

# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## 154 - BRIT MILA

### PART 3 - METZITZA - A HALACHA UNDER PRESSURE

#### OU ISRAEL CENTER - WINTER 2020

#### A] THE SOURCES FOR METZITZA

1. משנה. עושין כל צרכי מילה בשבת. מוהלין ופורעין ומוצצין, ונותנין עליה איספלנית וכמון.

שבת קלג.

*The Mishna rules that there are three stages to the brit mila. These are: (i) mila - cutting off the foreskin; (ii) periya - removing the membrane under the skin; and (iii) metzitzta - sucking some of the blood out of the wound - metzitzta. All three of these steps are sufficiently critical to the brit mila to be permitted on Shabbat, even though they would ordinarily be a Torah prohibition. Metzitzta would normally have been done orally, since that is the convenient and effective way to apply suction. This is known as metzitzta be-peh<sup>1</sup> (MBP).*

2. .... מל ולא פרע את המילה כאילו לא מל

משנה מסכת שבת פרק יט משנה ו

*The Mishna rules that both mila and periya are essential to the brit. If periya was not performed then, even bedieved, the brit is not valid. The implication is that, if MBP is not performed, the brit IS valid bedieved.*

3. מוצצין וכו'. אמר רב פפא: האי אומנא דלא מייץ - סכנה הוא, ועברין ליה. פשיטא, מדקא מחללי עליה שבתא - סכנה הוא! - מהו דתימא: האי דם מיפקד פקיד, קא משמע לן: חבורי מיחבר. ודומיא דאיספלנית וכמון, מה איספלנית וכמון - כי לא עביד סכנה הוא, אף הכי נמי - כי לא עביד - סכנה הוא.

שבת קלג:

*The Gemara states that failure to do MBP is dangerous for the child<sup>2</sup> and is thus required on Shabbat. It compares it to applying the bandaging. Just as the bandaging is a requirement of pikuach nefesh and justifies breaking Shabbat, so too MBP. As such, any mohel who refuses to do MBP (on Shabbat or any other time) must be dismissed.*

- It therefore appears that mila and periya are the two essential ritual acts<sup>3</sup>. MBP and bandaging are two essential therapeutic acts.

4. כיצד מוהלין? .... ואח"כ מוצץ את המילה עד שיצא הדם ממקומות רחוקים כדי שלא יבא לידי סכנה. וכל מי שאינו מוצץ מעבירין אותו. ואחר שמוצץ נותן עליה אספלנית או רטייה וכיוצא בהן.

רמב"ם הלכות מילה פרק ב הלכה ב

*The Rambam rules this way - MBP is an essential requirement to protect the health of the child. However, neither Chazal nor the Rambam give any detail as to what the specific health concern may be. Rambam also defines MBP as requiring blood to be removed from the farthest part of the wound<sup>4</sup>. He does not however specify that it must be oral.*

5. .... ואח"כ מוצצין המילה עד שיצא הדם מהמקומות הרחוקים כדי שלא יבא לידי סכנה. וכל מוהל שאינו מוצץ מעבירין אותו

שולחן ערוך יורה דעה הלכות מילה סימן רסד סעיף ג

*The Shulchan Aruch rules this without dissension.*

1. Actually 'be-feh' is more accurate but the be-peh is the normal way of expressing it.  
 2. It was a standard position of ancient medicine that excess blood could be a major cause of disease. General balance of the 'four humors' was a foundational medical position at the time.  
 3. See Yevamot 71b which states that mila was commanded to Avraham and periya to Yehoshua. MBP is not mentioned. Interestingly, Sefer Hachinuch does not mention MBP in his analysis of mila. We will see below that some later poskim argue that MBP is a Halacha LeMoshe MiSinai. Rav Immanuel Jakobovitz (Jewish Medical Ethics) brings academic opinion that it may date from the time of the Chashmonaim, which would fit with emerging Greek medicine of the time.  
 4. Note R. Nachum Rabinovitch's comments on this Rambam in his commentary Yad Peshuta: *The Rambam's additional phrase explains the technique of mezizah necessary to avoid danger - 'until the blood exits from distant places.' This is similar to the technique expressed by Rambam in the first chapter of his work, "Poisons and Their Antidotes." In that work Rambam refers repeatedly to the value of mezizah in treating a victim of a snake or scorpion bite. Without mezizah to draw out the poison, it would spread in the blood and reach the life-sustaining internal organs. If one succeeds in drawing the poison out from their distant places, before further spread, the danger is averted. Since the Rambam ruled that a metal blade instrument is preferred for brit milah, and Hazal in Yevamot 76a teach us that iron causes inflammation, it is evident why mezizah is needed.*

6. נותנין את הערלה בחול ועפר וכן רוקקיס דם המליצה אל העפר (מהרי"ל בשם יש מקומות)

שולחן ערוך יורה דעה הלכות מילה סימן רסה סעיף י

*The Shulchan Aruch rules that the orla must be placed in soil or sand after the milah. The Rema adds that this also applies to the blood withdrawn during the MBP.*

- Some mefarshim imply from this that the MBP is not only a therapeutic practice but also a required ritual one. Otherwise, why would we care what happened to the blood which was withdrawn?
- Also, although Chazal and the Rambam do not specify that metzitzah must be oral, many other Rishonim do<sup>5</sup>.

7. הרחמן הוא יברך המל בשר הערלה/ ופרע ומצץ דמי המילה/ איש הנרא ורף הלבב עבודתו פסולה/ אם שלוש אלה לא יעשה לה. אמר:

ברכת המזון לברית מילה

*In the bentshing after a brit, we praise the strength of the mohel for performing all three essential aspects of the brit.*

## **B] 19TH CENTURY OPPOSITION TO METZITZA**

- At the beginning of the 19th Century Europe<sup>6</sup>, parents were required by government to chose a religion for their family and either have their children baptized or circumcised. There was significant pressure in many circles to chose baptism and assimilate into the surrounding Christian culture.
- As medical knowledge increased, more and more doctors began to doubt the medical benefits of MBP. At the same time, opposition to MBP began to grow on pure aesthetic grounds as Jews tried to appear more cultured<sup>7</sup>.
- As such, pressure mounted to drop MBP from the brit mila ceremony in order not to discourage even more parents.
- Mohelim in Germany in the 1820's and 30's reported performing MBP less and less, without major rabbinic push back.<sup>8</sup> Some Jewish doctors proposed<sup>9</sup> that MBP should be banned and mohelim should be heavily fined by the authorities if they do it.
- Then in the 1830's in Vienna a number of infants who were circumcised in the city became sick and many died. The local doctors determined that the same mohel was responsible for the sickness, due to MBP, although the mohel in question was examined<sup>10</sup> and showed no signs of the sickness.
- Rabbi Eliezer Horowitz<sup>11</sup>, Rav of Vienna was approached in 1835 by a Dr S. Wertheim who was the head of the Jewish Vienna Hospital. Dr Wertheim was concerned at health risks due to MBP. Rav Horowitz ruled that, since MBP was performed for health reasons<sup>12</sup>, and since the doctors of the time had determined that the same benefit can be achieved by applying a wine-soaked sponge or swab to the wound. Just as we follow modern medical advice in other areas of Jewish life, they argued that should also do so for MBP. However, he refused to issue the ruling unless it was supported by his rav, the Chatam Sofer.

8.

אורך ימים ושנות חיים לידי תלמידי הרב וכו' מו' אלעזר סגל הורוויץ נ"י  
אבי"ד בע"ת בוויין.  
יקרתו הגיעני ויפה כתב, כי לא נמצא מציצה בפה דוקה כי אם למקובלים,  
שאומרים למתק הדין ע"י הפה ושפתים. ואין לנו עסק בנסתרות היכא דאיכא  
למיחש לסכנתא כל דהוא. וא"כ אין לנו אלא להוציא את הדם מהמקומות  
הרחוקים יהיה על איזו פעולה שיהיה, ויש להאמין למומחים על זה איזו  
פעולה תפעול כמו מציצת שפתיים.  
ועוד אני אומר, אפילו היה מפורש בש"ס מוצץ בפיו, מ"מ מכיון שאין זה אלא  
מהכשר מילה אלא משום סכנה, והמל ופרע ולא מצץ כבר גמר מצותו,  
והתינוק מותר בתרומה ואביו עושה פסח, אלא שהוא בסכנה עד שתעשה  
פעולה להוציא דם ממקומות הרחוקים.

5. Including the Itur, Machzor Vitri, Shibolei Haleket, Avudraham and others. The Maharil quotes that he personally performed a milah on Rosh Hashana before shofar and would blow shofar before he washed his mouth, so that the zechut of the two mitzvot could combine.
6. There are a plethora of articles (English and Hebrew) available on this topics, covering halacha, hashkafa and history. See in particular:
  - The Controversy Over the *Mezizah*, Jacob Katz, Divine Law in Human Hands (2009 Varda) p357.
  - R. David Brofsky, *Metzitzah Ba-peh* available at <https://www.etzion.org.il/en/metzitzah-ba-peh>
  - *Mezizah be-Peh - Therapeutic Touch or Hippocratic Vestige?*, Shlomo Sprecher, Hakira Vol 3 p 15 available at <http://www.hakirah.org/Vol%203%20Sprecher.pdf>
  - Halacha Berura (by Agudat Yisrael) - The Metzitzah B'Peh Controversy, available at [https://failedmessiah.typepad.com/failed\\_messiahcom/files/Metzitza.pdf](https://failedmessiah.typepad.com/failed_messiahcom/files/Metzitza.pdf)
  - The Making of Metzitzah - Tradition 13:1 p36, available at <https://traditiononline.org/the-making-of-metzitzah-1972/>
7. MBP had also been the source of significant anti-Jewish libel. It clearly feeds an antisemitic trope eager to hear about blood-libels.
8. One mohel in Dresden in 1845 reported that he had avoided performing metzitzah for 32 years in the presence of four successive rabbis in the city! (See Katz p 364)
9. See Katz p 358 who references an 1831 report by Dr. Ph. Wolfers, a German medical professor.
10. Other cases in Poland were reported where mohelim with oral sores (which we now know to be caused by the herpes virus) passed these on to infants following brit mila.
11. Author of shu't Yad Eliezer.
12. The position that the requirement for metzitzah is essentially a health concern is also taken by the Ketzot Hachoshen 383:2 and the Chochmat Adam 149:14.

ובפרק ר' אליעזר דמילה (שבת קלג,ב) יליף רב פפא דומיא דאספלנית וכמון, שהוא משום סכנה, הי"נ במציצה. והרי כמון ואספלנית גופא - אין אנו נוהגים בכמון כלל, וגם לא באותם אספלנית שנזכרו בש"ס באב"י ורבא. ש"מ כיוון דמשום רפואה היא, אין להקפיד אם המציאו הרופאים רפואה אחרת במקומם. והוא הדין נמי למציצה, אפילו היה מוזכר במשנה מציצה בפה, מ"מ יכולים להמיר בדבר אחר כיו"ב.  
אך יזהירו הרופאים המומחים שיעידו באמת אם הספוג עושה פעולת מציצה בפה, יותר מזה אין לחוש לפענ"ד.  
הקטן משה סופר מק"ק פפדי"מ.

תשובת החתם סופר כ' בשבט תקצ"ו<sup>13</sup> - 10.01.1836

*The Chatam Sofer responded<sup>14</sup> in early 1836 that MBP was NOT specifically defined in the Gemara and, as such, oral suction was not a requirement of the halacha. MBP could be achieved by any pressure to removed the blood. Even though the kabbalistic works DID give relevance to MBP, this was not relevant in the face of pikuach nefesh<sup>15</sup>. All that was required to satisfy the halacha was an alternative metzitzta system that achieved the same result. The Chatam Sofer thus approved use of the sponge, provided the doctors confirmed that it actually worked as well as MBP.*

- Rav Horowitz then charged Dr Wertheim with obtaining an affidavit signed by three eminent doctors as to the efficacy of the sponge system. He did this in March 1836 and then wrote to the Jewish leaders in Vienna requesting that they ban MBP.
- In fact, it became clear from Dr Wertheim's letters that he did NOT attribute the deaths of the infants to this specific mohel, since the mohel had been examined and found to be healthy. He argued however that MBP was "superfluous, of no utility or purpose, disgusting, and to some extent even detrimental". He expressed "the wish to remove from this important religious act any ugliness, which affronts the eye of the expert as it does the emotions of the layman." He claims that the custom of MBP is 'disgusting (*ekelhaft*) and "that its roots are in 'unclean soil' (*auf schmutzigen Boden wurzelndes Herkommen*)"
- Thus it became clear that the motivation behind the opposition to MBP were not actually rooted solely in health concerns, but also had a strong (perhaps dominant) reforming and modernizing agenda. It appears that this was NOT known to the Chatam Sofer when he issued his ruling. Given the Chatam Sofer's usual negative approach to such agendas, we can speculate as to whether it would have affected his response!<sup>16</sup>
- This raises the difficult questions of mixed agendas when pushing for halachic change.

9. (א) ולפי מה שאומרים הרופאים עכשיו - אדרבה ע"י המליצה אפשר שיסתכן. שע"י המליצה יתפרצו נקבי (הפארען) וישפצו דם אחר המילה .... ואין לתמוה על זה שהוא נגד הגמ' דצכמה דצרים נשתנה הטבע (כמג"א קע"ג ח' וקע"ט ח' ובי"ד שט"ז ג'. ובאה"ע קי"ו). ולכאורה ה"י נראה לשמוע בקולם בכל כה"ג. דהרי אפי' צכריות ומיתות צ"ד שומעין לרופאין ... ואפי' להקל. מכ"ש כשנחוש רק משום סכנה, והם בקיאים צחשת סכנה יותר ממנו, ונקל גם צחילול שצת למנוץ. ואעפ"כ נ"ל לצלי לזוז מדברי רז"ל. דלא דמי לרחיצה לקמן סי' ל"ב שאין מחללין השתא משנשתנה הטבע. דהתם שאני דע"י שנשתנה הטבע אין צו לורך כלל השתא. אבל הכא מי לא מודו הרופאים דע"י המליצה נילל התינוק מצביית הגיד. אלא שבצחיות הצפוניים חינו מסוכן כל כך צביית הגיד בצחירות צבל החמים. ואעפ"כ אפשר שיסתכן ע"י הצבייה. ואף שלפי דברי הרופאים יכול להציל הצבייה ע"י שיניחו עליו כל חצי שעה מטלית שנשרה צמי (*עקסטראקטום*) *extractus*. או צמים קרים. עכ"פ כיון דגם לפי דצריהם גם מליצה מהני אין לנו אלא דברי חז"ל. דהרי אפי' צדברי תורה כשאין נפקא מנה שיעשה כן או כן היו הראשונים מקפידין לעשות כדברי רבותיהם. כרצא דבוח מהדר אסלקא וארוזא הוחיל ונפק מפומא דרב הונא (כפסחים קיד:). ואעפ"כ נ"ל שלא ימנוץ כל כך צחוק מאד צצצת דצגמרא לא קאמר רק האי אומנא דלא מייץ. משמע דלא מייץ כלל (כצצת קלג:). גם יזה צפיו אחר המליצה על הצחורה מחומן שלוקח צפיו. כדי לקמט ולצמאם נקבי הפארען שפתח צמליצתו

תפארת ישראל - בועז מסכת שבת פרק יט:א

*The Tiferet Yisrael<sup>17</sup> writes in his commentary on the Mishna that it is not surprising that doctors did not support MBP in his time since 'nishtane hateva' - physical nature has changed since the time of the talmud and medical solutions which worked then may not work now. He identifies Chazal's medical concern as swelling following the mila, and also suggests that this may have been worse in hotter parts of the world. Nevertheless, he insists that the position of Chazal must be followed and defends MBP, even on Shabbat. He advises however that, on Shabbat, light suction only should be applied to avoid unnecessary chilul Shabbat.<sup>18</sup>*

13. Reproduced from *Techumin* 32 p 110 - מה עדיף, הרב יונתן רזיאל - 32

14. This responsum is NOT included in the standard editions of the *Shu't Chatam Sofer*. In fact, it was only published in 1845 and its publication caused consternation in religious circles. It is likely that the Chatam Sofer's descendants ensured that this responsa was not included in his *shutim*, published between 1841 and 1866, given its controversial nature.

15. This is consistent with the position of the Chatam Sofer in many places, where he rejects the practical halachic applicability of kabbalistic considerations.

16. Katz claims that in 1837 it was impossible for Reform pressure to have any effect on the government requirement of circumcision. As such, the Chatam Sofer assumed that there was no greater hashkafic agenda in this case. By the late 1840's this had proved not to be the case.

17. Rav Yisrael Lipschutz, 19C Danzig. The commentary on *Shabbat* was published in 1844, but written some years earlier. Katz (*ibid* p 365 n21) speculates that the *Tiferet Yisrael* would not have been aware of the strong reformist push in this area when he wrote this commentary.

18. Even though light suction and removal of blood would also be a Torah prohibition, it may be that the doubt as to whether metzitzta is really needed today pushes him to try and

- In 1844 the first Reform synod held in Braunschweig endorsed a ban on the practice of MBP.
- In 1845 the *consistoire* in Paris, which supervised mohelim, banned MBP and called in police enforcement for recalcitrant mohelim. Nevertheless, some mohelim strongly resisted and insisted on doing MBP. When Baron Rothschild need a mohel for a family birth, he brought one over from England! Some joked that he would have to rely on diplomatic immunity from prosecution since he was the Austrian consul. Others suggested that milot could be done at the Russian or Romanian embassies<sup>19</sup> to avoid legal action!
- In 1844 a major controversy broke out in Dresden between the mohelim who opposed MBP and those who supported it. In 1848, R. Zecharia Frankel<sup>20</sup> - the rabbi of Dresden - issued a ban on MBP

10. Had the Talmud known of another means, comparable to *metzitza*, it would certainly not have ordained that only it may be used exclusively. Moreover, had medical science reached the level of our day, and had it discovered that not only are there substitutes for *metzitza*, but that it itself entails danger, they would not have allowed its use. On the contrary, the Talmud would have ruled '*metzitza* is dangerous, and the surgeon who does so should be dismissed'.

Zecharia Frankel, *Zeitschriften*, 293<sup>21</sup>

*In a classically historicist manner, Frankel argues that, had the Talmud been aware of modern science, it would never have ruled the way it did. He therefore reverses the statement of Rav Pappa and argues that any mohel who DOES perform MBP should be dismissed!*

- Other reform-leaning authorities of the time supported this ban. Some also argued (based to some degree on the Tiferet Yisrael above) that MBP should certainly not be performed on Shabbat since it was now known to be unnecessary.<sup>22</sup>

### **C] THE TRADITIONALISTS FIGHT BACK**

- The lenient ruling of the Chatam Sofer was not followed by many of his successors. One exception is R. Tzvi Hirsch Chajes (19C, Ukraine), who ruled<sup>23</sup> that any action which helped to remove danger, as MBP does, is acceptable.

11. ע"ד המציצה במצות מילה אשר בעו"ה קצת רועים רעים קשר רשעים רצו לבטל ולהפר ברית המציצה באמרם שאינו מגוף המצוה כ"א משום סכנה, וזה באקלים החם אבל במדינת אלו אין שום סכנה במניעותה. ואני בעניי בקנאי קנאת ד' צבאות כתבתי מאז באגרת הקנאות יום י"ב טבת תר"ה לפ"ק שנדפס באמש"ד נגד האספסוף שהרעימו סוד וזה לשוני. לנצח יאבדו מבלי משים כי הנה המציצה מפרק הדם והיא אב מלאכה ודוחה לשבת החמורה וליוה"כ. ואי לאו דמעב המציצה לגוף המצוה לא היה דוחה שבת ויוה"כ ויו"ט. אלא ודאי כך ניתנה הלכה למשה מסיני מלבד טעם הסכנה כנאמר בגמרא. .... ומה גם עפ"י הסוד המציצה בפה ודאי מצוה וחובה כמ"ש באשל אברהם ועץ החיים מצוה כ"ח דף ל"ד. וז"ל ס' התיקונים תיקון ל"ז ....

שו"ת יהודה יעלה (אסאד) חלק א - יורה דעה סימן רנח

*R. Yehuda Aszod (mid 19C Hungary) was the main halachic authority in Hungary after the Chatam Sofer. He strongly defended MBP. Critically, he claims that it is not simply for health reasons, but is Halacha LeMoshe MiSinai! He also invokes the kabbalistic<sup>24</sup> significance of MBP (notwithstanding that the Chatam Sofer did not).*

- In the 1840's one of the popular Torah periodicals was Shomer Zion Ha'Neeman. The periodical was founded and edited by R. Yaakov Ettlinger<sup>25</sup> and the argument about MBP raged on its pages. Some accused R. Eliezer Horowitz of forging the response of the Chatam Sofer - a charge which he indignantly refuted!<sup>26</sup> The arguments grew increasingly dogmatic and accusatory ....
- Rav Avraham Wolf Hamburg of Fürth, one of the most respected rabbis of the time, wrote a piece in the journal in late 1847 staunchly supporting MBP. He also argued that any suggestion that MBP was not now permitted on Shabbat would effectively discredit all earlier authorities and accuse them of breaking Shabbat.
- Eventually Rav Ettlinger stepped in and issued a ruling.

minimize any extra chilul Shabbat. Note that the Rambam rules that metzitza requires blood to flow from the farthest part of the wound.

19. Which may also have been a prejudiced jibe at 'Ostjuden' and their 'primitive' practices.

20. One of the founders of the Breslau school of 'historical Judaism' which eventually later morphed into Conservative Judaism. Later in the 1850s and 60s, Rav Shimshon Refael Hirsch would wage a major campaign to delegitimize Frankel and the newly formed Breslau Theological Seminary.

21. See Katz 371

22. Such reforming arguments based on halachic stringency can be found in other areas. Abraham Geiger argued strongly for the removal of Machnisei Rachamim from the liturgy on the grounds that it was heretical and offended the Rambam's 5th Principle of Faith, concerning idolatry.

23. Shu't Maharatz Chajes 60

24. This position was supported by many later 19C poskim, including the Avnei Nezer - YD 338.

25. Staunch opponent of the growing Reform movement and rav of R. Shimshon Refael Hirsch and R. Azriel Hildersheimer.

26. There is no doubt today as to the authenticity of the Chatam Sofer's teshuva. The original manuscript of the teshuva is now in the possession of a descendent of the Chatam Sofer living in London, and it is claimed that on the margin appears the writing of one of the talmidim of the Ketav Sofer (the Chatam Sofer's son) which states that it is forbidden to publicize this letter since it was intended only for the specific situation in Vienna. This claim has been challenged and it has been impossible to verify.

12. .... ואם שאין משיבין הארי וגו' אם הי' בחיים עודנה הייתי דן לפניו בקרקע ואשאלה ממנו להראות לי במקרא במשנה ובגמרא אפילו פעם א' לשון מציצה שאין פירושו המצאה בכח היניקה והמשיכה כאשר כבר בארתי בתשובתי הראשונה. ואחר שאין ספק בזה דמוצצין הוא לשון משיכה בכח ממילא אין ספק ג"כ דאין בידינו לבטל המציצה בפה ....  
 .... ואם תאמרו לא במה שמקובל מסיני נכריע דברי הטבעיים על דברי חכמינו ז"ל רק במה שנתסד מפיהם על פי הטבע כפי אשר הכירו בעת ההיא ולא נאמין שהמציצה מקובלת מסיני ולכן נבטלה ע"פ דברי הטבעיים בעת הזאת, עוד אקרא אליכם, שאלו נא את פי הרופאים והטבעיים אם יסכימו עם החכמים שכל הבהמות שאנו מטריפין משום סרכות הריאה אינם יכולים לחיות והרי גם טרפות האלה נתיסדו מפי חכמינו ז"ל  
 .... ובכזה ח"ו תהפך הקערה על פיה ויבטל רוב התורה כפי התנהגותה בכל תפוצות ישראל ואם תאמרו הלא לא לחנם בטלנו המציצה רק באשר שראינו שנתהו' סכנה על ידה בשיש חולי בפה המוצץ וכי אפשר לבדוק בכל פעם את פיו כשמוצץ על זה אשיב הלא החזקה היא אחת מהיסודות אשר כל התורה נשענת עליהן וסוקלין ושורפין על החזקות ולמה נדאג שמי שהוא בחזקת בריא וכשרות ע"י הבדיקה הראשונה שנתרע אח"כ

שו"ת בנין ציון סימן כד

*Rav Yaakov Etlinger (mid 19C Germany) also totally opposed any change to MBP. He argued with the Chatam Sofer and, like the Maharam Schick, compared MBP to the simanei treifut - a Halacha leMoshe MiSinai which cannot be tampered with under any circumstances.*

- By 1850 the governments of Austria, Germany and France had prohibited the practice of MBP .
- In the 1850's R. Moshe Schick (then in Yergen, near Pressburg) was approached by a mohel who was being threatened with dismissal if he continued to do MBP. He replied firmly that he may not be a mohel there under such conditions

13. אבל דברי חכ"ל מיוסדים הרבה מהם על הלכה לממ"ס איש מפי איש עד מרע"ה אשר כל דברי אלקינו יקום לעולם. ואין נבטל דברי אלקים חיים ואפשר שהוא הלכה לממ"ס, מפני אומדנא וסברת הרופאים עפ"י החיפוש והניסיון .... שכבר הובא .... שאין המציצה מזקת למכה! אדרבה לפעמים טובה .... שמוהל אחד העיד שבאו מעשים לידו שע"י ביטול המציצה בא התינוק לידי חולי ומכאובים הרבה ...  
 וכי תימא דאולי נשתנו העתים ועתה ליכא סכנה. שהרי בכמה דברים מצינו כן שנשתנו העתים .... זה ג"כ אינו. דא"כ איך סמכינן על כל הדברים שנמסרו לנו מאבותינו? וע"כ הכלל כך הוא דשינוי העתים א"א לומר בב' אנפין: א) בדבר שהוא הלכה לממ"ס א"א לומר שינוי עתים שדברי אלקינו קיים לעולם. וא"כ כיון שנמסר לנו עפ"י ה' לכל הזמנים ולכל המקומות .... כגון שמנה טריפות שנאמרו למשה מסיני א"א שנשתנו, ואפילו אם אנו רואין שינוי שהוא חי .... והשנית דבדין תורה אזלינן בתר חזקה וכל דיני התורה מיוסדים על רובא וחזקה. וא"כ כיון שידענו שכן היה בזמן שנמסר לנו נשאר הדין על מה שהי' מצד חזקה ובחזקת שלא נשתנה א"כ נתברר לנו שנשתנה הדין. וכיון דכבר בררנו ואמרנו למעלה דדבר המנוסה מצד הניסיון והחקירה א"א לה שתעיד אלא עפ"י הרוב ....  
 אמנם אפילו נימא .... דרק תקנה תיקנו חכ"ל משום חשש סכנה שהי' תיקנו כן לעולם ג"כ נראה דעדיף לבטל מצות מילה מלכנוס בענין הזה למול ולא למצוץ ... כיון דמצינו דעל שינוי ערקתא דמסאני אמרו חכ"ל בסנהדרין דף ע"ד דצריך למסור נפש, אנו רואין שאם מכוונים לבטל דברי התורה ולהפחית כבודה אפילו בענין דרבנן נוגע הדבר לכלל התורה. והיום אומרים לו עשה כך ולמחר כך. וחייב למסור נפשו וכ"ש כל התורה ....

שו"ת מהר"ם שיק יורה דעה סימן רמד

*The Maharam Schick brings a number of arguments:*

- MBP could be a Halacha leMoshe MiSinai and, on that basis, may not be changed.*
- Nishtane Hateva - change in nature - does not apply to Halacha LeMoshe MiSinai (as in the case of simanei treifut).*
- The medical evidence he brings argues that MBP IS still helpful and not performing it could endanger the child.*
- Given the anti-halachic feeling of the times, even if MBP was a purely rabbinic enactment, one would be required to be moser nefesh to maintain it since this could be part of a slippery slope against traditional Judaism<sup>27</sup>.*

- In a later responsum<sup>28</sup> on the issue in 1878, the Maharam Schick reiterates that MBP is essential. He also dismisses the ruling of the Chatam Sofer as a hora'at sha'ah - emergency measure for that time - since the mohel of Vienna was too important to dismiss, given his connection to the Hapsburg monarchy!
- The Avnei Nezer strongly upholds MBP, especially in light of its kabbalistic implications. He invokes the halachic principle - 'no harm will befall those involved in a mitzvah' (Pesachim 8a).<sup>29</sup>
- Rav Hirsch agreed with this in 1886 and criticized use of the sponge for metzitza.

27. Indeed, many Jews at that time advocated for FULL abolition of brit mila, and not just of metzitza.

28. See Responsa Rashban of R. Solomon Zvi Schick OC 144

29. However, for a detailed account of the many outbreaks of infant illness and death connected with MBP see Sprecher pp 30-37

## D] TECHNOLOGY RESPONDS - THE METZITZA TUBE

• In 1873 the New York City Board of Health was called to investigate the cases of four healthy Jewish newborns, who had contracted genital ulcerations following their ritual circumcisions. Three of the four infants succumbed to their illnesses. The report following the investigation identified MBP as responsible and recommended banning it entirely. This was only one of a number of high profile infant deaths which were linked to MBP<sup>30</sup>.

• In 1887 R. Michael Cahn, rabbi of the German city of Fulda designed and invented a small tube which would enable a mohel to orally extract blood from the wound without direct contact.

• This method very quickly gained the approval of many rabbis, although in some cases their sanction was given somewhat reluctantly, in recognition of significant government pressure. These included:

- R. Azriel Hildesheimer<sup>31</sup>

- R. Shimshon Raphael Hirsch<sup>32</sup>

- R. Yitzchak Elchanan Spector<sup>33</sup>

- R. Chaim Berlin

• In 1900, R. Alexander Tertis, a mohel from London, published a short book on this topic, entitled *Dam Brit*, in which he cites many well-known rabbis who either supported or at least did not object to this tube method.

• In an 1899 responsum to R. Tertis in support of the tube, R. Shlomo HaCohen, the main *Moreh Tzedek* in Vilna writes:



14. As far as mezizah that is mentioned in the Mishnah, the Talmud and the Codes, it has no bearing or connection to the mizvah of milah that we have been commanded by the Torah, rather it is a matter of health and healing of the newborn. The entire matter of mezizah is only to remove the danger. It is not recorded any place in Hazal in what manner to perform mezizah, because it is known that therapeutic measures change from period to period and location to location. In the Talmud we find many therapeutic measures provided for many illnesses, but in our time we never heard that anyone should utilize these therapies recorded by Hazal. Rather, we follow the therapies selected by the contemporary physicians since the nature of people and therapies have changed from the time of Hazal. So in each generation the therapeutic measures change ....

1899 Responsum to R. Tertis by Rabbi Shlomo HaCohen of Vilna<sup>34</sup>

15. ואחר הפריעה יעשה המציצה. וזהו לתקון התינוק שמוצץ המילה בפיו כדי שיצא הדם מקומות הרחוקין כדי שלא יבא ליד סכנה. וכך אמרו חז"ל [שבת קל"ז ב] האי אומנא דלא מייץ מעבירינן ליה דסכנה הוא להתינוק. ומוצצין יפה יפה עד שיפסק הדם. ודע שיש בזמנינו שאומרים שיותר טוב לעשות המציצה לא בפה אלא באיזה ספוג שמספג את הדם ולא נאבה להם ולא נשמע להם. ורבותינו חכמי הש"ס היו בקיאים ומחוכמים יותר מהם. אך זהו בוודאי שהמוצץ יהיה לו פה נקי בלא שום מחלה ושניים נקיים .... ואין לנו לחדש חדשות כאלה ונהיה כאבותינו ובמדינתנו לא שמענו זה:

ערוך השולחן יורה דעה סימן רסד סעיף יט

*The Aruch HaShulchan (late 19C Lithuania) still appears argues for MBP but insists that the health and oral hygiene of the mohel must be good. He is reported as having supported use of the metzitzah tube.*

16. ופורעין ומוצצין - עיין בתשו' בנין ליון סימן כ"ג וכ"ד דהמליצה דוקא צפה ולא ע"י דבר אחר שהמליצה הרופאים החדשים. ובתשובת יד אליעזר סי' מתיר למוצץ צפוג דדוקה דיותר טוב ממליצה צפה ואפילו צפצפת יש להתיר צפוג ע"ש [פ"ת על או"ח]:

ביאור הלכה סימן שלא סעיף א

*The Mishna Berura does not mention the tube, but appears to quote both sides of the debate on the controversial sponge.<sup>35</sup> He also appears to sanction use of the sponge on Shabbat!*

• The Avnei Nezer objected to use of the tube, claiming that it did not draw blood from the furthest part of the wound, as required by the Rambam.

• R. Chaim Ozer Grodzinski<sup>36</sup> reported in 1906 that almost all of the mohelim in Vilna performed metzitzah using a sponge. He attributed this to the fact that mohelim were suffering from oral diseases and to the fact that the glass tubes had not yet reached Vilna.

• R. Chaim Soloveitchik also instructed the local mohelim not to do MBP. This was also the position of his son, R. Moshe Soloveitchik and his grandson, R. Yosef Dov.<sup>37</sup>

30. Although such links were difficult to prove, given the limited technology and high general infant mortality of the time.

31. Ha-Darom 36, p. 66

32. Shemesh Marpeh 54-56

33. Shut R. Yitzchak Elchanan 69

34. Translated in Sprecher p48

35. Some later poskim were unhappy at how apparently open the Chafetz Chaim was to the sponge, and claimed that he was misled on the matter!

36. Cited by R. Sinai Schiffer, *Mitzvat Hametzitza* p106

37. See Brofsky p 5

## E] 20TH CENTURY APPROACHES

- In 1900, a proclamation letter was released bearing the signatures of 42 prominent Hungarian rabbis who forbade and condemned any slight alteration of the traditional procedure of MBP.
- In 1901, a similar letter was released by the gedolei Eretz Yisrael of that time bearing the signatures of Rav Shmuel Salant, Rav Yaakov Alishar, and Rav Shneur Zalmen Ladiar.
- In Lithuania many poskim were in favor of the tube, although some, such as R. Moshe Mordechai Epstein, supported MBP<sup>38</sup>. Mohelim active in Vilna in the 1930's attest that virtually no one in Vilna practiced MBP.
- As noted above, Rav Yosef Ber Soloveitchik supported use of the metzitzah tube<sup>39</sup>.
- In Israel, Rav Kook<sup>40</sup>, R. Yitzchak Herzog<sup>41</sup> and R. Tzvi Pesach Frank<sup>42</sup> also supported it<sup>43</sup>.
- Nishmat Avraham<sup>44</sup> reports that Rav Shlomo Zalman Auerbach permitted performing metzitzah with a tube to avoid concern for AIDS.<sup>45</sup>
- Others<sup>46</sup> report that R. Moshe Feinstein permitted metzitzah with a tube.
- The Chazon Ish agreed to be sandak even if the tube was used.
- Other poskim however insisted that metzitzah must be done bepeh, citing the Maharam Schick, the Binyan Tzion and the continuing battle against the reformist movements. This was the position of R. Yaakov Breisch<sup>47</sup>, the Steipler, Rav Eliyashiv and many others.



## F] RECENT DEVELOPMENTS

In recent years, the MBP controversy has erupted again<sup>48</sup>.

1. There has been a rise in neonatal herpes cases attributed to MBP . For example, health officials in New York City, where there has been mandatory reporting since 2006, reported 24 cases of babies who contracted herpes following MBP . Two of those infants died, two suffered brain injury, and others developed long-term health problems. In 2012, The New York City Board of Health required that parents sign a consent form before their child is circumcised with MBP; that policy was repealed in 2015. New York City was so concerned about the risk to newborns that it distributed 20,000 posters, in English and Yiddish, describing the dangers.<sup>49</sup>

2. In 2004, a clinical study appeared in Pediatrics, the official journal of the American Academy of Pediatrics (Vol. 114, No. 2), authored jointly by medical academicians and Talmudic scholars, including Benjamin Gesundheit, M.D.; Moshe D. Tendler, Ph.D.; Bruria Ben-Zeev, M.D.; and others. In this article, "*Neonatal Genital Herpes Simplex Virus Type 1 Infection after Jewish Ritual Circumcision: Modern Medicine and Religious Tradition*," the authors came to the following conclusion:

*Our findings provide evidence that ritual Jewish circumcision with oral metzitzah may cause oral-genital transmission of HSV infection, resulting in clinical disease including involvement of the skin, mucous membranes, and HSV encephalitis. Furthermore, oral suction may not only endanger the child but also may expose the mohel to human immunodeficiency virus [HIV] or hepatitis B from infected infants. The same consideration that led the Talmudic sages once to establish the custom of the metzitzah for the sake of the infant could now be applied to persuade the mohel to use instrumental suction.*

38. Levush Mordechai, # 30

39. Nefesh HaRav 243. See also <http://hirhurim.blogspot.com/2005/02/metzitzah.html> where Rabbi Gil Student reports the following. "Interestingly, the following was written by R. Hershel Schachter in Nefesh Ha-Rav (p. 243) about R. Joseph B. Soloveitchik's position on this matter, and was confirmed by R. Fabian Schoenfeld as having happened at his son's circumcision: *Our teacher's view was that nowadays there is no need for metzitzah at all, like the Tiferes Yisrael's view in the Mishnah [sic!] (see the Sedei Hemed for a long treatment of this). He told us how a mohel once wanted to perform metzitzah be-feh and our teacher asked him not to. When the mohel refused, our teacher told him that if his father, R. Moshe Soloveitchik, were there, he would definitely not have allowed him to perform metzitzah be-feh. However, I am more tolerant and since you are refusing, I will let you.*

40. Da'at Kohen 142

41. Rav Herzog wrote in a 1955 letter to Dr B. Homa: "*In my humble opinion it is as clear as the midday sun, that Metzitzah forms no part whatsoever of the actual precept of Milah . . . It has already been generally agreed that Metzitzah performed by means of an apparatus such as mentioned, is as effective as Metzitzah done direct by mouth. And since, in the opinion of experts, there is potential danger to the child from direct use of the mouth and it is necessary to exercise care, it follows therefore that anyone who insists that Metzitzah must be done by mouth only, is in my opinion, mistaken and is leading others astray in a matter where there is a possibility of danger.*

42. Har Tzvi 214

43. Dr. Mordechai Halperin notes (Jewish Action Winter 5767/2006) that blood can be extracted from the "furthest places" using a tube, when conducted properly.

44. 4:123

45. A prominent local mohel attests that this too was the psak he personally received from Rav Shlomo Zalman Auerbach in the late 1980's. When asked why he did not publicize his position, Rav Shlomo Zalman replied, "I am too old and too weak to withstand having bricks hurled through my windows."

46. See <https://www.koltorah.org/halachah/contemporary-brit-milah-issues-part-one-by-rabbi-chaim-jachter>

47. Chelkat Yaakov YD 143

48. Most of the material in section is taken from Rabbi Brofsky's article op cit.

49. It is of course easy to present one-sided accounts. For a defence by some of the mohelim accused of transmitting viruses to infants, see Halacha Berura Vol 9 Issue 1 referred to above.

3. The findings of the article were challenged by Daniel S. Berman, M.D., F.A.C.P., an infectious-disease specialist, who argued that the Pediatrics study was fraught with inaccuracies and unsubstantiated conclusions. Similarly, Prof. Avraham Steinberg, a pediatric neurologist, rabbi, and an associate clinical professor of medical ethics at the Hebrew University, insists that the article mentioned above does not conclusively establish a relationship between MBP and the cases of neonatal herpes.<sup>50</sup>

4. Rabbi Dr. Mordechai Halperin, the chief officer of medical ethics at Israel's Ministry of Health and the director of the Dr. Falk Schlesinger Institute for Medical Halachic Research in Jerusalem, has written to explain the medical benefit of MBP. He writes:

*Immediately after incising or injuring an artery, the arterial walls contract and obstruct, or at least reduce, the flow of blood. Since the arterioles of the orlah, or the foreskin, branch off from the dorsal arteries (the arteries of the upper side of the organ), cutting away the foreskin can result in a temporary obstruction in these dorsal arteries. This temporary obstruction, caused by arterial muscle contraction, continues to develop into a more enduring blockage as the stationary blood begins to clot. The tragic result can be severe hypoxia (deprivation of the supply of blood and oxygen) of the glans penis. If the arterial obstruction becomes more permanent, gangrene follows; the baby may lose his glans, and it may even become a life-threatening situation. Such cases have been known to occur.*

*Only by immediately clearing the blockage can one prevent such clotting from happening. Performing metzitzah immediately after circumcision lowers the internal pressure within the tissues and blood vessels of the glans, thus raising the pressure gradient between the blood vessels at the base of the organ and the blood vessels at its distal end – the glans as well as the excised arterioles of the foreskin, which branch off of the dorsal arteries. This increase in pressure gradient (by a factor of four to six!) can resolve an acute temporary blockage and restore blood flow to the glans, thus significantly reducing both the danger of immediate, acute hypoxia and the danger of developing a permanent obstruction by means of coagulation. How do we know when a temporary blockage has successfully been averted? When the “blood in the further reaches [i.e., the proximal dorsal artery] is extracted,” as Rambam has stated.*

5. In addition, Rabbi Dr. Halperin raises the concern that those who challenge MBP really intend to challenge the mitzva of brit mila.

6. In 2005, the Rabbinical Council of America (RCA) issued a statement clarifying their position. The statement outlined four positions: (i) those who maintain that MBP is strictly a medical matter; (ii) those who suggest performing MBP with some other device which draws blood from the wound; (iii) those who require that metzitzah be fulfilled through suction generated by the mouth through a tube; (iv) those who insist that MBP must be performed orally. The RCA issued the following conclusion:

*The poskim consulted by the RCA (Rabbi Gedalia Dov Schwartz, Av Beit Din of the Beth Din of America and of the Chicago Rabbinical Council; Rabbi Hershel Schachter of RIETS/YU and the Union of Orthodox Congregations of America; and Rabbi Mordechai Willig of RIETS/YU and Segan Av Beit Din of the Beth Din of America) agree that the normative halacha undoubtedly permits the third view, and that it is proper for mohalim to conduct themselves in this way given the health issues involved in the fourth view... Those who wish to follow their customs in accordance with the above-noted authorities are certainly entitled to do so, but the RCA is firmly of the opinion that in light of current realities and medical knowledge it is proper, and preferable, to use a tube.*

7. However, there remain serious concerns at government intervention and interference with Jewish halachic practice. In 2012, the RCA issue the following statement:

*Many Jewish legal authorities have ruled that direct oral suction is not an integral part of the circumcision ritual, and therefore advocate the use of a sterile tube to preclude any risk of infection. The RCA has gone on record as accepting the position of those authorities. Nevertheless, the RCA respects the convictions and sensitivities of those in the Orthodox Jewish community who disagree with this ruling and joins in their deep concern about government regulation of religious practices. The RCA urges these groups to voluntarily develop procedures to effectively prevent the unintended spread of infection.*

*The RCA supports the recent call of the Agudath Israel of America to New York Mayor Michael Bloomberg and the New York Health Department that, instead of unilaterally imposing regulations, they collaborate with Orthodox Jewish leadership to develop protocols to address health concerns.*

*Rabbi Shmuel Goldin, the RCA President, summarized his organization's position. “The act of circumcision is a precious and cherished ritual for the Jewish community, one which initiates our sons into the religious covenant. The RCA maintains that parents should use methods, in strict conformity with Jewish law, which enable them to hand down our religious legacy to a new generation safely and appropriately.”*

• In practice, although use of a glass tube is now standard in the Modern Orthodox world and within many Religious Zionist communities, mohelim in the Chassidic communities, in Israel and abroad, as well as many in the Charedi community, still perform MBP. In our time we should be given the wisdom to continue with brit milah in the most authentic halachic manner at the same time as protecting as much as we can the health of our community.

50. For a detailed critique of the 2004 study see the Halacha Berura article referred to above.