**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH PROJECT (VBM)**

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**Laws of Conversion and Circumcision**

**Rav David Brofsky**

**Delaying the *Brit Mila* (1)**

**A Sick Child and Jaundice**

In previous *shiurim*, we discussed and emphasized the importance of performing the *brit mila* in its proper time, i.e., on the eighth day. We also noted the importance of performing the *brit mila* as early as possible on the eighth day, due to the principle of *zerizin makdimin le-mitzvot*, and we considered whether a circumcision performed after the eighth day is even more urgent.

This week, we will begin our discussion of reasons that justify the delaying a *brit mila*, and even not performing one. We will review the basic principles regarding delaying a *brit*, and we will relate to some common examples, specifically those that relate to broader *brit mila* issues. Of course, this is not meant to be a comprehensive guide to the medical and halakhic justifications for delaying a *brit*, but rather to provide a representative summary of the relevant issues.

***Bein Ha-Shemashot – Safek Yom Safek Layla***

The simplest reason to delay a circumcision is due to a doubt regarding the proper time to perform the *mila*. As we mentioned previously, the Torah does not refer to eight twenty-four-hour units, i.e., *mei-et le-et*, but rather eight calendar days (see, for example, Radbaz 4:282). It is therefore crucial to determine which day the baby was born in order to establish the day on which to perform the *brit mila*.

What is considered to be the “birth” regarding the eight-day count? The Talmud (*Nidda* 42b) teaches that the child is considered to have been born after his head emerges from the birth canal. It is therefore important for the parents to note the exact time at which the head emerges in order to determine the proper day upon which to hold the *brit mila*, as he must be circumcised eight calendar days later.

What if the baby is born during *bein ha-shemashot*, i.e., the time between sunset and when three medium sized stars appear? There is a doubt regarding whether to consider this time period day or night (*safek yom safek lalya*). The *mishna* (Shabbat 137a) teaches that if the child is born during *bein ha-shemashot*, the *brit mila* cannot be performed on the eighth day, and must therefore be performed a day later. Since the *Poskim* differ regarding the time of *tzeit ha-kokhavim*, a local halakhic authority should be consulted in case of doubt.

**Delaying the *Brit* of a Sick Child**

The *mishna* (*Shabbat* 137a) teaches: “With regard to a sick child, one does not circumcise him until he becomes healthy.” The Talmud explains:

Shmuel said: [If a baby was sick and had a high fever, and subsequently] the fever left him, one gives him a full seven days to heal [before circumcising him].

With regard to this issue, a dilemma was raised before the Sages: Do we require [during the recovery period] to wait from the time the seven days begin to the exact same time [seven days later, i.e. seven complete, twenty-four-hour periods, or is it enough to wait seven days without taking into account the time of day]? Come and hear a solution to this from that which the Sage Luda taught: The day of his healing is like the day of his birth. Just as from the day of his birth we need not wait from the time he is born to the same time on the eighth day to circumcise him, so too, with regard to the day of his healing, we need not wait from the time he heals to the same time seven days later. [The *gemara* refutes this:] No, the day of his healing is superior to the day of his birth. While from the day of his birth until circumcision we need not wait from time to time, from the day of his healing we need to wait seven complete days from time to time.

The *Rishonim* (Rosh ibid. 19:9, Ran ibid.), and Shulchan Arukh (YD 262:2) rule that we count seven 24-hour units (i.e., *mei-et le-et*) from the time the child is healed until performing the *brit mila*.

The Talmud (*Yevamot* 71b) appears to distinguish between a child suffering from a minor sickness or discomfort, for which one need only wait until the child is healed, and a more serious ailment. The *gemara* attempts to identify a situation in which a child who could be sick and therefore uncircumcised during the slaughtering of the *korban Pesach*, yet healthy when the *korban Pesach* is eaten, especially if it is necessary to wait seven days after the child has healed. The *gemara* suggests the following case:

R. Pappa said: This would take place, for example, if the baby’s eye hurt him [on the eighth day following his birth, which occurred on the eve of Passover], and he recovered in the meantime [between the time of the preparation of the Pesach lamb and the time of its eating].

The *gemara* concludes that in the case of a minor ailment such as eye pain, circumcision is not performed as long as the pain persists, but it may be performed as soon as the child has recovered, without first waiting seven days.

The *Rishonim* attempt to explain the difference between the case in which the child suffers from a fever and the case in which the baby’s eye hurts. The Ran (*Shabbat* 55a) appears to distinguish between an ailment that affects the infant’s entire body and one that affects only a limb. The Nemukei Yosef (*Yevamot* 24a, s.v. *he-arel*) distinguishes between a minor pain (*ke’ev mu’at*) and a more significant pain.

The Shulchan Arukh (ibid. 262:2) rules in accordance with the Ran, while the Rema adds that if the child experiences great pain, the *brit* should be delayed for seven days.

One should consult with a physician and the *mohel* when determining whether, and for how long, to delay the *brit mila*.

What if one performs the *brit mila* during the seven days during which one is supposed to wait after the child recovers from his illness? The *Acharonim* discuss whether one who fulfills a *mitzva* when he is exempt due to a life-threatening condition (*sakanat nefashot*) has fulfilled the *mitzva*. For example, R. Raphael Yom Tov Lippman Heilperin (1816 – 1879), in his responsa Oneg Yom Tov (41), discusses the following case: A person who was instructed by doctors not to eat *matza* on the first night of Pesach due to a life-threatening condition disregarded his doctor’s orders and ate *matza*. A few hours later, he recovered, and his doctors allowed him to eat *matza*. Must he eat another *kezayit* of *matza*, as he may have been exempt from the *mitzva* of eating *matza* during his illness, or do we say that although he was exempt, he certainly fulfilled the *mitzva*?

Regarding our case, R. Yaakov Ettlinger rules in his Binyan Tzion (87; see also Arukh Le-Ner, *Yevamot* 71b) that if a child is circumcised when he is ill or during the seven-day recovery period, he has not fulfilled the *mitzva* of *mila*, and he must undergo *hatafat dam* brit after he recovers. Furthermore, if the *brit* is performed on Shabbat, the *mohel* is considered to have violated the Shabbat. Although this position appears to have been rejected by the *Acharonim*, some consider this factor as especially relevant to our next discussion, regarding the circumcision of a jaundiced baby. In practice, *hatafat dam brit* is not performed in this case.

**A “Yellow” (Jaundiced) Baby**

One of the most common reasons to delay a *brit mila* is neonatal jaundice, i.e. the baby is “yellow.” Neonatal jaundice, a yellow discoloration of the infant’s skin, is caused by the presence of excess bilirubin in the blood. Bilirubin is a yellow bile pigment produced during the natural breakdown of blood cells (hemoglobin), which circulates in the plasma. During gestation, a baby excretes excess bilirubin through the mother’s placenta. However, after birth, the infant’s liver must begin to conjugate bilirubin, i.e. convert the bilirubin into a liquid that can be excreted through urine. During the first few days after birth, until the liver begins to function, the infant builds up unconjugated bilirubin, leading to hyper-bilirubinemia, usually leading to jaundice. A baby with jaundice will often have a yellowish appearance.

Up to 60% of newborns have clinical jaundice in their first week of life; few have a significant underlying disease. Neonatal jaundice is usually physiological and not pathological (i.e. indicative of a more serious problem), and the infant is considered to be healthy. However, very high levels of bilirubin can be due to other factors, such as an enzyme deficiency, liver problems, or an abnormality of the baby’s red blood cells.  At times, a physician may recommend phototherapy, and in more extreme cases, exchange transfusions and intravenous immunoglobulin.

The severity of neonatal jaundice is often indicated by the bilirubin level, measured by 10 mgs per 100 dL of blood. The serum bilirubin level usually peaks at 5-6 on the third to fourth day after birth, and then declines. At times, it reaches up to 12 mg per dL, and even higher.

From a purely medical perspective, physicians concur that there is no reason to fear that circumcision poses a risk to child with neonatal jaundice. However, the Talmud appears to explicitly relate to the question of circumcising jaundiced infants. The Talmud (*Shabbat* 134a) relates the following regarding “yellow” babies:

And Abaye said: My mother told me: If a baby is red, that is because the blood has not yet been absorbed in him. In that case, let them wait until his blood is absorbed and then circumcise him. Likewise, if a baby is pale and his blood has not yet entered him, let them wait until his blood enters him and then circumcise him.

The second case, that of a pale baby, most likely refers to a form of neonatal jaundice, which is usually harmless. (The first case, the “red baby,” possibly refers to hemophilia, to be discussed next week.)

The *gemara* further relates in the name of R. Natan:

On another occasion, I went to the state of Cappadocia, and a woman came before me who circumcised her first son and he died, and she circumcised her second son and he died. Since she feared circumcising the third due to concern that he might die as well, she brought him before me. I saw that he was pale. I looked at him and I could not see in him the blood of the covenant. I said to her: Wait until blood enters him. And she waited and then circumcised him, and he lived. And they would call his name Natan the Babylonian after my name.

The *gemara* clearly relates to this condition as dangerous, and it justifies delaying the *brit mila*.

In light of the passage cited above, which requires a seven-day delay of the circumcision after the child has recovered, the *Poskim* debate whether this condition also justifies delaying the *brit mila* for an entire week, or only until the child is not longer “yellow.” Most (Rashba, *Yevamot* 70a, s.v. *he-arel*; Rambam, *Hilkhot Mila* 1:17; see also Chokhmat Adam 159:4 and ArukhHa-Shulchan 263:2) rule that as soon as the child is better, the circumcision may be performed. Some *Acharonim* (*Tuv Ta’am Ve-Da’at* YD 1:220; *Yad Ketana*, *Hilkhot Mila* 8:18) insist that the circumcision be delayed seven days. A we shall see, it is customary to perform the circumcision as soon as the child is ready, and not to wait seven days, unless the infant suffers from a severe form of jaundice.

In light of this apparent contradiction between the Talmud and modern medical advice, *Poskim* disagree regarding whether and when a child with neonatal jaundice may be circumcised.

On the one hand, R. Dr. Moshe D. Tendler (“*Tzahevet Yeludim U-Milah Be-Zemanah*,” *Beit Yitzchak* 27 (1995): 112) writes:

[I]t is clear less than 20 mgs of bilirubin, which is decreasing incrementally, on the eighth day after birth of a full term, healthy child, is not indicative of a disease [and is not considered to be] anomalous to the child’s health, and [this child] is not different than other healthy children. Therefore, if the pediatrician confirms that there is no fear of disease, he should be circumcised properly, on the eighth day.

Although most *mohalim* will not perform a *brit* with that level of bilirubin, R. Shlomo Zalman Auerbach (cited in Nishmat Avraham, vol. 5, p. 263.) argues that only in cases of pathological jaundice is it necessary to delay the *brit*. As long as a doctor determines that the newborn is completely healthy, the child may be circumcised. He insists that the Talmud referred only to severe forms of jaundice. He is recorded (ibid.) as having permitted a circumcision of a child whose bilirubin level was 19 on the third day after birth, and 13 on the fifth day.

On the other hand, R. Yitzchak Weiss (*Minchat Yitzchak* 3:145) rules that in this case, medical advice should be ignored, and a child with even mild jaundice should not be circumcised. R. J. David Bleich (*Contemporary Halachic Problems*, vol. 2) appears to concur, citing a host of *Acharonim* – including R. Shlomo Kluger (*Teshuvot Tuv Ta'am va-Da'at,* YD 222), R. Yehudah Leib Zirelson (*Arzei Ha-Levanon* 62), R. Yonatan Steif (*Teshuvot Mahari Shteif,* 62), and R. Moshe Shternbuch (*Mo'adim U-Zemanim* 3:205) who “strongly admonish that physicians who advise circumcision of infants showing signs of jaundice should not be heeded.” This appears to be the view of R. Yosef Shalom Elyashiv as well (Nishmat Avraham, vol. 5, ch. 263).

R. Bleich notes that the Central Rabbinic Congress of the United States and Canada (Hit’hachdut Ha-Rabbanim), a rabbinic group that united various (Hungarian) Chareidi communities, issued a statement in 1977 (25 Nisan, 5737) admonishing *mohalim* who heed the advice of doctors and perform circumcisions on even slightly jaundiced infants. In addition, they rule that if the child is yellow or if the bilirubin level is above 5, the *brit* should be delayed; if the bilirubin level is above 10, the circumcision should be delayed for 7 days from the time at which the infant’s bilirubin count measures below 5.

While it is almost impossible to point to a common practice regarding this issue, many authorities permit a child who is slightly jaundiced to be circumcised, based on the level of bilirubin, the doctor’s permission, and the *mohel*’s impression. For example, although R. Eliezer Waldenberg (Tzitz Eliezer 13:81 and 83) fundamentally agrees with those who discount medical opinion regarding the severity of neonatal jaundice, prohibiting performing a circumcision on a jaundiced infant, he permits circumcising the child as soon as the physical signs of jaundice begin to disappear, if the bilirubin number begins to drop as well. R. Yosef Weisberg, in his Otzar Ha-Berit (vol. 3, pp. 157–158) asserts that the consensus of *Poskim* in Israel is to delay a brit if the bilirubin level measures at least 12 and is rising. However, if the bilirubin level is decreasing, even if it is at 12 on the eight day, and the child appears to be improving, the circumcision may be performed.

The opinions cited above merely demonstrate the range of halakhic views; the decision regarding whether and when to perform a circumcision in this case should be made after consulting with a physician and the *mohel*.

Next week, we will discuss other cases in which the circumcision is delayed.