YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH PROJECT (VBM)

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**Laws of Conversion and Circumcision**

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***Brit Mila* on Shabbat (2)**

**A Child of Non-Religious Parents and Delaying a *Brit* due to *Chillul* *Shabbat***

**Introduction**

 [Last week](https://www.etzion.org.il/en/brit-mila-shabbat-cesarean-section-iui-and-ivf-forceps), discussed performing a *brit mila* on Shabbat. We noted that the Talmud teaches that a *brit mila* performed on the eighth day (*be-zmano*) must be done on Shabbat, despite the violation of Shabbat through the *mila* and *peria*. We further noted that the manner in which the child is born may impact upon whether the *brit mila* is performed on Shabbat. For example, the *gemara* (*Shabbat* 134b–135a) teaches that only a boy born through a natural (i.e. vaginal) birth is circumcised on the eighth day, excluding a child born by cesarean section.

Furthermore, we noted that he manner of conception may also determine whether the circumcision is held on Shabbat. The Nishmat Avraham (third edition, p. 584) cites R. Azriel Auerbach, who relates that his father-in-law, R. Yosef Shalom Elyashiv, ruled that a child conceived through IUI should not be circumcised on Shabbat, as the child was conceived in an “unconventional manner,” and his father, R. Shlomo Zalman Auerbach, originally concurred (see Noam 5718/1958; see also Minchat Shlomo 3:98:4). However, R. Shlomo Zalman later changed his mind and ruled that since these methods had become so common, they are no longer considered to be rare, and therefore the circumcision may and should be held on Shabbat. Similarly, R. Ovadia Yosef (Yabia Omer, YD 7:24:5; Nishmat Avraham, vol. 4, p. 226) and [R. Asher Weiss](https://en.tvunah.org/2015/04/27/ivf-baby-bris-milah-on-shabbos/) rule that one may perform a *brit* on Shabbat on a baby conceived through artificial insemination or in vitro fertilization. We also noted that R. Moshe Sternbuch (Teshuvot Ve-Hanhagot 2:224) distinguishes between a child conceived through IUI, which he views as a conventional form of conception, and a child conceived though IVF, whose *brit* he believes should be delayed until Sunday.

This week, we will discuss other factors which may justify delaying the *brit mila*.

**A Child born to *Meshumadim***

R. Yitzchak ben Abba Mari (c. 1122–c. 1193), known as the "Ba'al Ha-Ittur," writes (*Hilkhot Mila* 2):

If a Jewish person becomes a non-Jew [i.e. converts out of Judaism] and he has a Jewish wife, and their son is born on Shabbat, it is permitted to circumcise their son on [the next] Shabbat, as we do not assume that he will follow in his father's ways; furthermore, since his mother is Jewish, he may follow after her.

This view is cited in the Tur (YD 266) and Shulchan Arukh (YD 266:12) as well. The Ittur implies that if we were to assume that the child would follow in his father's ways, the circumcision would not be held on Shabbat.

The *Acharonim* debate the scope of this stringency. For example, the Ittur relates to a case in which the mother had not converted. But what if she too had left Judaism?

The Beit Yosef (YD 266), in the Bedek Ha-Bayit, asserts that even if both parents have left Judaism and are thus classified as “*meshumadim*,” the child should be circumcised on Shabbat. The Taz (10) and Shakh (16) disagree with the Beit Yosef, however. They write that if both parents have left Judaism, the child is not circumcised on Shabbat. (See also Chokhmat Adam 149:35.)

The Shakh (ibid. 17) notes that in an earlier debate, the Rambam (Responsa 163) rules that one can perform a *brit mila* for children of Karaites as long as they speak respectfully of and do not mock the rabbis. He then cites R. Betzalel Ashkenazi, who asserts that the Karaites in his time – who had separated from the Jewish People and rejected aspects of rabbinic law, including *peria* – should not be circumcised on Shabbat. He concludes: “Since they do not agree to the practice of *peria*, how can we perform *peria* for them?”

What is the rationale behind the opinion of the Ba'al Ha-Ittur? Is the circumcision of a child of *meshumadim* delayed due to a certain understanding of *mila* on Shabbat, or due to a broader, more general concern?

R. Moshe Schick (1807 –1879) explains (Responsa Maharam Shick, YD 249) that a *brit mila* may be performed on Shabbat because both Shabbat and *mila* are identified as aspects of the covenant (*Shabbat* 132a). However, if the parents do not view the circumcision as an act of initiating the child into the covenant between God and the Jewish People, it does not replace the "*brit*" aspect of Shabbat, and therefore the *brit* may not be held on Shabbat.

Alternatively, R. Avraham Ha-Levi (Egypt 1650–1712) raises a broad, fundamental question (Ginat Veradim, OC 2:31): Do *mitzvot* have intrinsic value, or is there a correlation between the value of the mitzva and the person's belief and adherence to the *mitzvot*? He suggests that one who does not believe in the covenant may not fully fulfill the mitzva of *brit mila*, and it therefore may not be performed on Shabbat.

 Does this stringency apply to the sons of Sabbath violators (*mechalelei Shabbat*) nowadays? Interestingly, the Maharshag (2:53) writes that although these parents may be considered “*mumerim*” regarding certain laws, the *brit mila* should nevertheless be held on Shabbat. Similarly, a number of contemporary *Acharonim* – including the Shevet Ha-Levi (4:132), Tzitz Eliezer (6:3), and Iggerot Moshe (YD 1:156) – rule that nowadays, even those who publicly violate the Shabbat are considered to be like "those who were taken captive among the non-Jews," and their sons are circumcised even on Shabbat.

**If the Circumcision May Lead to *Chillul Shabbat***

In recent years, halakhic authorities have grappled with the following question: What if holding the circumcision on Shabbat will encourage others to violate Shabbat? For example, guests may drive to the *brit mila*, or there may be photographers and caterers. There are a number of ways to confront this issue.

First, we may look to the Talmud for guidance regarding the concern that the performance of a mitzva will lead to *chillul* *Shabbat* regarding the performance of other *mitzvot*. For example, the Talmud teaches (*Rosh Hashana* 29b, *Sukka* 43a, *Megilla* 4b) that one does not blow the *shofar*, take the *lulav*, or read the *Megilla* on Shabbat, "lest one carry four *amot* in a public area (*reshut ha-rabim*)" in order to learn from an expert how to perform the mitzva.

 The *Rishonim* question why the rabbis did not forbid circumcision on Shabbat for the same reason. Some offer fundamental reasons. For example, Tosafot (*Megilla* 4b, *s.v. va-ya'avirah*) notes that *mila* should not be delayed, as "thirteen covenants were made regarding it." Similarly, the Ritva (*Sukka* 43b, *s.v. ve'od*) explains that since circumcision, which itself is a *melakha*, already overrides Shabbat, the rabbis did not delay the performance of the mitzva out of concern for *chillul Shabbat.*

 Others offer technical reasons. For example, Tosafot (ibid.) suggests that since only experts serve as *mohalim*, we are not concerned that the *mohel* will carry the knife to an expert in order to learn the trade. Similarly, the Ran (*Rosh Hashana* 8a in the Rif’s pages) explains that it is unlikely that someone will forget to tend to the circumcision necessities before the Shabbat.

 One might suggest that according the second answer of Tosafot, as well as the Ran, if there is a real concern of *chillul* *Shabbat*, the rabbis of the Talmud might have considered delaying the circumcision.

 R. Shmuel Wosner (Shevet Ha-Levi 1:205, 331, 4:134-5) writes that when there is concern that the guests may violate the Shabbat, it is preferable to delay the *brit*. R. Ovadia Yosef (Yabia Omer, OC 10:32) writes that although it is permitted to perform the *brit*, it is legitimate to delay the *brit* as a means of strengthening the observance of Shabbat (*le-migdar milta*). Other *poskim*, however – such as the Tzitz Eliezer (6:3), Minchat Yitzchak (3:35:6) and R. Moshe Feinstein (Iggerot Moshe YD 1:156) – rule that the circumcision may not be delayed. More recently, [R. Asher Weiss](https://tvunah.org/%D7%91%D7%A8%D7%99%D7%AA-%D7%9E%D7%99%D7%9C%D7%94-%D7%91%D7%A9%D7%91%D7%AA-%D7%9B%D7%A9%D7%94%D7%A0%D7%95%D7%9B%D7%97%D7%99%D7%9D-%D7%99%D7%97%D7%9C%D7%9C%D7%95-%D7%A9%D7%91%D7%AA/) rules that the brit should not be delayed.

 This question should be decided by the *mohel* and local rabbi, taking into account the nature and extent of the feared *chillul Shabbat*.