

## Notes for An Eye for An Eye

(Kane Street Beit Midrash 12/11/12 Daniel Greenwood)

### I. The biblical texts.

-- Is it meant literally?

1. An eye is never a match for an eye. Every eye is different; context matters (one-eyed man).

This is R. Shimon bar Yohai's point in the Talmudic excerpt (#7G).

2. Shylock problem: collateral damage is inevitable.

3. Leviticus seems clear that "life for life" means "pay money" at least in case of cattle, and it even rejects proportionality (or does it) for people – "he that hits (fatally?) a man shall die"

-- Morally outrageous

1. Two wrongs make a lot of blind people, not justice.

2. The Cain problem: vengeance breeds vengeance (they'll kill me, and why not?)

-- So what is the point?

1. Take it as poetry or philosophy, not law. Certainly not a rule for a judge to apply.

2. What is the lesson:

a. Aristotle on justice, treating equals equally.

b. Human justice is impossible, and perhaps we shouldn't even aim for it – if we can't do a true eye for an eye, we are just increasing the unfairness of the world. So need to justify based on PEACE, not justice.

c. Notice the deterrence rationale in Dt 19:20.

d. Paradoxically, however, deterrence – punishing to change behavior, not for retribution – works only if the object accepts the pain as punishment, not oppression. So even if our goal is not justice, we must act justly. AND, as we have established, justice is impossible. "One law you shall have, the same for the stranger and the citizen it shall be, for I am Adonai your God. "

-- But note that LIFE is different.

3. Eyes are different, unique, can even be priced by asking about slaves or imagining selling your body parts. But NEFESH is different. No suggestion that we price people by the slave market.

-- Fundamental equality, harking back to Genesis. The most difficult teaching of Torah – here, “one law for you and the stranger”, a rule that even Leviticus can’t keep, as it suggests that maiming slaves isn’t quite as bad as maiming freemen.

4. Kuzari – rejecting criminal law altogether.

-- no cosmic balance, no retribution, not even deterrence or social order. Just compensation. Justice is impossible,

and honor/vengeance/schadenfreude “does not profit you” – by which I assume he means that it is wrong, not that no one takes pleasure in their enemy’s fall.