

DIMENSIONS IN CHUMASH

SHOFTIM

Not Losing the Script – The King’s Two Sifrei Torah

וְהָיָה כְּשִׁבְתוֹ עַל כִּסֵּא מַמְלַכְתּוֹ וְכָתַב לּוֹ אֶת מִשְׁנֵה הַתּוֹרָה הַזֹּאת

It shall be that when he sits on his royal throne, he shall write for himself a second copy of this Torah¹

This verse contains the mitzvah for the king to write for himself a second Torah scroll, in addition to the one that all Jews must write for themselves. The simple understanding of the word “כְּשִׁבְתוֹ” is that it presents the *time* of the mitzvah, with the prefix letter *kaf* denoting “as”, i.e. as soon as he ascends the throne and becomes king he is obligated to write the second Torah scroll.²

The Imrei Emes of Gur presents another understanding, whereby the letter *kaf* denotes “as” in the sense of one thing being compared to another. Frequently, the time when a person has just become king is accompanied by much idealism and thoughts of how he can enrich the wellbeing of his kingdom. With time, however, that idealism may lose its momentum and the original lofty vision may become lowered in the face of other concerns – some practical, and others simply self-serving. The Torah demands that a king never lose his altruistic goals; to this end, it commands him to write an additional Torah scroll and read it constantly, thereby enabling him to retain his original map of what he wants from his kingdom and from himself as its king. Thus, the verse says: “וְהָיָה – *if he wishes that things will always be*, “כְּשִׁבְתוֹ עַל כִּסֵּא מַמְלַכְתּוֹ” – *as they were when he initially sat on the royal throne,*” then “וְכָתַב לּוֹ” – *he shall write from himself a second Sefer Torah.*”

Indeed, the chassidim say the reason the king needs to have two Torah scrolls, one that is with him wherever he goes and the other that remains in his house, is so that when he returns from dealing with the concerns of the monarchy, he should check the Torah scroll that travelled with him against the one that remained at home and make sure they still say the same thing.

¹ Devarim 17:18.

² See Ibn Ezra.

כִּי יָקוּם עֵד חָמָס בְּאִישׁ לְעֲנוֹת בּוֹ סָרָה... וְדָרְשׁוּ הַשֹּׁפְטִים הַיָּטִב וְהַיָּהוּ עַד שֶׁקָּר הָעֵד...
וְעָשִׂיתֶם לוֹ כְּאִשֶּׁר זָמַם לַעֲשׂוֹת לְאָחִיו

If a witness shall raise up against a man to speak falsely against him... If the judges will investigate well, and behold, the testimony was false... You shall do to him as he conspired to do to his fellow.³

One of the unique sections in our parsha is that of *eidim zomemim* – the law regarding witnesses who plotted to convict someone, but whose testimony was impugned by other witnesses. The Torah states that the punishment that the first witnesses conspired to inflict on the defendant should now be given to them. The halachah stipulates that this law only applies when the second (impugning) set of witnesses say that the first pair were with them at the time they claim to have witnessed the person's crime. If the second witnesses attack the first testimony in any other way, e.g. by saying that defendant was with them at that time, both pairs are considered suspect and the entire case is thrown out.⁴ The halachah further states that this law only applies if the second witnesses come before the verdict is carried out, not if it has already been carried out.⁵ Understandably, this second point has raised much discussion among the commentators. If we apply the law when the verdict has been issued but the punishment not yet carried out, how much more so should we apply it if the punishment was actually carried out!⁶

The Gemara itself⁷ raises a basic question regarding the entire concept of *eidim zomemim*: On what basis do we believe the second set of witnesses over the first? While according to the second set, the first testimony was false, according to the first set it was true! This should be like any other case where two testimonies conflict and we should be equally suspect of *both sets*!

Bringing all the above ideas together, R' Dovid Zvi Hoffman⁸ explains the matter as follows. In reality, it is always possible that witnesses have an ulterior motive behind their testimony. This could be either antagonism towards the person concerning whom they are giving testimony or alternatively, in a case where testimony has already been given to incriminate a person, other witnesses might be motivated to testify falsely in order to help the defendant evade punishment. Now, while generally we do not suspect witnesses of such motivations, in a case where two testimonies clash, such that that one set is definitely lying, we are forced to begin to think in this way. However, in an *eidim zomemim* case, while it is indeed possible that the first witnesses are testifying based on an ulterior motive, i.e., on account of a grievance that they have with the defendant, it is unlikely that the second witnesses have a similar ulterior motive.

1. In terms of a possible grievance they may have with the first two witnesses, it is very unlikely that they have a similar grievance against two separate individuals.
2. In terms of trying saving the defendant, testifying that the first witnesses were with them is actually an ineffective way of doing so, since they leave open the possibility that additional witnesses may simply come and say that they saw the incriminating occurrence. If they

3 Devarim 19: 16-19.

4 Makkos 5a.

5 Ibid. 5b.

6 See e.g. Ramban to Devarim loc. cit., Kessef Mishneh to Hilchos Eidus 22:2.

7 Bava Kama 72b.

8 Commentary to Sefer Devarim.

wanted to save the defendant, they should have rather said that he was with them, thereby conflicting with any witnesses – present or future – who might then come and say that he had committed the crime.

Therefore, with plausible reason to ascribe an ulterior motive to the first witnesses, but no such basis to ascribe such a motive to the second, we believe the second set over the first. Indeed, it is for this reason that the law of *eidim zomemim* applies only if they say that the first witnesses were with them. If they say the defendant was with them, we do not believe either set, for the second set are now also suspect of lying to protect the defendant, as surely as the first set are suspect of trying to incriminate him. Moreover, this also explains why the law does not apply if the first set actually succeed in implementing the penalty against the defendant; for at this stage, we now suspect that the second set have a grievance with both of the first witnesses – namely, for incriminating their friend, and hence, the testimonies of both sets of witnesses are equally suspect!