore they require genizah.

---

#### Conclusion — The Matter of Ir HaNidachas: Olah, Charon Af, Blessing and Mercy

**The Rambam: Ir hanidachas is in the category of olah — everything is burned. And not only that, but it removes charon af from Israel, as it says "so that Hashem will turn from His fierce anger". And it brings blessing and mercy, as it says "and He will give you mercy and have mercy on you and multiply you".**

##### Pshat

The din of ir hanidachas — that one burns everything — is like a korban olah. Through this one removes the charon af from Klal Yisrael, and it brings blessing and mercy.

#### Chiddushim and Hisboros

**[Chiddush — in the category of olah:]** All property is burned — just like an olah that goes entirely on the altar. This connects all the details of the dinim (partnerships, consecrated items, kodashim) — everything must be burned or eliminated.

**[Chiddush — "v'nasan l'cha rachamim" — the Ohr HaChaim HaKadosh:]** The famous interpretation — "v'nasan l'cha rachamim" means that Hashem gives the person mercy so he shouldn't become cruel through the killing. This means, the mercy is not just a reward, but a protection on the person's character traits.

**[Chiddush — the Rambam's approach:]** The Rambam's approach (as he brings in other places) is that the reward for fighting avodah zarah is that "those who trouble man after vanity — mercy will come to the world". This means, cruelty toward avodah zarah is itself mercy, because a world without avodah zarah is a better world that serves the Almighty.

**[Chiddush — charon af only on avodah zarah:]** The Rambam is famous for his passage in **Moreh Nevuchim Part 3 Chapter 42** that "charon af" appears in the Torah only on avodah zarah. This means: the main thing that brings charon af on the world, God forbid, is avodah zarah. Therefore, when one fights avodah zarah with cruelty, that is actually the way to avoid charon af.

**[Chiddush — connection to Pinchas:]** Also by Pinchas it says that through his zealotness he removed the charon af from Klal Yisrael — the same foundation.

**[Chiddush — the middle path in mercy and anger:]** The Rambam's general approach is the "middle path" — one shouldn't be too merciful and not too angry. But by ir hanidachas one must indeed have cruelty — this is an exception where one goes to the extreme, because that is what the Torah demands. The yetzer hara says "have mercy" on the people of ir hanidachas, but the true mercy is the opposite.

**[Chiddush — connection to the next chapter:]** In chapter 5 one will see more about the explicit prohibition of having mercy on ovdei avodah zarah — a clear explicit prohibition in the Torah.

## Full Transcript

### Rambam Hilchos Avodah Zarah Chapter 4 — Ir HaNidachas, Meisis U'Madi'ach

#### Introduction to Chapter 4

**Speaker 1:** Okay, good. We're continuing to learn in the Rambam, Sefer HaMada, Hilchos Avodah Zarah. We're now going to learn the fourth chapter of Hilchos Avodah Zarah, Chapter 4.

We've already learned about how avodah zarah developed, that was in the first and a bit in the second chapter. Then the main laws of avodah zarah, which types of worship one is liable for. In the current chapter, and also in the next one primarily, we're going to learn about a law called ir hanidachas, and a bit more broadly than that, meisis u'madi'ach.

#### The Uniqueness of Meisis U'Madi'ach by Avodah Zarah

It's a special law. Generally, if someone talks someone else into doing another sin, perhaps he transgresses lifnei iver or something, but he's not part of the sin. But by avodah zarah there's a concept that if someone incites someone and he is meisis them to serve avodah zarah, he gets, even if he himself didn't serve avodah zarah, he gets a din of meisis u'madi'ach, very many, various many punishments with various prohibitions around this.

And so too there's a special law for an entire city. There's no law for an entire city that desecrates Shabbos or something like that. But by avodah zarah we see the concept of ir hanidachas, a city that was pushed away, became an avodah zarah city. Ir hanidachas has various laws in which it's unique, and it's very different from the entire Torah, that even innocent people are also killed, that is the women and the

children and the property, because the entire city served avodah zarah. We'll see these laws discussed.

#### Why Ir HaNidachas is Central by the Rambam

We thought that it could be that this has to do with, this is literally the next law that the Rambam says, it could be there are still details that he's going to say afterwards, but the main reason why this is so central in Hilchos Avodah Zarah by the Rambam, as it seems comes out clearly also in the first chapter and afterwards in other places, I don't remember right now off the top of my head, the Rambam speaks this way, that the Rambam laid down that the entire problem of avodah zarah is that it starts with some good idea or a half-mistake, then gradually they become meisitim u'madi'ichim, they become wicked, they start making from this a new religion, they start serving the forms and the stars.

So he says that avodah zarah is a "slippery slope", it usually starts with a mistake of a prophet or of some wise person who got a bit crooked, and then the masses take the mistake further and further. So kal vachomer ir hanidachas one sees, later the Rambam will speak about a false prophet, a prophet who says in Hashem's name that one should serve avodah zarah, there are various laws. And it fits very well with the framing that the Rambam said about the story, how his story develops. That a prophet says something wrong, and then a few people start, and then it drags along with it the entire city.

**Speaker 2:** Right, and the important thing is that there's also, that the Rambam looks at it as also like a religion, a false religion. Avodah zarah doesn't just mean that there's one person serving avodah zarah, that's one thing. Then there's this, an entire group was drawn after avodah zarah, became worshippers, became people of the religion, of the avodah zarah religion. So that's what ir hanidachas is. It's not simply that the city became non-Jews, they converted. I have a law in the Rambam, we'll see a bit later more deeply.

#### Halacha 1 — Madi'ichei Ir and Anshei Ir HaNidachas

**Speaker 1:** So let's see the first halacha in Chapter 4. So the Rambam says: "**Madi'ichei ir miYisrael**" — people who were madi'ach.

#### Explanation of the Words: Meisis U'Madi'ach

What does the word madi'ichei mean? Pushed away, like the language of docheh, pushed away from the Jewish path, from the good path. Meisis means to incite, to agitate. Madi'ach is the action that happens through the meisitim.

**Speaker 2:** Yes, meisitim means one incites, and madi'ach means one succeeds in taking the other person away, turning him from the good path. Very good.

**Speaker 1:** Ah, it says "**vayadi'chu es yoshvei iram**", that's the language. Yes. "**Madi'ichei ir miYisrael**". I think it's the same language that we saw yesterday in the verse, "venidchu vehishtachavitem".

**Speaker 2:** Yes, they are pushed away from the correct paths.

#### Punishment of Madi'ichim

**Speaker 1:** The Rambam says, "**Madi'ichei ir miYisrael**". Madi'ach is always, it takes two people. That's the law of madi'ach, when two people do it together. That's how it develops. Yes. "**Madi'ichei ir miYisrael**", when they are madi'ach a city of Jews, "**harei eilu niskolin**".

The punishment for avodah zarah we learned is sekilah, then one hangs afterwards. But the main death that one receives is

misos sekilah. So generally one only gets sekilah if one served avodah zarah. But the madi'ichim, "**af al pi shelo avdu avodah zarah**", even if they themselves didn't serve avodah zarah, "**ela hidi'chu es yoshvei iram ad she'avdu osam**", they turned, they told the people of the city that they should serve avodah zarah, even if they didn't serve themselves, they get the punishment of sekilah for being a madi'ach.

**Speaker 2:** You know why they didn't serve themselves? Because the bluffer is smarter, he knows that it's junk.

**Speaker 1:** Yes, yes.

#### Punishment of Anshei Ir HaNidachas

The Rambam says further, "**ve'anshei ir hanidachas**", that's the punishment that the madi'ach gets, the one who causes sin. What punishment do the anshei ha'ir get, those who followed and became mudach, they served avodah zarah? "**Neheragin besayif**". There's a new law that anshei ir hanidachas don't get the usual punishment that one gives for an oved avodah zarah, sekilah, but they have the punishment of sayif, as it says in the Torah.

"**Vehi**", says the Rambam, "**vehi**", what does anshei ir hanidachas mean? "**She'avdu avodah zarah o shekibluha aleihem be'eloha**". Only if they actually served avodah zarah with one of the, as we learned yesterday, the various types of worship, or the worships that are always worships, or a specific way of worship of a certain avodah zarah. "**O shekibluha aleihem be'eloha**", or one accepted upon oneself an avodah zarah, one accepted divinity, as we also learned yesterday. So if someone accepts upon an avodah zarah that it's my god, usually one gets sekilah, but anshei ir hanidachas get sayif.

#### Warning Against Madi'ichim

The Rambam says further, it says in the Torah that the madi'ichim get sekilah, but "**ve'azharah al madi'ichim minayin?**" Where is the prohibition? Every time there's a punishment, the Gemara calls it "onesh shamanu, azharah minayin?", where is the warning? The Rambam says, "**Talmud lomar 'lo yishama al picha**". One should not hear from your mouth any words of incitement and leading astray.

#### Discussion: Why Sayif and Not Sekilah?

**Speaker 2:** Good. Did you discuss why specifically is the reason for the sayif? It's interesting, it's a kula so to speak. It's interesting, usually one says that sekilah is more severe than sayif. Here the mudachim, they only get sayif.

#### Ir HaNidachas as War

**Speaker 1:** I think the concept is, we'll perhaps discuss it later, but I think that the concept is that ir hanidachas one shouldn't look at like a regular punishment, but it's more something like a concept of, more similar to a war.

And so it also says in the Rambam in Moreh Nevuchim Part 3 Chapter 42 I think, he says it this way, he doesn't say it very clearly, but one can see it there, that only this way can fit various laws that we'll soon learn. For example, that one can also kill innocent people. That usually a punishment is a very specific thing, one takes the person, one looks at him, and one gives him a specific punishment. But ir hanidachas is simply that there's a city among Jews that they rebelled against the Kingdom of Heaven, it's like a rebellion, it's an uprising against Klal Yisrael, against the God of Israel, and one goes out

with them in a sort of war. And with this will fit later more laws.

I think that for this also fits sayif, because a usual way of war is a way of war of the sword. Taking hundreds of people and each one throwing down from the roof and throwing stones, you need a multitude in that. Sayif is a more warlike way of punishing people. It goes around one great zealot, like Pinchas ben Elazar ben Aharon HaKohen killed with a spear, because it was also a declaration of war, because when a prince of a tribe does such a thing, he didn't get a punishment, that's also the kana'im pog'im bo, it's not in the way of punishment, but it's in the way of war. It must be cherev ish be'achiv, because also by the Golden Calf it was so, when there's such a great type of desecration of Hashem's name, it's a concept of a rebellion against the Kingdom of Heaven, and on this one must declare war. Does that make sense?

**Speaker 2:** Yes yes, I think that it's the sayif. More laws we'll see later that will fit with this law that we understood. But the sayif is still like a law, there's a part of it that's more literally like a sayif of the law of execution by beis din, one brings witnesses, one gives warning.

**Speaker 1:** Yes, because even if the law is of sayif, one hasn't divided it. Even when there's a regular law in beis din there's a sayif. But I'm saying, the mindset of the punishment of ir hanidachas is a mindset of war.

#### Parallel to the Seven Nations

**Speaker 2:** The Rambam says further. I can think a bit similarly, this can be based on this, like the mudachim, like for example by the seven nations, the Canaanites, Hittites, that one kills them because they're ovdei avodah zarah.

**Speaker 1:** And continue to serve avodah zarah. But it's not simply that each one is extremely guilty, he's a mudach, he's like a tinok shenishbah, not exactly a tinok shenishbah, he's a mudach, they convinced him poor thing. He gets killed, as you say, one judges him with the law of ir hanidachas, which is a different type of law, but it's actually less severe regarding the mudach, because he was only pushed away.

Actually, if you think about it, the seven nations is also a type of ir hanidachas, because their sin is also the avodah zarah part, as we learned in this week's parsha, that the problem of sparing the ir hanidachas is because afterwards your children will be pushed away to avodah zarah through them. So one can see that the general laws should be similar a bit.

#### Halacha 2 — Conditions for Ir HaNidachas

**Speaker 1:** Let's go further. **Eino na'asis ir hanidachas ad sheyihyu madi'ihaha shnayim o yoser al shnayim.** A city doesn't get a law of ir hanidachas until when those who are madi'ach the city, those who incite to avodah zarah, are two people or more than two people, **shene'emar "yatzu anashim bnei vliya'al"**, and the language of plural is at least two. If there's only one person who is madi'ach, it doesn't get any law of ir hanidachas.

I think it's a gezeiras hakasuv, because there are various laws here that don't necessarily have a clear explanation, but that's how one learns it out from the verses. I think perhaps the explanation is, there's the opinion that says that ir hanidachas lo haysah velo nivra'ah. The Torah made various limitations, because there must be such a law, the world should know the severity, but it's not necessarily that one must carry it out so, it should be so easy to carry out. Interesting.

#### If Only One Madi'ach

The Rambam says further, veyihyu madi'ihaha... Again, if there's only one madi'ach, the people who served avodah zarah will still get their punishment of sekilah. On the contrary, they got a greater punishment. But there isn't the law of ir hanidachas regarding killing the entire city, or regarding the cherev, losing their money.

#### The Madi'ichim Must Be From the Same City and Tribe

The Rambam says further, **veyihyu madi'ihaha**, those who are madi'ach, must be **me'oso hashevet ume'oso ha'ir.** They must be from the same tribe. When Eretz Yisrael was divided it was divided to tribes. It probably took, I know, a nice few years until it was divided, everyone had to map and everything, but originally each city had a tribe also. Must be from that city and from that tribe, **"mikirbekha"** — mikirbekha means from your tribe. **"Vayadi'chu es yoshvei iram"** — they are madi'ach the yoshvei iram, from the city where the madi'ichim live. If madi'ichim come from another place, there's no law of ir hanidachas.

#### One Must Be Madi'ach the Majority of the City

Another law, **"ad sheyadi'chu rubah"** — they must be madi'ach the majority of the anshei ha'ir. And further than...

#### Halacha 2 (Continued) — The Parameters of Ir HaNidachas: Minimum and Maximum

##### Speaker 1:

Yes, it must be the majority, and it must be that the mudachim should be one hundred, and up to the majority of the tribe. How much? The minimum is one hundred, and the maximum is the majority of the tribe. If the majority of the tribe became pushed away, then one no longer kills out a majority of a tribe.

Perhaps this isn't a gezeiras hakasuv, perhaps there's a concept of... It's only a language of the verse, that one shouldn't wipe out a tribe from Israel, **"velo yimacheh"**. By the incident of pilegsh beGiv'ah there was yes a bit of ir hanidachas, not for avodah zarah, but a type of ir hanidachas, yes. Doesn't it say by yibum **"velo yimacheh shemo miYisrael"**? It also says a language of **"velo yimacheh shevet miYisrael"**. It could be it has with that, and apparently it's a gezeiras hakasuv that only up to the majority of a tribe.

The Rambam says further, **"aval im hidi'chu rubo shel shevet"**, what happens then? It's not simple that one lets them free. **"Nedonin kol echad keyechidim"**, then one takes each person separately, and one judges them as individuals, as it says **"yoshvei ir"**.

#### The Source for "Ir" — Not a Small Village, Not a Large City

How does one learn out "majority of a tribe"? The Rambam says that from **"ir"** one learns out **"velo kfar katan"**. One doesn't speak of a small town that has less than about two hundred people. **"Velo kerekh gadol"**, also not a very large city, because if it's a large city it's already the majority of the tribe. Does that mean it? Ah, the Rambam says.

Yes, the Rambam says further, **"kol pachot meme'ah hu kfar"**, a place where fewer than one hundred people live.

#### Discussion: The Calculation of "One Hundred" — Must It Be Two Hundred?

It's interesting, because the calculation must come out more than one hundred, it must come out almost two hundred, that the one hundred must be the majority. Could that be what the Rambam means?

No, one hundred can be the whole thing too. It's not a problem. If there's a majority, no one remained, it's not a problem.

No, but it can also be the majority of the city, no?

The whole city. It can be the entire city. It must be more than the majority, at least the majority. Majority is only regarding the tribe, not regarding the city. It can be at least the majority, but it can be that the entire city is only one hundred people, and it will be so.

When a majority doesn't have a tribe, in a place where there lives there a majority of a tribe, is already called a large city.

#### **Comparison with Megillah — Ten Batlanim**

It's interesting, we learned for example by Megillah, that there there's a kfar, yes, "**anshei hakfarim hakdumim**", and there there's a different law, because there are ten batlanim. Here what's the novelty, that up to one hundred people is a kfar.

You know what's the difference between a rebbe'le and a rebbe? A rebbe'le has up to one hundred chassidim, and a rebbe has... Or does one have ten batlanim with a rebbe even with only ten, because they're there.

Le'inyaneinu he explains... But it could be that the concept here is as I said, that a small town that serves avodah zarah, it's not a rebellion against the Kingdom of Heaven, and it's not an uprising that comes before war. Could be. And the majority of a tribe is already too great a rebellion, one can't... It becomes already a civil war, and they... One must think. But it could be that it's a simple gezeiras hakasuv, that one doesn't need... One doesn't need... We know that we can think. Could be.

#### **Discussion: The Madi'ichim — Why Must There Be More Than One?**

I want to ask you a technical question, perhaps you thought about this. The madi'ichim, what's the reason for madi'ichim? There's always one person who started the movement. Then it becomes as you say, a slippery slope, it's already become... He was madi'ach me, I was madi'ach not me, but a second one, one was madi'ach the third one.

I think the Rambam will later more... In the later laws the Rambam will explain more how the madi'ach works. Then it will simply become clearer. I think one doesn't need to think now.

#### **Halacha 3: The Laws of Madi'ichim — Who Can Be Madi'ach**

##### **Speaker 1:**

The Rambam says further, Rabbi Chaim, an ir hanidachas only becomes if two people at least came, and they are men. But **im hidi'chu nashim uketanim**, if women or minors came and they were madi'ach, a bit. What's the shame? They are but... One must have mercy on them.

#### **Chapter 4 (Continued): Laws of Idol Worship and Idolatrous Cities**

No, the minors, like, you know, the woman who led the war in France, right? It happens sometimes, a youth comes and he is a prophet and he leads an entire movement, the child who cries out that the king is naked, an entire movement.

**Or shehedich yachid**, if an individual came and he was maddiach (incited) the public. **O shehodach mei'ito**.

It could actually be, and I think they meant that man as having a din of meisit u'maddiach, but we don't see that there was any din of ir hanidachat there in the exile. It could be that's why they call him "that man," that it was an individual, there was no din of ir hanidachat, and it's a terrible end for all of Israel. A Jewish man. Okay.

**A minority of the city was hodach. O shehodchu mei'aleihen**, ah, this is an interesting thing, people were to'eh (went astray) on their own. It's interesting, there was no maddiach. Seemingly when it's hodchu mei'aleihen there must also be someone who taught them false interpretations, but he didn't have a din of meisit u'maddiach, he didn't do what we'll later see in the Rambam how a maddiach operates.

**O shehedichum anashim michutz lah**, there came from outside the city agitators and they were maddiach.

**All of these are judged as an ir hanidachat**. But what then? They're not exempt that they go free. **Rather they are like individuals who worshiped idolatry**, they are judged like individuals who worshiped idolatry, **so all who worshiped are stoned**, those who worshiped idolatry are stoned.

And the money, later we'll see in anshei ir hanidachat one must burn the money, but when we see here a din of individuals, the money doesn't need to be confiscated, rather **their money goes to their heirs**, the money goes to the heirs, kosher Jews whose heirs can take their money.

#### **Halacha 4: Ir Hanidachat is Judged by the Great Beit Din of Seventy-One**

##### **Speaker 1:**

The Rambam says further, now he's going to speak about who can judge an ir hanidachat. The Rambam says, **an ir hanidachat is only judged by the great beit din of seventy-one**. Usually for capital cases a beit din of twenty-three is sufficient, yes, I think. But for ir hanidachat, is it also perhaps like war? Here certain things come up that ir hanidachat that the Rambam takes from war, but simply because one kills an entire city, one needs for it a great beit din of seventy-one.

It says, it's written so in the verse, "**And you shall bring out that man or that woman who did this evil thing to your gates, the man or the woman, and you shall stone them with stones and they shall die**". So, normally it says "to your gates," which usually means beit din, he says "the man or the woman." We see that **individuals are killed in the beit din of each and every gate**. Every city, every... the city gate is like... I mean, when you go to old cities you see how there's a main street, and there's such a gate. It's a way how one builds a city. And the gate is a symbol of the city. Every city that has their own gate has their own beit din. And they can themselves, each beit din can itself judge the man or woman from that city who worshiped idolatry.

**But an ir hanidachat is killed by the great beit din**. But when it's a multitude, when it's an ir hanidachat, it must be specifically the great beit din. It makes sense too, this is another level. That is, a city is one level, then there's the great beit din which is above all cities.

#### **Halacha 5: Cities of Refuge and Jerusalem Don't Become Ir Hanidachat**

##### **Speaker 1:**

The Rambam says further: **"One of the cities of refuge doesn't become an ir hanidachat"**. There were in all of Israel six and thirty cities of refuge. The cities of refuge... what? Three... and whatever, six with two and forty, yes. The cities of refuge means here the cities of the Levites, or the... we'll see. The cities of refuge, the places that are made for inadvertent killers to flee to, don't become an ir hanidachat.

It says, **"in one of your gates"**, the cities belong to the tribe. But the cities of refuge don't belong to a tribe, rather the cities of refuge are cities that the tribes gave away for all of Israel to be cities of refuge.

#### **Dispute Between Rambam and Ra'avad Regarding Cities of Refuge**

And about this, the Ra'avad right away argues, and he says that the cities of refuge are that the tribes received, and then they gave it for cities of refuge. Therefore, according to him it's still called "your cities." The Rambam says however that they were in practice given away, even if they once inherited it. It's a dispute between Rambam and Ra'avad, but okay, that's the point.

But the next halacha, Jerusalem, the Ra'avad agrees. But Jerusalem, Jerusalem isn't a city that belongs to a certain tribe, rather Jerusalem belongs to all of Israel. **"And Jerusalem doesn't become an ir hanidachat"**, Jerusalem can't become an ir hanidachat, **"because it wasn't divided among the tribes"**. It wasn't divided to tribes.

#### **Discussion: The Difference Between Cities of Refuge and Jerusalem**

So all these questions about ir hanidachat, it's the Ra'avad with... it's said about ir hanidachat... so the Rambam also says that ir hanidachat, cities of refuge, is anyway for Jerusalem.

What? The Rambam didn't say that cities of refuge lo nitchalku, because it was indeed divided, and the tribes gave it away. That's the Ra'avad's claim, that it was indeed divided. But the Rambam holds that it goes on the term "your gates," meaning that it's now yours.

I hear. Okay.

#### **Halacha 5 (Continued): Ir Hanidachat at the Border - At the Border of Eretz Yisrael**

##### **Speaker 1:**

You see that here the next halacha is practical matters. You could have known that it's a bit of a practical halacha, because in prisons very many people... people seek spirituality, and many people become religious, many people become baalei teshuva. I also have a bit of experience with prisons. But there are also people who go after, I don't know, it's a place where people are vulnerable to go after cults and things. So, further.

But the next halacha you see that this is indeed practical. Very good. Here is a practical thing.

The Rambam says: **"And one doesn't make an ir hanidachat at the border"**, a region that is at the corner of Eretz Yisrael, there one can't make an ir hanidachat, **"so that gentiles won't enter and destroy Eretz Yisrael"**. Because if you're now going to burn a city at the corner, at the border, it will be a danger for the land, because gentiles will come in from the other side of the border, and they will destroy Eretz Yisrael, they will make themselves comfortable there.

#### **Proof That Ir Hanidachat is a War-Related Din**

It also fits a bit with what I said that ir hanidachat is somewhat of a war-related din. If it were only a din like killing a person for desecrating Shabbat, one doesn't take political considerations. One doesn't enter into that. But here we see that the war-related din overrides the ir hanidachat din.

#### **Discussion: Comparison to Shabbat at the Border**

Even regarding Shabbat there is also, at the border one may desecrate Shabbat if gentiles come.

Yes, but that's pikuach nefesh. Here there's no pikuach nefesh. Even if yes, but it's not so urgent. That could be. But this is one of the rules of Eretz Yisrael, it's one of building the land.

Right. So you see here, it's very interesting. It comes out, Eretz Yisrael will be protected like... yes, we see today how important the people who live at the border are, and they're strong, and they're fortified, and so on.

#### **Who Protects Eretz Yisrael? - A Perverse Reality**

Who is the protector of Eretz Yisrael? A bunch of idol worshippers. One leaves the idolaters to be there.

It doesn't have to be that it's about the people, it could be that it's about the territory. That it shouldn't be a destroyed territory. Because the Torah tells you so, that you won't drive them out all at once, rather little by little, **"lest the beasts of the field multiply against you"**. If you have a destroyed city, it becomes a destruction for the entire region.

Yes, but I'm saying, it must be a city. And even in the city, one might say, what do we have from the fact that Eretz Yisrael is protected by a bunch of idolaters? No, even if they're an ir hanidachat, they're still my idolaters. **"They are servants and not servants to servants"**.

Exactly. The gentiles are also on the border. What are they better than us?

No, no, it's still some Jews, some difference, I don't know.

#### **Halacha 5 (Continued): One May Not Make Three Ir Hanidachat**

##### **Speaker 1:**

The Rambam says further, **"And one doesn't make three ir hanidachat, and if they made them, they are like all cities"**. If there were three cities that had a din of ir hanidachat, one doesn't now burn the three cities for the same reason, because it will suddenly become, the Gemara says, that it's a bald spot, it will become a hole in Eretz Yisrael.

#### **Halacha 5 (Continued) - Din of Three Idolatrous Cities**

**Speaker 1:** Yes, but I'm saying, it must be a city, and even a city one might say, what do we have from the fact that Israel is protected by a bunch of idolaters? No, even if they're an ir hanidachat. Yes, indeed yes. I mean politically. Idolaters, but not against us, yes. What, the gentile is also on the border. What are they better than us? No, no. It's still some Jews, some difference, you know? The Rambam says further.

And one doesn't make, one, three cities nidachot, very close. If there were three cities that had a din of ir hanidachat, one doesn't now burn the three cities for the same reason. Because it will now suddenly become... the Gemara says that it will be a bald spot. It will become a hole in Eretz Yisrael. There will be an entire territory of ir hanidachat. It's a terrible thing.

But if the three cities aren't one next to the other, one can indeed give them a din of ir hanidachat. And about this the

Ra'avad also argues. Because the Ra'avad says that the din of three cities isn't only about making a hole in Eretz Yisrael, but simply so. A beit din can't make a din of ir hanidachat on three cities. It's too much, one doesn't kill so many Jews. Even if it's one in Judea and one in the Galilee, there's no difference.

And the Ra'avad also said a claim of beit din. It's only that one beit din years later even. But three ir hanidachat one doesn't make even many years apart, because one can mean at one time. Beit din means one time, which the Ra'avad does agree with, Judea and Galilee, it's far enough. So the simple meaning is it's two provinces, and it's two different provinces.

Let's learn further, the Rambam says further.

#### Halacha 6 - Plural Language and Specific Services

**Speaker 1:** How are the madichim, what do they do? One makes an ir hanidachat, if the madichim incited in plural language? The madichim must say in plural language. They must also be humble, because if the master inciter is still arrogant, the world won't follow him. So he must say, let us go. The Gemara learns, he must say, neilech v'na'avod, how it's written in the verse **neilech v'na'avod**, or **neilech v'nizbecha**, or **neilech v'nakteir**, as the Rambam grasps the laws of idolatry that he said in the previous chapter, that the services are **zoveach**, **zoveach**, **makteir**, **menasech u'mishtachaveh**, or **mekabelo be'eloha**.

So the commentators learn here that the maddiach must also say, he must incite to specific services which are the services for which one is liable to death, which are the main idolatry. That is, if he says simply "let's become gentiles," and he doesn't say clearly what to do, he says "**neilech v'na'avod**", this means the service that is accepted as service. It must be a forbidden service. Not if he says "neilech v'na'avod," and I don't know, "na'avod" can mean what the worshiper himself holds that this is a service. Let's become more gentile-like, a bit of laxity, which doesn't mean a din of idolatry, not even in public. He must have clear idolatry, that he must need idolatry, even if he transgresses many other things. Yes, we're speaking here of a maddiach.

**"V'neilech v'na'avod elohim acheirim"**. One of the things we learned earlier are the laws of idolatry punishable by stoning. **"And they heard and worshiped it in its manner of worship"**, they actually did either in its manner of worship, or one of the four services, as we learned last night with the various laws, even just similar to menasech. We learned last night that one breaks a stick, because it has a similarity to menasech. **"Or that they accepted it upon themselves as a god"**, then one gets a din of ir hanidachat.

**Discussion: Plural Language and the Maddiach's Own Worship**

**Speaker 1:** I think that the plural language is a bit opposite from what we learned in the first halacha, that the maddiach doesn't need to worship idolatry, he is stoned. Ah, we'll learn, no, but he must say "neilech v'na'avod". Even if he doesn't worship himself, he must make it that he wants to worship.

You're saying that a prophet, it could be that it's more that he's not really part of the thing. It's true that he's stoned even if he himself didn't worship and in the end he turned out so clever, but he must be part of the movement.

We also see here seemingly that if there were an incident of a maddiach like the story of the first chapter, that one just makes a small mistake and says that the Almighty wants one

to honor the stars, seemingly he wouldn't have a din of ir hanidachat. One must only really go to the end. From giving a distorted system to actually doing the idolatry. Yes, but I'm saying, if he comes and says "neilech v'na'avod," he doesn't say all kinds of reasons, but he has a calculation from there, he's still a meisit u'maddiach.

#### Halacha 7 - When There is No Din of Ir Hanidachat

**Speaker 1:** The Rambam says further, **"An ir hanidachat that doesn't have idol worshipers and its madichim at all times found upon it"**. He didn't say "neilech nizbecha," but he didn't say in plural language. They warned him, he tells you to enter, "it was found standing," then **witnesses testify about each and every one**, and one must immediately see regarding warning.

Seemingly above it appears that by ir hanidachat there isn't even a din of warning in the usual din of witnesses. However when there's no din of ir hanidachat, then one can only give the regular punishment, when one fulfills all the laws of death by beit din, and witnesses and warning must come on each individual idol worshiper, whoever transgresses the foundations as individuals, then one gives them stoning each one individually for himself alone, and their money, and then there's also not the din of ir hanidachat that the money must be burned, rather the money goes to the heirs.

#### Halacha 8 - Order of Carrying Out the Punishment: Investigation and Inquiry

**Speaker 1:** The Rambam says further, **"And how is the din of ir hanidachat and what is its measure to make an ir hanidachat?"** How does one do it? How does the beit din actually carry it out?

Until now, so basically, until now we learned... until now we learned the transgression, now he's going to learn about the punishment. Until now we learned the transgression, how the din of ir hanidachat, and now he's going to learn about the punishment. Now just as we learned Pesach, remember, an entire order of making the Pesach. For example, an ir hanidachat one says the order of carrying out the punishment. Earlier one learned the transgression, now one says which... further he says many details in ir hanidachat.

The Rambam says, **"And how is the din of ir hanidachat?"** How does one do the din of ir hanidachat? The Rambam says so, how is the din when it's indeed an ir hanidachat, **what is its measure to make an ir hanidachat?** The Rambam says so, **the great beit din**, we already discussed that this must be the great beit din of seventy-one, **send**, they send messengers, and the messengers are **investigating and inquiring** what's going on there, **until they know with clear proof...**

Must one bring witnesses? No, on the contrary, so one sees it's more than regular witnesses. And also the Rambam says so, he says the language "they investigate with clear proof." I think simply in practical terms, because when such a thing is written all kinds of rumors start. It's very easy to say, "Ah, there... you have no idea what's going on in that Hasidic group, it's like it was in that city, you have no idea what's going on there." Regular witnesses aren't enough. Beit din must send messengers like inspectors, they should make their serious investigation and inquiry, **until they know with clear proof that the entire city or its majority was led astray and returned to idolatry.**

This is the language "returned," as he calls it, "**initially our forefathers were idol worshipers**", they did teshuva back to idolatry. But it's more... even when they were back, it's indeed the language that I brought earlier, it's more that they became "converted," one can say, they became a society for idolatry. It could even be that an entire city, like a Jewish city place, this is an ir hanidachat by us. It could be that the essence of idolatry isn't simply that a bunch of people, each individual one worships idolatry, it's more that the city as a city became a returnee to idolatry.

### **Halacha 9 - Sending Torah Scholars: Warning or Call for Peace?**

#### **Lecture on Ir HaNidachas (Subverted City) - Part 3**

**Speaker 1:** The Rambam says further, "**achar kach sholchim lahem shnei talmidei chachamim lehazir osam ulehachziram**". Afterwards, one sends two talmidei chachamim (Torah scholars), this is even not the same witnesses that we had... It wasn't, it seems, the talmidei chachamim were the "researchers." Important people, "**lehazir osam**", to warn them, "**ulehachziram**". A very interesting halacha.

Let's finish until the end, and then we'll talk about this. "**Im chazru ve'asu teshuva**", if the people of the city returned, yes, they had returned to avodah zarah (idolatry), and now they returned from that return, did teshuva (repentance), "**mutav**", it's wonderful. "**Ve'im amdu betifshusam**", if they remain in their foolishness, "**metzavin lechol Yisrael la'alos aleihem letzava**", then Jews gather together like a military, "**vetzorim aleihem ve'orchim imahem milchama ad shetivka ha'ir**", until they break through the wall of the city, they break the city. "Tivka ha'ir" means like... well, what is this? Like "shivas yamim tesobu," yes, when they break through the wall.

#### **Discussion: The Raavad's Question — Teshuva After Warning and Action?**

**Speaker 1:** So, here is an amazing halacha. Here the Raavad stands up and asks, it's a correct thing, in any case teshuva would help. He says, "**tov hadavar shetoe'il lahem teshuva**", I agree, teshuva is a good thing, "**aval lo matzanu teshuva moe'eles achar hasra'ah uma'aseh**". How can teshuva help after warning and action?

There are two approaches. There are certain commentators here who learn that by us there wasn't any hasra'ah (warning), because by an ir hanidachas there usually isn't any hasra'ah. Yes, most of a city gets "excited" for something, there isn't a law of hasra'ah. Even let's say someone stands and says, "Gentlemen, don't follow this," usually hasra'ah means that one tells the person personally. So the two talmidei chachamim made the hasra'ah. And if they still didn't follow the hasra'ah, then.

But the Raavad didn't accept this, because it was stated earlier... We learned one version of the Rambam, but in certain versions of the Rambam it stated... It was, it seems in the Raavad's version that we're already talking after hasra'ah, that beis din needs to investigate that there was a hasra'ah, that there was a zarah (idolatry) and hasra'ah, and then, so what does a second hasra'ah help?

#### **Innovation: The Law of War and Call for Peace**

**Speaker 2 (R' Yitzchak):** But I think, about this, about this, as was said earlier that it's somewhat a law of war, and as we

see here very clearly that the Jews come up **letzava vehem tzorim aleihem**, I think that it's more similar to the law of calling for peace. There is indeed a law that before one goes to war with a city, **vekara'ata eleha leshalom**. The Rambam says that even with Amalek there is a law of calling for peace, on every type of war there is a call for peace. So I think that this here by ir hanidachas, the specific call for peace is calling to return them in teshuva.

**Speaker 1:** A good explanation, R' Yitzchak. It's true, I agree, I want to add, this is also the interpretation of the commentators on the Mishna by tzava (army), or is this the Rambam himself who used the language **tzorim aleihem**, the language **la'alos aleihem letzava**?

#### **Discussion: Is "Letzava" the Rambam's Innovation?**

**Speaker 1:** An interesting question. I want to ask, did you look in the sources to... This is your whole main teaching which is built on the language **letzava**, challenge whether the language **letzava** is the innovation of the Rambam, or is this... because in the Gemara when one learns Rashi and the commentators on Rashi, it sounds like it's a beis din, it doesn't sound at all like it's a war. The Rambam said this.

**Speaker 2 (R' Yitzchak):** So I saw in the Mekoros V'Tziyunim, in the Mekoros V'Tziyunim he has something with R' Chaim Kanievsky, the Mekoros V'Tziyunim of Frankel. He brings from him. Yes, it's his life. He brings two verses in Yehoshua. In Sefer Yehoshua it states that the people of Gad and Reuven who remained in Ever HaYarden made there their own altar. After they had already made an altar in the place of the Temple, it states there that all of Israel, I mean Yehoshua, sent Pinchas with ten tribes to warn them.

**Speaker 1:** Pinchas and another one, I mean Pinchas and a second kohen, and another ten tribes.

**Speaker 2 (R' Yitzchak):** Ah, and another ten tribes. And they gave them a chance, and we also see this is like a call for peace. What's going on with you? Why are you rebelling against all of Israel? So he wants to understand that this is the source of the Rambam. The Rambam himself, I mean, he brings this source in Moreh Nevuchim.

#### **Summary: Answer to the Raavad's Question**

**Speaker 1:** So, it seems here that this is the answer to the Raavad's question. The Raavad asks that teshuva never helps after zarah and hasra'ah. This is perhaps just the law as such, but regarding ir hanidachas the hasra'ah has a law more like a war, where there is on this a call for peace. Before one goes to war there must be a call for peace. But truly it's not the reason that when one goes to war there is a call for peace.

#### **Halacha 9 (Continued) — The Rambam's Source: Call for Peace Like in War**

**Speaker 1:** One should perhaps say that this is the source of the Rambam. The Rambam himself brought this source in Moreh Nevuchim, yes.

It seems here that this is an answer to the Raavad's question. The Raavad asks that teshuva never helps after zerizus (zeal) and hasra'ah. This is not just the law as such. But the people of ir hanidachas have the law more like a war, where there is on this a call for peace. Before one goes to war there must be a call for peace.

#### **Digression: Amalek and Call for Peace**

I want to truly, not to trump that one goes to negotiate and one doesn't negotiate. Not incidentally, it's not politics.

No, what I mean to say is very interesting, because I spoke about Shabbos Zachor, the Rambam says that one must negotiate with Amalek. People have a problem with this. Like there's the joke that I know a Litvak has a necktie because he wants to choke himself if he becomes aware that he's just from the seed of Amalek, the silly jokes. But it's not the simple meaning that by Amalek every law that exists is thrown in the garbage. By Amalek there are also laws of war, like calling for peace and so forth.

### **Discussion: The Foundation of Hasra'ah — A Law in Teshuva**

**Speaker 1:** No, I want to add even sharper if I may, if you let me, I want to argue. The Raavad's principle seems to me that I'm on the side of the Rambam here. What you're saying is certainly true, but I think it goes to the depth.

In other words, the Raavad says, where do we find teshuva after witnesses and hasra'ah? I want to ask you another question: where do we find hasra'ah at all? Where does it say in the Torah anywhere that one must make a hasra'ah? The Gemara has a source for this, but I want to tell you, the source for this is, as I once learned in Hilchos Teshuva, the source for this is the concept of teshuva itself. Hasra'ah means I give you an opportunity to do teshuva.

What does hasra'ah mean? Before this you asked a question about one who curses Hashem. It can be many times that hasra'ah is already after the first time you do the sin, because if not it's indeed hard to save oneself.

What does hasra'ah mean? You know that someone is going to do it? It means that person is a criminal. That's what hasra'ah means. That person is mechalel Shabbos (desecrates Shabbos) every week. One doesn't come even one Shabbos. Everyone knows that one is warned without fear that one is mechalel Shabbos. Nothing happens. One gives him one, and here we see that hasra'ah must be effective. Hasra'ah must be in a manner that could help you, like judging favorably.

I know that someone says that hasra'ah doesn't just mean explained here. I mean when there is a beis din that can truly apply, to the extent that the hasra'ah is very serious even in such a manner. But the hasra'ah means in such a manner that it can cause that person to return in teshuva. We learn from Yechezkel, from the prophets, and how the prophets make a hasra'ah, and not only if they will fulfill the mitzvah. Hasra'ah is if they will not fulfill the mitzvah. Hasra'ah is a law in teshuva. The law of hasra'ah is to make it so that one can do teshuva. That action is then to present oneself to this.

And the same thing here, certainly, what you said you're probably right, even if the Rav is right to give a law of hasra'ah earlier, or not, I don't know, perhaps yes, perhaps no, not the point. The whole thing is here... The Rav probably held that a part of doreshin vechokrin (investigating thoroughly) is that one must check how the hasra'ah went. Yes, but he thinks of the technical hasra'ah. I say that the idea of hasra'ah is always this.

It's not correct. That teshuva doesn't work after before one transgresses, is like saying that teshuva doesn't work after trying to do teshuva. Like "mi she'amar avodah zarah e'evod ve'ashuv" (one who says I will worship idolatry and repent), I think that you're right perhaps for another reason.

Here there is the law that one should judge favorably until the last moment. He said, what's already relevant? We've already

done drishos vechakiros (thorough investigation). Seemingly, judging favorably is an opinion that we didn't give him truly a chance. We didn't truly... the hasra'ah wasn't a true hasra'ah that he could do teshuva.

### **The Rambam's Language — "Techila"**

But the Rambam's language really appealed to me. The Rambam says, "**tova dibura shel Torah mitzvah**", like, if only. It's something like a bit of chassidus. The Rambam goes like with the... like the Kanter Rav R' Avraham'ele said, that when a gadol writes, he's ruling in halacha. The Rambam says, "**techila**" (first). The Rambam rules very well that one should begin the ruling.

But I thought, the Rambam didn't make a distinction. The Rambam says indeed, "I agree." "**Aval im his'akeshu velo shavu me'avonam, mitzvah lehilachem imahem**". He said before the Rambam, he said, "We did indeed find a side salvation." But this is the question, whether to bring. Perhaps, I don't know.

### **Teshuva in Beis Din Shel Mata**

But the Chofetz Chaim says, I think that this is a normal thing, and here it's necessary to be. Just to kill just people, certainly one must give a chance. The salvation seemingly also doesn't go with all the laws in ir hanidachas, because there we're talking about two whole tribes, and we learned earlier that it works. But it just has similarities.

But the truth is that I thought earlier this way, I think that it can be to remove from their hearts for the opposite reasons too. What is a very difficult thing in reality, it's basically a civil war. One must hold by this, it's a great danger. Just as we've seen, it's not a simple thing to do.

And as I think that the Rambam brings the laws here mainly because he wants to explain that avodah zarah is not just a private matter, avodah zarah can be a public matter, it's a different type of law.

**Speaker 2:** Okay.

### **Discussion: Killing Innocent People**

**Speaker 1:** No, it's correct, that when one makes a law of ir hanidachas, one kills indeed many innocent people, so the beis din will be very very careful with issuing such a ruling. When you take here the Levovil Nevoros touch, when we only give stoning for the one who worships avodah zarah, they come anyway. At most we save them anyway, but the minute we make the greater law of killing the whole city.

It's not exactly that we kill innocent people. It's indeed only the people who served avodah zarah and they go see, but even children of the worshippers. Asher avdu me'ah, when the father does avodah zarah the children serve more. And the children are not innocent. Very good, and the sense is he's a subjugated captive. Here he's in war, like war, because he's not going to grow up a child and he goes... and what is argued.

So, I want to say there, for this, we'll soon learn that teshuva is indeed many Acharonim from a Gemara about this which says that teshuva doesn't help in beis din shel mata (earthly court). Here we see clearly a source that indeed teshuva helps in beis din shel mata. Perhaps Rambam, that teshuva helps in this manner means hasra'ah, let's call it, hasra'ah is connected with teshuva.

### **Halacha 10: Establishing Batei Dinim and Drisha Vechakira**

**Speaker 1:** Further, afterwards the city will have already been broken, "**miyad ma'amidin lahem batei dinim vedanin osim**". They establish different batei dinim, but here there doesn't need to be a beis din of seventy-one, because here we're talking about a beis din that judges one person at a time.

#### Why Talmidei Chachamim?

Interesting, we're already holding here by the third, so what needs three committees, we send messengers and inspectors, or we send with talmidei chachamim such ones who return in teshuva, and we send a delegation of the great court, I know there R' Yitzchak, tries to return batei dinim, and here we make different batei dinim. One should be careful gentlemen that it's not a way. One should be careful beis din. I know there such to be wise, that one there must be wise when one tries to return in teshuva has that aspect.

**Speaker 2:** Okay.

#### The Law of Individuals — The Minority of Worshippers

**Speaker 1:** Here one establishes different batei dinim, and the batei dinim judge the Jews. So, "**kol ish asher avad avodah zarah, achrei she'hitra bo**". On each person so, one brings two witnesses who say that he served avodah zarah after he was warned.

Here we see, yes, that there's a clear thing. Regarding the individual. Regarding the individual. But can, from here the Raavad saw that we're talking that there was actual hasra'ah. About this he wonders what the returning in teshuva helps.

#### Discussion: What Does "Returning in Teshuva" Mean?

**Speaker 2:** But... or can, that the returning means this returning in teshuva? So I thought has the talmidei chachamim go around person to person. Can, so they go around beis hamidrash they hold and knock on tables they return the people? Perhaps both?

**Speaker 1:** The law is indeed that talmidei chachamim, I mean that technically it means like there is indeed the beis din that they are the chachamim. Talmidei chachamim means that one should still send more chachamim. Hayotzim, one needs more chachamim, students who they go to learn halachos and speak it.

There was a yeshiva. I think another reason why they need to be talmidei chachamim, smart Jews, because later we'll see that it's perhaps a fortified city, they don't let in. One needs to find smart Jews who know how to get in. It's a politically difficult thing. One must go into the city and outsmart the mesisim umadichim (inciters and misleaders) and find a way how to speak to the people. The city is fortified, but when one comes already with a war, they still come in peaceful ways, they are diplomats. Diplomats need to be smart Jews.

**Speaker 2:** Yes.

#### Minority vs. Majority — Law of Individuals or Ir HaNidachas

**Speaker 1:** Already, further. So, two witnesses come that he served avodah zarah. We investigate him, we say okay, the person, we write him down, the person we already know the law. And then we look, we make a list.

"**Im nitztarfu kol ha'ovdim heim mi'uta**", if among all who served avodah zarah they are still the minority of the city, then they are judged as individuals, and the punishment for individuals for worshippers of avodah zarah is stoning, "**ushe'ar ha'ir nitzul**". The rest of the city is saved. It was indeed only a minority.

But "**im nitztarfu**", if one finds that the worshippers of avodah zarah are the majority of the city, that there's a law of ir hanidachas, then one must "**ma'alim osam lebeis din hagadol**". One must bring them to Jerusalem, or one brings down the beis din hagadol there. One brings them, the beis din hagadol must judge the whole majority at once, or also two people at once, I don't know exactly.

#### Killing by Sword — Not Stoning

**Speaker 2:** Okay.

**Speaker 1:** "**Vegomrin sham dinam**", and the beis din judges, the beis din hears out the Sanhedrin's arguments, and decides that it has a law of ir hanidachas. And then, "**vehorgin kol elu she'avdu basayif**", then one kills each one of those who served avodah zarah with a sword.

#### Discussion: Who Gets Killed?

Ah, "**makin es kol nefesh adam asher ba lefi charev**", every soul of a person who was there in the city.

**Speaker 2:** No, it seems here even the minority who didn't serve avodah zarah.

**Speaker 1:** No, no. "**Im nischayva**", look, it says here so, "**im nischayva**". Ah, ah, ah, excuse me, you're right. "**Makin es nefesh adam asher ba**", everyone who is there. If the whole city served avodah zarah one kills everyone.

**Speaker 2:** Taf venashim (children and women) too, the women and children of the worshippers of avodah zarah?

**Speaker 1:** There we know, you're saying perhaps only if the worshippers of avodah zarah served...

**Speaker 2:** The whole city one kills only the worshippers.

**Speaker 1:** In short, the worshippers of avodah zarah one kills, plus one kills their household. "**Makin es kol hataf venashim shel ovdim lefi charev**".

#### Dispute of Tannaim About Children

**Speaker 2:** No, good.

**Speaker 1:** There's a dispute about this, there were Tannaim who say that we don't even kill the children.

**Speaker 2:** Ah, you see, in short, the Rash from Shantz, I see that it was the Ramatz, I thought, and he says that what the Rambam says "we strike the women of the worshippers," he only means the women who incited them, but the righteous women...

**Speaker 1:** Ah, because the Gemara asks something, what do you do with the righteous women?

**Speaker 2:** So he learns that even in an ir hanidachas there are also righteous women who didn't agree.

**Speaker 1:** That's how it appears.

**Speaker 2:** Okay, there is about this, he discusses this with the Gemara, and the details there. But what the Rambam says here is that in the merit of righteous women that they didn't follow, I don't know exactly the law of ir hanidachas, but there is such a thing as righteous women.

**Speaker 1:** In any case, this is clear, even in the Rambam, the Rambam goes a bit stringently, there were Tannaim who had lenient opinions. Even the Rambam never kills any person who didn't worship avodah zarah. Only the houses, the women and children of the worshippers, if they are the majority, which isn't everyone.

Women is simple, but minors is indeed a novelty. So anyway, a woman can be a worshipper of avodah zarah, but minors is the innovation apparently.

#### **Halacha 11: The Law of the Inciters — Stoning**

**Speaker 1:** Further the Rambam says, okay, this is the law of the people. Now the Rambam says further, "**Whether the entire city was incited or its majority was incited, we stone its inciters.**" The inciter, the mesit umediach, they indeed receive stoning. They don't receive the punishment of the sword, they receive a greater punishment of stoning. We learn it from a verse.

#### **The Law of Spoils — Gathering in the Street**

"**And you shall gather all its spoils into its street.**" We gather together all the money, the spoils, the plunder that is in it.

**Speaker 2:** Yes.

**Speaker 1:** We take it "**into its street.**" "**One street, if it has no street**". What if it doesn't have any kind of street? We take an area and make it into a street.

And further, **if the city's street is outside the city, we build a wall around it until we bring it inside**, we build in such a way, we build a wall around the street, but the street should be in the city, **as it says "into its street"**, that the street should be inside, in the city.

Do you understand the halacha? Very interesting, it looks like Chanina ben Dosa's city.

#### **Halacha 11 (continued): The Law of the City's Street — If There Is No Street**

What if it doesn't have? It doesn't have a street? We take an area and make it into the street. And further, if the city's street is outside the city, **we build a wall outside it until it enters inside**, we build in such a way, we build a wall around the street, but the street should be in the city. To fulfill "**into its street**", the street must be inside, in the city. We must build like a stage to wrap the street. The street apparently means the market, where people turn, the main plaza. Yes.

#### **The Law of Killing Animals**

The Rambam says further, **and we kill every living soul that is in it**. He says it again, who, are these people who worship avodah zarah, or animals. I don't know. In the end that **all its spoils with the city in fire**, that it has already entered... ah, animals. He brings that it means the animals. What is an animal according to destruction? Right, the animals we don't burn, we slaughter them first. But here it says living animal? I don't know. There's no law of burning. They burn in the fire just like destroying chametz. Ah, and we kill means, killing, and afterwards we burn. **And you shall burn** is a positive commandment, **as it says "and you shall burn the city with fire."** The city apparently means here all the living things, **and all its spoils**, we burn the property. Right, good.

#### **The Connection Between Ir Hanidachas and Destroying Chametz**

The Rambam says further... like destroying chametz. This is a preparation for destroying chametz. We burn all the avodah zarah that was there. Chametz shebalev. Yes. The Rambam says further. Chametz, this is like chametz and avodah zarah, have a connection. From the burning. Ah, because both are

balev. Both are in the... yes. Both have a law of burning. The Rambam says further.

#### **Halacha 12: The Property of the Righteous Within It**

**The property of the righteous within it.** What happens with the righteous in the city? The Rambam says, what does righteous mean? We don't necessarily mean righteous who are at the level of tzaddikim. No, it means **the rest of the city's inhabitants who were not incited**, those who didn't follow the mesit umediach.

The city has the law of ir hanidachas, but they didn't follow. For this they're called righteous. And so it was with the fifty righteous, Avraham Avinu called them righteous, the wise Jews who don't fool themselves after the ir hanidachas. Righteous within the city, righteous in their judgment. Not necessarily righteous, people who are almost not transgressors. Righteous in their judgment.

**And the property of Lot and his brother who sat at the gate are burned along with the spoils.** Their own property is of course saved, but their money is also burned, **since they lived there their property is lost**, because they lived there, such is woe to the wicked, woe to his neighbor, their money is lost.

#### **Why Did They Lose Their Money — The Reason of Lot**

It could be that the Rambam learns, I think that in the Gemara it seems that why did they go there? They went there for money. They were honest Jews, but why did they go? Because there's a large settlement there. And it also fits with what the Rambam learned earlier, one may not live with the wicked. Why didn't he go to a desert? Because he needs to have a store, he needs to be a normal person. So there's a fine for this. Lot indeed lost his money. This is the simple meaning in truth, his money wasn't saved, only him. Avraham saved his money the first time from the kings, but when it was the destruction of Sodom, then the law of ir hanidachas must apply.

#### **The Law of Benefit from the Spoils of Ir Hanidachas — One Set of Lashes**

The Rambam says further, **and anyone who benefits from it receives one set of lashes**, one who can't restrain himself and takes from the spoils, from the money, receives one malkos, **as it says "and nothing of the cherem shall stick to your hand."** He shouldn't take anything from the cherem, from the money that must be destroyed. What is "one"? He says that "one" means, to exclude chapter seven, we see that there is benefit from the avodah zarah itself, he receives two sets of lashes. These are two prohibitions. But ir hanidachas is only one prohibition.

#### **Halacha 13: The Law of Despair — Whoever Seizes Their Property Acquires It**

The Rambam says further, **how was this law carried out? An ir hanidachas that had witnesses**, witnesses came and gave a city the law of ir hanidachas, but they warned the witnesses. And meanwhile someone grabbed property from the ir hanidachas. He planned to benefit from what is forbidden to benefit from.

Okay, until the judgment wouldn't have been finalized or... no, we're talking here about the judgment being finalized, we'll see. **Whoever seizes their property acquires it.** We're not talking here about any law of avodah zarah, this is a ruling in despair, in lost objects, in that kind of halacha. That the one who took money while they're in the middle of judging it as an

ir hanidachas, and later it turns out that the city isn't an ir hanidachas, the one who grabbed it has acquired it, and one may indeed benefit. Why may one benefit? Because they despaired, therefore it's called another law of intermediate monetary cherem. Why indeed did he acquire? **Because each and every one already made his property ownerless at the time of the final judgment**, because when they were already at the final judgment everyone already gave up, they already despaired of the money, therefore the one who grabbed it was as if he acquired ownerless property, acquired through despair.

#### **Question and Answer: Why Would One Despair If One Is Innocent?**

The Aruch LaNer says a halacha, because I think that the person knows, he feels that he's innocent, did he despair in the end? On the contrary, very good. On the contrary, on the contrary. He brings the Gemara in Kerisus where this law comes from, he says that on the contrary, if people would make their objects ownerless because they think they're guilty, it's over, because it was ruled that they're guilty. On the contrary, each one says, I'm a tzaddik, the rest of the city's majority sinned truly, but I'm a tzaddik. So he makes his objects ownerless on the understanding that he's a tzaddik who unfortunately lost his money. So he's a tzaddik who lost his money.

#### **Another Explanation: Probably There Was Something Fishy**

The Rambam says further, but probably, if we want to say it in a chassidic way, probably something was fishy in the city, they don't deserve their money. Let's say this, they waited until a time, meaning we're already after sending messengers to bring them back in repentance. It could even be that they indeed worshipped avodah zarah, but there weren't two kosher witnesses or something, that's what it means.

#### **Halacha 14: It Shall Not Be Built Again — One May Not Rebuild**

The Rambam says further, **and it shall never be rebuilt**, an ir hanidachas may never be rebuilt, **and anyone who builds it receives lashes, as it says "it shall not be built again."** Does forever mean forever or as long as the person lives? One must think what "forever" doesn't apply to one person. It's interesting, because usually "you shall not enter the congregation of Hashem" there's no longer any Ammonite or Moabite, but the city still remains.

This is another question, how long nowadays can you say that a place was an ir hanidachas. If you don't know, may one not build? One doesn't know. One doesn't know.

#### **Comparison to Nachal Eisan — The Lomdishe Question**

This is an interesting thing. This is the well-known question of why one may build every place, because it's a doubt of nachal eisan, kol kavua is like half and half. This is the well-known lomdishe question. It's said that one doesn't travel in nachal eisan, and if we say kol kavua is like half and half, every place should be a doubtful nachal eisan.

What you could apparently ask is the same question about a doubtful ir hanidachas, according to the opinion that... okay, but probably such a place the beis din must hang a sign, or put in something. Apparently it's not a good comparison, because nachal eisan isn't such a big publicity. When a person died in a place it's a whole huge event, it must be written in histories, not just like that.

#### **What Does "Build It" Mean — Gardens and Orchards Are Permitted**

But the Rambam says that one may not build a city, but **it's permitted to make it gardens and orchards**. One may indeed build gardens and orchards. It says in the Rambam **"it shall not be built again"**, he says, **"you shall not build a city as it was, but it's permitted to make it gardens and orchards."** One may not remake it into a city.

And then I thought, generally "build it" means that one rebuilds the city. It could be that even there building some little houses... one needs to know what "build it" means. No, it could be even not gardens and orchards. One needs to think, because "as it was" is something. One needs to think.

#### **Answer to the Question — Building a New City with a New Name**

So perhaps an answer to my question, that one may not rebuild the city. There was a city that had such a name, and one makes it with a new name or something, God forbid. I don't know if there's such a month, one may not do this. But okay, one needs to think. But yes, only gardens and orchards are permitted.

#### **Digression: Beit Shemesh and Purim**

The Rambam says further... a question was raised in the laws of... well... there's a law of a city in Purim, because there are people who say that in Beit Shemesh, I know, nearby there was some city, from ancient settlements, and others claim that it could be that one builds in the same area and it becomes a city, but it's not the city. Jerusalem, Jerusalem was rebuilt. It was destroyed, and it was rebuilt. But you're building precisely a city in that place, what you say doesn't mean "it shall not be built again."

Okay, I haven't yet heard that there's already a place that was an ir hanidachas and one may not build. It's said that there are people who throw around the word, because there's a holy community that doesn't allow building somewhere. Just finding sources for other desires. Okay.

#### **Halacha 15: A Caravan Traveling from Place to Place — Travelers in Ir Hanidachas**

The Rambam says further, **a caravan traveling from place to place**, there are people who go wandering in exile, they travel from one place to another, and they stopped at an ir hanidachas. **If they passed through an ir hanidachas, so, if they incited them**, if they also followed the avodah zarah worshippers of the city, so, if they were **residents of the city**, always the law is that at thirty days, also regarding Pesach, regarding mezuzah, if you live in a city thirty days you become part of the city, then **they are killed by the sword and their property is lost**, they also have the law of ir hanidachas. **And if not**, if they don't become part of the city's residents, they're only called avodah zarah worshippers as individuals, they receive the punishment of individuals that they are **by stoning, and their property is not for the wicked**, and the money indeed goes to the heirs.

#### **Halacha 16: Property from Other Cities Deposited in Ir Hanidachas**

The Rambam says further another halacha about the property of an ir hanidachas. The Rambam says thus, **property of people from another city that was deposited within it**, what happens if the ir hanidachas had a bank there, or there were people from other cities who deposited their money

there. **Even though they accepted responsibility upon themselves**, even if the ir hanidachas people accepted responsibility, and regarding other halachos, for example indeed with chametz, it gets the law that the person who took responsibility it becomes his money, but regarding ir hanidachas it's not yet called their money. In other words, essentially responsibility means that if it would have been burned one could have claimed against the ir hanidachas people that they should pay. But **since it's not theirs, these belong to their owners**, we give it back to the owners, **because it's not spoils**. The word spoils seems like an extra word, but what we learn is a novelty, that it's not the spoils of association, even in a manner where they accepted responsibility.

#### Property of the Wicked Deposited in Another City

The Rambam says further, but conversely, **the property of the wicked**, the people, the people of the ir hanidachas, the wicked **who incited, that was deposited in another city**, they kept their money in institutions outside the city, so, **if it was claimed together with them**, if it was somehow taken when judging, **it's burned with them**, we burn it also when we burn the ir hanidachas. **And if not**, if it wasn't gathered, it remained in the outside city, once lost, **these are given to the wicked**, it also doesn't get the law of being taken away. Spoils means when it's there it seems.

#### Halacha 17: An Animal That Half Belongs to Ir Hanidachas and Half to Another City

The Rambam has such a case, such an interesting halacha. He says it three times. An animal that... I almost became happy. Yes. An animal that **half belongs to the ir hanidachas**, two people had a partnership, one from the people of ir hanidachas with one from outside, and it's one animal, **and half belongs to ir hanidachas and half to another city within it, this is forbidden**, the entire animal is forbidden. The Rambam is already explaining this. But **dough that is so**, a person from ir hanidachas with a neighbor from the next city had a large dough together, **it's permitted**. The dough is still permitted, because **he can divide his dough**, because half the dough is kosher.

But an animal one can't say half an animal, because the life force is one. When you cut an animal in half the animal won't survive. Dough one can make into a smaller dough. An animal we say like every drop of blood is in both, therefore the entire animal...

What's the language of the Gemara? **He can have an olive's worth in this and an olive's worth in that**. But as you say, an animal is a living thing, it's one thing, I can't divide it. It wouldn't remain two living things. It's one thing.

**Animals of ir hanidachas that were slaughtered**, the Rambam says further, **we take them out for slaughter**, usually we kill them, we kill them by sword, and the property we burn. But what happens we take them out for slaughter? **It's forbidden in benefit like other slaughtered animals that are forbidden in benefit**.

#### Halacha 18 — The Law of Head Hair and Wigs

So, the Rambam says further, **se'ar harosh**, the hair of the head, **bein shel anashim bein shel nashim sheba, mutar behana'ah**. Why? Because the people are killed, but their hair is not property and not people.

**Aval se'ar pe'ah nochris, harei hu bichllal shelah ve'asur**. Therefore we learn that a wig has the same law as an ir hanidachas, oops, an ir hanidachas, but only if it was from an ir hanidachas. It's an interesting halachah. It's an interesting explanation. That's why the Gemara says it. It's a cheftza. Hair is not that, but a wig is not hair.

So, the Gemara asks about se'ar shel nashim tzidkaniyos, and the Gemara says hana'ah milsa. So, yes.

#### The Law of Palm Fruits — Mechusar Kevitzah

The Rambam says further, **peiros dekalim sheba, mutarim**. The fruits of palm trees, he doesn't mean specifically palm trees, he means fruits from trees in the ir hanidachas, are permitted. This is a simple thing, it's a simple thing.

And this is actually what he says about the vessels. There's such a question in every Gemara, perhaps this is mechusar kevitza. It could be, that's exactly it. Perhaps one takes items that are on it, then it's already mechusar kevitza. Something that has already been torn off, it only needs to be gathered in one place, these things must be burned. Yotza peiros hamechuborin she'hen mechasrin telishah ukevitzah usreifah.

The Rambam says, just as you see the reason why se'ar harosh is also mutar behana'ah, is because it's still mechusar kevitza. He says, once you pick the trees that are forbidden, it's still mechusar telishah, the trees themselves, so this is certainly also so, because it's also mechusar kevitza.

#### Halachah 19 — The Law of Consecrated Items Within It

The Rambam says further, what happens when the people of the ir hanidachas had hekdesch before they served avodah zarah? Perhaps it was, they served both worlds, and they consecrated for the sake of Heaven. Eh, it could be the hekdeschos of the tzaddikim sheba, you don't know. Ah, it could be.

So, **kodshei mizbe'ach**, what he consecrated and it already received the sanctity of kodshei mizbe'ach, that is, there is in hilchos kodashim, there is when one says things in such a way that it's fitting that it should be offered, then, once one said it should be offered, **yamusu**, it must die.

Why? Because it cannot be brought as a korban, and the only thing that can be done with kodshei mizbe'ach is to bring it as a korban, so it must die. That is, one must do as with all other animals, one must kill it and burn it, because **zevach resha'im to'evah**, one may not bring it as a korban. Just like esnan zonah umechir kelev, yes.

#### The Law of Kodshei Bedek HaBayis — They Shall Be Redeemed and Then Burned

What happens with **kodshei bedek habayis**, where the animal doesn't have kedushas haguf but kedushas damim, that usually the hekdesch takes the animal and sells it, and uses the money for kodesh? The law is, also here **yipadu**, one should redeem it for money, **ve'achar kach sorfin osan**, and afterwards one should burn it. The money goes to hekdesch.

Yes, but who will want to redeem it if he will have to burn the animal afterwards? Again. Ah, who redeems it? The people themselves redeem it. Who? The money of the ir hanidachas. The money of the ir hanidachas is also invalid money apparently, yes. The money must be thrown away. One must find another person who will redeem it.

It could be one finds a nadvan, someone who wants to give money for hekdesch so that the Beis HaMikdash won't have a loss. But usually someone who redeems wants to have the animal. Perhaps one takes their money? Yes, but their money also has the law that one may not take from the spoils.

#### The Dispute Between the Rambam and the Ra'avad

The Ra'avad is actually in disagreement, the Ra'avad says that one doesn't burn it. According to him he has no problem. The Ra'avad says that it's always not his own, because once he gave it to the Beis HaMikdash it's no longer his property. He gave a gift to someone. He was for the redemption and one leaves it, it remains good. One can use it.

Yes, yes, just like always. As if I can understand that the Ra'avad should be correct, because if one of us would have given away a gift of money, he also wouldn't have to burn it, because it's no longer his, even if it remained in his house apparently. This is the law that we learned, "nichsei cherem shenitkedshu beva'an". It's actually a good question, the Ra'avad's question.

But the Rambam says, "**yipadu ve'achar kach yisrefu, mah shene'emar 'shalal velo shalal shamayim**". It's very interesting. It means one must burn it. Well, I don't understand, what is the "mah shene'emar"? The "mah shene'emar" is why one can indeed redeem it. And what's the point of redeeming it and then burning it? Something is interesting, something doesn't fit here with the Rambam. What's the explanation?

It's a Mishnah, and there are two ways how one learns the Mishnah. It's a bit of a complicated sugya, how the Rambam learns the Mishnah and how the Ra'avad learns the Mishnah. So yes, I also don't know.

So one redeems, and "**achar kach sorfin osan, mah shene'emar 'shalal velo shalal shamayim**". "Shalal shamayim" one cannot, that's the advantage, one can still redeem it. Because if not for this, one wouldn't be able to redeem it either, because the hekdesch also wouldn't be allowed to have benefit from it, just like the law of "kol shalal tihyeh".

#### The Law of Bechor and Ma'aser Within It

"**Habechor vecha'ma'aser shebsocha**" - there's such an example of "zevach shelamim tocheluhu", but it's only here on korbanos, not on ma'aleh aliyos themselves. Yes. "**Habechor vecha'ma'aser shebsocha, she'hen kodshei mizbe'ach, yamusu**". Because if they're temimim, one gives the animal itself, the bechor or the ma'aser one gives itself, and this the kohen may not take, because it's like kodshei mizbe'ach, and one must let it die. "Yamusu" means to say one burns it.

But ba'alei mumin is still the same halachah that it's only... what? It's only mumin that he redeems, still the same thing. Okay, generally an animal of those killed, no, but one must indeed kill it. On this one doesn't say "shelo velo shalal shamayim". Right, because the owner will do as if he redeems, like the law of bedek habayis, the kodesch only has the money from it. So one can give him the money.

So why would one give him the money? Perhaps one actually takes the money from the ir hanidachas. But the animal itself is an animal. It doesn't fit. It doesn't fit.

Ah, because the owner could have eaten it. Because it's a ba'al mum, the owner could have eaten it and redeemed it. Therefore it's considered his own. When the owner cannot eat it, it belongs to hekdesch, one just cannot bring it if it's an oved

avodah zarah. But since it's a ba'al mum, the owner can keep it and redeem it and eat it, and actually send the money, therefore it's considered an animal of those killed.

#### Halachah 20 — The Law of Terumah Within It

He says here something else, a very sweet thing. He says like this, he continues, **terumah shebsocha**, terumah that lies there, **im higi'a leyad kohen, yirkav**. One should let it become moldy, and not grab what is the practical difference. And the kohen is also tamei in the ir hanidachas. That's the point. And why doesn't one burn it? One does burn it. Rashi says yes that one burns it. Perhaps he didn't have time to discuss.

Okay. **Im adayin beyad Yisrael, yinaten lakohen shebe'ir acheres**. Perhaps one cannot burn it because it has some sanctity, so one waits for it to rot. I don't know. Im adayin beyad Yisrael, if one hasn't yet given it to the kohanim, yes, Rashi says that one should let it lie until it becomes a kli he'asuy lehirkev. One doesn't burn it because it's somewhat kodesch, one lets it become rotten, he says.

If it's still beyad Yisrael, the explanation is not his, because you don't have to give it to a kohen, because it's terumah shebsocha, just like one speaks how long once it's ma'aser, one gives it to a kohen as a matnas kehunah, nachas ruach lashamayim mikedushasan kedushas haguf, and on this there's also no zevichah lishmah ta'avur except on the mizbe'ach, and the kohen can eat it as usual.

#### The Law of Ma'aser Sheni and Sacred Writings

**Ma'aser sheni vechessef ma'aser sheni vechessef ma'aser sheni**, and or money one has already redeemed ma'aser sheni to kesef ma'aser sheni, essentially it belongs to the ba'al habayis, because the ba'al habayis eats it in Yerushalayim, so in a way it's kodesch, it has sanctity, and with tumah one must burn it because it's zilzul in kodashim, but one also may not eat it because only the ba'al habayis can eat it.

So a proof lignizei, **kisvei hakodesh**, and kisvei hakodesh is also kisvei hakodesh that one may not burn also for the same reason. For which reason? Because it's kisvei hakodesh, because it received the seal of anshei ir hanidachas that it's lignizei.

The Rambam says, he concludes with these matters of the laws of ir hanidachas.

That is, everything is certainly details of things that are kodesch or that belong to God. And just like partnership, it means that it's eser benai, that it becomes completely burned. And now one learns that there's also actually a sanctity of an olah, it's such an aspect of olah.

#### Halachah 21 — The Excellence of the Law of Ir HaNidachas: Olah, Charon Af, Blessing and Mercy

**Velo od ela shemesalek charon af miYisrael**, with this one removes the charon af, **shene'emar "lema'an yashuv Hashem meicharon apo"**, and he also says by Pinchas it says so, yes, that... very good, because the Almighty was very angry about avodah zarah.

**Umevi berachah verachamim, shene'emar "venasan lecha rachamim verichameha vehirbecha"**. Perhaps here the rachamim means, the famous Ohr HaChaim HaKadosh, that it's mercy that a person doesn't become cruel, and one brings blessing and mercy.

But the simple meaning of the verse, one must remember, the Jew will say the Ohr HaChaim HaKadosh, the simple meaning of the verse is simply that the Almighty has mercy on you, and the explanation is that as the Rambam brings in another place, the Rambam, that the reward for avodah zarah is "ela elu shematridim es ha'adam achar hahevel rachamim yavo'u la'olam", that being cruel toward avodah zarah, that is mercy, because the world, a better world is a world that serves the Almighty.

Just as we learned last week in the parshah, "mi yode'acha hayom", one can speak much about blessing because one did the mitzvah.

### **Mercy and Cruelty by Ir HaNidachas — Hashkafic Summary**

But the simple meaning is, one must remember, the Jew knew the Ohr HaChaim HaKadosh, but the simple meaning is that the Almighty has mercy on the world.

And the explanation is, as the Rambam brings in another place, the Rambam that the connection to cruelty is al elu shematilim al atzman achrayus al rachamim ba'olam. That they are cruel toward avodah zarah, that is mercy, because the world, a better world is a world that serves the Almighty.

### **The Story of "Mi LaHashem Eilai" — Cruelty When Necessary**

Just as we learned in last week's parshah, "mi LaHashem eilai", we know the Gemara in Berachos, because he did the mitzvah of cruelty when necessary.

### **The Rambam's Position That Charon Af Is Only on Avodah Zarah**

And charon af, the Rambam is famous, he says in the Moreh that charon af appears in the Torah only on avodah zarah. It's a huge question, it's a huge question, because the Rambam says so, that the greatest thing that brings charon af on the world chas veshalom is avodah zarah.

So therefore, this is apparently the opposite, the yetzer hara tells him "have mercy", he says "no, mercy is when one kills him, not when one lets him live".

### **The Prohibition of Having Mercy on Idol Worshipers**

Regarding the next chapter we will see more about the prohibition of having mercy on idol worshippers, a clear explicit prohibition.

Eh, he gives here a whole halachah, so this is apparently the middle path of being interesting, of mercy or anger, I don't know what. But here one must indeed have cruelty. Yes. Okay.