



After the Ten Commandments: The Laws of the Covenant Code

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Torah in Motion, 2022

An eye for an eye....

Exodus 21:23-25

וְאִם אֶסוֹן יִהְיֶה וְנִתְּתָה נֶפֶשׁ
תַּחַת נֶפֶשׁ. עַיִן תַּחַת עַיִן וְשֵׁן
תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל
תַּחַת רֶגֶל. כְּוִיָּה תַחַת כְּוִיָּה
פְּצֵעַ תַּחַת פְּצֵעַ חֲבוּרָה תַחַת
חֲבוּרָה

But if other damage
ensues, the penalty shall
be life for life, eye for eye,
tooth for tooth, hand for
hand, foot for foot, burn
for burn, wound for
wound, bruise for bruise.

Code of Hammurabi

200. If a man knock out the teeth of his equal, his teeth shall be knocked out.

201. If he knock out the teeth of a freed man, he shall pay one-third of a gold mina.

202. If anyone strike the body of a man higher in rank than he, he shall receive sixty blows with an ox-whip in public.

Rashi

עין תחת עין – סימא את עין
חברו, נותן לו דמי עינו כמה
שפחתתו דמיו לימכר בשוק,
וכן כולם. ולא נטילת אבר
ממש, כמו שדרשו רבותינו
בפרק החובל (בבלי בבא
קמא פ"ד.)

EYE FOR EYE – A person who blinds the eye of someone else must pay the victim the value of the eye, i.e. paying the amount his value would be diminished if sold [as a slave in the market. In the same way all other cases are to be dealt with, but it does not mean actually cutting off the offender's limb —as our Rabbis explained in the Talmud.

Ramban

הידוע בקבלת רבותינו שהוא
ממון (מכילתא כאן, ב"ק פד
א), ויבא כלשון הזה
בתשלומין ומכה נפש בהמה
ישלמנה נפש תחת נפש
(ויקרא כד יח)

It is well known that the rabbinic tradition teaches that this means money. This same language is used [in the Torah] in contexts [that must be interpreted as referring to] money, such as “Whoever kills an animal shall make recompense, life for life” (Lev 24:18).

Ramban (cont.)

ואמר ר' אברהם: כי כונת הכתוב
לומר שהוא חייב בכך אם לא יתן
כפרו. והכתוב אסר עלינו שלא
נקח כופר לנפש רוצח אשר הוא
רשע למות (במדבר ל"ה ל"א),
אבל נקח כופר במי שהוא רשע
לכרות אבר מאיבריו. ולכן לא
נכרות אותו לעולם, אבל ישלם
כדי דמיו. ואם אין לו, יהא עליו
החיוב עד שתשיג ידו.

Ibn Ezra commented that the implication of the language of Scripture is that he really is deserving of such a punishment, [that his eye be taken from him], if he does not pay a ransom. Scripture has forbidden us to take *ransom for the life of a murderer, an evil person who caused death*, but we take ransom from a wicked person who cut off a limb of another person. Therefore, we never cut off that limb from him, but rather he is to pay monetary compensation. If he has no money to pay, the debt remains on him until he acquires the means to pay.

הכתב והקבלה

Yaakov Tzvi Mecklenburg (1785-1865)

יאמרו המפרשים שהתורה לא
הזכירה פה רק מה שהיה ראוי
לענוש את החובל, ועל זה אמרה
"כאשר עשה כן ייעשה לו" כלומר
היה מן הראוי לענוש כמו אלה,

וזו לא ירוה צמאון דורשי אמת,
איך תזכיר התורה העונש שהיה
ראוי לחול עליו, ותעלים ממנו במה
ייענש באמת.

The commentators explain that the Torah records here only the punishment that the injuring party **deserves** to receive. When it says, "That which he did should be done to him," it means that he **ought** to be punished like that.

This explanation is not sufficient to satisfy truth seekers. Why would the Torah mention only the punishment that he deserves and not mention the punishment that he receives?

Ibn Ezra: A rabbanite/Karaite polemic

אמר רב סעדיה: לא נוכל לפרש
זאת הפרשה כמשמעו, כי אם
אדם הכה עין חבירו, וסרה
שלישית אור עינו, איך יתכן
שיוכה מכה כזאת בלי תוספת
ומגרעת, אולי יחשיך אור עינו
כולו. ויותר קשה הכויה והפצע
והחבורה, כי אם היו במקום
מסוכן, אולי ימות, ואין הדעת
סובלת.

Rabbi Saadiah [Gaon, 882-942] says: we cannot interpret this verse according to its plain meaning. For if a person struck someone else's eye and the eye lost a third of its sight, how is it possible to punish the culprit with an equivalent blow, that is, with a blow which is neither greater nor lesser? There is a possibility that the culprit will lose his entire eyesight. Burns, wounds, and bruises present even greater difficulties, for if they are inflicted on a dangerous area, it is possible that the culprit will die. This would be intolerable.

Ibn Ezra (cont.)

ובן זוטא השיב: כאשר עשה
כן יעשה לו (ויקרא כ"ד: י"ט).
השיב הגאון: הנה שמשון
אמר: כאשר עשו לי כן עשיתי
להם (שופטים ט"ו: י"א),
ושמשון לא לקח נשותיהם
ונתנם לאחרים, רק גמולם
השיב להם.

Ben Zuta responded, "as he did, so shall it be done to him" (Lev. 24:19). The Gaon retorted: Observe: Samson said, "As they did unto me, so have I done unto them" (Jud. 15:11). Now Samson did not take their wives and hand them over to others. He only repaid them for their dastardly acts.

Ibn Ezra (cont.)

ובן זוטא השיב: אם היה
המכה עני מה יהיה עונשו.
והגאון השיב: אם עור יעור
עין פקח, מה תעשה לו. כי
העני יתכן שיעשיר וישלם,
רק העור לא יוכל לשלם
לעולם.

Ben Zuta responded: If the culprit is a poor man what shall his punishment be? The Gaon answered: If a blind person blinds someone who can see, what shall be done to him? For it is possible for a poor person to become wealthy and pay. However, a blind person would never be able to offer compensation [following Ben Zuta's understanding].

Ibn Ezra (cont.)

והכלל: לא נוכל לפרש על
התורה פירוש שלם, אם לא
נסמוך על תורה שבעל פה
כאשר קבלו תורה שנכתב
מיד האבות, כך קיבלנו תורה
שבעל פה, אין הפרש ביניהם

The general rule is that we cannot fully explain any commandment in the Torah unless we rely on the Oral Torah. Just as we received the Written Torah from our ancestors, so did we receive the Oral Law. There is no difference between them.

Matthew 5 (the Sermon on the Mount)

17 “Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them. 18 For truly I tell you, until heaven and earth disappear, not the smallest letter, not the least stroke of a pen, will by any means disappear from the Law until everything is accomplished. 19 Therefore anyone who sets aside one of the least of these commands and teaches others accordingly will be called least in the kingdom of heaven, but whoever practices and teaches these commands will be called great in the kingdom of heaven. 20 For I tell you that unless your righteousness surpasses that of the Pharisees and the teachers of the law, you will certainly not enter the kingdom of heaven.

Matthew 5 (the Sermon on the Mount cont.)

27 “You have heard that it was said, ‘You shall not commit adultery.’ 28 But I tell you that anyone who looks at a woman lustfully has already committed adultery with her in his heart.

31 “It has been said, ‘Anyone who divorces his wife must give her a certificate of divorce.’ 32 But I tell you that anyone who divorces his wife, except for sexual immorality, makes her the victim of adultery, and anyone who marries a divorced woman commits adultery.

38 “You have heard that it was said, ‘Eye for eye, and tooth for tooth.’

39 But I tell you, do not resist an evil person. If anyone slaps you on the right cheek, turn to them the other cheek also.

Isaiah 50:6

גְּוִי נָתַתִּי לְמַכִּים
וְלִחַי לְמַרְטִים

פְּנֵי לֹא הִסְתַּרְתִּי מִכְּלָמוֹת וָרֶק.

I offered my back to the floggers,
And my cheeks to those who tore
out my hair.

I did not hide my face from insult
and spittle.

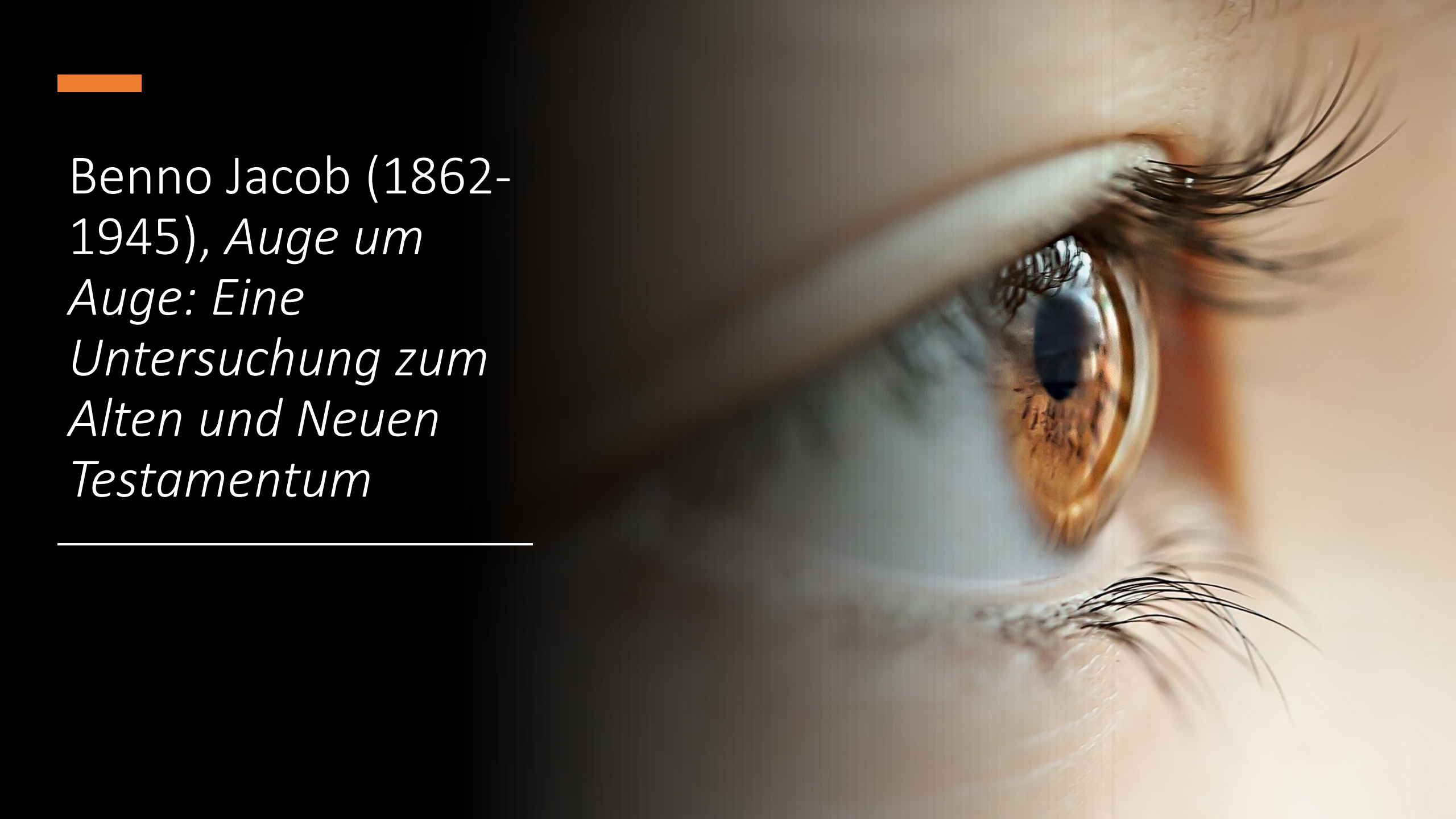
Lamentations 3

- טוֹב לְגִבֹּר כִּי יִשָּׂא עַל בְּנֵעוּרָיו.
It is good for a man, when young,
To bear a yoke;
- יָשֵׁב בְּדָד וַיִּדָּם כִּי נָטַל עָלָיו.
Let him sit alone and be patient,
When He has laid it upon him.
- יִתֵּן בְּעֶפֶר פִּיהוּ אוֹלֵי יֵשׁ תִּקְוָה.
Let him put his mouth to the dust—
There may yet be hope.
- יִתֵּן לְמַכְהוֹ לְחֵי יִשְׁבַּע בְּחֶרְפָּה.
Let him offer his cheek to the smiter;
Let him be surfeited with mockery.

NGO Monitor re Human Rights Watch

During the 2014 Gaza War, director Ken Roth obsessively tweeted about the conflict. Roth's tweets were characterized by significant levels of sarcasm, vitriol, and deep-seated hostility toward Israel.

In July 2006, in responding to a critique of HRW's reporting of the Lebanon War, Roth stated: "An eye for an eye – or, more accurately in this case, twenty eyes for an eye – may have been the morality of some more primitive moment. But it is not the morality of international humanitarian law..." The New York Sun decried this statement as a "slur on the Jewish religion itself that is breathtaking in its ignorance... To suggest that Judaism is a 'primitive' religion incompatible with contemporary morality is to engage in supersessionism, the de-legitimization of Judaism, the basis of much antisemitism."

A close-up, high-resolution photograph of a human eye, focusing on the iris and pupil. The eye is looking slightly to the right. The lighting is soft, highlighting the texture of the eyelashes and the skin around the eye. The background is blurred, emphasizing the eye as the central subject.

Benno Jacob (1862-
1945), *Auge um
Auge: Eine
Untersuchung zum
Alten und Neuen
Testamentum*

James F. Davis, *Lex
Talionis in Early Judaism
and the Exhortation of
Jesus in Matthew 5:38-
42*

Davis, citing Walter Jacob on his father's work

Benno Jacob's work in this area in Germany 'combined biblical studies and the struggle against antisemitism' arguing that the biblical requirement of 'an eye for an eye' did not demand a literal *talion* (misconstrued by those demeaning Judaism) but rather indicated the payment of damages.

Jacob compares the OT law with the talionic laws found in the Code of Hammurabi and argues that the Torah had left the primitive world far behind. Jacob argues that the biblical formulation in the OT does not fit the explicit nature of a literal classical formulation of the *talion*. In the Code of Hammurabi, "true *talion* was expressed in an unmistakable linguistic form; this rather than the Biblical statement was the classical formulation of *talion*. The judicial punishment had to use the same words as used for the crime."

Code of
Hammurabi

200. If a man knock out the
teeth of his equal, his teeth
shall be knocked out.



Davis, continued

Finally, Jacob decries that the first gospel and its Sermon on the Mount have been used unjustly against Judaism and the Torah, both of which were explicitly against revenge.

Ahad Ha'am (1856-1927)

"תורה שבלב"

אם הלב בדרך התפתחותו הגיע
להכרה ברורה, כי 'עין תחת עין'
היא אכזריות בלתי נאותה
לאומה בת תרבות, והכרת הלב
היא עוד באותה שעה אַבטוריטט
שאין למעלה ממנו, – הלא אז
הדבר מובן, כי גם האַבטוריטט
האחר, הכתב, לא יוכל לדבר
בלשון אחרת, ואין ספק איפוא, כי
'עין תחת עין זה ממון'.

When the [human] heart reached
the stage of development that it
realized with certainty that “an eye
for an eye” is a type of cruelty that is
inappropriate for a cultured nation,
and at that point in history, the
feelings of the heart were considered
a supreme authority, then it became
clear that the other authority, the
written word, simply could not be
saying anything different, and thus
there is no doubt ““an eye for an eye’
means money.”