

TALMUDIC METHODOLOGY
by Rav Moshe Taragin

Shiur #11: Hatafat Dam Berit

The gemara in Masekhet Shabbat (135) cites a machloklet between Beit Shamai and Beit Hillel regarding mila performance where no foreskin exists. Beit Shamai adopt the stringent position requiring hatafat dam brit (drawing blood through a slight incision), while Beit Hillel assert that this is unnecessary. Uncertainty exists regarding the precise situation addressed by Beit Shamai and Beit Hillel in this debate. The Tana Kama, cited in a beraita, claims that they debate the very necessity of performing hatafa. By contrast, Rabbi Shimon ben Elazar claimed that all views agree and obligate hatafa for a Jewish child born circumcised. Beit Shammai and Beit Hillel merely disputed the need to perform hatafa for a convert who had been previously circumcised (as a gentile), with Beit Shammai requiring and Beit Hillel excusing. Still a third opinion, cited in the name of Rabbi Eliezer Ha-kapar, has them debating the permissibility of hatafa for a child born circumcised if the eighth day coincides with Shabbat. According to this opinion, Beit Shamai allows this alternate mila ceremony to be performed on Shabbat, while Beit Hillel forbids the performance of this ritual on Shabbat, instead scheduling the ceremony for after Shabbat.

The plethora of positions stated in the gemara yields multiple positions among the Rishonim. The dominant position – and the one cited in Shulchan Arukh Yoreh De'ah 263 - requires hatafa for naturally circumcised children. Regarding a similar need for circumcised converts, a debate exists between the Ba'al Ha-ma'or in Shabbat, who does not require hatafa, and the Ra'avad, who – in most cases - requires hatafa. This shiur will explore the nature of this hatafa for children born circumcised.

At several stages of the gemara's debate, the Amoraim consider the specter of arla kevusha – literally, a "submerged foreskin." Presumably, this refers to the possibility that a slight foreskin actually exists but might remain unnoticed. Raba and Rav Yosef actually debate whether we 'speculate' about the possibility of an unobserved foreskin or we actually assume it. Though they might differ as to whether this prospect will be sufficient to warrant hatafa if the eighth day coincides with Shabbat, they both accede that such an unobserved arla obligates hatafa. Namely, the gemara itself poses 'arlah kevusha' (veiled foreskin) as the mandate for hatafa.

This perspective, though latent in the gemara's debate, raises several interesting issues. Firstly, if hatafa is performed merely out of concern for an unnoticed arlah, we should not require an extra pasuk to derive this ceremony. The Yerushalmi in Shabbat, along with many other midrashic sources, derives the need for hatafa from several textual nuances (most popularly, the double language of 'himol yimol' employed in Parashat Lekh-Lekha). Had hatafa been merely a response to the possibility of hidden arlah, it should be required independent of a separate pasuk; if there is a possibility that a mitzva de-oraita must be performed, it should be pursued.

A second issue relates to the actual manner of performing hatafa. If this ceremony responds to a possible hidden arla, it should entail some attempt to remove the current top epidermal layer of the naturally circumcised organ. Worried about arla kevusha, we might view the actual skin as composed of compressed foreskin and be forced to remove it. Indeed, a Geonic statement cited by the Meiri (in his comments to the gemara in Shabbat) connotes such an aim, but the literal meaning of the word "hatafa" is drawing blood, a process which does not necessarily include scraping away skin. In fact, the Or Zarua, in Hilkhhot Mila (siman 99), explicitly claims that hatafa demands only drawing blood and not scraping away presumed foreskin. If we are truly concerned with unnoticed arla, shouldn't we be forced to clear away some skin?

Finally, the issue of the berakha arises. Without a doubt, much discussion in the Rishonim centers around the question of whether or not a berakha is even recited. Great controversy surrounds reciting berakhot upon safek mitzvot, particularly the debate between the Rambam and Ra'avad in the third perek of Hilkhhot Mila. However, several Rishonim cite opinions that even though the berakha of "al ha-mila" is not recited, an autonomous berakha of "le-hatif" is recited. The presence of an independent berakha suggests that hatafa is not performed solely to address the possibility of arla kevusha and a classic obligation toward mila. Seemingly, hatafa's warrant lies elsewhere.

Perhaps hatafa may be explained by recognizing that Berit Mila entails more than merely removing the foreskin. Performing a covenant with Ha-kadosh Barukh Hu demands drawing blood, as well (the centerpiece of covenants). A child who is born mahul might be exempt from arla removal, but might still require drawing blood - the more literal meaning of hatafat dam berit. The drawing of blood does not necessitate actually scraping away skin in search of a submerged foreskin, but merely making an incision. Similarly, as the procedure is not aimed at eliminating foreskin, the classic berakha of "al ha-mila" is not recited, but perhaps we would require an independent berakha recited solely upon the withdrawal of blood. This would also justify the need for an additional derasha to derive the procedure of hatafat dam brit. Born without a foreskin, the child does not require classic mila performance. However, there is one component of mila - withdrawing blood - which is still required, and the extra pasuk solidifies this component as a vital feature of mila.

An interesting position stated in the Rosh might also stem from this perspective of hatafa as an extraction of blood rather than an attempt to remove a veiled arla. The Rosh cites the Rash Mi-shantz as claiming that if a katan received premature mila (prior to the eighth day), hatafa is not performed during the eighth day some positions though, dispute the Rosh and require hatafa. This condition of premature performance of mila does not invite worries of arla kevusha, since the identified arla has already been removed. This situation is also distinct from that of a circumcised convert, who might require hatafa to facilitate his conversion. Why should this child require hatafa? Even if he hasn't fulfilled the mitzva of mila, what function might hatafa serve? Perhaps by viewing the extraction of blood as essential to the mila, we can justify its performance even in the complete absence of any concern for arla kevusha.

The consequence of this position would be that standard mila performed without drawing blood would be insufficient. The mitzva includes both removal of

foreskin as well as withdrawal of blood. An interesting statement in Tosafot Ri Ha-lavan (a peirush written by one of the lesser known Ba'alei Ha-Tosafot), in his comments to Ketuvot (5), asserts that indeed blood is not necessary for the fulfillment of the mitzva. By contrast, a comment by the Chatam Sofer in one of his teshvuot suggests that successful mila requires the withdrawal of blood.

For an expanded discussion on this possibility, see the Mishkenot Ya'akov (Yoreh De'ah, siman 63) and Zekher Yitzchak (by Rav Yitzchak Ponivisher, siman 31).

As stated earlier, the possible requirement of blood during mila probably stems from the covenantal nature of the mitzva. Statements by many Rishonim in their commentaries to Shabbat 137 (see especially the Ramban) referring to 'dam mila' corroborate the component of blood. A different warrant for blood withdrawal might be the status of 'korban' afforded to mila. Several midrashim (Tanchuma Vayeira siman 2, Pirka D'Rebbi Eliezer siman 10) establish this parallel, which might provide a second reason for the requirement of blood.