

SICHA SUMMARY

PROJECT LIKKUTEI SICHOS | 5783 - YEAR OF HAKHEL



Likkutei Sichos, Vol. 19

Re'eh, Sicha 4

The Context:

When a Jewish slave's term comes to an end, his master is commanded to give him a severance gift. The source for this law is found in our parshah, "And when you send him forth free from you, you shall not send him forth empty-handed, you shall surely provide him with gifts.... (Devarim 15:13-14)

The Chinuch (13th century anonymous discussion of the 613 mitzvos) writes that even though this mitzvah is not applicable in the current era, we should still be guided by the ethic and spirit of the law and give severance gifts to Jewish, paid employees upon the termination of their employment.

The Question:

The Minchas Chinuch, a commentary to the Chinuch, poses a challenge: Rambam rules that only a person who was sold into indentured service by the court of law is

entitled to a severance gift. If a person sells themselves into slavery, however, they are not entitled to the severance gift. (Laws of Slaves, 3:12) This follows the talmudic opinion which interprets the phrase "you shall surely provide him with gifts" as exclusionary, "him, but not one who has sold himself into slavery." (Kiddushin 15a)

Now, if the law was based on an ethic of concern for the worker and of appreciation of the employer, then there would be no distinction between a slave sold by the court or by himself under duress. Because this distinction does exist, this implies that the law is a scriptural decree and cannot be extended and applied to similar, unspecified circumstances, such as a paid worker.

It follows that the Chinuch maintains that there is an ethical spirit at the heart of this mitzvah, and therefore it applies to all forms of terminated employment (sold by the court, oneself, or even typical paid employment), while Rambam maintains that the law does not apply to other circumstances.

In general, the Chinuch avoids disagreeing with Rambam. How are we to reconcile their apparent disagreement?

The Explanation:

There are two ways to classify the severance gift: 1) as payment for labor 2) as charity.

If we see the severance as payment, then the law itself is a novelty. The owner, after all, already paid the full price of the slave's labor when he purchased the slave. An additional payment for labor at the close of the servitude, therefore, is the Torah's novel innovation. Therefore, it is only applicable in the context where it is said explicitly, i.e. the slave sold by the court. There is no reason to apply it to other circumstances, such as when one sells himself, because the essence of the law is unjustified.

If we see the severance as charity, however, then the mitzvah is driven by an ethical spirit and should apply equally to every employment situation. The fact that the Torah excludes the case of someone selling themselves into slavery is a novelty that can only apply in that specific circumstance. In any other case, we would apply the ethical rationale of the law to mandate severance gifts.

In his book enumerating the mitzvos, Rambam inserts the law of the gift after the mitzvah of charity, implying that he sees them as a continuum. Therefore, even

though Rambam follows the Talmudic opinion that makes a distinction between a slave sold by the court and one who sells himself, that distinction would not extend to other cases. The payment is seen as a form of charity, and therefore applies in every situation of employment unless the Torah specifies otherwise. Thus, the Chinuch and Rambam are reconciled.

The Deeper Dimension:

A slave and his master serve as a metaphor for a teacher and student. The law of a severance gift alludes to the idea that a teacher must go beyond his obligated standards of education and give "gifts of charity" to his student, elevating him to reach the level of perception and insight of the teacher himself. Similarly, when we engage with Jews who have little education, we must seek not only to address their immediate gaps in knowledge and practice, but aim to elevate them to our own levels of study.

The Lesson:

A practical lesson: employers should implement this directive of charitable severance in their business. No matter how long someone has been in one's employment, or how successful they were in their role, the employer should give them some charitable gift when their employment ends.
