

CHAVRUTA

SHABBAT – DAF KUF LAMED HEH

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For any baby for whom **‘his foreskin’** is **certain**, his circumcision **supersedes the laws of Shabbat**.

But for an androgynous¹ baby one does **not supersede the laws of Shabbat**. For it is not certain that the baby is male, and obligated in the mitzvah of *milah*.² Since an androgynous bears the signs both of a male and a female, its true gender remains uncertain—whereas only males must be circumcised.

Rabbi Yehudah says: For **an androgynous** baby, one **supersedes the laws of Shabbat**, **and** if one does not circumcise the baby then the **punishment is *kareit*³**. The Gemara will explain the reasoning later (Daf 137a).

Rather, the verse is to be explicated as follows: **‘his foreskin’** that is **certain**, one **supersedes the laws of Shabbat**. **And** for a baby that **was born during twilight**, for instance on Friday between sunset and dusk, and it is thus uncertain whether the following Shabbat is the eighth day from his birth, one does **not supersede the laws of Shabbat**.

For **‘his foreskin’** that is certain, one **supersedes the laws of Shabbat**. **And** for a baby that **was born circumcised**, one does **not supersede the laws of Shabbat**.

As Beit Shammai say concerning a baby that was born circumcised: **One needs to draw *dam brit*⁴ from him**, however they would agree that one does not supersede the laws of Shabbat for this.

¹ Hermaphrodite, i.e. having both male and female organs.

² Circumcision

³ Early death at the hands of Heaven; spiritual excision.

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And Beit Hillel say: One does not need to draw *dam brit* at all.

Rabbi Shimon ben Elazar said: Beit Shammai and Beit Hillel did not disagree about a baby that **was born circumcised**, both holding **that one needs to draw *dam brit* from him**. For we are concerned **that** perhaps **the foreskin is pressed**, i.e. the skin is tightly attached to the flesh.⁵

About what did they [Beit Shammai and Beit Hillel] disagree? About a convert who converted when he was already circumcised, where there is no concern about a pressed foreskin. **That Beit Shammai say: One needs to draw *dam brit* from him. And Beit Hillel say: One does not need to draw *dam brit* from him.**

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The Master said: That which the Baraita said above, ‘**And** for a baby that is **uncertain**, one does **not supersede the laws of Shabbat**’ - **What is this coming to include?**

The Gemara explains: **To include that case which the Rabbis taught** in a Baraita: Concerning a baby that was born after **seven** months of pregnancy, **one profanes the Shabbat laws for him** (since a baby born after seven months can survive). **And** concerning a baby born after **eight** months, **one does not profane the Shabbat laws for him**. This was because it was certain that the child would not survive, and it was viewed as already being dead, leaving no obligation to circumcise him.

Concerning a baby for whom one is **uncertain** whether is of **seven** months pregnancy and **uncertain** whether he is of **eight** months gestation, **one does not profane the Shabbat laws for him**.

⁴ Lit. Blood of the Covenant, blood that is drawn at the time of circumcision (even if this was by a tiny, symbolic cut made in the organ of someone that was already circumcised).

⁵ See *Shach Yoreh Deah* 263:2

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A baby of **eight months**—**He is considered like a stone** i.e. he is *muktzeh*, **and it is forbidden to move him. But his mother can bend over him and nurse him, due to the danger** that is present from engorgement of milk in her breasts.⁶

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It was said in a statement of Amoraim: **Rav said: The Halachah goes according to the first Tanna**, who said according to Beit Hillel that for a baby that was born circumcised, one does not need to draw *dam brit*.

And Shmuel said: The Halachah goes according to Rabbi Shimon ben Elazar who said that Beit Shammai and Beit Hillel disagree concerning a convert who converted having already been circumcised, but concerning a baby born circumcised, they agree that one needs to draw blood.

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To Rav Ada bar Ahava was born a baby who was already circumcised. He repeatedly brought him to thirteen mohelim⁷ in order that they should draw *dam brit* for him, however none of those thirteen *mohelim* wanted to draw the blood on Shabbat. He circumcised the baby himself **until he made him into one with mutilated genitals**, having cut off part of the male organ.

Rav Ada bar Ahava **said: This punishment came to me** because I transgressed **that which Rav said** – that one does not need to draw *dam brit*.

⁶ See *Rashi, Yevamot* 80a, who explains there that the danger is to both the mother and the child.

⁷ Experts in circumcision.

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Rav Nachman said to him: And did he not transgress that which Shmuel said? Let one say that Shmuel said one must draw blood on a weekday, but on Shabbat – who said so?

And he [Rav Ada] **held that the foreskin was certainly pressed** and one profanes Shabbat in order to remove it.

As it was said in a statement of Amoraim: **Rava said** according to the view of Rabbi Shimon ben Elazar: **We are concerned** that **perhaps the foreskin is pressed**. And due to this doubt one does not draw blood on Shabbat.

Rav Yosef said according to the view of Rabbi Shimon ben Elazar: **The foreskin is certainly pressed** and therefore one draws *dam brit* even on Shabbat.

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Rav Yosef said: From where did I have a source to say it?

As it was taught in a Baraita: **Rabbi Eliezer Hakapar said: Beit Shammai and Beit Hillel did not disagree concerning** a baby that was born circumcised, in that they agree that **one needs to draw *dam brit* from him**.

Concerning what did they disagree? – If one is permitted to profane the Shabbat for **him**, in order to draw the blood.

Beit Shammai say: One profanes the Shabbat for him. And Beit Hillel say: One does not profane the Shabbat for him.

And from here we can infer: Does this statement of Rabbi Eliezer Hakapar **not imply** that the first Tanna, with whom he was disagreeing, **held that one profanes the**

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Shabbat for him? From here there is a proof for Rav Yosef who says that the foreskin is certainly pressed.

The Gemara rejects this proof: **And perhaps the first Tanna was saying that according to everyone, one does *not* profane the Shabbat.**

The Gemara replies: If so, would Rabbi Eliezer Hakapar **come to tell us the reasoning of Beit Shammai?** Would Rabbi Eliezer Hakapar come to disagree with the first Tanna, who said that everyone agrees that one does not profane Shabbat, in order to teach us that all do not in fact agree, rather, according to Beit Shammai one does profane Shabbat? But surely the view of Beit Shammai, in a place where we have a view of Beit Hillel, is not relevant.

The Gemara replies: **Perhaps this is what he was saying: Beit Shammai and Beit Hillel do not argue in this matter.**

Rav Asi said: Any baby whose mother has the impurity caused by birth⁸ is circumcised on the eighth day. I.e. any baby that what born normally. **And any baby whose mother does not have the impurity of birth,** such as a baby born via caesarian section or a child whose mother converted after giving birth, **is not circumcised on the eighth day,** rather he is circumcised immediately. **As it was said** in the verse: “**A woman who conceives and gives birth to a male, and she is impure for seven days**”. **And on the eighth day the flesh of his foreskin shall be circumcised”.**

Abaye said to him: The early generations, from the time of Avraham⁹ until the giving of the Torah, when the mitzvah of circumcision had already been given but when the laws of impurity were not applicable, **will prove** your statement untrue. For circumcision

⁸ A certain form of impurity is caused to the woman by giving birth.

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was performed on the eighth day since the time of Avraham. Rather, we say **that** if the **mother** does **not** have the **impurity of birth**, then the baby is still **circumcised on the eighth** day.

Ammud Bet

He said to him: The Torah was given, and then this Halachah was originated, saying that any baby whose mother was impure from birth is circumcised on the eighth day, and any baby whose mother is not impure is not circumcised on the eighth day.

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And the Gemara asks: **Is it so?**

And note that it was said in a statement of Amoraim: Concerning a baby born **through the wall** of the mother's abdomen (i.e. via caesarian section), **and he who has two foreskins¹⁰**, Rav Huna and Rav Chiah bar Rav disagree.

One says: One profanes the Shabbat for him.

And one says: One does not profane Shabbat for him.

This far, they only differed as to whether one is permitted **to profane the Shabbat for him. But on the eighth day, one would certainly circumcise him**, even though he was born via caesarian section and his mother is not impure from the birth.

⁹ Abraham

¹⁰ According to Rashi, either two foreskins on one male organ, or two male organs.

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The Gemara replies: **This is dependent on that.** Any baby that is circumcised on the eighth day will be permitted to do so on Shabbat, but a baby that is not circumcised on the eighth day is not permitted to do so on Shabbat. This is because the permission to perform a circumcision on Shabbat, and the resulting suspension of the Shabbat laws, was only said regarding circumcision on the eighth day.

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The Gemara notes: This disagreement above is **like** a dispute of **Tannaim**.

In the section of the Torah dealing with the mitzvah of circumcision as given to Avraham, there are two verses dealing with the circumcision of slaves.

1. “And one that is eight days old shall be circumcised for yourselves, every male for your generations, one born in the house and one bought with money from any foreign son who is not from your seed.”
2. “You shall surely circumcise one born in your house and one bought with your money.”

The first verse stated “And one that is eight days old you shall circumcise *for yourselves*”, but the second verse did not mention the eighth day. From here we learn that a circumcision that is similar to ‘for yourselves’ is performed on the eighth day, and circumcision that is not similar to ‘for yourselves’ is performed immediately.

The Gemara now brings the disagreement of the Tannaim in the following Baraita:

There is ‘one born in the house’ who is circumcised on the first day.

And there is ‘one born in the house’ who is circumcised on the eighth day.

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There is **‘one bought with money’** who is circumcised on the first day.

And there is **‘one bought with money’** who is circumcised on the eighth day.

The cases are explained: **How** is this so?

If **one bought a pregnant slave woman, and afterwards she gave birth – this is the one bought with money who is circumcised on the eighth** day. The baby was acquired whilst it was still in the mother’s stomach and was born under the ownership of a Jew, thus being similar to the category of ‘for yourselves’.

If **one acquired a slave woman and her baby was with her**, and eight days had not yet passed since the birth, then **this is ‘one bought with money’ who is circumcised on the first** day after his birth. Since he does not come into the category of ‘for yourselves’, he is circumcised immediately.

And there is **‘one born in the house’** who is circumcised on the eighth day.

How is this so?

If **one acquired a slave woman and she conceived under his ownership, and she gave birth** in his house, then **this is the ‘one born in the house’ who is circumcised on the eighth** day.

[The Gemara will ask further on how, according to the first Tanna, we find a case of one born in the house who is circumcised on the first day.]

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Rav Chama says: If the slave woman **gave birth and afterwards was immersed** in a Mikveh¹¹, meaning that at the time of birth she was still not obligated in the commandments and is not rendered impure by the birth, then **this is the ‘one born in the house’ who is circumcised on the first day**. Because any baby whose mother is not impure from the birth is circumcised immediately.

If **one immersed her** in a Mikveh, in order to obligate her in the commandments, as a proper slave of a Jew is obligated. **And afterwards she gave birth**, becoming impure with the impurity of birth, then **this is the ‘one born in the house’** who is circumcised on the eighth day.

And the first Tanna did not differentiate between whether **one immersed her and afterwards she gave birth** or whether **she gave birth and afterwards one immersed her**. **That even though his mother is not impure from birth, he is circumcised on the eighth day**.

Thus we see that they disagree over the same issue mentioned above, regarding whether circumcision on the eighth day is dependent on impurity from birth.

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The Gemara considers the Baraita: **It’s alright for Rav Chama**, in that **one finds** a case of **‘one born in the house’** who is **circumcised on the first day**. And one also finds a case of **‘one born in the house’** who is **circumcised on the eighth day**.

The Gemara explains:

If **she gave birth and afterwards one immersed her** then **this is the ‘one born in the house’** who is **circumcised on the first day**.

¹¹ Purifying pool, immersion in which is requisite to become a proper slave of a Jew, and thus obligated in

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And if **one immersed her and afterwards she gave birth** then **this is the ‘one born in the house’** who is circumcised on the eighth day.

Also, one finds **‘One bought with money’** who is **circumcised on the eighth day**, such as if **one acquired a pregnant slave woman and immersed her** in a Mikveh, **and afterwards she gave birth.**

And one finds **‘One bought with money’** who is **circumcised on the first day**, such as if two people bought a pregnant slave woman and **this one took the slave woman and that one took her fetus.** Since the owner of the fetus has no share in the mother, it is not in the category of ‘for yourselves’, and thus the baby is circumcised on the first day.

But for the first Tanna, it’s alright that one finds all the rest of them, the cases above, as was explained.

But as for a case of **‘One born in the house’** who is **circumcised on the first day** – **how does one find it?** Given that it is in the category of ‘for yourselves’, and according to the first Tanna, circumcision on the eighth day is not dependent on the impurity of birth, it seems that there is no case of circumcision on the first day.

Rav Yirmeyah said: With a case where **one acquired** from another Jew **a slave woman** who had already immersed, and the acquisition was only **for her fetus.** Such that only the fetus would belong to him. Since he had no share in the mother, it would not be considered in the category of ‘for yourselves’.

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In many places in the Gemara, Rabbi Yochanan and Reish Lakish disagree as to whether an ‘acquisition of products’ is considered the same as an ‘acquisition of the principle’.

many mitzvot.

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An ‘acquisition of the principle’ means becoming the owner of the object itself, whilst an ‘acquisition of products’ is merely a right to consume/use its products, which includes using the item (its use is considered a ‘product’ of the principal, since the principal remains intact).

The disagreement of Rabbi Yochanan and Reish Lakish is as follows: Who shall we say is the true owner of any given object – is it the person who has ownership over the physical item, or the person who has the rights to use it and its produce?

The Gemara brought a case where, according to Rav Yirmeyah, a slave woman was acquired. One party had the rights to receive the fetus (the product). In this case he did not have ownership of the principle i.e. the mother herself, and only her ‘produce’ would belong to him. Thus he had an ‘acquisition of products’ regarding the slave woman.

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In light of this, the Gemara raises a difficulty: **It is fine for the one who said an ‘acquisition of products’ is not similar to an ‘acquisition of the principle’.** Because the owner of the fetus would not be considered to be the owner of the slave woman. Thus the mother is not in the category of ‘for yourselves’.

But for the one that said an ‘acquisition of products’ is similar to an ‘acquisition of the principle’, what is there to say? Why should this case not be considered in the category of ‘for yourselves’, given that his ownership of the fetus makes him an owner of the mother. And the resulting ownership of both the mother and child should be sufficient for it to be considered ‘for yourselves’.

Rav Mesharsia said: With a case where **one bought a slave woman on condition not to immerse her.** She would remain a gentile who was not obligated in the

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commandments, and the baby born from her would never come into the category of ‘for yourselves’. Thus according to the first Tanna who is not concerned with the impurity of birth, we find a case of ‘one born in the house’ who is none the less circumcised on the first day.

It was taught in a Baraita: **Rabban Shimon ben Gamliel says: Any baby that survives for thirty days, with humans is not considered a stillborn¹² — as it was said** in the verse **“And those that are to be redeemed, from one month old you shall redeem”**. Since the Torah made his redemption dependent upon him being one month old, we see that only now is it clear that he is certainly capable of surviving.

Any offspring that survives for eight days with animals is not a stillborn — as it was said in the verse **“And from the eighth day and onwards it will be desired as a sacrifice, a fire [offering] to Hashem”**.

And we can infer: **Note that if it did not survive** for thirty days for humans, and eight for animals, then **it is a doubt**.

¹² A baby incapable of survival.