**YESHIVAT HAR ETZION**

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

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**Laws of Conversion and Circumcision**

**Rav David Brofsky**

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**In loving memory of Rabbi Dr. Barrett (Chaim Dov) Broyde ztz"l**

**הוֹלֵךְ תָּמִים וּפֹעֵל צֶדֶק וְדֹבֵר אֱמֶת בִּלְבָבוֹ​**

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**Shiur #04:**

**Who May be Circumcised?**

**Introduction**

[Last week](https://etzion.org.il/en/shiur-3-who-can-perform-brit-mila), we discussed who may perform *brit mila*. We noted that the Talmud (*Avoda Zara* 27a) teaches that a *brit mila* should not be performed by a non-Jew. The Gemara offers two reasons for this exclusion: either because non-Jews are categorically excluded from performing a *brit mila*, as they are not the children of Avraham entrusted to keep the covenant (*brit*); or because they are categorically excluded from the mitzva of *brit mila*. The Shulchan Arukh (*YD* 264:1) rules in accordance with the opinon of the Rambam, who writes that If a non-Jew circumcises a Jewish child, the child does not require *hatafat dam brit*, while the Rema rules like the Semag and requires *hatafat dam brit*.

We also questioned whether a woman may perform a *brit mila*. The Talmud (ibid.) cites a debate between Rav, who does not permit a woman to circumcise, and Rabbi Yochanan, who allows this. The Rishonim disagree regarding the final ruling. While the Shulchan Arukh (*YD* 264:1) rules that a woman may perform a circumcision, the Rema writes that “it is customary to seek a man [to perform the circumcision].”

Finally, we discussed whether a *mumar* (rebel, one who rejects the Torah) or a *mohel* who publicly violates the Sabbath may perform a *brit mila*. Tosafot (ad loc. s.v. *Ika*) asserts that a *mumar le-arlut*, i.e., a person who refuses to be circumcised, is still a *bar shemirat ha-brit* (a person capable of participating in the covenant) and therefore he is not disqualified as a *mohel*. The Beit Yosef (*Tur YD* 264) cites some other Rishonim (Rabbeinu Manoach, Ba’al Ha-ittur) who insist that one who is not circumcised and intentionally violates the covenant may not perform a *brit mila* for others.

This debate continues through the Acharonim. The Rema (*YD* 264:1) writes explicitly that “a *mumar* for the entire Torah, or [even] a *mumar* for circumcision, is considered for this matter to be like a non-Jew.” Therefore, R. Moshe Feinstein (*YD* 2:123) rules that a circumcision performed by a Jewish doctor who publicly violates the Sabbath (*mechalel Shabbat be-farhesya*) is invalid and *hatafat dam brit* must be performed by another *mohel*. Other prominent Acharonim, such as R. Shmuel Wosner (*Shevet Ha-Levi* 5:146), R. Ovadya Yosef (see *Yalkut Yosef*, *Sova Semachot* II 15:7) and R. Yitzchak Ya’akov Weiss (*Minchat Yitzchak* 4:101) disagree and rule that *be-diavad*, there is no need to perform *hatafat dat brit* on a child who is circumcised by a non-religious *mohel*. We also related that some Acharonim discuss what one should do when a non-religious doctor is the only *mohel* available, or when faced with a choice between a non-religious doctor performing the circumcision on the eighth day or a religious *mohel* after the eighth day.

This week we will discuss who may receive a *brit mila*.

***Benei Ketura***

The mitzva of *brit mila* appears to mark the special covenant between God and the Jewish people, as we demonstrated in previous *shiurim*. The Talmud (*Sanhedrin* 59b) questions whether non-Jews should also be commanded to circumcise their sons.

[It is stated in the *baraita* that] any mitzva that is stated with regard to the descendants of Noach and is repeated at Sinai is stated both for this group and for that group.

The Gemara asks:

But isn’t there the mitzva of circumcision, which is stated with regard to descendants of Noach [i.e., Avraham and his descendants, who had the status of descendants of Noach at that time]? As it is written [that God said to Avraham with regard to the mitzva of circumcision]: “And as for you, you shall keep My covenant, you and your offspring after you, throughout their generations” (*Bereishit* 17:9), and it is repeated at Sinai [for the Jewish people]: “And on the eighth day the flesh of his foreskin shall be circumcised” (*Vayikra* 12:3); nevertheless it is stated for the Jewish people alone and not for the descendants of Noach.

The Gemara offers the following explanation:

If you wish, say the mitzva of circumcision [does not apply to the descendants of Noach despite the fact that it was repeated for the Jewish people, because] from the outset, it was Avraham [and not all the descendants of Noach] that the Merciful One commanded to perform this mitzva; as He said to him: “And as for you, you shall keep My covenant, you and your offspring after you, throughout their generations” (*Bereishit* 17:9) — “you and your offspring,” yes; another person, no.

The Gemara then asks whether Avraham’s other offspring, and their descendants, must be circumcised.

If that is so, the descendants of Yishmael should also be obligated to observe circumcision [as they are also the offspring of Avraham]! However, the verse states: “For through Yitzchak, offspring shall be called yours” (*Bereishit* 21:12) [which means that Yishmael’s descendants are not called the offspring of Avraham].

The Gemara challenges:

Granted, Yishmael’s descendants are not considered the offspring of Avraham, but at least the descendants of Esav should be obligated to observe circumcision!

The Gemara explains that this is based on the phrasing “Through Yitzchak (*Ve-Yitzchak*),” which also means: “Of Yitzchak.” From this it is derived that the mitzva applies to only some of Yitzchak’s offspring, but not all the descendants of Yitzchak. This serves to exclude the descendants of Esav.

Rav Oshaya then objects to this: “If that is so, the descendants of Ketura [Avraham’s third wife] should not be obligated to observe circumcision.” The Gemara answers:

R. Yosei bar Avin says, and some say that it is R. Yosei bar Chanina who says. that the verse: “[And the uncircumcised male who is not circumcised in the flesh of his foreskin, that soul shall be cut off from his people;] he has broken My covenant” (*Bereishit* 17:14) is stated to include the descendants of Ketura in the obligation to observe circumcision.

The Talmud explicitly includes the descendant of Ketura, obligating them in the mitzva of *brit mila*.

The Rishonim disagree regarding the scope of this obligation. Rashi (ad loc. s.v. *Le-rabot*) explains that while all of the descendants of Avraham and Sara are obligated to circumcise their children, the Gemara means to teach that Avraham was also obligated to circumcise the six sons he had with his third wife, Ketura. *Tosafot Ha-Rosh* (ad loc. s.v. *Ela*) explain that the descendants of Ketura were obligated in *brit mila* until the Giving of the Torah (*Matan Torah*). After *Matan Torah,* only the Jewish people are obligated to circumcise their male children.

The Rambam (*Hilkhot Melakhim* 10:7-8) broadens this obligation. He writes:

Only Avraham and his descendants are commanded regarding circumcision as the verse (*Bereishit* 17:9-10) states: “Keep My covenant, you and your offspring... circumcise every male.” The descendants of Yishmael are excluded as implied by the verse (ibid. 21:12): “For through Yitzchak, offspring shall be called yours.” Esav's descendants are also excluded, for Yitzchak told Ya’akov (*Bereishit* 28:4): “May God grant Avraham's blessing to you and your offspring,” implying that only he is the true offspring of Avraham, maintaining his faith and his upright behavior. Thus, they alone are obligated in circumcision. Our Sages related that the descendants of Ketura, who are the offspring of Avraham that came after Yitzchak and Yishmael, are also obligated in circumcision.

The Rambam maintains that the descendants of Ketura are also obligated to perform the mitzva of *brit mila*.

Furthermore, the Rambam writes that although the Talmud explicitly exempts the descendants of Yishmael from *brit mila*, “since, at present, the descendants of Yishmael have become intermingled with the descendants of Ketura, they are all obligated to be circumcised on the eighth day. However, they are not executed for failure to perform this mitzva.” The Acharonim discuss (see *Sha’agat Aryeh* 49 and *Minchat Chinukh* 2:3) this ruling of the Rambam at length.

***Milat Goy*: May One Circumcise a Non-Jew?**

The Talmud (*Avoda Zara* 26a), in the midst of discussing providing medical aid to a non-Jew, relates to whether a Jewish *mohel* may circumcise a non-Jew.

The Sages taught: A Jew may circumcise a non-Jew for the sake of making him a convert. This is to the exclusion of circumcising a non-Jew for the sake of removing a worm [*murna*], which is not permitted [as it is forbidden to heal a non-Jew].

The Talmud notes that there are a number of reasons why a non-Jew might wish to be circumcised. A non-Jew must be circumcised if he wishes to complete the process of conversion (*giyur*). Similarly, the acquisition of a non-Jewish slave (*eved Kena’ani*) entails circumcision. Clearly in these situations, a non-Jew may, indeed must, be circumcised. Furthermore, a non-Jew may need to be circumcised for health reasons. This is referred to by the Talmud as *murna*. The Talmud does not permit providing medical care for non-Jews unless the doctor receives payment or there is a fear of *eiva* (animosity). This topic is beyond the scope of this *shiur*.

In addition, there are non-Jews who wish to be circumcised for other reasons, aesthetic or even religious. For example, the majority of American male children are circumcised, seemingly not related to any religious or acute medical reason. Muslims circumcise their male children for religious reasons. Is there any reason to refrain from circumcising non-Jews for these reasons?

The Rambam (*Hilkhot Mila* 3:7) writes:

When a non-Jew needs to be circumcised because a wound or boil had formed on that part, [in ancient times] it was forbidden for a Jew to perform the operation, based upon the principle that nothing is to be done to rescue an non-Jew from death. And this was the rule despite the possibility that this cure might be a religious act, since no such intent had been expressed. Hence if the non-Jew had the intent, expressed or otherwise known, that the operation should be a ritual circumcision (*mila*), a Jew may perform the operation.

The Rambam clearly maintains that a non-Jew may be circumcised if he intends to perform the mitzva. To which mitzva is the Rambam referring?

R. Yosef Karo, in his *Kesef Mishneh* (ibid.) explains that the Rambam refers to conversion, and the Rambam rules that even though the *mohel* will violate the prohibition of offering medical assistance to this non-Jew, since the patient’s intention is to convert, it is permitted. Therefore, in the Shulchan Arukh, this *halakha* is cited in the laws of conversion (*YD* 268:9). If so, R. Karo implies that there is no permission to circumcise a non-Jew unless he intends to convert. The Beit Yosef (*YD* 266) cites Rabbeinu Yerucham, who rules that it is prohibited to circumcise a non-Jew if it is not part of the conversion process.

Alternatively, it appears more likely that the Rambam refers to the mitzva of *mila*. In *Hilkhot Melakhim* (10:10), he writes:

We should not prevent a non-Jew who desires to perform one of the Torah's *mitzvot* in order to receive reward from doing so, provided he performs it as required. If he brings an animal to be sacrificed as a burnt offering, we should accept it.

Here, the Rambam writes that a non-Jew may perform *mitzvot*, and he will receive reward.

The Rambam dedicates an entire responsum (*Teshuvot Ha-Rambam* 148) to this question. The Rambam rules that it is permitted to circumcise a non-Jew, regardless of whether he is Christian or Muslim, “as long as he acknowledges the prophecy of Moshe Rabbeinu who commands this by the word of the elevated God; and he believes this, rather than doing this for a different reason or according to his own opinion.”

The Acharonim relate to this case as well. The Rema (*YD* 263:6) rules that it is prohibited to circumcise a non-Jew. The Taz (ibid. 3) explains that by circumcising non-Jews, one nullifies the uniqueness of the *brit* for the Jewish people (*mevatel et siman ha-mila be-Yisrael*). The Levush (*Ateret Zahav*, *YD* 263:5) adds another concern: we should not mark non-Jews with the symbol of our covenant with God for no reason.

The Shakh (263:8 and 268:19) disagrees and explains that aside from the issue of offering medical assistance to non-Jews, which is permitted when done for payment or when there is a fear of *eiva*, there is no prohibition of circumcising non-Jews. Contemporary authorities like R. Tzvi Pesach Frank (*Har Tzvi*, *YD* 215) rule that it is forbidden to circumcise a non-Jew, but R. Ovadya Yosef (*Yabia Omer*, *YD* 2:19) disagrees and rules that one may circumcise non-Jews, Christians and Muslims, even without payment.

**Circumcising the Children of Non-Jewish Mothers**

In recent times, the Acharonim have discussed whether the son of a Jewish man and non-Jewish woman may be circumcised. As intermarriage has become more prevalent in Western Europe, and later in America, Jewish communities have been confronted with the following dilemma: Jewish men, after intermarrying and having children with non-Jewish women, request that their halakhically non-Jewish sons be circumcised by the community *mohalim*.

One such incident occurred in 1864, in New Orleans. Rabbi Bernard Illowy (1814–1871), a local rabbi, declared that any *mohel* who performed such circumcisions on children of Jewish fathers and non-Jewish mothers would be disqualified. This decree made waves around the world, and in 1865, R. Zvi Hirsch Kalischer (1795–1874) responded, writing:

Three questions were presented in the American newspapers regarding events in New Orleans, concerning men who wronged their souls, associating with non-Jewish women and producing sons. Although they sinned, the spirit of Israel rooted in their hearts the idea of having their males circumcised. The mothers did not protest circumcision but did not allow immersion [i.e., full conversion]. The rabbi there forbade circumcision for them… decreed that circumcising them would be considered a sin and iniquity for the *mohel* who would circumcise them, and disqualified the *mohel* who would violate this.

R. Kalischer disagrees with R. Illowy and writes:

It seems to me that circumcising them is not a sin, but only a mitzva… The first proof is that behold, should a non-Jew come to have his son circumcised, we would circumcise him and it would be a mitzva … Therefore, when a non-Jew comes to be circumcised, we should open up his free will through this. When he honestly and sincerely decides to enter the Israelite community, he will accept the immersion and *mitzvot* with ease. If we don't circumcise him, we are nullifying his free choice, for it will not be easy to subject himself to the pain of circumcision in his old age…

Additionally, it should be pointed out that concerning such an immersion, when the father is an Israelite, we are more obligated to prepare for him a way of free choice than for one born from a non-Jew. Legally, the child is like her regarding his lineage, but we find that he is called “holy seed.” When Ezra castigates Israelites for having married non-Jewish women, they told him that they had married non-Jewish women, themselves and their sons, saying (*Ezra* 9:2), “They have mixed the holy seed *(zera ha-kodesh*) among the nations of the land.” Because of this, if there is the possibility of removing this corrupted seed from its impurity, removing it from its prison and returning it to holiness, how good and pleasant is our lot!

He asserts that not only is there no prohibition to circumcise a non-Jew, in this case, by circumcising the young males after birth, it will be easier for this person to later decide to finish his conversion, by accepting the *mitzvot* and immersing in the mikveh. Furthermore, he insists that there is a special and unique obligation to encourage these children to convert, as they are *zera kodesh* — descendants of Jews, although not halakhically Jewish (*Responsa of Rav Azriel Hildesheimer* 229).

Rav Azriel Hildesheimer (1820-1899) disagrees and argues that it is only permitted to circumcise a non-Jew during the process of conversion. Furthermore, he not only disagrees with R. Kalischer’s halakhic analysis, he also fundamentally rejects R. Kalischer’s assessment and rejects the description of these children as “holy seed.”

R. Yechiel Ya’akov Weinberg (1885–1966), in his *Seridei Eish* (2:60-61), strongly supports R. Hildesheimer’s conclusion. In a second responsum, he raises a number of points. Aside from his general agreement with the position of the Taz, mentioned above, he also raises other concerns. For example, if the child is circumcised people will think he is Jewish, and he will be included in a *zimun* or a *minyan*. He will even be allowed to marry a Jewish woman, although he is halakhically not Jewish. He also expresses his overall discomfort with converting minors (*giyur ketanim*), especially those who will not be raised and educated towards the fulfillment of the *mitzvot*. Finally, he argues that “by doing so we are strengthening the hands of those who are sinning, who marry non-Jewish women and are not embarrassed, when a son is born, to bring him into the covenant of Avraham as if he were a full Jew.” R. Kook (*Da’at Kohen* 149) also endorses this view.

R. Ben-Zion Meir Hai Uziel (1880-1953), the first Sephardic Chief Rabbi of the State of Israel, in his *Bi-she’eilot Ha-zeman* (64-65), disagrees and writes that in the current situation, we must obligate the father to circumcise his son on the eighth day, if it is not Shabbat, without celebration, in order to distance his son from the influence of his non-Jewish mother and to encourage the child to one day convert.

This disagreement, based upon different halakhic approaches and religious outlooks, continues to this day.

**The Son of Parents Who Left Judasim**

Some Acharonim suggest that there may be something of an in-between case: a child who must be circumcised, but not on Shabbat. The Tur (*YD* 266) writes:

A son born to a Jewish male who converts out of Judaism (*hemir dato le-avodat koakhavim*), who is married to a Jewish woman, is circumcised on Shabbat, and we do not assume that he will eventually go off to a bad culture [i.e., leave the Jewish faith], since his mother is Jewish.

The Perisha (ibid.) explains that the same applies to a child of a Jewish man and a Jewish woman who has left the faith.

Does the Tur mean to imply that if both parents have converted out of Judaism, the child cannot be circumcised on Shabbat? The Beit Yosef, in *Bedek Ha-bayit*, writes that even if both parents have converted out, the child should be circumcised on Shabbat. This view is cited by the *Bach*. The Taz (ibid. 10) and Shakh (see also *Chokhmat Adam* 149:35) question this ruling: if both parents have converted from Judaism, it is indeed likely that the child will not stay in the Jewish faith.

Most Acharonim (see, for example, *Iggerot Moshe*, *YD* 1:156; *Tzitz Eliezer* 6:3; *Shevet Ha-Levi* 4:134) rule that the son of non-religious parents should still be circumcised on Shabbat. However, some discuss whether the *brit* should be delayed if the celebration will cause large-scale *chillul Shabbat* (see *Shevet Ha-Levi* 1:205, *Yabia Omer* 10:32 and *Tzitz Eliezer* 6:3). We will return to this topic in a future *shiur*.