

**Date:** 23 Shevat 5786 (February 10, 2026)

**Torah Portion:** Mishpatim

**Topic:** Justice, Intent, and Human Dignity

It is written (Exo. 21:20-21), “And when a man smites his male or female servant with a rod, so that he dies under his hand, he shall certainly be punished. But if he remains alive a day or two, he is not punished; for he is his property.” It presents one of the most morally and legally challenging passages in the Torah. The text rules that if a master strikes his servant and the servant dies immediately, the master is “surely avenged,” but if the servant survives for a day or two, the master is not executed, “for he is his property.” At first reading, this distinction appears to reduce the servant to property and to excuse severe violence. However, the rabbinic tradition consistently interprets this passage not as moral endorsement of abuse, but as a narrow procedural rule governing capital punishment, grounded in evidentiary standards and intent.

The decisive factor in the verses is not the value of the servant’s life but the certainty of homicidal intent. In Torah law, capital punishment requires unambiguous proof that death resulted directly from a lethal act. Immediate death indicates that the blow itself was intrinsically deadly and thus constitutes murder. Delayed death, by contrast, introduces doubt: the initial blow is presumed non-lethal, and the death may result from complications rather than direct intent. The distinction between immediate and delayed death appears elsewhere in biblical and rabbinic law as a foundational principle separating direct causation from indirect responsibility.

This interpretive framework is articulated in the Talmud, particularly in Sanhedrin 52b, which sharply limits the master’s exemption. The Sages rule that the exemption applies only if the servant rises, regains functional strength, and survives at least twenty-four hours. If the servant never recovers or remains bedridden until death, the master is treated as a killer. Thus, the Torah’s language does not grant a blanket immunity; it creates a narrow evidentiary presumption that collapses once medical recovery fails.

The phrase “for he is his property” functions within this legal logic rather than as a moral judgment. The Torah assumes that a person does not ordinarily intend to destroy his own economic asset. This assumption weakens the presumption of murderous intent but does not eliminate liability altogether. As explained in Bava Kamma 85a, the master remains subject to extensive financial penalties, including loss of labor, medical costs, and other damages. The absence of capital punishment reflects uncertainty of intent, not a denial of wrongdoing.

Medieval commentators reinforce this narrowing approach. Ibn Ezra emphasizes that the passage concerns judicial procedure, not ethical evaluation. A court may be barred from execution due to insufficient proof, even while moral culpability remains. Ramban similarly explains that delayed death indicates the blow was not inherently lethal, though divine justice ultimately addresses human wrongdoing beyond the limits of earthly courts.

The legal tradition reaches its most restrictive formulation in the codification of Mishneh Torah, where Maimonides rules that the exemption applies only when ordinary disciplinary force is used and no excessive or abnormal violence is present. Any deviation—use of a deadly instrument, unusual force, or clear cruelty—restores full criminal liability. In practice, this interpretation leaves almost no room for genuine immunity.

Crucially, Exodus 21 does not stand alone. Immediately following this passage, the Torah mandates automatic emancipation of a servant whose eye or tooth is destroyed by the master. This legal sequence reveals the Torah’s broader objective: to restrain violence, affirm the servant’s human dignity, and impose serious consequences on abuse, even where capital punishment cannot be imposed.

In sum, the distinction between immediate and delayed death in Exodus 21:20–21 reflects the Torah’s insistence on evidentiary certainty in capital cases, not a hierarchy of human worth. Rabbinic interpretation consistently narrows the exemption, preserves the servant’s humanity, and balances strict justice (*din*) with procedural restraint. Far from legitimizing violence, the passage exemplifies the Torah’s effort to regulate power, limit cruelty, and ensure that even the most vulnerable are protected by law.

Shalom.