YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH PROJECT (VBM)

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**Laws of Conversion and Circumcision**

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Dedicated by Mr. and Mrs. Leon Brum for the *Refua Sheleima* of

Dana Petrover (Batsheva bat Gittel Aidel Leba)

and Marvin Rosenberg (Meir Chaim ben Tzipporah Miriam)

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In memory of six friends and family,
strong pillars of the Montreal Jewish community,
who have left us in the past seven years.
All were אוהבי עם ישראל, אוהבי ארץ ישראל, אוהבי תורת ישראל.

Joseph (Yosie) Deitcher

Avrum (Avy) Drazin

Rabbi Joseph Drazin

Leibel Frisch

Israel (Mutch) Yampolsky

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**Shiur #11:**

**The *Brit Mila* of a Convert (2)**

**Conversion Without Circumcision**

**Introduction**

 Last week, we discussed the role of the *brit mila* in the process of conversion. We first noted that the *Rishonim* disagree as to whether the circumcision must precede the immersion. Most *Rishonim* (Tosafot, *Yevamot* 47b, s.v. *matvilin*; Rashba ad loc.; Ritva ad loc., Rambam, *Hilkhot Issurei Bi'ah* 14:5; see also *Hilkhot Mila* 1:7) maintain that the *mila* must be performed first, while the Ramban (ad loc., s.v. *nitrapei*) disagrees. The *Rishonim* appear to debate whether the *mila* is a mere preparation for the *tevila*, such that it is the *tevila* that actually effects the conversion (Tosafot, Rambam, Rashba, Ritva), or if the *mila* and *tevila* are both significant parts of the conversion process, such that it may not matter which is performed first (Ramban).

 We further explored this question in light of other halakhic questions, such as whether both *mila* and *tevila* require a *beit din*, whether a conversion candidate may be circumcised while under general anesthesia, and whether a child who was circumcised *le-shem mitzva* (i.e., with the intent of being ritually circumcised), but not *le-shem giyur*, must undergo another *hatafat dam* with the proper intention.

 This week we will discuss whether it is possible for a person to convert without a circumcision.

**One Who Cannot be Circumcised Due to Health Concerns**

The Talmud (*Yevamot* 46a) cites a debate between R. Yehoshua and R. Eliezer regarding one who "immersed but was not circumcised":

R. Yehoshua says that this is a convert, as so we found with our foremothers that they immersed but were not circumcised. And the Rabbis say: Whether he immersed but was not circumcised or whether he was circumcised but did not immerse, he is not a convert until he is circumcised and he immerses.

R. Yehoshua maintains that just as the foremothers did not need circumcision, the same is true of anyone else who wishes to convert. R. Eliezer, however, insists, "One cannot derive the possible from the impossible." In other words, one cannot derive that men do not require circumcision from the *halakha* that women do not require it, because for women it is a physical impossibility. Although the *halakha* is clearly in accordance with the view of R. Eliezer, it remains unclear how broadly we may apply the assertion that "one cannot derive the possible from the impossible."

R. Yehudai Geon (*Teshuvot HaGeonim, Shaarei Tzedek* 3:5:12) rules that a castrated male may convert with *tevila* alone:

And if you will ask, how will he be brought under the wings of the *Shekhina*? He enters through immersion, as a woman does.

Tosafot (*Yevamot* 46b, s.v. *de-rebbi Yossi*) also rules, "[Regarding] one whose penis has been cut off, circumcision does not prevent him from converting, and immersion is sufficient." The Shulchan Arukh (YD 268:1) rules accordingly.

 May one who may cannot be circumcised due to medical concerns convert through *tevila* alone as well?

 Regarding the circumcision of a Jewish child, under certain circumstances the child is exempt from the mitzvah of *mila*. For example, the Talmud ([*Yevamot* 64b](https://www.sefaria.org/Yevamot.64b?lang=he-en&utm_source=sef_linker); see Shulchan Arukh, YD 263:2) teaches that if two brothers died after being circumcised, the third brother is not circumcised.

 The *Rishonim* debate whether this uncircumcised child is considered an *arel*. The *mishna* ([*Yevamot* 70a](https://www.sefaria.org/Yevamot.70a?lang=he-en&utm_source=sef_linker)) teaches that an *arel* may not eat *teruma*, and Rashi (s.v. *he-arel;* see also Meiri) explains that the *mishna* refers to a child whose brother died due to circumcision and who was therefore not circumcised. However, the Rashba ([*Yevamot* 60a](https://www.sefaria.org/Yevamot.60a?lang=he-en&utm_source=sef_linker)) cites Rabbeinu Tam, who disagrees and rules that since this child is uncircumcised due to health concerns, he is considered to be an *ones*, and he may therefore eat *teruma*. According to this view, the *mishna* refers to a person who purposely chose not to be circumcised.

In recent years, the *Acharonim* discussed whether, in such cases, circumcision may be performed by a laser, which would minimize or even eliminate the health concern. (See Minchat Yitzchak 8:89; Nishmat Avraham, vol. 5, p. 86; and Shevet Ha-Levi 9:212.)

In the case ofanon-Jew who cannot be circumcised due to health concerns but wishes to convert, we might suggest that whether or not one who cannot be circumcised can convert through *tevila* alone should depend on the debate between Rashi and Rabbeinu Tam cited above. According to Rabbeinu Tam, one who cannot be circumcised due to health concerns (*meitu machamat mila*) is not considered to be an *arel*, and therefore maybe such a person can convert without a *brit mila*. Indeed, as mentioned above, the Shulchan Arukh (268:1) rules that a man whose penis was severed may convert through *tevila* alone.

 In the early 20th century, R. Yechiel Yaakov Weinberg sent this question to a number of leading rabbis in Eastern Europe and the Land of Israel. R. Avraham Yitzchak Ha-Kohen Kook (Da'at Kohen, YD 150), Chief Rabbi of the Land of Israel, as well as R. Chaim Ozer Grodzinski, a leading *posek* in Vilna, responded. They both ruled that a non-Jew who cannot be circumcised may not be converted. In his own response (Seridei Esh 2:67–68), R. Weinberg insists that one who cannot be circumcised should not be equated with one whose penis was severed. R. Tzvi Pesach Frank (Har Tzvi 2:220) and the Tzitz Eliezer (14:92) concur.

 R. Zalman Sorotzkin (1881-1966), in his Oznaim La-Torah (*Parashat* *Yitro*), relates that R. Chaim Ozer Grodzinski showed him the ruling of a scholar who permitted such a person to convert through *tevila* alone, and he rejected that ruling. Indeed, in his Achiezer (4:45), R. Grodzinski relates that he wished to erase this passage from that book. Interestingly, R. Eliezer Waldenberg (Tzitz Eliezer 15:1:12) cites R. Mordechai Dov Eidelberg (1880–1941), who related that he originally suggested that a non-Jew who cannot be circumcised may be converted through *tevila* alone, but after consulting with R. Chaim Ozer Grodzinski, he concluded that such a conversion cannot be performed. Apparently, it was this source (found in R. Eidelberg’s Chazon Le-Moed 6) that R. Chaim Ozer Grodzinski had shown to R. Sorotzkin.

However, R. David Zvi Zehman (Minchat Solet 2:6; see also Derekh Pikudekha, Mila 29) suggests that a non-Jew who is unable to be circumcised may convert with *tevila* alone. He notes that when a pregnant women converts, her newborn male child is considered to have converted even without being circumcised. (We will discuss that case below.)

R. [Asher Weiss](http://www.torahbase.org/%D7%9E%D7%AA%D7%95-%D7%90%D7%97%D7%99%D7%95-%D7%9E%D7%97%D7%9E%D7%AA-%D7%9E%D7%99%D7%9C%D7%94-%D7%AA%D7%A9%D7%A2%D7%94/) suggests that this question may depend on whether *mila* is a necessary component of conversion for a male or simply a preparation for the *tevila*. According to the latter understanding, when a circumcision cannot be performed, it does not undermine the *tevila* as the act of conversion. R. Weiss notes that he is inclined to accept this view.

**One who was Born Circumcised (*Nolad Mahul*) or Circumcised as a Gentile**

The Talmud ([*Shabbat* 135a](https://www.sefaria.org/Shabbat.135a?lang=he-en&utm_source=sef_linker)) discusses whether a child who is "born circumcised" (*nolad mahul*) is completely exempt from the *mitzva* of *brit mila* or whether *hatafat dam brit* is necessary. The Talmud relates to an often cited debate between Beit Shammai and Beit Hillel regarding whether it is necessary to perform *hatafat dam brit*.

 According to the Tanna Kamma, Beit Shammai and Beit Hillel disagree as to whether a child who is *nolad mahul* requires *hatafat dam brit*; Beit Shammai say that it is necessary to draw blood from him, in lieu of circumcision of the foreskin, and Beit Hillel say that it is not necessary, as he is already circumcised. The *gemara* cites Rav, who rules according to the Tanna Kamma.

R. Shimon ben Elazar offers another interpretation of the debate between Beit Hillel and Beit Shammai. He maintains that all agree that one who was born circumcised must perform *hatafat dam brit*; they disagree as to whether a convert who was circumcised when he was a non-Jew must undergo *hatafat dam brit* before his immersion. Shmuel rules in accordance with R. Shimon ben Elazar.

Finally, R. Eliezer HaKappar explains that both Beit Shammai and Beit Hillel agree that in a case of a child who was born circumcised, one is required to perform *hatafat dam brit*, but they disagree as to whether Shabbat should be desecrated in order to do so.

 There are four opinions in the *Rishonim* regarding the final ruling.

Some equate one who was born circumcised with a convert who was previously circumcised. Tosafot (s.v. *lo*; see also *Yere’im*,cited byHagahot Maimoniyot, *Hilkhot Mila* 1:2) rule that neither a child born without a foreskin nor a convert who was previously circumcised require *hatafat dam brit*. The Rambam (*Hilkhot Mila* 1:7), however, rules that *hatafat dam brit* is required in both cases.

Some distinguish between the two cases. The *Ba’al Ha-Ma'or* ([*Shabbat* 53b](https://www.sefaria.org/Shabbat.53b?lang=he-en&utm_source=sef_linker)) and Rabbeinu Chananel (Tosafot, ibid.), for example, rule that while a child born circumcised requires *hatafat dam brit*, a circumcised conversion candidate does not. The *Behag* (Tosafot, ibid.), however, rules that while a child born circumcised does not require *hatafat dam brit*, a circumcised convert requires *hatafat dam brit*.

Interestingly, some (see Ramban, Rashba, and Ritva, *Shabbat* 135b) understand that Rabbeinu Chananel maintains that a non-Jew who was previously circumcised cannot convert at all, as he is unable to fulfill the circumcision requirement of conversion.

 In the case of a previously circumcised conversion candidate, there is no reason to believe that he has a concealed foreskin, and therefore *hatafat dam brit* is either unnecessary (Tosafot, Yere'im, Ba'al Ha-Maor, Rabbeinu Chananel) or is performed for a different reason (She'iltot, Behag, Rif, Rambam, Rosh). This is clearly implied by the Talmud (*Shabbat* 137a), which teaches that when circumcising a convert, the blessing “*la-mul et ha-gerim u-le-hatif meihem dam brit,*” “to circumcise the converts and to draw from them the blood of the covenant” is recited. The Ramban ([*Shabbat* 135a](https://www.sefaria.org/Shabbat.135a?lang=he-en&utm_source=sef_linker), s.v. *ve-nireh li)* explains that the blessing implies that “drawing blood is not due to a doubt [i.e., regarding whether he has a concealed foreskin]. Rather, we are obligated to draw blood of the covenant as he enters under the wings of the Divine Presence.”

 The Shulchan Arukh (YD 268:1) rules that in both cases, the child or convert must undergo a *hatafat dam*.

 From which part of the penis is blood drawn during *hatafat dam brit*? The *Avnei Nezer* (*YD* 334) writes that blood should be drawn from “the place where the glans meets the shaft.” He explains that since the blood is usually drawn from that spot during a regular *brit mila*, that is where *hatafat dam brit* should be performed.

 The Chazon Ish (*Hilkhot Mila* 154) claims that blood should be drawn from the *atara*, the glans itself. He claims that this *halakha* has been forgotten, and *mohalim* generally draw blood from an area of on the shaft, which is no different than “drawing blood from one’s finger.” In addition, he adds that *hatafat dam brit* doesn’t need to actually draw blood; rather, even a scratch which causes the area to become red or bruised (*nitzrar ha-dam*), is sufficient.

R. Eliezer Weinberg (*Tzitz Eliezer* 8:28:4) disagrees, as do R. Chayim Elazar Spira (*Ot Chayim Ve-Shalom* 263:5) and R. Yosef Eliyahu Henkin (*Kol Torah*, 5723). They all accept the view of the *Avnei Nezer*, who rules that the blood should be drawn from the shaft, and not the glans.

Interestingly, R. Asher Greenwald (*Zokher Ha-Brit* 16:12) suggests that this should depend on the reason for performing *hatafat dam brit*. If *hatafat dam brit* is performed on a child who was born *mahul*, then the *hatafat dam brit* should be on the glans, where we fear that there may be an *orla kevusha*. If the *hatafat dam brit* is performed because of any other reason, blood should be drawn from the remaining layers of *orla*, found at the end of the shaft, below the glans.

The custom is to draw blood from the area above the glans, i.e., the shaft. Although R. Shlomo Zalman Auerbach and R. Yosef Shalom Elyashiv reportedly ruled that blood should be drawn from both the glans and the shaft (*Sefer Otzar Ha-Brit,* vol. 2, p. 349), this is not the common custom.

 Is a blessing recited upon performing a *hatafat dam brit*? The Ran (*Shabbat* 44a) writes that the Ramban ruled that a blessing must be recited. The Rashba (1:329) adds that the blessing is, "He who has commanded us regarding the drawing of the blood of the covenant." The Rambam (*Hilkhot Mila* 3:6) maintains that a *berakha* is not recited, and this is the position of the Shulchan Arukh (YD 268:1) as well.

Next week, we will discuss common modern day questions that relate to the identity of the *mohel*.