

שמות כא:כד

עין פחת עין שנ פחתת שנ יד פחתת יד רגל פחתת רגל:

An eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot. (Shmot 21:24)

(1)

שולחן ערוך הרב, חושן משפט, הלכות נזקי גופו ונפש ודינייהם אחרות
אסור להכות את חבריו אפילו הוא נותן לו רשות להכותו כי אין לאדם רשות
על גופו כלל להכותו ולא לבישו ולא לצער בשום צע או אילם במניעת איה
מאכל או משתה.

(2)

It is forbidden to strike one's fellow, even if he gives permission to strike him, for a person does not own his or her body at all [to allow] striking or embarrassment or to cause pain of any kind, even through denying a particular food or drink. (Shulhan Arukh haRav, Hoshen Mishpat, Laws of Physical and Emotional Harm, section 4)

(3)

تلמוד בבלי, מסכת בבא קamma דף ל' עמוד א
חנן בישא תקע ליה להוא גברא, אתה لكمיה דרב הונא. אמר ליה, "ziel. רב
ליה פלאג דזואה". הווה ליה זהיא מכא, בעי למיתבה ליה מיניה פלאג דזואה. לא
הווה משתקיל ליה, תקע ליה אחרינה ויהביה נהלה.

The scoundrel Hanan, having boxed another man's ear, was brought before R. Huna, who ordered him to "go and pay the plaintiff half a zuz." As [Hanan] had a battered¹² zuz he desired to pay the plaintiff the half zuz [that was due] out of it. But as it could not be exchanged, he slapped him again and gave him [the whole zuz]. (Talmud Bavli Bava Kamma 37a)

(4)

שמות כא:יח-יט
וכי ירבען אנשים והכה איש את רעהו באבון או באגרף ולא ימות ונפל למישכבות:
אם יקום והתהלך בחוץ על מישענותו ונתקה הפה רק שבטו יפנו ורופא ירפא:

If men fight and one man hits his friend with a rock or a fist, and [the victim] does not die, rather he is incapacitated. If he gets up [lives] and walks on his own, the one who struck will be exonerated [of a capital charge]; he will pay only damages of lost wages and medical expenses. (Shmot 21:18–19)

(5)

בראשית כב:יג

וישא אברהם את עיניו וירא והנה אל אמר נאטו בסבור בקרני נילך אברהם וידע אדים עוד את אשתו ותכל בנו ותקרא את שמו שת כי שת לי אלקי ויקח את האיל ויעלה לעלה פחתת בנו:

בראשית ד:כח

Adam was once again intimate with his wife and she had a offspring tahat Hevel – in place of Hevel – for he was killed by God. And he called his name Shet, "for God has provided me with a ram was entangled in the brush by the horns, and Abraham went and took the ram, and offered it as an offering tahat beno – in place of his son. (Bereishit 22:13)

(6)

(7)

ספר מורה נבוכים, חלק ג פרק מא
ויש לבעל הממון למחול ולהקל. אמנים ההורג לבד, לחזק חטאנו, אין מקילים
לו כלל ולא ילקח ממונו כופה (במודבר לא) "ולארץ לא יוכור לדם אשר שופך בה

כי אם בדם שופכו". ומפני זה אילו היה הנהרג שעיה אחות או ימים, והוא מדבר
ושכל טוב ויאמה, "הנירוח הורג המ מחליתי וסלחתי לו" – אך שומעים לנו
אבל נפש בנפש בהכרח, בהשוות הקטן לגדול והעבד לבן חורין והחכם לטכל –
שאין בכלל חטאות האדים יותר גדול מזה.ומי שחייב אישר איבר יחוسر איבר; (ויקרא

כד) "כאשר יתון מום באדם, כן ינתן בו".

ולא תטריד רעיון בהיותנו עונשים הנה במנון, כי הכוונה עתה למת סיבת
הפסוקים, ולא סיבת דברי התלמוד. ועם כל זה יש לי במה שאמרו בו התלמידו
– דעת, ישמע פנים בפניהם והמקות אשר א' אפשר לעשות ביזא בס בשוה –
דיןם בתשלומים, (שמות כא) "רק שבתו יתן ורפא ירפא".

But the person whose property has been damaged should be ready to resign his claim totally or partly. Only to the murderer we must not be lenient because of the greatness of his crime; and no ransom must be accepted of him. "And the land cannot be cleansed of the blood that is shed therein but by the blood of him who shed it" (Bamidbar 31:33). Hence even if the murdered person continued to live after the attack for an hour or for days, was able to speak and possessed complete consciousness, and if he himself said, "Pardon my murderer, I have pardoned and forgiven him," he must not be obeyed. We must take life for life, and estimate equally the life of a child and that of a grown-up person, of a slave and of a freeman, of a wise man and of a fool. For there is no greater sin than this. And he who mutilated a limb of his neighbor, must himself lose a limb. "As he has caused a blemish in a man, so shall it be done to him again" (Vayikra 24:20).

You must not raise an objection from our practice of imposing a fine in such cases. For we have proposed to ourselves to give here the reason for the precepts mentioned in the Torah, and not for that which is stated in the Talmud. I have, however, an explanation for the interpretation given in the Talmud, but it will be communicated vivâ voce (in person, face-to-face). Injuries that cannot be reproduced exactly in another person are compensated for by payment; "he will pay only damages of lost wages and medical expenses" (Shmot 21:19). (Guide for the Perplexed, book 3 chapter 41)

(8)

בן עזרא (הפיירש הארוּר), שמות כא:כד
עי: אמר רב סעדיה, לא נוכל לפרש זה הפסוק כמשמעותו. כי אם אדם רכה עין חבירו, וסורה שלישית אורה
עייניו, איך יתכן שיוכחה מכח כחאת בily תוספת ומוגערת. אולי יחשיך אורה עינו כלו.... והכלל לא נוכל לפרש
על דרך מצות התורה פירוש שלם, אם לא נסמן על דברי חז"ל כי כאשר קבלת התרווה מן האבות, כן
קיבלו תורה שבعل פה, אין הפרש בינויהם. והנה יהיה פירוש"ען תחת עין" ראיי להיוינו עינו תחת עינו,
אם לא יתנו כפרה.

(9)

רמב"ם, משנה תורה, הלכות חובל ומזיק פרק א הלכה ב: נזק לכך, שאם קטע יד חבריו או רגלו רואין אותו כאלו הוא עבד נמכר בשוק כמנה היה יפה וכמנה הוא יפה עתה ומשלם הפחתה מודמי, שנאמר (שמות כד:כ, ויקרא כד:כ) "עין תחת עיר", מפני השמועה למדו שזה שמאמו תחת לשלם ממן הוא.

הלכה ה: ומnen שזה שנאמר באיברים "עין תחת עין" וכ"כ תלומין הוא, שנאמר (משפטים כא:כח) "חברה תחת חברה", ובפירוש נאמר "וכי ייכה איש את רעהו באגרוף וגוי רך שבתו יתן ורפא ירפא" – הא למדת שתחת שנאמר בחבורה תשלomin, והוא הדבר לתחת הנאמר בעין ובשאר איברים.

הלכה ו: וא"פ שדברים אלו נראים מעין תורה שכabbת, ככל מפורשין הן מפני משה מהר סיני וכולן הלכה מעשה הן בידינו וכך ראו אבותינו דנן בבית דין של יהושע ובבית דין של שמואל הרמתי ובכל בית דין ובית דין שעמדו מימوت משה ועד עכשין.

(10)

קול אליהו, שמות כא:כג
בפסק עין תחת עין וגו' (שמות כא:כג): קבלו חז"ל דהוא ממון (ב"ק פג), ויש לומר דבר סוק מrome שאין עין ממש אלא ממון כי הול' לעין بعد עין מהו הלשון תחת, אלא לרמז כי האותיות שתחת העין בהא"ב הוא כס", תחת העין הוא פ', ותחת הי"ד הוא כ', ועליה אותיות כס', וזה עין אם לך עין יתן תחת עין והוא כס'. (שער בת רבים פ' אמור)

(11)

ספר הכוורי, מאמר שלישי, אות מו-מז
אמר הכוורי האם לא נאמר אצלנו דין ענשים מפרש בתורה – "עין תחת עין שנ תחת שנ כאשר יתן מום באדם כן יתן בר?"
אמר החבר: האם לא נאמר בסמוך לזה, "ומכה נפש בהמה ישלמנה נפש ותחת נפש" – האין זה תשלום כפרא? אין הכתוב אומר אדם שהרג סוג סוסו כי מה בצע בהרג את סוסו, וכן אדם שקטיע ירך קח כפר ירך כי מה בצע בכרתך את ידו. אך כי זקנים שיש בהם משומות סתירה לשכל הישר – "פצע תחת פצע" בחבורה תחת חבורה – וכי איך נולך לשער זאת? יתכן כי האחד מهما ימושט מפצעו זה והשני לא ימושט מפצע דומו להו ואיך נdag בדבר כי היה הפעצ עשר יושם בו דומה בדיקק לפצע אשר שם בחבורי? כיצד נעור עינו של אדם אשר אין לו כי אם עין אחת כפער לעורו עינו של אדם אשר לו שתי עינים, ושאר זה עור בשתי עיניו שעלה שהאחר יהיה עור רק בעינו האחת. והרי התרנה אמרה "כאשר יתן מום באדם כן יתנת בר", אך למה לדבר אונק על הפרטים האלה אחורי אשר הקדמתי לך עד כמה רב הצורך במשפט וכמה נאמנים מקבליה ומה רבה גדלותם והשתדלותם בשמרותה.

(12)

השל"ה הקדוש, פרשת משפטיים, תורה או ר א
והמשפטים הם קיום قولם, ואמרו רבוינו ז"ל (שמעיר ל'ג), התנורה תחילתה דין וסופה דין, תחילתה דין נץ שם של רק ומשפטו סופה דין ואלה המשפטים דע כי שמי מעיל דין יש דין שהוא מודת הדין גמורה, ויש דינים שהם משותפים במדת הרוחמים. וכמו שאמרו רבוינו ז"ל (ב"ר ב':ט), בתחילת עלה במחשבה לברוא העולם במדת הדין, ראה וכ' שיתר ממדת הרוחמים עם מדת הדין. וכיצירתו של אדם כך תורתו, כלומר יידון בבית דין שלטמה, לפעמיםណון במדת הדין הגמור, כגון ארבע מינות בית דין, ויש משותף כמו וגם בעליו יומת פירשי' בידי שמיים, ומשותף ברוחמים אם כופר ישות עליו וגוי שאז נפטר מהמיתה. וכמו עין תחת עין, שפירשו רבוינו ז"ל (ב"ק פד): שרצה לומר דמי עינו, וכתבו התורה בלשון עין תחת עין, להורות שהרואי ליתן עין ממש, אלא שמצד מודת הרוחמים באה הקבלה לפטור בדמי עין וכן מצינו בכלל הדינים שבין אדם לחבריו, שמצויה בדינים להתחילה בפרש, ולא ליריד לעומק הדין, והכל בדרך שהקב"ה דין את העולם, לפעמים מדקדק כחות השערה, כמו שאמרו רבוינו ז"ל (יבמות כד:ב): וסביריו נסעה מואוד, ולפעמים משער רוחמים בדיון, כי לולי זה לא היה העולם מתקיים. וכן ראי להיות בבית דין שלטמה, כי על כן גם הם נקרים אליהם, כמו שאמרו רבוינו ז"ל אין אלקים בכל מקום אלא סמכים.

11

when the people saw it, they were shaken, and stood afar off. And they said to Moshe, Speak thou with us, and we will hear; but let not God speak with us, lest we die. And Moshe said to the people, Fear not: for God is come to test you, and that his fear may be before your faces, that you sin not. And the people stood afar off, and Moshe drew near to the thick darkness where God was. And the Lord said to Moshe, Thus thou shalt say to the children of Yisra'el, You have seen that I have talked with you from heaven. You shall not make with me gods of silver, neither shall you make for yourselves gods of gold. An altar of earth thou shalt make to me, and thou shalt sacrifice on it thy burnt offerings, and thy peace offerings, thy sheep, and thy oxen: in all places where I cause my name to be pronounced, I will come to thee, and I will bless thee. And if thou wilt make me an altar of stone, thou shalt not build it of hewn stone: for if thou liftest up thy tool upon it, thou hast defiled it. Neither shalt thou go up by steps to my altar, that thy nakedness be not ex-

MISHPATIM

Now these are the judgments which thou shalt set before them. If thou buy a Hebrew servant, six years he shall serve: and in the seventh he shall go out free, for nothing. If he came in by himself, he shall go out by himself: if he is married, then his wife shall go out with him. If his master has given him a wife, and she has born him sons or daughters; the wife and her children shall be her master's, and he shall go out by himself. And if the servant shall plainly say, I love my master, my wife, and my children: I will not go out free: then his master shall bring him to the judges; he shall also bring him to the door, or to the door post; and his master shall bore his ear through with an awl; and he shall serve him for ever. And if a man sell his daughter to be a maid servant, she shall not go out as the maid servants do. If she please not her master, who has designated her for himself, then shall he let her be redeemed: to sell her to a strange nation he shall have no power, seeing he has dealt deceitfully with her. And if he designated her for his son, he shall deal with her after the manner of daughters. If he take another wife for himself, her food, her clothing, and her duty of marriage, shall he not diminish. And if he do not these three to her, then shall she go out free without money. He that smites a man, so that he die, shall be surely put to death. And if a man did not lie in wait, but God allowed it to happen to him; then I will appoint thee a place to which he shall flee. But if a man come presumptuously upon his neighbour, to slay him with guile; thou shalt take him from my altar, that he may die. And he that smites his father, or his mother, shall be surely put to death. And he that steals a man, and sells him, if he be found in his hand, he shall surely be put to death. And he that curses his father, or his mother, shall surely be put to death. And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keeps his bed: if he rise again, and walk abroad upon his staff, then shall he that struck him be acquitted: only he shall pay unto him that smote him, and shall ^{cause him} to be thoroughly

સાધુ-બાળ પત્રોની સાથે-સાથે

SHEMOT / EXODUS		
healed.	And if a man smite his servant,	or his maid, with
	a rod, and he die under his hand;	he shall be surely punished.
	But If he continues a day or two,	he shall not be punished: for
	his money.	child, so that her fruit depart from her, and yet no further
	If men strive, and hurt a woman with	harm ensue: he shall be surely punished, according as the wo-
	man's husband will lay upon him;	judges determine. But if any harm ensue, then thou shalt
	and he shall pay as the	give life for life. Eye for eye, tooth for tooth, hand for hand,
		foot for foot, burning for burning, wound for wound, bruise
		for bruise.
	And if a man smite the eye of his servant, or	the eye of his maid, and destroy it; he shall let him go free for
	his eye's sake. And if he strike out his manservant's tooth, or	his maidservant's tooth; he shall let him go free for his tooth,
		sake.

If an ox gore a man or a woman, that they die: then the ox shall be surely stoned, and his flesh shall not be eaten; but the owner of the ox shall be acquitted. But if the ox was wont to gore with his horn in time past, and his owner had been warned, yet he had not kept him in, but it killed a man or a woman; the ox shall be stoned, and its owner also shall be put to death. If there be laid on him a sum of money, then he shall give for the ransom of his life whatever is laid upon him. Whether he has gored a son, or gored a daughter, according to his judgment shall it be done to him. If the ox shall gore a manservant or a maid-servant; he shall give to their master thirty shekels of silver, and the ox shall be stoned. And if a man shall open a pit, or if a man shall dig a pit, and not cover it, and an ox run an ass fall into it; the owner of the pit shall make it good and give money.

be risen upon him, there shall be blood shed on his account. If the sun should make full restitution; if he have nothing, then he shall be sold for his theft. If the thief be at all found in his hand alive, whether it be ox, or ass, or sheep; he shall restore double. If a man shall cause a field or vineyard to be eaten, and shall put in his beast, and shall feed in another man's field; of the best of his field, and of the best of his vineyard, shall he make restitution. If fire break out, and catch in thorns, stumped; he that kindled the fire shall surely make restitution. If a man shall deliver to his neighbour money or vessels to keep, and it be stolen out of the man's house;

If the thief be found, he shall pay double. If the thief be not found, then the master of the house shall be brought to the judges to

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Le^t **o** **u** a man shall dig a pit, and not cover it; or an ass fall into it; the owner of the pit shall make it good, and give money to the owner of them; and the dead beast shall be his. **A**nd if one man's ox hurt another's, then they shall sell the live ox, and divide the money of it; and then they shall sell the live ox, and divide the money of it; and the dead ox also they shall divide. Or if it be known that the ox has long been in the habit of goring, and his owner has not kept him in; he shall surely pay.

If a man shall surely pay ox for ox; and the dead shall be his own, or sell it; he shall restore five oxen for an ox, and kill it, or a sheep. If a thief be found breaking in, and be smitten that die, there shall no blood be shed on his account. If the sun rise upon him, there shall be blood shed on his account. He should make full restitution; if he have nothing, then he shall be sold for his theft. If the theft be at all found in his hand alive, whether it be ox, or ass, or sheep, he shall

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found, he shall pay double. If the thief be not found, then the
master of the house shall be brought to the judge.

VAYIGGASH your father. Then Yehuda came near to him, and said, Oh my lord, let thy servant, I pray thee, speak a word in my lord's ears, and let not thy anger burn against thy servant: for thou art even as Par'o. My lord asked his servants, saying, Have you a father, or a brother? And we said to my lord, We have a father, an old man, and a child of his old age, a little one; and his brother is dead, and he alone is left of his mother, and his father loves him. And thou didst say to thy servants, Bring him down to me, that I may set my eyes upon him. And we said to my lord, The lad cannot leave his father: for if he should leave his father, his father would die. And thou didst say to thy servants, Unless your youngest brother comes down with you, you shall see my face no more. And it came to pass when we came up to thy servant my father, we told him the words of my lord. And our father said, Go back, and buy us a little food. And we said, We cannot go down: if our youngest brother be with us, then will we go down: for we may not see the man's face, unless our youngest brother is with us. And thy servant my father said to us, You know that my wife bore me two sons: and the one went out from me, and I said, Surely he is torn in pieces; and I saw him not since: and if you take this also from me, and mischie夫 befall him, you shall bring down my grey hairs with sorrow to She'ol. Now therefore when I come to thy servant my father, and the lad is not with us; seeing that his life is bound up in the lad's life; it shall come to pass, when he sees that the lad is not with us, that he will die: and thy servants shall bring down the grey hairs of thy servant our father with sorrow to She'ol. For thy servant became surely for the lad to my father, saying, If I bring him not to thee, then I shall have sinned to my father for ever. Now therefore, I pray thee, let thy servant remain instead of the lad a bondman to my lord; and let the lad go up with his brothers. For how shall I go up to my father, and the lad be not with me? lest I see the evil that shall come on my father. Then Yosef could not restrain himself before all them that stood by him; and he cried, Cause every man to go out from me. And no man stood with him, while Yosef made himself known to his brethren. And he wept aloud: and Mizrayim and the house of Par'o heard. And Yosef said to his brethren, I am Yosef: does my father yet live? And his brothers could not answer him; for they were terrified at his presence. And Yosef said to his brothers, Come near to me, I pray you. And they came near. And he said, I am Yosef your brother, whom you sold into Mizrayim. Now therefore be not grieved, nor angry with yourselves, that you sold me here: for God did send me before you to preserve life. For these two years has the famine been in the land: and there are five more years, in which there shall neither be ploughing nor harvest. And God sent me before you to preserve you a remnant in the earth, and to save your lives by a great deliverance. So now it was not you that sent me here, but God: and he has made me a father to Par'o, and lord of all his house, and a ruler throughout all the land of Mizrayim. Hasten, and go in to my father, and say to