

Shabbat and ברית מילה

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(with special thanks to Rabbi Seymour Rosenbloom)

This paper was adopted by the CJLS on March 9, 1988 by a vote of eleven in favor, two against, and two abstentions (11-2-2). Members voting in favor: Rabbis Isidoro Aizenberg, Elliot N. Dorff, Jerome M. Epstein, David M. Feldman, Arnold M. Goodman, Howard Handler, Benjamin Z. Kreitman, David H. Lincoln, Lionel E. Moses, Joel Roth, and Gordon Tucker. Members voting against: Rabbis Ben Zion Bergman and Mayer E. Rabinowitz. Members abstaining: Rabbis Avram Reisner and George Pollock.

שאלה

Are there conditions under which we should urge the postponement of a ברית מילה from Shabbat or Yom Tov to a weekday because of anticipated Shabbat violations such as the *mohel* riding to the ברית?

תשובה

ברית מילה דוחה שבת The ברית Takes Precedence Over Shabbat

The mitzvah to circumcise on the eighth day is the basis of the general principle of ברית מילה דוחה שבת which justifies a variety of acts which are חלול שבת (Shabbat violations). In the Mishnah, Rabbi Eliezer contends that for the sake of מילה, wood can be chopped to serve as fuel to boil the water. He permitted any activity necessary for the ברית מילה. Rabbi Akiba, however, distinguished between activities which could be performed before Shabbat and those which would be performed only at the time of the ברית, permitting the latter and prohibiting the former. His classical illustration: prior to Shabbat, the *mohel* must have his knife at the site of the מילה. If he failed to do this, the ברית is postponed until the ninth (following) day.¹ The halakha embraced Rabbi Akiba's view.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

When a ברית that Falls on Shabbat is Postponed

Subsequent halakhists were ambivalent regarding בריתות on Shabbat. Thus, there is no Shabbat ברית in the cases of a caesarean birth since this is not perceived as a form of natural birth, but unduly influenced by human intervention. The assumption is that a natural birth might have taken place after Shabbat. When there is doubt of whether it is a natural Shabbat birth, the ברית is postponed.² Other categories of infants not to be circumcised on Shabbat include: one born with two foreskins and an androgynous.³

An infant born בין השמשות (at twilight) is regarded as born on the following day, thereby assuring that the ברית takes place on either the eighth or ninth day – but definitely not the seventh. If the birth is בין השמשות on Friday, the ברית is postponed until the second Sunday following the birth.⁴ The rationale: מילה דוחה שבת רק בשמנה (only מילה at its normal time takes precedence over Shabbat). The Saturday following the birth is either the eighth or ninth day of life.

Since Shabbat may well be the ninth day, the ברית is postponed. The basic halakhic assumption is that Shabbat has its own dynamic, and any compromise or dilution of Shabbat should be avoided even if this requires postponing a ברית until Sunday.

Preparations Prior to Shabbat

Ointments and medication are to be prepared *before* Shabbat.⁵ If the ברית has already taken place on Shabbat, then it is permitted to prepare ointments (although with appropriate changes in procedure) to apply to the child.⁶ The health of the child, obviously, takes precedence, although לכתחילה (*a priori*) in the absence of the ointments, the ברית should have been postponed until Sunday.

What, however, if preparations have been made prior to Shabbat (as required by Rav Akiva) and the ברית is about to take place, and then these ointments or powders were scattered (or otherwise rendered unusable); may the מילה take place on Shabbat? Rambam argues that the essence of the mitzvah is its timeliness. The Baḥ and Beit Yosef in their comments on the Tur quote the Rambam, the Ran, the Rashba and other פוסקים (halakhic decisors) that the מילה is to be postponed until Sunday.⁷

Contemporary Applications

It is apparent that the halakhah legislates occasions when a Shabbat ברית is to be postponed. Among the considerations in such a postponement

are violations of Shabbat when appropriate preparations have not been made prior to the onset of Shabbat, or have been upset by unanticipated events.

Riding on Shabbat

And now to deal with the question: May a *mohel* ride to the ברית?

1. Classical halakhic sources would prohibit the *mohel* from riding to a ברית, even if it meant the ברית had to be postponed to the ninth day. A *mohel* in the discharge of his responsibilities should make provisions to spend Shabbat in the area where the ברית is to be performed. Today, however, given the widespread areas in which Jews now live, and the fact that most *mohalim* have added Shabbat and Yom Tov responsibilities as officiating clergy, it is not realistic to expect *mohalim* to leave their homes for Shabbat.

2. The Committee on Jewish Law and Standards removed the absolute stricture of riding on Shabbat when it permitted riding to the synagogue for public prayer.

3. The most recent statement of the CJLS on the issue of riding on Shabbat was issued in March, 1961. At that time the Committee affirmed that the הור (permission) to ride to the synagogue on Shabbat “does not include travel for other ends. It certainly does not include travel for social or recreational purposes.” Such riding is not to honor God through prayer, but to honor man. The Committee’s report also made it clear that, although the boundaries of one’s community may be difficult to define precisely, it did not approve riding to a synagogue which is *unambiguously* outside one’s community.

4. The question may be reasonably asked: Should permission to ride to synagogue on Shabbat be extended to the performance of other mitzvot; i.e. as visiting the sick; performing a ברית; attending a ברית?

The rationale, however, for permitting riding on Shabbat to attend the synagogue is that Shabbat must be observed when it occurs. There is no “שבת שני.” It is a case of עבר זמנו בטל קרבנו (once the time for a sacrifice is past, the sacrifice is no longer offered). Hence the הור of the CJLS to ride to the synagogue on Shabbat should not be extended to permit the performance of any other mitzvah which can be performed on a day other than Shabbat.

Judaism has traditionally affirmed the importance of performing a ברית on the eighth day, even if it is Shabbat or Yom Tov. In former times, this stressed the importance of the ברית ceremony, but did not indicate a denigration of Shabbat. In our day, the appearance of a *mohel* who has driven to a ברית on Shabbat may be interpreted by the community not as a statement about the importance of the ברית, but as

confirmation of their understanding that strict Shabbat observance is of little importance, even to the leadership of the religious community. The permission to ride granted in 1950, therefore, must not be extended to a *mohel* performing a ברית, nor to any other mitzvah other than Shabbat or Yom Tov worship. Furthermore, we do not condone invitees to the *simḥah* riding on Shabbat. Nor is it proper to bring the baby to the *mohel*.

CONCLUSION

1. The principle of ברית being performed on the eighth day is an important halakhic statement and should be maintained except in cases where the performance of the ברית significantly violates Shabbat.

2. A *mohel* is not permitted to ride on Shabbat for the sole purpose of performing a ברית. A ברית may, therefore, take place on Shabbat or Yom Tov only if the *mohel* is able to participate without riding to perform the ritual, or is riding to a synagogue in accordance with guidelines issued by the CJLS.

3. If the *mohel* is unable to walk to the home of the parents of the child, or if a synagogue ברית is not possible, the ritual should be postponed to the next day or to the day following Yom Tov.

4. Where, however, the family is committed to having the ברית on the eighth day and there are no classical halakhic reasons to reschedule it, then if it cannot reasonably be anticipated that a home ברית will be free of riding or other הלול שבת (desecration of Shabbat), the ברית should be held in the synagogue following services. Any riding that takes place must be in the context of attending public worship. This would be consistent with our present position that the התר limits riding to the synagogue only for prayer. This was underscored in the report of Rabbi Max J. Routtenberg ז"ל, when as CJLS chairman he reported to the convention that the February 1961 statement had been revised as follows, "But both opinions limit this exemption to the need of reaching a synagogue for attendance at worship. This does not include travel for other ends. It certainly does not include travel for social or recreational purposes."⁸

5. The התר for the *mohel* to ride given in paragraph four does not extend to a *mohel* who is not clearly part of the community in which the synagogue is located.

6. In an era when Jews were committed to שמירת שבת (Shabbat observance), allowing מילל to contravene Shabbat was acceptable. Jews had to be reminded that, as important as Shabbat was, it could, under certain circumstances, be violated – usually when פיקוח נפש was involved.

In our day, Shabbat observance is weak, and people need little excuse to violate Shabbat. As a movement, we should utilize every opportunity to emphasize the importance of Shabbat. Insisting that a ברית מילה, one of the most widely practiced contemporary Jewish rituals, give way to Shabbat will not denigrate מילה, but will proclaim our commitment to שמירת שבת (the observance of shabbat).

NOTES

1. *Shabbat* 130a.
2. *Yoreh De'ah* 266:10.
3. *Ibid.*
4. Y.D. 266:8.
5. Y.D. 266:3.
6. Y.D. 266:4.
7. Cf. Baḥ and Beit Yosef on Tur Y.D. (266:12).
8. *RA Proceedings*, 1961, p. 192.