

דאף על גב דעדי ביאה צריכין לעדי קדושין - For even though the witnesses for intimacy, require the witnesses of the betrothal

Overview

When there are two witnesses that a woman was betrothed (she is an ארוסה) and two other witnesses testify that this woman had a relationship with another person, she is put to death, for even though the testimony regarding ביאה is insufficient unless there is the עדי קדושין, nevertheless since the עדי קדושין stand alone, it is not considered a חצי דבר (half a testimony), but rather a complete testimony (דבר). It would seem from this גמרא that the עדי ביאה alone are insufficient to put her to death, unless we also have the עדי קדושין. Our תוספות clarifies this.

פירוש כל זמן שלא הוחזקה באשת איש:

The explanation of the statement עדי ביאה צריכין לעדי קדושין, is valid only **as long as** this woman **was not established as a married woman**; however once it is established that she is married,¹ the עדי ביאה do not require the עדי קדושין any more, since it has been established that she is an אשת איש.

Summary

We can execute people based on חזקה alone.

Thinking it over

Seemingly even if הוחזקה באשת איש, nevertheless the עדי ביאה need to rely on something else, namely the חזקה (even though it is not the עדי קדושין). Why was תוספות bothered by the statement that עדי ביאה צריכין לעדי קדושין?

¹ People see that the man and woman are living together like man and wife; this establishes her status as an אשת איש even though no one knows that they were married.