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* (Part 2)**

**Hypospadias**

[Last week](https://etzion.org.il/en/delaying-brit-mila-1-sick-child-and-jaundice), we began our study of situations in which a circumcision must be delayed. We noted that the *mishna* teaches (*Shabbat* 137a):“With regard to a sick child, one does not circumcise him until he becomes healthy.” The Talmud (*Yevamot* 71b) distinguishes between a child suffering from a minor sickness or discomfort, for which one need only wait until the child is healed, and one suffering from a more serious ailment, after which the *brit mila* is delayed for seven 24-hour units, i.e., *mei-et le-et* (see Shulchan Arukh, YD 262:2). We discussed the common case of neonatal jaundice, i.e., the yellow baby, and whether and when the circumcision is performed.

This week, we will discuss another case in which the circumcision may be delayed due to medical concerns.

**Hypospadias**

Hypospadias is a congenital condition in which the urethra – a tube which usually opens at the tip of the penis, allowing a normal flow of urine or semen – does not reach the end of the penis. In these cases, the opening appears below the head of the penis, on the shaft, and in rare cases on the scrotum. Hypospadias is the second most common birth abnormality of the male reproductive system, occurring in 1 of every 250–300 male births.

This phenomenon appears in halakhic literature as early as the *Rishonim*. The Rosh (33:4), for example, discusses whether “a person whose opening is not at the end of the penis, but rather closer to the scrotum, and from there he urinates” may marry a Jewish person. A number of *Acharonim*, including the Chatam Sofer (6, Likutim 64), Chavatzelet Ha-Sharon (EH 12), and Avnei Nezer (YD 322), relate to different aspects of this condition. Interestingly, R. Yosef Chaim of Bagdad, the Ben Ish Chai (1835–1909), relates in his Rav Pealim (EH 3:12) that this condition was extremely common in Bagdad, and he expresses his amazement that this condition is not more common in Europe.

In more severe cases, the condition is surgically corrected, usually within 6-12 months after birth, and sometimes later. In some cases, the surgeon uses part of the foreskin when performing the surgical correction to cover the area that is closed. The foreskin is viewed as the only skin perfectly fit for this type of procedure.

Hypospadias present three possible challenges. One is cosmetic; another is difficulty in urinating in a proper manner, and in some cases, a person with hypospadias will have difficulty fathering a child. A urologist must determine whether the severity of the condition warrants surgical intervention.

Regarding the laws of *brit mila*, hypospadias raises an important halakhic question: Should the circumcision be delayed until the surgery is performed, and if so, what is the halakhic justification for delaying the *brit mila*? Alternatively, is there a way to perform a partial *brit mila*, leaving enough skin to perform the surgical procedure later?

**Delaying a *Brit Mila* due to Hypospadias**

It seems that this question may be resolved based upon a similar discussion that took place at the beginning of the 20th century in Poland. In 1904, the rabbi of Plonsk, R. Tzvi Yechezkel Michaelson, turned to a number of prominent *poskim* regarding a child born with a “crooked foot.” The doctors insisted that if the circumcision were to be performed on the eighth day, they would be unable to correct the orthopedic condition, which would leave the child a cripple.

R. Malkiel Tzvi Tannenbaum (Divrei Malkiel 5:148) insisted that the cast must be placed on the leg before the eighth day. The obligation to circumcise the child begins on the eighth day, at which point this obligation may not be set aside in order to care for the child’s leg.

R. Avraham Borenstein (1838–1910) of Sochaczew, known as the Sochatchover, raises this consideration as well. However, he concludes that the circumcision may be delayed (Avnei Nezer 2:321). He notes that the Rema (OC 656:1) rules that a person does not need to expend twenty percent of his net worth in order to fulfill a mitzva. In this case, the child certainly does not need to risk being a cripple for life in order to fulfill the mitzva of circumcision on time.

[The issue of the extent to which one must risk discomfort or even sickness in order to fulfill a mitzva is discussed at length by the *poskim* in other contexts. For example, the *gemara* (*Nedarim* 49b) relates that after drinking four cups of wine at the *seder*, R. Yehuda suffered from a headache until Shavuot (see Shulchan Arukh, OC 472:10, and Mishna Berura 10). Similarly, some discuss whether one must eat *maror* on Pesach if it will cause him to be incapacitated (Besamim Rosh 94; Binyan Shlomo 47).]

Some suggest that it would be permitted to delay the circumcision due to the concern of “*sakkanat eiver*” (danger to a limb). For example, the Talmud (*Yevamot* 72a) rules that one whose foreskin was drawn foreword (*mashukh*) should not be circumcised, as doing so may be dangerous. Indeed, some cite the Shakh (YD 157:3), who in a different context rules that danger to one’s limb should be view as akin to danger to one’s life, and one therefore should not risk losing a limb in order to fulfill a mitzva.

R. Yaakov Breich (EH 27) was asked regarding the circumcision of a child with hypospadias. He cites the responsa of the Avnei Nezer as a precedent for delaying the *brit mila*. He adds that the *gemara* (*Nedarim* 64b) equates a person without children to “one who is dead,” and he argues that the performance of a mitzva certainly should not cause one to be unable to later father children.

Some *Acharonim* raise other considerations. For example, R. Aryeh Leib Grossnas (Lev Aryeh 1:41) notes that the obligation to circumcise the child is incumbent upon the father, and he does not have the right to cause harm to the child in order to fulfill his own mitzva.

Finally, R. Yehuda Leib Tzirelson (Atzei Levanon 61) cites a Talmudic passage (*Sanhedrin* 73a) that teaches that just as one is obligated to return someone’s lost money (“And you shall return it to him”; *Devarim* 22:2), one is similarly obligated to save someone’s life. He writes that this rationale would clearly apply to saving a limb as well.

**Performing a Circumcision on a Child with Hypospadias**

R. Yaakov Breisch (Chelkat Yaakov YD 145(, in a later *teshuva*, suggests that at times the circumcision can be performed in a manner that satisfies the *halakha* and does not interfere with the possibility of corrective surgery.

He notes that the *Acharonim* debate the exact physical requirement of the circumcision. He relates how the Chokhmat Adam (149:17) admonishes *mohalim* who “cut only a bit of the foreskin.” A similar critique is expressed by the Chamudei Daniel, cited by the Pitchei Teshuva (YD 264:13). Other *poskim*, such as R. Chaim of Sanz in his Divrei Chaim (YD 2:114-118), write that although the *mohel* preferably should cut and remove the entire foreskin, *bedi’avad*, the *mila* is valid as long as the corona is completely uncovered. A similar conclusion is expressed by the Maham Shick (YD 245). The *Acharonim* (see Divrei Yatziv, YD 159; Shevet Ha-Levi 6:148) disagree regarding whether the foreskin must be cut even according to the lenient view, or whether theoretically it can be rolled below the corona, as long as it does not return to its place.

R. Breisch suggests that according to these opinions, the foreskin may be slightly cut and pulled back, leaving intact enough foreskin for the reconstructive surgery. R. Yossele Wiesberg relates in his Otzar Ha-Brit (3:362-3) that he consulted leading doctors and halakhic authorities regarding this possibility, and he concludes that in certain cases this may be an acceptable option.

Some (R. Benayahu Shandorfi, *Techumin* 33) relate that the Chazon Ish ruled that the *mila* should be performed by pulling the foreskin below the corona and holding it there with bandages, even without cutting the foreskin. Even if the foreskin may later return and cover the *atara*, since the corona was completely revealed, accompanied by bleeding, this is sufficient.

R. Eliezer Waldenberg (Tzitz Eliezer 18:51) strongly opposes attempts to perform partial, “ceremonial” circumcisions, although he calls for a gathering of medical experts and halakhic authorities to further discuss this issue. (This view is endorsed in Sefer Puah, vol. 3, Herayon Ve-Leida, 2019.)

As mentioned above, many reject the validity of performing a partial circumcision before the reconstructive surgery and insist that not only is the circumcision itself questionable, but the *mohel* also risks violating the prohibitions of *chabala* and *berakha levatala*. Furthermore, and most importantly, performing a *brit mila* may prevent the possibility of future corrective surgery, which may have lifetime ramifications for the child. Any case of hypospadias should be examined by a pediatrician and urologist, and a *mohel* should not attempt to perform even a partial circumcision without their consent.