

Laws of Circumcision, Chapter 1 (Auto Translated)

English

Auto Translated

Shiur Overview

Summary of Laws of Circumcision, Chapter 1 — Rambam

General Introduction

The Laws of Circumcision is the final section of Sefer Ahavah in the Rambam, consisting of three short chapters. Sefer Ahavah contains eleven commandments, all positive commandments, and circumcision is the last one.

Regarding circumcision there are **three obligations**: (1) the obligation on the father to circumcise his son, (2) the obligation on the beit din to circumcise the children of Israel, (3) the obligation on the person himself to circumcise himself if he was not circumcised. This parallels the Laws of Torah Study: a father must teach his son, the sages/beit din must teach students, and one whose father did not teach him must learn on his own.

There is a connection between brit and Torah — "brit v'Torah" (from Birkat HaMazon), where brit comes before Torah. Brit is what one does with the body, and this brings forth the possibility to learn Torah.

Law 1 — A Positive Commandment Punishable by Karet

"One positive commandment, which is to circumcise males on the eighth day... circumcision is a positive commandment punishable by karet, as it says 'And an uncircumcised male who does not circumcise the flesh of his foreskin, that soul shall be cut off.'"

Plain Meaning:

Circumcision is a positive commandment for which one is liable to karet. The Rambam brings the verse that whoever does not circumcise himself will be cut off.

Novelties and Explanations:

1) The Rambam's unusual opening: Usually with a positive commandment the Rambam begins with the commandment itself, and with a prohibition he begins "it is forbidden to do such, and one who transgresses...". Here, however, he begins immediately with "a positive commandment punishable by karet" — he wants to emphasize that this is more severe than all other positive commandments in Sefer Ahavah. The style is unusual because he is speaking to someone who already knows what a positive commandment is, rather than as usual where he lays it out for someone who knows nothing.

2) Circumcision and Pesach — the only positive commandments with karet: Of all thirty-six kareitot, only two are positive commandments — the Pesach offering and circumcision. This makes sense because both are foundations of Judaism: circumcision is the covenant, and Pesach is the new creation of the Exodus from Egypt. Also both are "pre-dated" to the giving of the Torah — Abraham our father already circumcised himself, and the Pesach offering was brought in Egypt before the giving of the Torah. For both it

already says "and shall be cut off." It is also mentioned "the blood of Pesach and the blood of circumcision" — that they are connected.

Law 1 (continued) — Upon Whom the Commandment Lies

"It is a commandment upon the father to circumcise his son, and upon the master to circumcise all his slaves... as it says 'one born in the house and purchased with money.'"

Plain Meaning:

The father is obligated to circumcise his son, and the master is obligated to circumcise his slaves — both a homeborn slave (born in his house from a maidservant) and a purchased slave (a bought slave).

Novelties and Explanations:

3) The source of the obligation of circumcision for slaves — a dispute in understanding: There is a discussion whether the obligation of circumcision for a slave comes from the fact that the slave himself is obligated in commandments (like a woman), or whether it is an external obligation on the master. One side says: a slave who comes to a master becomes obligated in commandments like a woman, and circumcision applies to him (unlike a woman where it doesn't apply). The other side (in my humble opinion) is that the obligation on the master is its own thing — a Jew who has a slave must circumcise him, similar to how a father has an obligation regarding his children. It is not because the slave himself is obligated in commandments.

Law 1 (continued) — If the Father or Master Transgressed and Did Not Circumcise

"If the father or master transgressed and did not circumcise them, he has nullified a positive commandment, but he is not liable to karet, for karet depends only on him [the uncircumcised one] himself."

Plain Meaning:

If the father or master did not circumcise, he has nullified a positive commandment, but he is not liable to karet — because karet is only on the person himself ("that soul").

Novelties and Explanations:

4) Two separate laws — the obligation of the deed and the liability for karet: The person upon whom karet falls (the male who is not circumcised) is not the same as the person who has the obligation to perform the commandment (the father/master). One could have interpreted the verse to say to the father: "if you don't circumcise your son, your son will be cut off" — but the Rambam learns that karet is only "on him himself," on the person himself.

Law 1 (continued) — The Obligation of Beit Din

"And the beit din is commanded to circumcise that son or slave at his proper time... and they should not leave an uncircumcised person, neither among Israel nor among their slaves."

Plain Meaning:

Beit din has a commandment to circumcise the son or slave at his proper time, and should not leave any uncircumcised person — neither among Israel nor among their slaves.

Novelties and Explanations:

5) "Nor among their slaves" — support for the position that the obligation to circumcise slaves is on the master: The language "the slaves of Israel" shows that slaves also belong to having circumcision — not necessarily because the slave himself has the law of an Israelite, but because there is an obligation on the collective Israel that their slaves should be circumcised.

Law 1 (continued) — We Do Not Circumcise Without His Knowledge

"We do not circumcise a person's son without his knowledge, unless he transgressed and refrained from circumcising him — then beit din circumcises him against his will."

Plain Meaning:

We may not circumcise a person's son without his knowledge. Only if he transgressed and refrained from circumcising, then beit din circumcises against his will.

Novelties and Explanations:

6) Order of precedence — father first, beit din afterward: The obligation of beit din is not a parallel obligation to the father's obligation, but a secondary obligation. One should not think that beit din goes around circumcising eight-day-old children — no, the primary obligation is on the father. The role of beit din only begins when the father transgresses and has not circumcised. Only then does beit din have an obligation to circumcise against his will. It's not that "whoever wants can" — the father has the actual obligation, and beit din is only there as backup.

7) Explanation of "beit din circumcises him against his will": The plain meaning is not that beit din itself takes the child and circumcises it. The plain meaning is that beit din puts pressure on the father that he should circumcise. This fits with the continuation — "it was hidden from beit din" means that the father hid from beit din, "and they did not circumcise him" means that the father did not comply. Beit din does not go around actively checking every brit, but when it comes to their attention.

Law 2 — Hidden from Beit Din, Obligation on Himself, Karet Until He Dies

"Beit din circumcises him against his will... it was hidden from beit din and they did not circumcise him... when he grows up he is obligated to circumcise himself... and every day that passes from when he grows up and does not circumcise himself he is nullifying a positive commandment... but he is not liable to karet until he dies while he is uncircumcised intentionally."

Plain Meaning:

There are three levels of obligation: first the father, then beit din, then himself. Every day that he is not circumcised he is nullifying a positive commandment, but he only receives karet when he dies as an uncircumcised person intentionally.

Novelties and Explanations:

1) The nature of the obligation of circumcision — an obligation that "seeks a host": The essential obligation of circumcision is that a person must be circumcised — this is the foundation. The obligation "seeks a landlord" — who can now fulfill it? First the father, then beit din, then himself. This is not that at bar mitzvah a new obligation arises, but rather the same obligation passes to whoever can now do it.

Question on this novelty: From where do we derive that the obligation "seeks a host"? It simply states that the father has an obligation, then beit din, then himself — but it doesn't state that this all stems from one obligation on the person himself. **Answer:** It's difficult to say that the obligation begins with the person himself, because he is still an eight-day-old child. But the foundation is that the Torah wants a Jew to be circumcised — this is the essence, and the obligation falls on whoever can fulfill it.

2) The obligation of beit din — not just coercion as with all commandments: The obligation of beit din regarding circumcision is not just the regular obligation of beit din to coerce regarding all commandments. It is a special obligation — all Jews are part of the matter of circumcision, not just the father alone.

3) A positive commandment not fixed to a time — when is there nullification? Circumcision is a positive commandment that one must do one's entire life. Observing eight days is an extra commandment (an enhancement), but the essential commandment is that a Jew must be circumcised. Every minute that he is not circumcised there stands upon him "do it." But when has he definitively not done it? Only when he dies — then we know that he did not do it his entire life.

4) Karet until he dies — the Rambam's position: The Rambam in his Commentary on the Mishnah says that this is a novelty — he doesn't know any other commandment in the entire Torah where the punishment comes after one dies. But it makes sense because it's a positive commandment that one must do, and as long as one lives one can still rectify it.

According to the Rambam's position at the end of the Laws of Repentance, that karet means that the soul does not receive any immortality of the soul (only the knowledge that did Torah and commandments lives on) — this fits very well. He died, and now he does not receive immortality of the soul.

But — if karet means dying at a younger age (death by Heaven's hand), it becomes very difficult: how can one die young after one is already old?

5) The Raavad's objection — karet and warning: The Raavad holds that one can only receive karet when there is a warning. Regarding circumcision the warning is uncertain — because perhaps the person will circumcise himself tomorrow. The Raavad answers: by Heaven there is no uncertainty — the Almighty knows whether the person will circumcise himself or not. Therefore one can indeed give karet even earlier.

6) Dispute between Rambam and Raavad on the foundation of karet: The Rambam holds: karet is not a

punishment of death by Heaven's hand (but rather loss of immortality of the soul), therefore it only comes at death. The Raavad holds: karet is a severity of the matter — it is a category of transgression that has karet upon it, and the person lives with a liability of karet upon himself. But the Raavad also agrees that when a person circumcises himself, he no longer has karet — so what happened to all the kareitot from the previous years? This remains a question.

Law 3 — A Slave: Homeborn and Purchased with Money

"Both a slave born in an Israelite's domain and a slave purchased from gentiles — homeborn or purchased with money — all of them his master is obligated to circumcise them. A homeborn slave is circumcised on the eighth day, and one purchased with money is circumcised on the day he is purchased, even if he was purchased on the day he was born."

Plain Meaning:

The master is obligated to circumcise both types of slaves. A homeborn slave (born to a Jew) is circumcised on the eighth day like a regular Jewish child. One purchased with money (bought from gentiles) is circumcised the day he is purchased, even if he is a newborn.

Novelties and Explanations:

1) One purchased with money who is circumcised on the eighth day: When one purchases a pregnant maidservant (even if one pays extra for the fetus separately), the fetus is technically "purchased with money" — it was bought. But because the master also purchased the mother before birth, this child is essentially "homeborn" — born to a Jewish maidservant in his house — and therefore circumcised on the eighth day.

2) Homeborn who is circumcised on the day he is born — two cases:

- **Purchased a maidservant for her pregnancy:** He did not purchase the maidservant herself, but only the right to her pregnancies. This is compared to "a date palm for its fruits" — one purchases the right to the fruits, not the tree itself. Because he did not actually purchase the maidservant, this child is not "homeborn" (not born to his maidservant), but rather "purchased with money" — and is circumcised on the day of acquisition/birth.

- **Purchased a maidservant on condition not to immerse her for slavery:** He purchased a maidservant with a condition that she should not receive the laws of a maidservant (no immersion for slavery). In such a case she is not a "Jewish maidservant" — the child is not "homeborn" because it was not born to a true Jewish maidservant. Therefore this child is "purchased with money" and circumcised on the day he is born.

3) The foundation of "homeborn": Homeborn always means a child born to an Israelite maidservant who is in your home. If the mother does not have the laws of a maidservant, or he did not purchase the mother, this child is not homeborn.

4) Difficult question — "And if he immersed her after he was born, behold he is circumcised on the eighth day": The Rambam says that if one immerses the mother after the child is already born, the child is circumcised on the eighth day. This is difficult — how can the child become "homeborn"

retroactively if he is already born? This doesn't make simple sense, and one must look in the commentators.

Law — Purchasing an Adult Slave from Gentiles Who Does Not Want to Circumcise

"One who purchases an adult slave from gentiles and the slave does not want to circumcise, we negotiate with him for twelve months... it is forbidden to keep him while he is uncircumcised, but rather he returns and sells him to gentiles."

Plain Meaning:

An adult slave who does not want to circumcise himself — we negotiate with him for up to 12 months, then we must sell him back to gentiles.

Novelties and Explanations:

1) "We negotiate with him" — we do not force: We do not let the slave circumcise against his will. One might have thought that one may not bring a slave into the house until he agrees. But we see that there is a permission to use the slave within the 12 months while negotiating with him.

2) Why can't we force circumcision? Several explanations:

- One might have thought "we force him until he says I want" — but this only works with a slave who is already a Jew. Here he is still a gentile who does not want to become a Jew/Israelite slave.

- Circumcision is not just a physical wound — it is the "entrance" to a greater reality (he becomes through this a Jew/Israelite slave), and this cannot be forced.

- There is also a problem of making a blemish — there are prohibitions of castrating a slave.

3) "He returns and sells him to gentiles" — why specifically to gentiles? Two explanations:

- **Explanation A:** He is still a gentile (he did not accept circumcision/slavery), therefore one may sell him to gentiles. With a true Canaanite slave one would not be allowed to sell to gentiles ("and you shall bequeath them to your children").

- **Explanation B:** One cannot sell to another Jew, because the other Jew would also start a new 12-month cycle — this would be a formal loophole.

4) Condition that he not circumcise — "He made a condition with him... that he not circumcise him, it is permitted to keep him while he is uncircumcised": When one made a condition from the outset that one will not circumcise him, one may keep him as uncircumcised. This is parallel to "on condition not to immerse her for slavery" — he does not enter the category of Canaanite slave, but rather he works as a regular worker.

5) Sharp question: When the slave says "he did not want to circumcise" after 12 months, why can't the master then make a new condition "that he not circumcise" and keep him further? This is a sharp question that remains open.

Law — A Slave Who Did Not Accept the Seven Noahide Laws

The Rambam says that if the slave did not accept even the seven Noahide laws — "he is killed immediately."

Plain Meaning:

When one purchases a Canaanite slave, the default is that he becomes a Canaanite slave of Israel with circumcision and immersion. But one can make a condition — he should remain at the level of a resident alien (only seven Noahide laws). If he does not want to accept even the seven Noahide laws, the Rambam says "he is killed immediately."

Novelties and Explanations:

1) The Raavad's dispute: The Raavad disagrees and says "he is sold immediately and one is not permitted to kill him" — one sells him back to a gentile, but one does not kill him. The Beit Yosef asks of the Raavad: do you think the Rambam went around with a sword killing people? Certainly one does not kill in our time.

2) The Beit Yosef's explanation of the dispute: The Beit Yosef learns that according to the Rambam even in our time there is the law of "we negotiate with him for twelve months" — we wait twelve months and try to persuade him. The Rambam divides: "we negotiate" is a separate law, not dependent on "he is killed immediately." But the Raavad means: if there is no threat of "he is killed immediately" at the end, the "we negotiate for twelve months" has no value — because without pressure he will never agree. Therefore the Raavad says: in our time one may not take such a slave who does not want to accept the seven commandments at all, because there is no "he is killed immediately" and no "we negotiate."

3) "And we do not accept a resident alien except when the Jubilee is practiced": The Rambam himself says that a resident alien is only when the Jubilee is practiced. This means that the entire law — both "he is killed immediately" and resident alien — is not relevant in our time.

4) Laws of Kings — forcing the seven commandments on all gentiles: The Rambam writes in the Laws of Kings that Moses our teacher commanded "to force all inhabitants of the world to accept all the commandments that the children of Noah were commanded, and anyone who does not accept is killed." The Raavad asks: do you mean all gentiles in the entire world? The Rambam means yes — not just in the Land of Israel. It doesn't say that one needs a beit din for this, but practically there must be some "due process."

The Essence of Slavery in Torah

One should not look at Torah slavery through the lens of American Southern slavery. The Rambam's slave is **part of the family** — not like a son, but part of the system.

A hierarchy of belonging to the nation:

- **Jew** — full part of the Jewish people
- **Canaanite slave** — a sub-category, part of the Jewish family, obligated in commandments like a woman
- **Resident alien** — a minority with rights, observes the seven Noahide laws, may live in the Land of Israel, but not part of the Jewish people
- **Gentile who does not observe the seven commandments** — this one must be expelled, there is no option to remain

Conversion against one's will: The only time one can convert "against his will" is a minor — one immerses a minor slave by the authority of beit din, because "we may act in a person's interest in his absence" — it is a privilege to be a

Jewish slave, just as it is a privilege for a minor to become a Jew.

Practical relevance in our time: In our time there are no laws of slavery at all — already in the times of the Rambam it was not practical. What we have today is a type of "hiring him" — a cheap worker with a condition, but he can negotiate, which means he is essentially not a true slave.

Law — A Convert Who Converted — Obligation of Circumcision and Drawing Blood of the Covenant

"A convert who converted to the congregation of Israel is obligated in circumcision first. And if he circumcised when he was a gentile — one must draw from him blood of the covenant when he converts."

Plain Meaning:

A convert who wants to enter the Jewish people must have circumcision as the first thing. If he already circumcised himself when he was still a gentile, one must draw blood of the covenant at the conversion.

Novelties and Explanations:

1) The language "congregation of Israel": In other places (like "a mamzer shall not enter the congregation of God") "congregation" means having marriage / matchmaking. But here it appears that the Rambam simply means "wants to convert" — he wants to take shelter under the wings of the Divine Presence.

2) "Obligated in circumcision first": The obligation of circumcision for a convert is **first** — he cannot say "I will circumcise myself later." Circumcision is **indispensable** for conversion. The obligation lies on beit din / the appointees / the kingdom of Israel.

3) What is the matter of drawing blood of the covenant for a convert who is already circumcised? The commandment of circumcision is not just a physical act — it is a **covenant**, a declaration of becoming part of the Jewish people. When the gentile circumcised himself, it was not at all for the sake of a covenant with the Jewish people. Therefore he must now make a covenant, and the manner is through blood of the covenant.

Law — A Minor Born Already Circumcised

"A minor born already circumcised — one must draw from him blood of the covenant on the eighth day."

Plain Meaning:

A child born without a foreskin must nevertheless have blood of the covenant drawn on the eighth day.

Novelties and Explanations:

1) Investigation — what is the foundation of the covenant of circumcision? According to the Rambam it appears that the covenant is **becoming part of the Jewish people**. The normal manner is through removing the foreskin, but when there is no foreskin, drawing blood of the covenant becomes the "circumcision" — this is his covenant of circumcision.

2) The Kesef Mishneh's reason: The Kesef Mishneh says that drawing blood of the covenant is because of a **doubt** — perhaps there is a hidden foreskin (a concealed foreskin). According to this it is truly a covenant of circumcision due to doubt.

3) But without this reason of doubt, if we say it is purely drawing blood of the covenant, it is **very interesting** that it is specifically on the eighth day — because this shows that this is his covenant of circumcision, only the manner is through blood instead of cutting.

4) The Torah wants two things: (1) to circumcise the foreskin, (2) to enter the covenant of Israel through a ceremony of blood — "through your blood you shall live." Normally both are combined, but when there is no foreskin, the blood aspect remains alone.

5) Proof that blood is not just a side effect: The verse "through your blood you shall live" shows that blood of the covenant has its own significance in the making of the covenant.

Law — Androgynous

"An androgynous — one who is born having male organs like a male and female organs like a female — must be circumcised on the eighth day."

Plain Meaning:

An androgynous who has both signs is circumcised on the eighth day because he has male organs.

Novelties and Explanations:

1) Why is a woman exempt from circumcision?

According to the Rambam's language it appears that the reason is because **she does not have male organs** — not because circumcision is a commandment only on a "man." Because he says that an androgynous, who has male organs, is obligated.

2) Rashi's position: Rashi says that an androgynous is a **doubt**. Question: why should it be a doubt? He certainly has male organs — surely one must circumcise! If a woman had male organs, that would be androgynous, and one would have to circumcise. The question remains open.

Law — Cesarean Birth

"And likewise one born by cesarean — must be circumcised on the eighth day."

Plain Meaning:

A child born by cesarean is also circumcised on the eighth day.

Novelties and Explanations:

The Rambam places it together with androgynous, which implies that **it is not a doubt** — he is certainly obligated in circumcision on the eighth day. But regarding circumcision on Shabbat the Rambam says that a cesarean birth does **not** override Shabbat, which can indicate that it is indeed a doubt. One must look in the Gemara because there is a contradiction.

Law — One Who Has Two Foreskins

"And one who has two foreskins — we circumcise both of them on the eighth day."

Plain Meaning:

One with two foreskins, we cut both on the eighth day.

Novelties:

This is a proof to what was said regarding androgynous — that as long as there are male organs, one is obligated in circumcision.

Law — Time of Circumcision: By Day and Not at Night

"We never circumcise except by day, after sunrise, whether on the eighth day which is its proper time or not at its proper time, as it says 'and on the eighth day' — by day and not at night. And if one circumcised from when the morning star rose — it is valid."

Plain Meaning:

Circumcision must be during the day, after sunrise. Whether at its proper time (the eighth day) or not at its proper time. Post facto, from dawn it is valid.

Novelties:

It is compared to prayer: ideally one prays after sunrise, but post facto from dawn one fulfills the obligation. The same structure exists with circumcision.

Law — The Entire Day is Valid for Circumcision

"And the entire day is valid for circumcision. Even so, it is a commandment to hasten at the beginning of the day, for the zealous are early for commandments."

Plain Meaning:

The entire day is valid, but it is a commandment to be early because the zealous are early for commandments.

Novelties:

1) The Rambam does **not** mean that one must circumcise before the recitation of Shema and prayer — he already earlier calculated things that one does after dawn.

2) Practically we do not conduct ourselves to make the brit very early — we wait until after the morning service, when the public comes, when the sandek/rabbi is ready. The Rambam would have agreed that there is a time that is "nicer" (with a larger public), and this is a legitimate reason to wait.

Law 8 — Circumcision of Slaves Overrides Shabbat

"Just as circumcision of sons overrides Shabbat, so too circumcision of slaves — both homeborn and purchased with money — who are circumcised on the eighth day, their circumcision also overrides Shabbat."

Plain Meaning:

Circumcision of slaves who are circumcised on the eighth day (homeborn) overrides Shabbat just like circumcision of sons.

Novelties:

The special case of a **homeborn whose mother did not immerse until she gave birth** — where the mother did not immerse for slavery before birth. Such a child would without the immersion have had the law of purchased with money. After the mother indeed immersed, the child receives retroactively the law of homeborn (according to a Gemara), and is circumcised on the eighth day. But because it is not a "smooth" homeborn, it **does not override Shabbat**. The Raavad struggles with this law, and argues with the Tosafot's sugya in the Gemara.

Law 9 — Minor Born Circumcised, Eighth Month, Cesarean, Androgynous, Two Foreskins — Do Not Override Shabbat

"A minor born already circumcised, one born in the eighth month, cesarean birth, androgynous, one who has two foreskins — all of them are circumcised on the eighth day but they do not override Shabbat, but rather are circumcised on Sunday which is their ninth day."

Plain Meaning:

All cases where there is a doubt about the obligation of circumcision on the eighth day — we do circumcise stringently on the eighth day, but it does not override Shabbat.

Novelties:

1) The general foundation: In all these cases there is a reason to think that the obligation of "and on the eighth day the flesh of his foreskin shall be circumcised" is not certainly fulfilled. The Rambam rules stringently that one should indeed circumcise on the eighth day, but it is not enough to override Shabbat.

2) Born already circumcised — there is an obligation to draw blood of the covenant, but this is not enough for "on the eighth day the flesh of his foreskin shall be circumcised" to override Shabbat.

3) Son of the eighth month — this child has the law of a non-viable birth (meaning not alive), it is a doubt whether he will survive, therefore the obligation of circumcision is a doubt.

4) Cesarean birth — a child born through surgery, it is not clear that he has the law of the eighth day.

5) Androgynous — it is a doubt, and we obligate out of doubt.

6) Two foreskins — interesting discussion: One can ask, the first foreskin is certainly obligated? It is discussed whether it is a matter of "there is choice" — we don't know which foreskin is the correct one. It is also mentioned the principle **"anything extra is considered as if removed"** — like an animal with five legs, as if it has no legs. It is certainly a blemish, we just need to know how it works.

[Digression: It is mentioned that today with ultrasound one can clarify many of the doubts, but practically one must ask a rabbi.]

Law — One Born at Twilight

"One who was born at twilight, a doubt whether of the day or of the night, we count from the night, and he is circumcised on the ninth which is a doubtful eighth, and it does not override Shabbat out of doubt."

Plain Meaning:

A child born at twilight — we count from the night, he is circumcised on the ninth day (which is a doubtful eighth), and it does not override Shabbat.

Novelties:

1) Why do we count from the night? If we counted from the day, it could be that we circumcise on the seventh, which is certainly not ready (because "the weakness of the seventh day" — it is dangerous before the eighth day). But the main reason is halakhic: we have a **biblical doubt** of "on the eighth day," and we must be certain that we fulfill it.

2) The doubt about twilight — Rabbeinu Tam vs. Geonim: The doubt of twilight also applies to the dispute

between Rabbeinu Tam and the Geonim about when twilight begins. Even one who rules like Rabbeinu Tam has a doubt about which authority to follow, and **a doubt upon a doubt is also a doubt**. Therefore, a child born a few minutes after sunset — according to the logic of the law — one cannot circumcise on Shabbat.

3) Contradiction: If we say it is a doubtful twilight and we don't circumcise on Shabbat, how can one still do labors then? How can one still make a hefsek taharah then

3) Contradiction: If we say it is a doubtful twilight and we don't circumcise on Shabbat, how can one still do labors then? How can one still make a hefsek taharah then? It is indeed a great wonder, but "if you have nothing but what your eyes see" — one must acknowledge this contradiction.

Law — Son of the Eighth Month, Medical Knowledge, Law of Non-Viable Birth

"One who was born in the eighth month before his creation is complete — his law is like a non-viable birth. If he was born complete with his hair and nails and his mother says that he is a seven-month baby who is not complete — he is circumcised."

Plain Meaning:

A child born in the eighth month has the law of a non-viable birth. But if he is complete (with hair and nails) and the mother says he is a seven-month baby who was delayed — he is treated as a living child.

Novelties:

1) The foundation of the Sages' medical knowledge: The Sages looked according to their medical understanding that a child can survive if he is born in the seventh month, but not in the eighth month. If a child is born in the eighth month healthy, we say that he is "a seven-month baby who came out late" — just as a mother can carry more than nine months.

2) "If he is not fit to be a seven-month baby, he is fit to be an eight-month baby" — this is the principle: if he is not a seven-month baby, he is a non-viable birth.

3) The law of a non-viable birth regarding Shabbat: Such a child that we don't know if he can survive — the Sages were afraid to move him because one can worsen the danger. He has a law like a **dying person** — we don't touch him, he is like **muktzeh**, because he is not called a certain child.

Law — Son of Eight Months: Considered Like a Stone

"Behold this is certainly a son of eight months... he is considered like a stone and it is forbidden to move him... his mother bends down and nurses him because of the danger."

Plain Meaning:

A child born in the eighth month, when we see on his body that he is not healthy (no good hair, limbs not complete), is considered like a stone and one may not carry/move him. The Rambam explains: "so that they should not see a child except at nine months and he came out before he was complete" — he still needed months in the womb.

Novelties:

1) "His mother bends down and nurses him because of the danger" — whose danger? The mother may nurse him, but **not because of danger to the child**, but rather

because of danger to the mother (because she needs to be relieved of milk). This is an important point: the child himself already has a law that he cannot survive, therefore the danger-permission is only for the mother's side.

2) Comparison to incubator: The Sages were afraid to move such a child because one can worsen the danger — similar to a dying person whom one may not touch. But the reason is **not** because he is a dying person, but because he is **muktzeh** — he has the law of a stone in the laws of Shabbat.

3) Critical question on the law "considered like a stone": If it has already happened that a son of eight months has survived thirty days ("**if he lived thirty days behold he is a viable child**"), why should one say about a child at all "considered like a stone"? By giving him the status "like a stone" one places upon him a **death sentence** — one does not treat him, and therefore he dies. It is acknowledged that this is a high statistical reality that he will die, but the very law can practically worsen the situation.

4) Today's ruling: Today's rabbis do not rule the law as it is, because as long as one can save the child, there is an obligation of **saving a life** to do what one can. This is simple and not a doubt. The reality of the Sages' times is not our current reality.

5) The distinction between a seven-month baby and an eight-month baby: The main distinction is that with an eight-month baby the mother did not have time to give the influence (nourishment/development), and therefore he is "considered like a stone."

Law — Seven-Month Baby: A Viable Child

"One who was born in the seventh month of his pregnancy, if he was born complete, behold he is a viable child and we circumcise him on Shabbat."

Plain Meaning:

A child born in the seventh month, if he is healthy, is a viable child and we circumcise him on Shabbat (on the eighth day).

Law — Doubt Seven-Month Baby or Eight-Month Baby

"A doubt whether a seven-month baby or an eight-month baby — we circumcise him on Shabbat."

Plain Meaning:

If it is a doubt between a seven-month baby and an eight-month baby, we circumcise him on Shabbat.

Novelties:

1) Whichever way reasoning: If he is a seven-month baby and complete — circumcision on the eighth day overrides Shabbat. If he is an eight-month baby — he is like a stone, and the cutting is **not a repair**, but just cutting flesh, which is not liable on Shabbat.

2) Interesting logical point about repair/damage: The Rambam says "**cutting flesh in general is not a labor**" — not because it is damaging, but because simply cutting flesh is nothing. This is a different approach than saying it is damaging (as with wounding which is exempt because it is damaging).

3) Logical paradox: From the father's perspective — he doesn't know what he has now done. He has either made a covenant of circumcision (repair), or just a cut (nothing). If he

has an **obligation** to do this (because a biblical doubt is stringent), then surely the deed is certainly a repair — because he does it due to an obligation. How can one say it is "just a cut" when the person does it due to a halakhic obligation?

Law — The Fetus Extended His Head at Twilight

"The fetus extended his head and his majority did not emerge at twilight" — if the head emerged at twilight on Friday evening, but the majority of the body emerged on Shabbat — **"we circumcise him on Shabbat"** (we consider it as if he was born at twilight).

Novelties:

1) His entire head: The head emerging is already like the entire birth — **"all of him is like his head"**. The head is the essence of birth, because that is when the **time of danger** of birth begins.

2) Twilight on Friday evening: Every boy born at twilight on Friday evening is circumcised **Sunday** (the ninth day), because perhaps twilight was still Friday, and then the eighth day would have been Shabbat, but because it is a doubt, we don't circumcise on Shabbat. The novelty here is that **even** when the majority of the body emerged on Shabbat, because the head already emerged at twilight, we consider it as a doubt.

Law — Circumcision Not at Its Proper Time: Overrides Second Day of Yom Tov but Not First Day of Yom Tov

All doubt-cases (circumcision not at its proper time) do not override Shabbat and do not override the first day of Yom Tov, but do override the second day of Yom Tov of the Diaspora (which is only rabbinic). A biblical doubt overrides a rabbinic law.

Novelty Regarding Rosh Hashanah:

"And on the two days of Yom Tov of Rosh Hashanah it does not override neither the first nor the second" — on Rosh Hashanah the second day is **not** in the category of second day of Yom Tov of the Diaspora. The two days of Rosh Hashanah have a law of **"like one day"** — it is a complete obligation (not just a custom/rabbinic like second day of Yom Tov of the Diaspora), and therefore a doubtful circumcision does not override either of the two days of Rosh Hashanah.

Scholarly Question About Double Doubt:

What about a **double doubt** — for example a **cesarean birth** who was also born **at a doubtful twilight** — does circumcision override the second day of Yom Tov. The argument is: a biblical doubt is significant enough to override a rabbinic law, but with **two doubts** it itself becomes a **rabbinic law**, and then there is room to be lenient that circumcision does not override. The question remains open.

Law — A Sick Person We Do Not Circumcise Until He Recovers

"A sick person we do not circumcise until he recovers. We do not circumcise him from the time he recovers from his illness until seven full days from time to time, and afterward we circumcise him."

Then the Rambam brings cases of **systemic fever** (fever/whole-body illness) versus **his eye hurt him** (local illness). With systemic fever we wait seven days after recovery;

with his eye hurt him — **we circumcise him immediately** when he becomes well, without waiting seven days.

Plain Meaning:

A sick child may not be circumcised until he becomes well. After becoming well from a whole-body illness we wait seven days; with a local illness (like an eye pain) we circumcise immediately when he becomes well.

Novelties:

1) The foundation of waiting — practical, not a law of "sick person": The reason we wait is not because he has a halakhic status of "sick person" (like a sick person exempt from sukkah or recitation of Shema), but it is a **practical danger matter** — circumcision is hard on the body, and one may not add danger to a weak body. This is the distinction: with sukkah the sick person is exempt because he is a sick person; with circumcision the sick person is not fit to be circumcised because circumcision itself can harm him.

2) Systemic fever vs. his eye hurt him — the distinction: Rashi's position: with his eye hurt him — **"his eye stopped and healed"** — when the eye becomes well, the entire body was not weakened, therefore one does not need to wait seven days. With systemic fever the **entire body is weak** and needs time to regain its strength. But even during the eye illness, as long as he is still sick, **we do not circumcise** — because it disturbs and it is somewhat dangerous. Only the distinction is **after recovery**.

3) Very green and very red — not illness, but natural development: The Rambam brings that a child who is **green** (pale/yellowish) we wait **until blood fills him** — until he gets more blood and becomes reddish. A child who is **very red** we wait **until his blood is absorbed** — until his blood calms down. This is **not an illness at all** — it is a normal part of a baby's development. Today it is called a "bilirubin test" — a number in the blood that takes time until it normalizes. Usually by the eighth day it is already sufficient in healthy children, but not always.

[Digression: **Counting of the Omer parallel** — it is compared to the counting of the Omer: the Jews left Egypt like a newborn baby, still "yellow," and they had to wait seven weeks until "their blood was born in them."]

Law — Danger to Life Overrides Everything

"And one must be very careful in these matters... for danger to life overrides everything. And it is possible to circumcise later, but it is impossible to restore a single Jewish soul forever."

Novelties:

1) Two ways to understand the Rambam's reason: One can understand the Rambam in two ways: (a) this is the general principle why danger to life overrides all commandments — because a soul is irretrievable. (b) The Rambam means it **more specifically** regarding circumcision — circumcision is not a lost matter, one can do it later; but a soul is a lost matter.

2) Comparison to "desecrate for him one Shabbat so that he will observe many Shabbatot": With Shabbat every Shabbat that one did not keep is a lost matter (the Shabbat is gone). With circumcision according to the Rambam it is **not so** — circumcision remains, one can make it up, it is not a lost matter.

3) The Raavad's position — every day standing in liability of karet: The Raavad holds that every day that one is not circumcised one stands in liability of karet (if intentional). This would make every day of delay a **lost matter**. But **even the Raavad** agrees that one must wait in case of danger — he doesn't say that every minute of delay is an irreparable loss, because **it will be rectified** after the healing is expedited.

Law — A Woman Who Circumcised Her Sons and They Died from Circumcision

"A woman who circumcised her first son and he died from the circumcision because his strength failed, and she returned and circumcised the second and he died from circumcision, whether from this husband or from another husband — behold she should not circumcise the third at his proper time, but rather waits for him until he grows a bit and his strength increases."

Plain Meaning:

A woman who circumcised her first child and he died from the circumcision because his strength failed, and the same happened with the second child — whether from the same husband or from another husband — she should not circumcise the third child at his proper time, but rather should wait until he grows a bit and gains more strength.

Novelties:

1) Explanation of "because his strength failed": The Rambam's language "died from the circumcision because his strength failed" is precise — it doesn't mean that the child died at the moment of circumcision (for example from bleeding or an accident from a bad mohel), but that the child became weaker after the circumcision — he caught a fever, his strength left, and then he died. This is a death that can be attributed to the weakness of the child himself, not to an error by the mohel. The distinction is important: when it was only a bad circumcision (too much bleeding, a not-good mohel), one can say that with a better mohel it won't happen. But when the child died from "his strength failed" — this points to a problem with the child's nature/body, not with the procedure.

2) Twice is already a presumption regarding saving a life: Why don't we wait until three times (like a regular presumption), but already after two children we stop? **Regarding saving a life two is already enough to make a doubt.** One child one can still say it was an incident — the mother ate something, or another accidental cause that made the child weak. But when two children die, it already makes a doubt that it is a systematic problem. And **a doubt regarding saving a life overrides** — one does not need to wait for a full presumption of three, because with saving a life we are lenient.

3) "Whether from this husband or from another husband": The Rambam makes clear that it doesn't matter if both children are from the same father or from two different men — this shows that the concern is that it comes from the mother's side (a hereditary weakness), not from the father's side.

4) "Until he grows a bit and his strength increases": The Rambam does not give any specific time when one should circumcise — he only says "until he grows a bit and gains

strength." It remains an open question what the practical definitions are — when we see that he is already strong enough. The Rambam leaves it as a general guideline: that when we see that he is tired/weak, one must wait.

Full Transcript

Laws of Circumcision – Chapter 1, Law 1: A Positive Commandment Subject to Karet

Introduction – Connection to the Mitzvah of Milah

Speaker 1:

Good morning, we are learning Hilchot Milah (Laws of Circumcision), and this is the last section of Sefer Ahavah from the Rambam, the mitzvah of milah. The Rambam says, the mitzvah of milah is quite short laws, three chapters.

The Rambam says, let us now connect the milah to our campaign and our event. We are now holding during these days in the midst of raising money for our beit midrash, so that we can continue to increase and glorify Torah. And our great sponsor, the rabbinic leader and benefactor Rabbi Yoel Wertzberger, matches all the funds that people donate. That means that the money you have now, you give there 360 dollars, it comes out to there about 700 something. We wanted this opportunity, we are waiting for your support, and also to spread our shiur and bring merit to more Jews.

Now, how can we continue to Hilchot Milah, and we are learning and we will see perhaps at the end, the end of the recording, we will see that it fits with this chapter. But money can always fit, and "if there is no flour there is no Torah."

Summary of Previous Material – Three Obligations in Milah

Speaker 1:

Now, we were learning that there are two obligations in the essence of milah: there is an obligation on the father to circumcise his son, there is an obligation on the beit din to circumcise the children of Israel, we spoke about this how it works, and a third obligation, how if someone was not circumcised, he must circumcise himself.

So this is very similar to what there is in Hilchot Talmud Torah: there is an obligation for a person to teach his son, there is an obligation, there is literally an obligation on the beit din to teach students, there is an obligation for the rabbis and sages to teach students, and one whose father did not teach him must teach himself.

And just as everyone understands by milah, the custom is that one pays money, one pays literally, there is a question about this, for the mohel to pay. This is like the milah is like the study of Torah in the body, which we learned in Hilchot Birkat HaMazon, "brit and Torah," brit comes before Torah. So brit is what one does with the body, one brings money, this brings out that one should be able to learn Torah.

Here I bring in another interpretation, one who "finds his heart uncircumcised," one who finds that his heart is uncircumcised, he should listen to the Torah lectures, in the shiurim and the other shiurim of Rabbi Yitzchak, there is in Malta where everything is a good thing, but "money is not enough."

Conclusion

Thus far the Laws of Circumcision Chapter 1 — with this concludes the first chapter of the Laws of Circumcision in the Rambam.

Law 1 – A Positive Commandment Subject to Karet

Speaker 1:

The Rambam says, Chapter 1, Hilchot Milah, **one positive commandment, this is the positive commandment that the Rambam will bring the verse that stands in the Torah that one should circumcise, and it is to circumcise the males on the eighth day**, to circumcise the males on the eighth day from birth. And this is a thing here, the Christians come and they go to nullify the mitzvah.

The Rambam says in the first chapter, the Rambam says, **milah is a positive commandment subject to karet**, it is a positive commandment and one is liable for it with karet. Usually, karet is a severe thing, it is on a positive commandment, not all positive commandments have karet, the Korban Pesach indeed has karet and milah, these things, but milah is such a severe positive commandment subject to karet, **as it says**, he brings the verse, **"and an uncircumcised male who does not circumcise the flesh of his foreskin"**, the Torah says, **"that soul shall be cut off"**, whoever does not circumcise himself, his soul will undergo karet.

Discussion: Why Does the Rambam Begin with Karet?

Speaker 2:

Very good. So, we learned that Sefer Ahavah is eleven mitzvot, if I remember, all of them are positive commandments, and the last is this mitzvah. Usually by the Rambam with a negative commandment he begins "it is forbidden thus, and whoever transgresses," and here it is a bit interesting, because it says "a positive commandment subject to karet," as if you already know that there are mitzvot. It's very interesting, it's not like the Rambam usually lays it out for someone who knows nothing. No, he wants to tell us that it is more severe apparently than all the others that we have learned in the Rambam. He also wants to say the punishment of karet, why should the Rambam need to say this? And karet exists on some thirty-six things. He will later elaborate more which obligation of karet. But besides two positive commandments, Pesach and milah, are the only positive commandments that have karet, as you said.

Speaker 1:

And apparently it makes sense, because this is like, milah everyone understands, it is a foundation of Judaism, a Jew must have a brit, and the same thing Pesach, it looks like a new creation, the exodus from Egypt, and it is a wonder about this. Also both are somewhat pre-dating the Torah, so to speak, Avraham Avinu already circumcised, this is an introduction to the Torah, and the Jews bring a Korban Pesach on Pesach in Egypt even before everything begins, and there it already says "and shall be cut off" in both places.

Speaker 2:

True. One can say it goes out to basic Judaism, in this it is very important. Pesach is not a brit, but yes, cutting comes first. It says yes, the blood of Pesach and the blood of milah.

Speaker 1:

Ah, it was connected. Okay, good.

Law 1 (Continued) – Upon Whom Does the Mitzvah Rest

Speaker 1:

The Rambam says, upon whom does the mitzvah rest? Who is the one who performs the mitzvah? **It is a mitzvah on the father to circumcise his son.** The mitzvah is on the father to circumcise his son. **And on the master to circumcise all his slaves.** We learned that also, the Rambam will soon say, that not only on the children, also on the slaves who are born to a person in the house, or we will see precisely later the details when a slave must one circumcise, there is an obligation on the master, on the owner of the slaves, on the master. As it says in the verse "**one born in the house and purchased with money**". Or a slave who is born to you in the house from a maidservant, or purchased with money, a slave that was bought, the householder must circumcise.

Discussion: From Where Comes the Obligation of Circumcising Slaves?

Speaker 2:

Okay, good. But, the reason is surely simple, because a slave who comes in to a master now becomes obligated in all mitzvot. And he becomes obligated in all mitzvot like a woman, and the mitzvah of milah is obligated on everyone, except one who it is not relevant to, one who does not have... if a woman would have been relevant to the mitzvah of milah, she would also have been liable to karet, I believe that she is never liable to karet. Korban Pesach is indeed also the mitzvah that one does not need to do. But in any case, although a slave has a law like a woman, but it is relevant to him the mitzvah of milah.

Speaker 1:

Right, but I don't know if it's because of this. You can say so, that no, first of all, a man, for example a kohen, when he becomes an adult, he is thirteen years old, he himself has an obligation to circumcise himself. I don't know if a slave himself has an obligation to circumcise himself. There is an obligation... Does it say so?

Speaker 2:

"An obligation on the master."

Speaker 1:

Yes, like his son.

Speaker 2:

I can't tell you. The obligation on the master comes presumably from the fact that the slave is commanded.

Speaker 1:

No, it can be exactly the opposite. Even by the son, the obligation of the son comes from the fact that the father is commanded.

Speaker 2:

No, we will see later that not.

Speaker 1:

You will see?

Speaker 2:

We will see. **His master transgressed and did not circumcise him...** It doesn't mean that there is an obligation on a slave to circumcise himself because he is a Jew. It is still part of becoming a Jew. It's a different thing. A Jewish person who has a slave must circumcise his slave, and it is as it says the circumcision of his slaves prevents him from eating the Pesach offering etc. It is an obligation on the master. It is similar to the fact that a father has an obligation on his children. I don't want to say that it is an obligation of the slave because he is obligated in mitzvot etc. I want to say that it is something an external thing. A Jew has a slave, he must circumcise him. I have no proof, I am only saying according to my humble opinion.

Speaker 1:

Okay, let's see. We are speaking that we will see in various laws where one can see that there is indeed this split.

Law 1 (Continued) – If the Father Transgressed and Did Not Circumcise

Speaker 1:

"If the father or the master transgressed and did not circumcise them" – the father or the master neglected, he did not do it, did not circumcise. **He has nullified a positive commandment, "but he is not liable to karet, for the karet depends only on him himself"**. The "and shall be cut off" refers to "that soul," to the male who is not circumcised. There is no karet on the... It's interesting. You have here so, the person upon whom the obligation and the karet fall, and then you have who has the obligation to do the act of the mitzvah.

Now, you could have interpreted cleverly that the verse says to the father, "if you will not circumcise your son, your son will be cut off." It doesn't say exactly so, but if it says so, it can be the father's fault even, but he receives the karet, or later he must see. It's not exactly so. We will still see about the karet. I'm only saying what one could have thought since it says in the verse.

But until now, the first law, as always the first law, the Rambam says simply what is the main mitzvah and what are the punishments, so it usually goes in the beginning.

Law 1 (Continued) – Obligation of Beit Din

Speaker 1:

"And the beit din is commanded to circumcise that son or slave in its time". The beit din is commanded, besides the father and the master, the beit din is also commanded to circumcise the son or the slave that the father or the master did not do the mitzvah. But it says "in its time." If he was born, but on the eighth day the father did not do it, should they never be able to do it?

Speaker 2:

Opportunity as long as he wants. But the slaves don't know when is the obligation. I mean that they don't have any later learning. If he is born is also necessary or not.

Speaker 1:

And they shall not leave uncircumcised neither in Israel nor in their slaves. The beit din should not leave... Here you see a bit as you said. Like the slaves of Israel also belong to have a milah, not because he himself has a law of Israel.

Beit din is commanded, besides the obligation that exists on a person for his children and for his slaves, there is a mitzvah on the beit din to make sure that among Jews there are no uncircumcised.

Discussion: How Does the Beit Din Do This?

Speaker 2:

Okay, how does the beit din do this? Beit din goes and can circumcise instead if the person did not himself circumcise his child. But how does one do it? A question begins, must one force?

Speaker 1:

Yes, beit din... When is it the father? Is it a matter of will? The father wants, but if not, what is the matter?

Law 2 – We Do Not Circumcise Without His Knowledge

Speaker 1:

The Rambam will here say the law: **We do not circumcise a person's son without his knowledge.** We do not go, there is no such thing that one should circumcise another person's son without his knowledge. **Unless he transgressed and refrained from circumcising him, only then beit din circumcises him against his will.**

What does this mean? Does it mean, as long as it is still within the eight days? Until it becomes night of the eighth day? Or when the eighth day has already passed? The Rambam means to say, you should not think that if it says, simply interpreted, if it says that beit din is obligated, perhaps it says that beit din goes around to the places where there are eight-day-old children and they circumcise everyone. No, the essence is one asks the father to circumcise, or one waits for him to circumcise, and then the beit din does it, because they have procedures, I don't know. But the point is, if a person is a transgressor, then the beit din...

Speaker 2:

The beit din is only there to know, if the father did not do it. But one does not do it initially. It's not that there is a... that whoever wants can, and the father just simply has a greater obligation. Can one think, who has the obligation to circumcise the child? Either the father or the beit din? He says no, the father has the obligation. If the father did not do his obligation, then begins a thing on the beit din, that the beit din has... It's a transgression.

Laws of Circumcision Chapter 1 – The Obligation of Milah: Father, Beit Din, and the Person Himself

Law 2 (Continued) – "Beit Din Circumcises Him Against His Will"

Speaker 1:

No, I think that "beit din circumcises him against his will" it seems to me that it doesn't mean to say that the beit din goes and takes out the child and beit din circumcises. Rather "circumcises him against his will" means that the beit din puts pressure on the father that the father should circumcise. Because this fits the next. "If he was hidden from beit din" — the father was hidden from beit din, "and they did not circumcise him" — he did not circumcise the child. That the beit din did not circumcise? In other words, first... No, or "and they did not circumcise him" — the father did not obey. No difference precisely the order how it is. "That beit din circumcises him against his will." "That beit din circumcises him against his will." There are three levels as it were. First

one waits for the father, if the father doesn't do it, the beit din catches him and circumcises him. "He was hidden from beit din" means to say that the child was hidden, or the child was not circumcised... Right, because it's not simple that the beit din circumcises everyone, they expect that the father will circumcise, it makes sense to be "hidden." Yes, "and they did not circumcise him" — he was not circumcised.

Now the person will think, well, the father did not do it, and also not the beit din, upon whom is now the obligation? When he grows up, he is obligated to circumcise himself, or does the obligation go up to him? They explain, the Torah said an obligation that a person must be circumcised. This is the main obligation. Who does it? So first the father must do it, if not the father, the beit din. All of it, the obligation goes back from whoever can now do it in the moment. When a person is already grown, he has power over himself to be able... The beit din can take care of grown people too, that's not the point. Beit din sees that this should only be by the... The beit din, after the beit din knows, beit din doesn't go around checking. When a person, a new child is born, the beit din can check if one took a mohel. It's not... One cannot say that beit din is not part of the brit milah. But there is what brings beit din into the picture. If it did not succeed, that the child was not there, and I don't know what all the impediments, the obligation goes up to him. So there is an obligation to circumcise him.

Discussion: Upon Whom Is the Main Obligation?

Speaker 2:

No, upon whom is the obligation?

Speaker 1:

What?

Speaker 2:

Where do you get this report from? What happened? You're inventing a thing that doesn't say.

Speaker 1:

What?

Speaker 2:

It says here that the father must, if not the father, the beit din, if not the beit din, he himself. But it doesn't say that all this begins because he must himself.

Speaker 1:

What do you mean? It's very clear. It's very difficult to say that it begins that he must himself, because he is still an eight-day-old child. It's very well relevant. But it's not only a thing that when a person becomes thirteen there comes upon him an obligation of milah. The obligation of milah is an obligation that seeks a host, seeks a householder.

Speaker 2:

Where do you get this idea from?

Speaker 1:

This is how I learned it. It's a new thing, yes, but it doesn't say here. It's not so simple out. And it's not only this, it's very clear in the... Okay, let's learn a word.

It's the mitzvah to circumcise another. I mean also, you know, it says beit din, as you said, it doesn't mean that the beit din stands with the police and makes. The idea is more that... It's an obligation on the community of Israel so. Yes, if the father is just not there, one takes care. It's not simple that... Every

thing is an obligation on beit din, on every mitzvah in the world the beit din compels. No, no, no, no, no.

Speaker 2:

It's not a novelty, you're asking. His great, the beit din to force, as they force on all other mitzvot.

Speaker 1:

Here is something a new thing, it means, they say that it's not simple that every father has something unique. The father has the mitzvah, but also... Please, please. Now. Also all Jews are part of this thing.

Speaker 2:

Okay.

"And Every Day That Passes After He Grows Up" — Nullification of a Positive Commandment and Karet

Laws of Circumcision: Purchased Slaves and Homeborn Slaves, and the Law of a Slave Who Refuses Circumcision

Speaker 1:

So at that time, **"And every day that passes over him from when he becomes an adult and he does not circumcise himself, behold he nullifies a positive commandment"**. From when he becomes an adult and he has not yet fulfilled the mitzvah that he must circumcise himself, behold he nullifies a positive commandment, so he is nullifying a positive commandment. We discussed that this positive commandment carries karet. And when does he become liable for karet? Says the Rambam, **"But he is not liable for karet until he dies while he is uncircumcised intentionally"**. He is only liable for karet when he has already gone through his entire life and he no longer has any chance to circumcise himself, he died because he is an uncircumcised person intentionally.

Because karet, as long as a person can still rectify... I mean, as long as he can still rectify himself, the simple meaning is, karet is for the fact that he did not circumcise himself until the end. That is, karet is not for the nullification of the positive commandment, but for the fact that the person lives his life as an uncircumcised person. So if a person circumcises himself today or when he is fifteen, he doesn't receive karet, he can still live. So when do we know that he can receive karet? When the day comes that he dies. But even on the day that he dies, if he circumcises himself at the last minute, he is not liable for karet. Only when he dies because he is uncircumcised, then he is liable for karet.

The Raavad's Objection — Karet and Warning

Right away the Raavad, the Raavad says that the matter is that karet can only be applied when there is a warning. No, wait, let's understand what the Rambam said. The Rambam says a very simple thing. There is indeed a strange thing called karet for a positive commandment that has no fixed time, right? Usually you know karet when you have eaten forbidden fat, it's finished, you are liable for karet. So, you did the thing, it's finished. Or even the Pesach offering, the simple case was in Jerusalem, there was no distance or impurity or the like, that he could fulfill the Pesach offering. You didn't finish all the elements. If so, you nullified a positive commandment.

But therefore, we have now learned, it's a mitzvah for an entire lifetime. It's a mitzvah indeed for the eight days, but... yes, guarding the eight days is only an additional mitzvah, a

beautification of the mitzvah like that, but the mitzvah is for an entire lifetime. And the obligation is on himself. But if he doesn't yet have a child, the father is not obligated in circumcision. Eight days he is never, he cannot do it himself. So, now he has an obligation to circumcise himself when he is an adult, he must be a circumcised Jew.

So, the Rambam thinks a simple thing. That is, so when do I not do a positive commandment? A positive commandment you tell me I must do the entire day. So do it, do it, every minute it stands upon you "Do, do, do". But when have I not done? It must be an entire lifetime that I have not done, because it's a positive commandment, not a negative commandment.

So, the Rambam in Perush HaMishnayot, as he brings here, says it's indeed a novelty, he doesn't know any other mitzvah in the entire Torah where one has an obligation for punishment after one dies. But it makes sense because it's a positive commandment that one must do.

The Rambam's Approach to Karet — According to Hilchot Teshuva

According to the Rambam, how the Rambam learns what karet means, according to what we learned at the end of Hilchot Teshuva, it fits very well. Because the Rambam said that karet means that his soul has no immortality of the soul. Only the knowledge lives, only the knowledge that did Torah and mitzvot. And the person who received karet does not receive immortality of the soul. Which fits very well that he died, and now he doesn't receive immortality of the soul.

But if karet means the actual dying, that one should die at a younger age, then it becomes very difficult. It means, the Rambam can still say that one is liable for karet until he dies, and he will leave it like that. But for the others it's very difficult. It means, he died at eighty, and he wasn't subject to karet? What?

Speaker 2:

That's not even your question, that's the Raavad's question.

Speaker 1:

No, that's not your question, not the Raavad's question. The Raavad's question is about warning. But simply, the Raavad held that it doesn't make sense. Maybe he means that too.

Speaker 2:

No, the Raavad held that one only receives karet when there is a warning.

Speaker 1:

That's the doubt. He means that one cannot receive karet based on warning, and the warning is a doubt, because perhaps tomorrow the person will be ready. On the contrary, again, the Raavad says it's not correct. The Raavad thought that the Rambam means to say... What does it mean that one can always circumcise oneself? That it's completely doubtful, one cannot tell him because he might. Says the Raavad, that doesn't make sense for karet. Karet is from the Almighty, from Heaven they don't have doubts. They know whether you will circumcise yourself, whether you hold yourself back from circumcising. Therefore one can indeed give the karet. That's what the Raavad says, do you understand? That in Heaven it's not relevant to say that doubt is a problem, but in human courts it's relevant to say such a thing.

Speaker 2:

Yes, but still, the problem is, when a person circumcises himself at thirty-five, what happened? He lived every day in karet?

Speaker 1:

The Raavad holds however that it's the same as liability for karet.

Speaker 2:

Ah, it's a dispute between the Rambam and the Raavad.

The Dispute Between Rambam and Raavad on the Foundation of Karet

Speaker 1:

That's the point. The Rambam says that karet doesn't mean punishment of death by Heaven. The Raavad says it's a severity of the matter. It's a type of transgression that has karet upon it. He doesn't say that you have karet. Because he also admits that when a person circumcises himself then he doesn't have karet, yes? What happened with all the karets all those years? That's a problem for Heaven to take karet.

I say, then, as long as karet hasn't happened, it's a type of category of liability for karet, but he hasn't received karet. The punishment of karet he receives when he dies.

Speaker 2:

Ah, simply so. You don't know what the punishment of karet means?

Speaker 1:

The Raavad didn't tell me here what the punishment of karet means. But when we speak in halacha of liability for karet, the simple meaning is that he is liable for karet. On this he says, the punishment happens that he is liable to stoning, he hasn't yet been stoned, that's another topic how it works out practically.

Speaker 2:

Okay.

Speaker 1:

Yes.

Law 3 — Circumcision of Slaves: Homeborn and Purchased

Speaker 1:

Law 3. Law 3 the Rambam says, regarding a slave. We learned that the master has the mitzvah to circumcise his slave. Says the Rambam, "**Both a slave who was born in the domain of a Jew, and a slave purchased from gentiles**". There is no difference, as the Rambam explains, "**homeborn or purchased with money**". Homeborn is the slave who was born in the domain of a Jew, and purchased with money is a slave that was bought. "**All of them, their master is obligated to circumcise them**". The master is obligated to circumcise them.

There is a difference, homeborn is circumcised at eight, the homeborn is circumcised at eight just like a regular Jewish child, on the eighth day shall every male be circumcised, and purchased with money is circumcised on the day he is acquired. When one buys a new slave, then one holds him. Even if acquired on the day he was born, even if he is a fresh child who was just born,

Laws of Circumcision: Purchased with Money and Homeborn, and the Law of a Slave Who Doesn't Want

to Circumcise

Laws 3-5: Purchased with Money Who is Circumcised at Eight and Homeborn Who is Circumcised on the Day He Was Born

Speaker 1: So what do you say? If one takes him when one buys him at twenty, one must circumcise him on that day, and even if one buys him when he is one day old, one must circumcise him on that day. Right?

Speaker 2: Yes, because those are the verses. In the verse where it says when one should circumcise at eight days, it says homeborn. By purchased with money it doesn't say eight days.

Speaker 1: I understand what you're saying, but the difference regarding the other is not clear.

Let's go further. "**There is a purchased with money who is circumcised at eight.**" The Rambam says that a purchased with money is circumcised the day one buys him, but there are situations when also the purchased with money is circumcised at eight. And there is also the opposite, homeborn who is circumcised on the day he is born. There is also a situation where a slave who was born at a person's home should be circumcised the day he is born.

"**How so?**" This is the Rambam explaining. "**He purchased a maidservant and purchased her fetus with her.**" He bought a maidservant who is pregnant, and he says he wants to have the fetus also. And purchased her fetus with her, automatically this means he must pay for the fetus. Okay, let's see. He buys both at once. "**He purchased a pregnant maidservant and she gave birth, behold this one is circumcised at eight. His circumcision is at eight days. Even if he purchased the fetus separately.**"

Ah, he purchased extra. That is, the person who sells the maidservant says thus: I charge you a thousand dollars for the maidservant, and five hundred dollars for the fetus, whatever it is. He did buy the fetus. "**Even if he purchased the fetus separately**", he purchased the fetus. So the fetus is like a purchased with money that is bought. "**Behold the fetus is purchased with money.**" It's called purchased with money. "**But since he acquired his mother he acquired her**", but in practice he bought the mother also before she gave birth to the child, he wanted to understand that the child was indeed homeborn, therefore circumcised at eight he is circumcised at eight, and in such a case one doesn't go after the purchased with money, but one goes after the fact that it's homeborn.

The Law of Homeborn Who is Circumcised on the Day He Was Born

And when is it the opposite, that homeborn is circumcised on the day he was born? He says thus, "**He purchased a maidservant for her pregnancy**", a person bought a maidservant because he wants to have the pregnancies, he doesn't want the maidservant, he doesn't want the maidservant to come to work at all, but he sees she will have a pregnancy.

Speaker 2: "**Or he purchased a maidservant on condition not to immerse her for slavery**", he took a maidservant... no, it could be he didn't buy the maidservant at all, he buys a maidservant for her pregnancy, which there may be a problem of something not yet in existence, I don't know. He buys the right to the maidservant's pregnancies.

Speaker 1: Ah, he bought off her pregnancies.

Speaker 2: Ah, so, yes, so one must understand, this means like a palm tree for its fruits, I have the right to all the pregnancies that will come, it's already there, it's not not there, it's not even dependent, it's already there. Earlier we spoke that there is already a pregnancy, right? Maybe I take a maidservant, and my right, not to work for you, or whatever she does, but his right is the maidservant's pregnancies.

"Or he purchased a maidservant on condition not to immerse her for slavery", he took a maidservant with a condition that she should not receive the laws of a maidservant, that she should have to immerse. So already, what is her category? She's not called a maidservant? She's not obligated in mitzvot? She's not a real maidservant.

"Even though he was born in his domain", even the child was born in his domain, technically, if you see the maidservant for her pregnancy, it means he brought home the maidservant to sit in his house for her pregnancy. **"Even though he was born in his domain"**, but this is indeed purchased with money, because the slave becomes his when it is born, and it's an acquisition. The same thing by the maidservant, because she didn't have the laws of a maidservant because she was on condition, it means it has a law like purchased with money.

"And since this one was born, all of him is purchased with money alone, and all of him is the day of his acquisition." It means so he becomes purchased with money, because he bought the maidservant for this. She is not truly a Jewish maidservant in order that the son should be homeborn. Homeborn always means a child who was born to a Jewish maidservant who is at your home. But in such a case it means she didn't become a maidservant. That's the point.

There are two ways: either, if the mother he didn't buy, he only bought the right over him. Or, if the mother he bought in a manner that she doesn't become a maidservant, she's not... the boy was not born from a Jewish maidservant. Therefore he's not homeborn, therefore he's purchased with money. When did he become purchased with money? Two months ago. There's no difference. The fact that he was already born purchased with money doesn't make him purchased with money. Homeborn must be that he was born to your maidservant. Right?

Speaker 1: Yes, but **"And if his mother immersed after he was born, behold this one is circumcised at eight"**. How does that work? Is he free?

Speaker 2: Yes, because now he became a... born to... why is she a Jewish maidservant? A Jewish maidservant, one can say.

Speaker 1: But he was already born, **"after he was born"**.

Speaker 2: Yes. Indeed strange. I don't know. No, I'll tell you why. There's something that doesn't make sense.

Speaker 1: No one knows, but I don't know.

Speaker 2: Okay. And it's relevant in practice the question, we'll look in the commentators. We need to move, it's 1:14. We won't get anywhere.

Speaker 1: Okay.

Law 6: The Law of Purchasing an Adult Slave from Gentiles Who Doesn't Want to Circumcise

Speaker 2: **"He purchased an adult slave"**. He purchased an adult slave from gentiles. And how it goes

basically the... when one buys a slave, and he is circumcised and so forth.

Speaker 1: Yes.

Speaker 2: Yes, **"He purchased an adult slave from gentiles"** — a person buys an adult slave from gentiles, **"and the slave did not want to circumcise"** — the slave doesn't want to circumcise himself. So, one may not have an uncircumcised person be a slave by a Jew. What does one do? **"One persuades him for twelve months"**. One tries, one takes time that one will try to influence him. The language means "one persuades him", it says many times like... there is still a long legal process with a person, I think in Even HaEzer between a man and a woman, one persuades him thus and so long. Not how long one wants to just turn, yes, literally turn, not just learning, one persuades him twelve months, one turns.

Novelty: One Doesn't Leave Him Against His Will

So here we see first of all that one doesn't leave him against his will, one doesn't say there's no way. One could have thought like that a person may not bring home a slave as long as he knows for sure that the slave is ready to circumcise. It appears that there is some permission that he can try for twelve months, and in the meantime he can use the slave.

One could have also thought the opposite, that one can, it means he must have a slave, I circumcise him. You see that the slave, a slave is indeed a type of convert after all, and one cannot become a Jewish slave without consent. So that much there is, right? But you cannot make an acquisition, why? Because you cannot force him, you cannot... first of all, it would mean like making a blemish in one of the main limbs for which he wants to go out to freedom.

Discussion: Why Can't One Force Circumcision?

Speaker 1: I don't know, but I mean what's the reason? Because it's a type of conversion, we force him until he says I want, that's for example a slave after he is already a Jew. But this is a gentile, he doesn't want to be a Jew, even he doesn't want to be a Jewish slave. You can't make a person your slave? You can make him a slave, but not a Jewish slave. Do you understand what I mean? It's technically... but what can make a blemish in another person? I don't know if one can. We have entire prohibitions that one may not castrate a slave. What are you saying?

Speaker 2: Okay, what's the foundation? Not the circumcision, not the wound. The circumcision is indeed the, the circumcision is indeed the, the circumcision is the simple meaning that he becomes thereby a Jew, right? The way how he becomes a Jew is with circumcision. But one cannot make a person into a Jew, by himself, even a slave. No, we're speaking even in a manner he agrees to immersion, he agrees to other things, he just doesn't want to circumcise himself. It's only the law in circumcision. Because circumcision makes him more. It's not... it's not... the wound. It's because circumcision is an entrance to the bigger picture. There is a mitzvah of circumcision, and if he doesn't agree, **the verse taught**, says the Rambam, **"it is forbidden to keep him when he is uncircumcised, but he returns and sells him to gentiles."**

He cannot keep him more than twelve months if he indeed remains uncircumcised, but he must sell him further. What's different from an uncircumcised person initially and he sells

him to gentiles? He cannot sell to another Jew. You cannot make such a situation that now another Jew should keep him twelve months. Every twelve months one can start the... there's no other thing.

Why May One Sell to Gentiles?

Laws of Circumcision – Laws of Canaanite Slaves and Converts

And one may not sell one's own slave forever, "them you shall work with" (le'olam bakh ta'avodu), **"and you shall bequeath them to your children after you"**, that is the point, that one may sell him to gentiles, because he is not yet a slave of a Jew. And if he is already a full Canaanite slave, one may not sell a slave, one may not free a slave, **"and you shall bequeath them"**, if he is yours one may not free him, and sell him to a gentile. But here is the matter of not selling to a gentile. A Jewish slave, a Canaanite slave, one may not sell to a gentile. But he is a gentile, the whole point is that he wants to remain a gentile.

The Rambam places emphasis here on the word "to gentiles" (le'goyim), I think it's one of two reasons, either he means to say that he wants to remain a gentile, he doesn't want to become a Jew, "to return and be among gentiles" (lachzor velih'yot le'goyim), he says for this reason, one cannot say that a second Jew can also hold him for twelve months. Or he means to say that one may sell him to gentiles because he doesn't yet have the status of a Canaanite slave of a Jew.

Law of Making a Condition With Him Not to Circumcise

"And there is another law from the beginning, if his gentile master made a condition with him not to circumcise him", that is when the Jew went to buy him from his gentile master, he made a condition that I'm taking you but on condition not to circumcise him, **"it is permitted to keep him while he is uncircumcised"**. Yes, that is clear. **"It is permitted to keep him"**, just as we had earlier with the maidservant, just as **"on condition not to immerse for the sake of servitude"**, that is, he makes a deal with him that you will be my cleaning lady but not my slave, not the law of servitude, let us have a different kind of deal. Just as there is a law of Canaanite slave, slave of Israel, if one wants one can make it as if not a slave.

No, a person may continue to have, make other people work for him. To enter into the category of slave, that one cannot do. If it's a point that one must agree with the laws of the transaction, seemingly it's just a condition.

Question: With Whom Does One Make the Condition?

With whom does one make the condition? With the Almighty? Do you understand what I'm asking? Is the matter a pledge of the court? With whom does one make the condition?

Speaker 1: No, no, the condition is with the slave, that he won't enter among the congregation of his community, he doesn't have the benefits.

Speaker 2: So why can't I do this afterwards? Why afterwards when he refused (lo ratzah) can't I go back to the first?

Speaker 1: Ah, now the rabbi is a genius. The thing is when he again...

Laws of Circumcision – Laws of Canaanite Slave and Convert

Law 6: Law of Canaanite Slave Who Did Not Accept Commandments

Reading and Explaining the Plain Meaning of the Rambam Speaker 1:

The slave, faith, faith, faith... If it's a point that one must make with conditions from this power? It's a condition... seemingly, it takes a condition... With whom does one make the condition? With the Almighty? It stands that I ask... It makes something written Torah? With whom does one make the condition? I don't have all for the sake of servitude, but all for the sake of not servitude. Servitude of completeness. What else should it be? Yes, completeness for the sake of servitude. They need to have a deal between themselves. How much does he pay him a difference? It's clear that it has very many different distinctions. No, he will be a servant. But without circumcision. He will be a gentile. A gentile servant very belonging to a Jew, not a Canaanite slave, not a slave. Right? What do I mean? What do I need to say? Okay.

It seems to me that something seems to me we're dealing with this law. One must make such a kind of acquisition. I go to the market, to the master, and they're selling slaves. I can buy him. The default is that he becomes a Canaanite slave of Israel, a slave of Israel. But if I want, make a different kind of acquisition. Because that doesn't mean not not not, not further that I can simply change the conditions to me. No. But the Rambam says here a condition, here a condition here because here not.

A slave, there is a category of a slave, who is obligated in commandments like an Israelite, he belongs to the Jews, has special laws, but he belongs to the Jews. And there is a ger toshav (resident alien), who is only obligated with the seven Noahide commandments. So, he has the right to live in the Land of Israel, and one must not expel him from the Land of Israel.

Therefore, a Jew, initially, when a person buys a gentile to become his slave, the slave must become a Jew in all respects, which means the laws of a slave. If he doesn't agree, he must at least become an observer of the seven Noahide commandments. But if he doesn't accept the seven commandments, one may not bring him into the Land of Israel, but on the contrary, he should be killed immediately (yehareg miyad), one must kill him if the hand of Israel is strong.

Discussion: What Does "Yehareg Miyad" Mean?

Speaker 2:

Yehareg miyad doesn't mean us seeking to kill, I mean to say, us letting him escape, right? Does it occur to you? Us seeking to kill gentiles? We don't seek to kill gentiles.

Speaker 1:

The Rambam says in Laws of Kings that the obligation of Jews is, Moses our teacher was commanded that we should compel all gentiles to keep the seven Noahide commandments, and if not to kill them. So it stands there in the laws. The Ra'avad actually argues. All gentiles do you mean who live in the Land of Israel? No, all gentiles in the entire world. Look in Laws of Kings, as I remember it stands. Okay, we'll learn Laws of Kings and we'll struggle with it.

But the Rambam held that one is obligated to teach all gentiles to do the commandments, and if not they are liable to death.

One can make a war, whatever. It's practically very difficult to kill just anyone, but that's how it is.

Dispute Between Rambam and Ra'avad

Speaker 1:

The Ra'avad disagrees. The Ra'avad says here, he should be sold immediately (yimakher miyad), and one is not permitted to kill him. It's reasonable that the Ra'avad agrees that the law that the Rambam says is correct, it's just a law initially (lechatchilah), but when it's not possible, so one must, how is it called, sell him to a gentile. You say here, send away? Yes.

But in any case, the Rambam, but you say the Rambam, look what the Rambam says himself, **"and we do not accept a ger toshav except when the Jubilee is in effect"**. He means to say seemingly about the entire law, that one cannot become a ger toshav except when the Jubilee is in effect, so certainly the yehareg miyad is also not relevant. It's also not relevant, because there are no punishments also except when the Jubilee is in effect. Simply, not just Jubilee, generally. It could be that this is the Rambam's way of explaining that it's not always.

Plain Meaning of Rambam: When Jubilee Is in Effect

Speaker 1:

But the simple plain meaning of the Rambam is, that when the Jubilee is in effect there is such an option to make a ger toshav, and this actually applies both to the slave who didn't accept even the twelve months he must already accept the Noahide commandments, he has no right ever to be even without the Noahide commandments. Only regarding circumcision does he have a right. But if he doesn't want to immediately accept the Noahide commandments, one kills him immediately the first minute. Or perhaps one makes a condition, or one sells him to a gentile, that he should keep the Noahide commandments. And all these options the Rambam says are not relevant in our time.

But in our time one can only have a slave who agrees to circumcise himself immediately, and if not one must kill him, so says the Rambam.

Discussion: Killing in Our Time

Speaker 2:

No, the Rambam certainly doesn't say that one kills in our time. In our time one doesn't kill because of other reasons. No, because to kill one must have a court, that should judge capital cases.

Speaker 1:

A gentile, for his commandments? Gentiles may not kill, a Jew may kill as much as he wants?

Speaker 2:

No, no. Gentiles may not kill, no one may kill. There is a punishment, but a Jew also has an obligation in the seven Noahide commandments, that you can't go in with a knife and kill a person. There must be some due process, one must speak with the gentiles, one must see, one must see who has the right to kill, it's not a wild west.

Speaker 1:

The Rambam says, **"except when they have power in the hand of Israel"**. What I don't want to say at all is that you are a ger toshav. One doesn't kill, one doesn't do, one must see what one does yes. There are no laws of slaves at all, also not,

it already wasn't in the times of the Rambam either, it's not relevant.

Law 7: Convert Who Converted – Dripping Blood of the Covenant

Reading the Plain Meaning of the Rambam

Speaker 1:

"A convert who converted to the congregation of Israel", a convert that the Rambam doesn't say the word "was converted," I mean the word "convert" itself stands the word "was converted." A convert who became part of the congregation of Israel, he converted, became a Jew, **is obligated in circumcision first**, before he becomes a Jew one must circumcise him. **"And if he was circumcised when he was a gentile"**, he already circumcised himself when he was a gentile, **"one must draw from him blood of the covenant when he converts"**, one must again make a small wound so that some blood should come out when he converts. What is the matter of blood of the covenant?

Discussion: Laws of Kings – Obligation to Compel Seven Commandments

Speaker 2:

I want to look it up for you. It stands in Laws of Kings that Moses our teacher commanded **to compel all inhabitants of the world to accept all commandments that the children of Noah were commanded, and anyone who does not accept should be killed**. So it stands here. It doesn't say that one needs a court for this. Does one need to know this practically?

Speaker 1:

Practically, does one need to know this practically, certainly.

Return to Law 6: Explanation of Beit Yosef

Speaker 1:

Okay, back to me. Okay, give me a minute. The matter of **"if he did not accept upon himself the seven commandments, he should be killed immediately"**. A Canaanite slave who was not accepting, not circumcised and not accepting the seven commandments, **"he should be killed immediately"**. And on this the Ra'avad immediately argues and says that today we cannot kill, **"we do not have to kill"**.

I see that the holy Beit Yosef, the master of the place of Israel, the master of the land of Israel, says, he asks on the Ra'avad, what do you want? Do you think that the Rambam went around with a sword and killed people? Certainly one doesn't kill in our time. But he learns a different plain meaning.

He says that according to the Rambam also in our time there is the law of **"one persuades him all twelve months"**. Because the Rambam divides that the law of "one persuades him all twelve months" has nothing to do with the law that afterwards one will kill him. Rather one persuades him twelve months, and one tries to convince him, and not one must send him away.

The Ra'avad says however that since today there isn't the option of "yehareg miyad," what do you have when you persuade him twelve months? He will... When you have at the end a threat of killing, certainly you will accomplish something by waiting with him twelve months, and in that minute he will agree. But if you don't have with what to threaten him, you don't have the option of "yehareg miyad" at the end, you must

sell him immediately yes. Here the Ra'avad argues. The Ra'avad says that one may not take at all a slave who doesn't want to accept the seven Noahide commandments, because there isn't "yehareg miyad," and there also isn't "one persuades him twelve months." So the Beit Yosef learns one plain meaning.

Practical Law: Laws of Servitude in Our Time

Speaker 1:

One must know practical law, I don't know any Jew who has a slave in our time. I know that among the poskim it was once discussed. It's not so simple. By us there is no servitude at all. That would already nullify what you mentioned, Abraham Lincoln.

Speaker 2:

No, what we have today is a kind of servitude with the "hiring with him" (hisnah imo), which means? When someone takes a cheap worker, it's a kind of condition that I don't have all the rights that a legal worker who works with the union has, but I have with you a condition, you can't certain conditions to me. One thing is a kind, and certain rights that he remains. The "hisnah imo" is the plain meaning that he doesn't have a real law of slave. By definition, someone who can negotiate with you is not a slave. Hisnah imo.

Speaker 1:

Okay, I see here on the side, they spoke about this, it's not clear.

Innovation: The Nature of Servitude in Torah

Speaker 1:

The Rambam sees here very clearly that, I mean that we have the wrong outlook on servitude. We always look at it as simply wicked, like the American South that had terrible fences on people. We see here in Laws of Circumcision, we see Laws of Circumcision, not Laws of Servitude, and this is our real.

One sees however here that a slave was part of the family. There are two ways to be part of the family: there is a son, and there is a slave. But a slave is simply part of the family.

I would expand it a bit. There are several ways of being part of the nation. Being part of the nation there is a Jew, and a sub-category of a Jew is a slave. It's actually not like being his son, but it's a slave. And then there is the category of ger toshav. Where does he belong? He is a minority that has rights and so forth. And then there is an observer of the seven Noahide commandments. He is not even a ger toshav... No, an observer of the seven Noahide commandments is a ger toshav. And the other is there who must leave from here, the Rambam holds not, one must expel him. The other one must expel, there isn't the option.

The ger toshav is the only option of such a minority, but as you call it, there is Chinuch who connects that it's independent. When someone says it's a slave, I understand that it's in the system. Ger toshav is in the system, but not as part of the Jews.

Innovation: Conversion Against One's Will – Only by a Minor

Speaker 1:

No, about this, I'm explaining about this, he brings here that a convert, according to the Rambam, must agree to his commandments, because it's based on the conversion. The only time that there is conversion as it were against one's will

is a minor. A minor slave one immerses by the decision of the court, because we say that it's a merit. Just as it's a merit for a minor to be a Jew, it's also a merit to be a Jewish slave. Simply to be a slave is not so terrible to be a slave. A slave comes to you honor of father and mother, yes. And there is perhaps a Hebrew slave, but a Canaanite slave the Rambam says and he is a worker, one must conduct oneself with him humanely.

Anyway, already, back to the gentile, the convert. Ah, in other words, I think so, there is a list of people who need a covenant of circumcision: a father, a boy, a slave, and now there is another thing, a convert. A convert who converted and entered into the community of Israel.

Circumcision of Converts, Child Born Circumcised, Androgynous, Cesarean Birth, and Time of Circumcision

Servitude Is Not So Terrible

Simply to be a slave is not so terrible to be a slave. A slave comes to you honor of father and mother. Yes, it's by a Hebrew slave perhaps, by a Canaanite slave the Rambam says "be gentle with him," one must conduct oneself with him humanely, if you remember we spoke about this.

Law 7: Convert Who Entered the Congregation of Israel

Already, back to the gentile, a convert. Ah, no, it's other words. I think so, there is a list of people who need a covenant of circumcision: a father, a boy, a slave, and now there is another thing, a convert.

A convert who entered the congregation of Israel is obligated in circumcision first. The obligation is on the court, on whoever is appointed, on the kingdom of Israel, which is. First, before the entry, but not when he is a gentile. At that time he becomes a bit of a convert, circumcision there is an obligation.

The Language "Congregation of Israel"

The language "congregation of Israel" is very interesting, because "congregation of Israel" often means to marry, one can match with him. Like "a mamzer shall not enter the congregation of God." So when he enters the congregation of Israel you can look at it that he wants to marry a Jew. But I mean that it looks here like he means to say a convert who wants to convert, like wants to take shelter under the wings of the Divine Presence, the first thing must be circumcision. He cannot say that he will circumcise himself eventually. It becomes an impediment to the conversion.

And If He Was Circumcised When He Was a Gentile – One Must Draw From Him Blood of the Covenant

And if he was circumcised when he was a gentile, one must draw from him blood of the covenant when he converts. If he circumcised himself when he was a gentile, that circumcision was not for the sake of the commandment of circumcision. The commandment of circumcision has in it a declaration, something a... becoming part of the Jews, it's a covenant. It's a declaration, it's a thing that one does, a great impression, and one becomes part of the Jews. The gentile actually circumcised himself, but it wasn't at all about becoming part of the Jews. He must now make a covenant, and the way how one makes a covenant is with blood of the covenant.

Child Born Already Circumcised

Kohen, Another Case, **A Minor Born Already Circumcised, if a minor is born and he is already circumcised, he doesn't have the foreskin that can be removed, then it's not applicable to perform a brit on him. But he must nevertheless enter into Klal Yisrael through the ceremony of the brit. Even if there is no foreskin to remove, **one must draw blood of the brit on the eighth day**, one must draw blood of the brit, and this is also done on the eighth day. So that will be his circumcision, so to speak. It's interesting.**

The Brit is Becoming Part of the Jewish People

So what I'm looking at now according to the Rambam is that the brit, the brit is becoming part of the Jewish people. The manner of performing the brit is generally removing the foreskin, but when there is no foreskin one must do it, the circumcision will be the drawing of blood of the brit. There is also from the Gaon, yes. Drawing blood of the brit will be a sort of brit milah.

Investigation: Doubt of Hidden Foreskin or Matter of Brit?

There is an investigation about this. One can think that here a... the Kesef Mishneh says he says that drawing blood of the brit is because of a doubt, perhaps he has some hidden foreskin. I don't know what that means technically, one must ask a mohel who can explain. Every halachah one must bring the expert on that halachah, yes? Now one must bring the mohel to make diagrams or however one learns these procedures.

I don't know. It looks more like it's the matter of brit. It's the same thing, a minor born already circumcised. So then one can say like, normally one makes a brit, one cuts off, it comes automatically split. Now, in any case one must make the part and the blood an... in.

Blood of the Brit is Not a Side Effect

Usually the blood is a side effect. What do you mean you think in effect that perhaps a... no, perhaps it's not a side effect, it's a brit, we have a brit. What? There is blood of the brit. "Bedamayich chayi" (through your blood you shall live). It seems it was so today. But here he means, there is something the making of the covenant is on the blood.

But it's certain that you can say that the Torah wants two things: the Torah wants that one should circumcise the foreskin, and the Torah wants that one should enter into the covenant of Israel through some certain ceremony that exists in this blood, and they were put together.

It's Interesting That It's on the Eighth Day

But if one would say so, the fact that one must do it on the eighth day looks like this is the circumcision. It's an interesting thing. So according to the calculation that there is perhaps a hidden foreskin, automatically it's simple that it's actually a brit milah. But without that, that it's only drawing blood of the brit, it's very very interesting that it's on the eighth day. Because that is his birthday, his brit milah is that, is the blood. He actually doesn't need any circumcision.

Androgynous

Okay. **Androgynous, one who is born having male organs like a male and female organs like a female, one who has a double, he has both, is also obligated to be circumcised on the eighth day, because he actually has male organs.**

Discussion: Why is a Woman Exempt?

Speaker 1: And likewise one born through the wall. Wait, I just want to pause. Androgynous is interesting. The simple explanation is that the reason why a woman is exempt is because she doesn't have male organs, not because it's a commandment only on a man. Because he says, if an androgynous has like a man, but it happens to be that he has a... that there are male organs... yes, okay, one must think.

Speaker 2: He says, Rashi's language is a doubt, but you're right, why must one say doubt? He certainly has male organs, one must certainly circumcise. If a woman... let's say, a woman has male organs, that means androgynous basically. I don't know, it says here that it's not such a... Reb Nachum did he explain it? It says so. Yes. Okay.

Born Through the Wall

And likewise one born through the wall. One born through the wall that... there are other halachot regarding one born through the wall concerning brit, yes, we will see later regarding circumcision on Shabbat. But what is the matter here? What does he want to bring out? That he is circumcised on the eighth? Because one can see that it's a doubt. The Rambam says that one doesn't circumcise on the eighth on Shabbat, which you want to say that he is circumcised on the eighth. One mother of birth, there is no birth here.

Discussion: It's Not a Doubt

Speaker 1: Ah, the "and likewise one born through the wall" goes up to the "must be circumcised on the eighth day". Also one born through the wall one must... it's not a doubt. It's not a doubt. It's not a doubt. Like androgynous. Simply, is one born through the wall a doubt obligated in circumcision on the eighth? No, it's not a doubt.

Speaker 2: Why? Why?

Speaker 1: Ah, there is a contradiction in the Gemara. If it was only a normal birth, or even such a thing. But in a Gemara it says the language... I don't know why. One must look in the Gemara.

One Who Has Two Foreskins

Ah, **and one who has two foreskins, both are circumcised on the eighth.** This is also a proof like we said about androgynous. Because further it can be that one is in doubt. Ah, no, it's a Jew. A person with two foreskins, okay, double.

There is such a thing, yes. Everything happens.

Halachah 8: Time of Circumcision — By Day and Not at Night

Okay. When does one perform the brit milah?

"One never circumcises except by day after sunrise", after sunrise, what we call it, after the scientific day. **"Whether on the eighth day which is its proper time or not at its proper time",** whether when the brit is at its proper time, which is on the eighth day, or when it's not at its proper time, which is from the ninth day onward, one must do it during the day, **as it says "and on the eighth day",** and one learns **"by day and not at night".**

"And if one circumcised from when dawn breaks, it is valid." After the fact it is valid. Initially, as we have already learned, that there are two types of morning. There is dawn which is also already morning, but the main morning is at sunrise. We learned down regarding prayer, that initially one should pray after sunrise, but if one prayed from dawn one has

fulfilled, yes? There is such a sort of halachah, I remember. The same thing here.

And All Day is Valid for Circumcision

When during the day may one do it? "**And all day is valid for circumcision.**" Valid is the whole day. "**Even so, it is a mitzvah to hasten at the beginning of the day.**" The mitzvah is, there is a beautification in the mitzvah, "**to hasten at the beginning of the day**", to do the brit at the beginning of the day, "**because the zealous perform mitzvot early**".

How early should one do it? But it's valid the whole day. It must be during the day, and with that it's valid the whole day, but one tries to do it as early as possible, the zealous perform mitzvot early. There are Jews who conduct themselves exactly so to do, yes.

Discussion: Practically When Does One Make the Brit?

Speaker 1: We don't conduct ourselves so. One conducts whenever, after Shacharit, when the Rebbe is ready to do his sandakaut, I don't know.

Speaker 2: Okay. The Rambam would also agree. The Rambam doesn't mean to say here that one must do it in the morning before one does Kriat Shema and prayer. He already said earlier other things that one must do after sunrise.

Speaker 1: No, and the same here. It can be that the zealous perform early, but there is a nicer time, a larger crowd will come, one does it later. But it's not...

Halachah 10: Circumcision of Slaves Overrides Shabbat

The Rambam says further, **just as circumcision of sons overrides Shabbat**, just as the mitzvah of circumcising the children overrides Shabbat, **so too circumcision of slaves**, we learned that both types of slaves, whether a homeborn slave or one purchased with money who is obligated in circumcision, also if they are circumcised on the eighth, **so too circumcision of slaves who are not circumcised on the eighth**, meaning a homeborn slave, **overrides Shabbat and one circumcises them on their eighth on Shabbat.**

Except, we learned earlier that there is a way how one is a homeborn slave, but such a half homeborn slave, that is, **a homeborn slave whose mother did not immerse until she gave birth.** We learned earlier that if the mother would not have been a full maidservant, she would not have immersed for the sake of being a maidservant with a condition, the child would be called purchased with money. And what happens with such a child that afterwards the mother immersed, which we didn't understand then how it works retroactively, but in such a case, which then it is indeed called a homeborn slave because the mother has now already immersed, but this is a novelty, and a Gemara, then there is the mitzvah of being circumcised on the eighth, which is called a homeborn slave, but still it's not such a smooth homeborn slave, **it does not override Shabbat.**

And the Ra'avad argues with this, he sees that the Tosafot had a sugya in the Gemara, and the Ra'avad argues. But we can hear more or less what the matter is, what the simple explanation is.

Halachah 9 — Minor Born Circumcised, Born in Eighth Month, Born Through Wall, Androgynous, Two Foreskins

We make the chapter Shabbat before section 9. **A minor born already circumcised** — circumcision on Shabbat. Okay, we will soon see what this is. In a general way, the halachah depends on the time of circumcision for this.

Okay, **a minor born already circumcised.** We already had earlier that there is such a thing as a minor who is born circumcised, where one draws blood of the brit. And another thing, here, normally it lasts nine months until a child is ready, but **one who is born in the eighth month**, one who is born early, born before the time, in the eighth month of pregnancy, **before his formation is complete**, before the whole creation, before the whole ah... ah... ah... ah... over becomes a child, **which is**, which such a child receives a status of stillborn, from the language that he is not alive. A child who is born in the eighth month we don't trust, and they have very great concerns that he won't survive, he has a status of stillborn which is a doubt whether he will live.

The same thing **one born through the wall**, a child who was born didn't come out from the ah... natural way but through a surgery, which born through the wall is a sort of surgery that has been done many years ago. By **androgynous**, androgynous we learned that if he has male organs one circumcises. The same thing **one who has two foreskins** which we also learned that one must circumcise both foreskins, but one overrides Shabbat but doesn't override Shabbat.

That is, all these things are reasons why to think that one doesn't have to circumcise exactly on the eighth day. Although the Rambam ruled regarding all these things that one should indeed do on the eighth day stringently and so forth, but no, it's however not overriding Shabbat, **rather they are circumcised on Sunday which is their ninth day.**

That is, let's say so, a minor born already circumcised, although there is indeed an obligation to draw from him blood of the brit, we said that this means "**and on the eighth day the flesh of his foreskin shall be circumcised**", but not enough that it should override Shabbat. One sees that it's not so smooth the halachah, or at least not stringently.

Eighth month also the same thing, that it's a doubt whether the child is obligated in circumcision, because perhaps he won't be able to survive, perhaps he's called stillborn, he's not called a living child. The same thing born through the wall perhaps also doesn't, it's not clear that he has the law "**on the eighth day the flesh of his foreskin shall be circumcised**". And androgynous one also sees that there is a doubt, and one is obligated from doubt. And one who has two foreskins is very interesting, because one can say that for the first foreskin he is certainly obligated. What can be that there is choice? We don't know which foreskin is the correct foreskin, and which is the defect? I don't know, I think. It looks earlier that it's a doubt. This I say, here you also see that it's a doubt. One only takes stringently that one is obligated in circumcision on the eighth day, but not on Shabbat. Yes, we have all things.

Discussion: One Who Has Two Foreskins

Speaker 1: One who has two foreskins, perhaps there is a doubt person, perhaps there is a doubt animal. So if one has two foreskins and he doesn't know the practical halachah, he should check in. I will ask the Rav when it's relevant.

Yes. The point is that one doesn't make Shabbat.

Speaker 2: Eh, it's a blemish, perhaps it can be anything extra is considered as if missing.

Speaker 1: Two, it causes a wound.

Speaker 2: Ah, fine there is one creature and he doesn't know which.

Speaker 1: No, the anything extra is considered as if missing says like an animal that has five legs, as if it has no legs. It's just as difficult it is for him, and he must decide this to use and how to arrange himself. It's the donkey of Burgenin. It's certainly a blemish, one just needs to know how it works. I mean, yes.

Apparently there are many of these things which are less relevant today, when there is an ultrasound.

Speaker 2: Ah, one can do an ultrasound. One needs to know whether one will do an ultrasound, a question of castration.

Speaker 1: No. Does castration have one of them?

Speaker 2: One needs to know in short.

Speaker 1: No, he won't create two mitzvot of procreation. In short, one must ask the rabbis, it's a funny case. Okay, what are we going to do?

It seems that it's a doubt. It seems that the Gemara had a doubt, perhaps there is some limb from. He points to born through the wall and not take on the eighth. It can be that two foreskins also, one takes on the eighth. Okay, okay, okay. But he is stillborn. The Rambam says yes, the next day. It means that you can't now in honor of what you don't want to take foreskins, you must do immediately. No, we learned earlier that one must take the eighth day, the obligation, but not that the matter can override Shabbat. What's the difference? The Shabbat, right the next morning.

Halachah 12 — One Born at Twilight

One born at twilight, doubt whether of the day doubt whether of the night, we count from the night. One goes to the same doubt. Why does the Rambam say **we count from the night? We count from the night, and he is circumcised on the ninth which is a doubt eighth.**

Discussion: Why Count from the Night?

Speaker 1: Um, it can be that there is perhaps a certain concern of danger before the eighth day.

Speaker 2: No, I mean it's simple. It can be earlier when it's not coming out at all, afterwards with the limb.

Speaker 1: No, the severity of the seventh day is a bit of danger. Automatically before the eighth day the child is already ready for circumcision.

Speaker 2: Yes, but why must one arrive at this? You hit it even halachically. The seventh is certainly not ready.

Speaker 1: True, to make the brit, to it can be that one has otherwise missed the obligation, the Torah doubt of "on the eighth day".

Speaker 2: Ah, yes, right, but the Rema makes a contradiction, he says count from the night. He means to say practically count from the night, but there is a doubt, one is stringent. But it can be that you are here fulfilling the Torah doubt, because again, you must do "on the eighth". Ah, "on the eighth day". What comes "eighth day"? You have a Torah doubt obligation.

Speaker 1: But he tells me, no, you do it the next day so that one should make the mitzvah actually fulfill the doubt.

Because if you go to do that, you will do that by a Torah doubt, it can be that it's not at all a valid brit.

Speaker 2: No, it can be on the seventh.

Speaker 1: Automatically the Friday twilight is also for the same reason, **it does not override Shabbat. "These are circumcised on Sunday, which does not override Shabbat from doubt"**.

Okay. It's understood that the question begins here when is twilight, but the Rema is twilight.

Discussion: Practically — Twilight According to Rabbeinu Tam and the Geonim

Speaker 1: I will tell you practically, if a question comes, I will tell you for example a question of a few minutes after sunset, when the question is... the logic, I will tell you the logic, I'm not saying practical halachah, but as I have conducted a list. The logic of the halachah goes on all these doubts also. If the law is that it's a doubt, doubt one must make it, one can't make Shabbat, or one must wait for the next day. You also have a doubt whether Rabbeinu Tam is right or the Geonim are right. "All this we hold in that doubt, doubt Tannaitic". One must make it. One will say, "I rule Rabbeinu Tam". Yes, very good, but you have a doubt which decisor to go, isn't a doubt going.

Speaker 2: What is twilight?

Speaker 1: Okay, I understand what you're saying, but the essential logic of a doubt (safek) applies to this as well. A doubt needs to be made certain, it doesn't mean on the seventh day. Except in certain places, except people who rule at a certain level with the status of certainty. You say it's certainly day. Okay, if it's certainly day I can't do anything. But the approach is, you could argue, or the law could tell him, if you're still doing work then, and one is still doing hefsek tahara then, it makes no sense not to circumcise. It shouldn't mean to you that it's not a doubt. I'm telling you again, there are those who do make the contradiction (tartei desatrei). It's truly a great wonder, one doesn't circumcise on Shabbos, how could one still have done work then, or how could one still have done a hefsek tahara then? Yes, and indeed so, and if not, you have only what your eyes see.

And as it's been said, one understands that the Divine Presence doesn't circumcise, I mean, by the Divine Presence, after the Divine Presence are all the souls, this is in brief, difficult to say.

Yes. Not such a big problem.

Law 13 — An Eighth-Month Baby: If Not Viable as a Seventh-Month Baby, Viable as an Eighth-Month Baby

Yes, okay, **if not viable as a seventh-month baby, viable as an eighth-month baby.**

Okay, now, they learned that a child who is born in the eighth month, the Sages gave him a category like a stillborn (nefel), like a doubtful life, he won't survive. They looked at it this way, according to their medical knowledge that existed then, this will be a stillborn, he won't live.

It could have been born a seventh-month baby, the seventh month, whoever was born completely, but the eighth month the plain meaning is that the child still needs nine months, if he's born before that it's not a proper child, and therefore we desecrate Shabbos and so on.

We ask his mother about her calculations, how do we know? If he was born completely **with his hair and nails**, a **thin but complete child** means he's a complete child, and he was born in the eighth month, the woman keeps her accounting, she made a note in her calendar, she says so, he's a seventh-month baby, she's a woman who gives birth to a seventh-month baby, but what then? **That is not complete**, it was delayed.

I once heard from a rabbi, it's very interesting, it's an interesting story, there was once a rabbi, but let me finish exactly what the Rambam says. One says he's a seventh-month baby but it was delayed, it's actually like a mother can indeed carry a child more than nine months too, there are times when the mother is pregnant nine months with two weeks, there are such cases.

The Sages view it that there's a type of category of a child who is healthy even at the seventh month and can come out, eighth month not. If one is indeed born in the eighth month healthy, one says that this is a seventh-month baby who came out late.

And therefore regarding desecrating Shabbos, what one can do, there's a law that such a child who was born in the eighth month and we don't know if he can survive, the children that in today's times we would put in an incubator, the Sages were afraid of such a child. To move him because it could be that one makes the danger worse.

Yes, it has to do with the fact that a dying person (goses) one doesn't touch. It's muktzeh. It's muktzeh because it doesn't mean it's a certain child. Certainly if one can save him then obviously, but the doctor will only approach with the assumption that it's literally a dying child. The child because it's like the law of a gose's it's not understandable that one should move him.

So that's just the question.

An Eighth-Month Baby — Considered Like a Stone, and Circumcision in Doubt

An Eighth-Month Baby — Considered Like a Stone and Forbidden to Move

Speaker 1:

The children that today we put in an incubator, the Sages were afraid of such a child to move him, because it could be that you make the danger worse.

Speaker 2:

Yes, does it have to do with the fact that a dying person one may not touch? Because it's muktzeh? Because it means it's a certain child?

Speaker 1:

No, no, no, certainly if one can save him.

He said this: such a seventh-month baby, sometimes such a seventh-month baby is a bit early by a few weeks, a month, two, three. But if it could be not, I'm thinking now, one can sometimes use it, it's a way to permit something. No, there could be something else. It could be not always is... I don't know if there is indeed sometimes when one can actually track when the woman was with the man last time. I'm saying these things are not about a doubt. One tells me "born in the eighth month," one doesn't say because perhaps the mother isn't sure when it was, because there are situations when she can indeed know exactly when she became pregnant.

But so, he's born, and one sees on his body that he's not healthy, he doesn't have good hair, and so on, **"and his limbs being complete indicate about him that this is certainly an eighth-month baby"**, one says that he's actually an eighth-month baby, and he's actually a child who was born too early. **"For a child is only seen at nine"**, what is truly a child who would still have needed nine months to become completely baked and become ready. **"And he came out before he was finished"**, he came out before the proper time. **"Therefore he is considered like a stone"**, what is to move him, means the child, is the child considered like a stone? What is "one may not move him"? One may not move the child.

Speaker 2:

Yes.

Speaker 1:

What does he accomplish helping here? What's the plan? I told you, he's going to die.

Speaker 2:

What is "one may not move him"? What are you talking about?

Speaker 1:

Sorry, I'm trying to check the quality of my mic.

Speaker 2:

Speak.

Speaker 1:

Wait, I'll tell you. **"If he survived thirty days, if the child has indeed survived thirty days, this is a viable child"**, meaning he is indeed a child who can live.

Speaker 2:

What does it mean he's considered like a stone in the week? You're talking about a child who's going to die on Shabbos.

Discussion: "His Mother Bends and Nurses Him Because of Danger" — Danger for the Mother, Not for the Child

Speaker 1:

The Rama tells me very clearly, this is how the language reads: **"It was taught, an eighth-month baby is like a stone, and it's forbidden to move him, but his mother bends and nurses him because of danger"**.

Speaker 2:

The mother gives food because... no, it looks here like...

Speaker 1:

The mother gives food because of danger for the mother.

Speaker 2:

If Shabbos is the word, or the word is about us being afraid that it makes worse, we kill him?

Speaker 1:

No, it clearly says, it's not Shabbos, not Mordechai.

Speaker 2:

You're saying that the Rama isn't clear. Where does the Rama come from? What does he add to the Rama in the laws of Shabbos?

Speaker 1:

There is this whole thing with the Rama that you haven't seen. There is a Rama in the laws of Shabbos.

I just want to say that the Rama wrote nothing clear, he didn't want to write any ruling. He wrote nothing clear at all. But you must remember that in the laws of Shabbos it says that an eighth-month baby is like a stone, and a stone has a law that one may not move it.

Speaker 2:

What does it mean he's like a stone?

Speaker 1:

This is stated in the laws of muktzeh, in the laws of Shabbos. Like a stone means he has the law of a stone, and one won't make him supervised over him. He's not a child that one will...

Speaker 2:

The mother does give food to the child.

Speaker 1:

The mother gives food because it's a danger for the mother. **"One needs to nurse him because of danger"**.

Speaker 2:

Because of danger for the mother?

Speaker 1:

Yes, yes. Not for danger for the child.

Speaker 2:

Because the child has a law that he can't survive.

The Reality of Then and Now

Speaker 1:

This was obviously in the old times, in the old world. If today too there is a situation that one knows, I don't know if one knows such a thing. We have all kinds of such advanced knowledge that we do in all things.

Speaker 2:

No, it's clear that a person... okay, let's go further. A person has the greatest fearful... when he's born, the earliest, and it all has to do with the mother not having time to give the influence. But the greatest difference between the seventh and the eighth, what is such a great distinction, is that he's called considered like a stone, and it's far from us.

Speaker 1:

There are today also premature babies that... the considered like a stone...

Speaker 2:

Yes, it's certain that the rabbis don't rule the law as it is, because there's always a way to save. It's simple, as long as one can save the child, one must do what one can with saving a life (pikuach nefesh). There's no doubt.

Question: Why Say "Considered Like a Stone" If It Could Be "Survived Thirty Days"?

Speaker 2:

Here one goes assuming the assumption that here is perhaps an eighth-month baby that... and therefore he's muktzeh, and one may not touch him. And one means him the whole Shabbos etc. But if so, you see that one made a mistake. He survived thirty days, why did one make a mistake? He says that he was a seventh-month baby, when not I know what something.

Why shouldn't one say a law, that once there have been a few times such a thing as survived thirty days, one should already count him as a child? I'm sure that when one gives someone a

category considered like a stone, there's a high chance that he's going to die. Yes. If one won't give him something, one will give him, give him, give him. I'm saying, if it's even been once survived thirty days and it survived, I would already remove the law of considered like a stone. Because if so people are going to die if one gives them a law that they're considered like a stone, they're going to die.

Speaker 1:

Okay, it's true. Okay, one must understand, the reality doesn't match our current reality, but one must understand. Do you understand what I want to tell you? Once it was survived thirty days, why should one say at all about a child considered like a stone? Then you're placing on him actually, you're placing a death decree.

Speaker 2:

One must understand, you see that the survived thirty days is also a rare thing. That means, there is a miracle.

A Seventh-Month Baby — A Viable Child

Speaker 1:

One who was born in the seventh month of his gestation is like this: if he was born complete, this is a viable child and we circumcise him on Shabbos. Did he already say this? Ah, no, in the seventh month. Now he's talking about a seventh-month baby. Unlike the seventh-month baby, meaning a seventh-month child, and he's a healthy child, **this is a viable child and we circumcise him on Shabbos.**

Doubt Whether Seventh-Month or Eighth-Month Baby — We Circumcise Him on Shabbos

Speaker 1:

What happens if it's **a doubt whether seventh-month or eighth-month baby? We circumcise him on Shabbos.** Why? Because in any case (mah nafshach). **If he's a seventh-month baby, and he's complete,** it overrides Shabbos, meaning a proper healthy child, this is on the eighth day. **And if he's an eighth-month baby,** there's also no prohibition on Shabbos. The reason why one shouldn't circumcise on Shabbos when it's not on the eighth day is because you're fixing with this. When one does a circumcision, one is fixing, one makes the child become a Jewish child. But an eighth-month baby is like a stone, on the side that he's not a child. So when he's a certain eighth-month baby, why should one do a circumcision at all? Why should one... he's muktzeh. But there is a side of seventh-month baby, and on the side of seventh-month baby one is obligated, so it's a Torah doubt (safek d'oraita). It's a Torah doubt, one must be stringent. But you say, the other side is a doubt of desecrating Shabbos. No, it doesn't mean desecrating Shabbos. Why? Because if one cuts off the foreskin of an eighth-month baby, it doesn't mean fixing. It means just like one makes a wound, it means just like one is cutting in a destructive manner.

Discussion: Cutting Flesh — Destructive or Nothing?

Speaker 1:

It could perhaps be destructive, but it could be that he's not even destructive. When one cuts flesh simply, what is the plain meaning of destructive? The Rambam says that cutting simply is not a prohibited labor. You're cutting meat, you may not do a circumcision or a wound. The Rambam doesn't speak of the wound. The wound is also apparently a Shabbos labor.

Just like a body or one who wounds, he's destructive. Simply destructive. The Rambam doesn't speak about destructive. You're now doing an act of fixing. You're doing it because the law says that it's so.

Speaker 2:

No, but it's very interesting. The law said, the same law said, I mean to say is, if I remember in the laws of Shabbos, usually if one makes a wound in a person one is exempt. If one hits someone on Shabbos and blood comes out, one is exempt because it's destructive. But if you're fixing for medical purposes, there's a way that one says it's for healing purposes, it's something else. So circumcision is apparently, as the Rambam says not destructive, the Rambam says cutting flesh, perhaps he has some other approach.

Speaker 1:

No, logically it's very, you're here in a dilemma, yes? If you ask the father, what did he just do? If he says I did a circumcision, and it was assumed it's a seventh-month baby, he'll be happy, because he just did an act of fixing. So he must say, I don't know what I just did. I just did either a circumcision, or simply cutting flesh. It's interesting.

The learning says so. The learning says that one does a circumcision now from doubt, because in any case (mah nafshach), either it's a circumcision, it's good. Or not, it's simply a cut. Or worst case it's simply a cut, and simply a cut is permitted.

Speaker 2:

No, but I'm saying how it's logically interesting is, because from the minute that a person has an obligation to do this, it's certainly fixing. He's doing an act of fixing, because he has the obligation to do this.

Speaker 1:

I'm not sure. But here you're going into an interesting thing. There is a practical obligation, the law tells you that you should do it. But that's the manner. That's how I would think.

The Fetus Extended His Head During Twilight

Speaker 1:

Okay, further. Yes? Yes. **The fetus extended his head but most of him didn't come out.** Yes. If a child, **the fetus extended his head**, he wasn't born all at once, but it's a part of the fetus, the head came out **but most of him didn't come out during twilight.** What? He comes out at the head, yes. It's to remember that the head is the main thing. Okay. If the fetus has already brought out his head but most of him didn't come out during twilight, he's standing upside down. He's standing on his head. There's no difference. **All of him is like his head.** Ah, I understand. In short, then, **even though all of him is only at his complete birth on Friday evening, we circumcise him on Shabbos.** One can take half an hour, twenty minutes. But simply during twilight, this he says, twilight is not yet circumcision on Shabbos. Ah, it's the last day. Right? Because perhaps it was still Friday. If it was still Friday, circumcision is on the eighth day. True. Again, every boy who is born during twilight on Friday evening, when do we circumcise him? Sunday. True. Because it could be it was Sunday, because circumcision on the ninth day. Even if the whole came out during twilight, we circumcise him on the ninth day. Here is the novelty, that even if most came out on Shabbos, since he extended his head

already means it's a doubt. Ah, so? Because his head is like all of him, the main thing. But the main birth is the head, obviously many times. This already means that the birth has begun.

Birth means when the head comes out, it seems. The time of danger of birth has begun.

Circumcision Not at Its Time — Overrides the Second Festival Day But Not the First Festival Day

Speaker 1:

Five that don't override Shabbos. One overrides, he now says, all these things that we learned don't override Shabbos, because it's the seventh day or what's not a convert, but it's circumcision not at its time. It also doesn't override the first festival day. But it does override the second festival day. The second festival day which is only rabbinic. And all these things are doubts, this is what we're talking about, all these doubts. A Torah doubt does override a rabbinic law. And this is the bottom line.

Yes. **And on the two festival days of Rosh Hashanah, the two festival days of Rosh Hashanah, it overrides neither the first nor the second.** The two festival days of Rosh Hashanah is not, because the seventh day falls out on Rosh Hashanah, there's no difference between first day and second day, three days extra strict. Why? Because Rosh Hashanah the second day is not in the category of the second festival day of the Diaspora, but it's a complete obligation. You have further a rabbinic law.

Speaker 2:

True, no, one continues counting the same. It's laws like one day, it's already given more the law that it's certain. But I'm just thinking about the thing of overriding the second festival day.

Laws of Circumcision – A Sick Person We Don't Circumcise Until He Recovers

Double Doubt in Circumcision – Opening Discussion

English Translation

Speaker 1:

Because the first one fell out on Rosh Hashanah, the seventh day, there's no difference whether it's the first day or the second day. One must blow three extra sets of shofar blasts. Why? Because the second day of Yom Tov is a doubt. Why? Because on Rosh Hashanah the second day is not in the category of a doubt, it's a complete obligation. It's not a rabbinic obligation.

True? No, that's the simple understanding. We consider that both are the same. There's no difference. The law is like one day. We give it the law as if it's certain.

No, I'm just thinking about the matter of overriding the second day of Yom Tov, what happens when there's a double doubt, like the question I had. And one must think, because you can say that a double doubt regarding a Torah law, you already have two doubts, like in a case of a caesarean birth plus he was born during twilight. Let's say, born possibly during twilight, he was born right after sunset.

Um, one can say that anything where the obligation is essentially from the Torah, essentially he has a Torah obligation to circumcise the child, so it's not a rabbinic day at all. Or you can say no, that...

Okay, sorry, I got confused. Entirely, okay. You want to make that... I'm saying, when there's a double doubt, you'll also have a caesarean birth plus he was born possibly during twilight, like a case I actually had.

Right, and then what? You can say that a Torah doubt has a law, whether it's decisive rabbinically or from the Torah, you can say that one circumcises the child overriding the second day of Yom Tov. But when there's a double doubt, it seems it becomes a rabbinic doubt. Yes, it becomes... One must know, should I deal with the topic of Torah doubt with the Torah or with the rabbis. But let's say, if it's a double doubt, it seems there are two doubts. But you can say there's no difference how many doubts. In practice the law is that one must circumcise. The law that one must circumcise, the law that there is a change why it's different. Yes, but at least one must circumcise on the second day of Yom Tov.

The two doubts, it could be that then it doesn't override the rabbinic. Why not? Because a Torah doubt is important enough to override a rabbinic law. But when there are two doubts it itself becomes rabbinic, so there's room to be lenient.

Okay, okay, it's a double doubt. It's a topic, it's a scholarly topic. Okay.

Law 16: A Sick Child Is Not Circumcised Until He Recovers

Speaker 1:

A sick child. No, but for some reason, I'm not sure it's really a doubt. All these laws, even if you pose a doubt, I don't understand the parameters of all these things. Okay, I'm not explaining clearly what I think, but something I'm thinking. Okay.

A sick child. So, until now we learned matters of what is pushed off by Shabbat, now we're going to learn about another way that one doesn't circumcise at its proper time. Yes. A sick child.

A sick child is not circumcised until he recovers. One doesn't circumcise a sick child until he becomes healthy. And from when? One doesn't circumcise him from the time he recovers from his illness until seven days have passed. From when he recovers, one must give him seven days. **And after that one circumcises him.**

So it's on the eighth day from his illness. It's very interesting. We don't look at when the entire time he was sick, that the difference is that one must give time. It's a practical thing. It's a practical thing, one waits another seven days from when he became healthy.

Fever Versus Eye Pain

Speaker 1:

In Bamidbar Rabbah, seemingly he would have passed through a Shabbat, so he would have said we wait. Here there's a discussion. In Bamidbar Rabbah, when he had a fever. I don't understand exactly what fever means, that he caught a heat? He was sick, he had a fever, a serious illness. Something that's his whole body, an illness. No, I mean it's more like he got a cold. An illness that affected someone, something that has to do only with a certain limb.

Rashi says his eye hurt and healed, there's no contradiction that he'll have a wound in another place, it won't interfere with his eye healing. One circumcises him immediately, his whole body depends on it. It's a practical thing, not a law regarding

illness. That's the point. It's not that it's a serious illness that weakened his whole body. No, I mean the word is, no, not that someone who has the status of sick is exempt, like a sick person who is exempt from sukkah or from that. Rather one cannot circumcise when a person is not healthy, because you can't make it harder for him. It's a difficult thing on the body. But in the manner, no, I'm saying, it could be that a person who has an eye ache, and they will be exempt from sukkah, but they are obligated in circumcision because... Again, again, it became a strange topic. Again, again, the law we just learned is not regarding when he is sick. When he is sick, even if his eye hurts, one doesn't perform a brit milah. After he has recovered, certainly, at the time it develops and heals, after he has recovered, there's a dispute in the Gemara like one who had a fever, one waits seven days after he recovers. Should one also wait by eye pain until he heals and then immediately perform the circumcision, or doesn't one wait seven days. That's the discussion.

Discussion: The Definition of Sick Regarding Circumcision

Speaker 2:

And the reason is the same thing you just said, because he's not... His whole body is weak, and he needs to wait until he regains his healthy strength. But it's interesting, it seems that as long as one is engaged in eye treatment one is indeed exempt as if. Can you give him the time?

Speaker 1:

Right, right, because it interferes. Because it interferes. Because a sick person is exempt. We can't be obligated. It's a bit dangerous. It's not dangerous, but it is dangerous. Otherwise it's dangerous, otherwise he's a sick person who's exempt. Because he's dealing with his eye, because he must take the medicine for his eye every day.

Speaker 2:

I understand, I understand, I understand. It weakens him a bit, but not so much that he should need to wait seven days. It's hard to understand.

Speaker 1:

Is this a law regarding sickness or is this a law regarding making someone sick? The commandment of brit comes first. I understand you don't mean it's a medical sickness. The point is, as you say that a sick person is exempt from reciting Shema because he can't concentrate, a sick person is exempt from sukkah because...

We're talking about laws, is this a law regarding danger or are we saying that because we're afraid he's not ready for circumcision?

Speaker 2:

No, it's laws of danger. A sick person, a brit milah is a somewhat dangerous thing. One doesn't do it for people who have another complication, who knows. Every doctor knows two things. You're not going to do one illness on top of a circumcision.

Speaker 1:

No, I understand he has some illness. And the same is eye pain, he has some illness. He has some wound somewhere, and his body doesn't know anything isn't going on with him.

Speaker 2:

Not just any wound. Eye pain doesn't mean he has a scratch on his back. Eye pain means he has a certain illness in his eye. And that's actually the reason why he's not fit to be circumcised, because he's not yet ready.

Law 17: Very Pale and Very Red

Speaker 1:

For the same reason, they are not circumcised after a bit of illness until blood returns to him, until he has more blood, which will give him a more reddish color, and most of his appearance is lacking, most healthy small children have redness, because the blood makes them look more... Green is a pale, a very pale color.

Speaker 2:

Yes, yes, that's not an illness at all. It's a fact that every baby is born, it takes many times... It's a normal thing, it's part of the development of a baby, he's born with a bit... What's it called? It has a number today, it's called something... Bilirubin test, something like that. The number, it has a part of the blood that takes time until it's born. Usually by the eighth day for healthy children it's already enough. But not necessarily, it can take another week or two. So one waits until his blood is born in him.

Digression: Counting the Omer

Speaker 1:

That's the secret of counting the Omer, who knows.

Speaker 2:

And so, you understand? Counting the Omer, the Jews left Egypt like a baby. That's the Jews. And one must wait seven weeks, because the Jews were still yellow. One must wait until their blood is born in them. What's wrong with saying... What's wrong with the other blood from middah with immersion? It's after thirty-six days, it's seven clean days...

Very Red

Speaker 1:

And so if he was very red, a child who has a very reddish color, **like black**, he sees that someone painted him, once and again, **until his blood is absorbed in him**, until he turns around, he calms down his blood is well absorbed back, as the Maor goes sharply small, and it's not an illness at all. A very reddish color is a sign of illness.

Rambam's Principle: Danger to Life Overrides Everything

Speaker 1:

Ah, now what you wanted to know what's the matter with all these things, the Rambam says, **And one must be very careful with these things**, things that have to do with danger one must pay great attention. There's a question whether to be stringent on the eighth day he shall circumcise the flesh of his foreskin, or a concern of danger, one must be lenient, but in these there's no name of illness, or name of illness, no name of disease, yes. **For danger to life overrides everything**, danger to life overrides everything. And now the Rambam adds very beautiful words, **And it's possible to circumcise later, circumcision one can always do, but it's impossible to return one soul from Israel forever.**

Discussion: The Simple Meaning in Rambam's Reasoning

Speaker 1:

Okay, what he wants to say, that's the reason why... You can say that's why danger to life overrides all commandments in the Torah, because danger to life is the most final thing. Every commandment will have another chance. Or the Rambam means it here more specifically.

Speaker 2:

No, very good, that's the Gemara of desecrate for him one Shabbat so that he will keep many Shabbatot, yes? Which is really a similar thing. No, but here also comes in addition the thing from the Rambam, that circumcision later is not such a terrible thing, as also stands according to the Raavad, that it's not an obligation of karet. Or Shabbat you can say he missed the Shabbat. It's possible to circumcise later means like a smaller problem. And he says like here one is more stringent, like in the concern of danger, he gives it a few more days, and he says that one can wait for him, and not such a great thing according to the Rambam. One must make sure to circumcise, it shouldn't go through a long time, but the point is, it doesn't go away, it's not a lost thing. But a danger to a Jew is always a lost thing, you can't give it back.

Speaker 1:

But I'm saying, Shabbat is also a lost thing, because Shabbat also isn't there anymore.

Speaker 2:

Yes, it doesn't go that way. I think to myself, circumcision, every day that one isn't circumcised is like a Shabbat that one didn't keep?

Speaker 1:

No, it's not.

Speaker 2:

It's not, but one is certainly not according to the Rambam. I'm saying that one disagrees with the Rambam and the Raavad. I don't know, the Raavad says, no, the Raavad doesn't disagree. The Raavad says that every day he stands in obligation of karet.

Speaker 1:

Ah, yes, yes.

Speaker 2:

If he's intentional, he's not intentional. The Raavad says it's forbidden to turn what's intentional. But not for any reason, he does it because it's a reason... No, I know even... Even the Raavad I mean. Even the Raavad also has fear for children. The Raavad also has fear that one can make a damage. It will be fixed after one hastens the healing. He doesn't say that every minute that one doesn't hold...

Laws of Circumcision Chapter 1 — Conclusion: Law of a Woman Who Circumcised Her Sons and They Died

Law 18: A Woman Who Circumcised Her Sons and They Died from the Circumcision

A woman who circumcised her first son and he died from the circumcision that weakened his strength, and so she circumcised the second and he died also from the circumcision, whether from this husband or from another husband, she should not circumcise the third at its proper time, but waits for him until he grows a bit and his strength is established.

Explanation of the Law

Speaker 1: The Rav says it's forbidden to distinguish what relates to established, but not established. It should be a risk, even — no, I know even. Even if the Rav I mean. Even if the Rav, it's also the opposite. The Rav also says the opposite, that one can't so easily fix after one makes the brit milah. He doesn't say that every minute that one holds back from circumcising one transgresses. He says but many leniencies, he doesn't understand that one must go back there to the inquiry, but I mean it's even on the contrary.

Now we go to another law. A woman? **A woman who circumcised her first son, and he died from the circumcision that weakened his strength.** A mother who circumcised her son, and the child died from the circumcision that weakened his strength. I mean the Rambam wants to say something specific here that weakened his strength, not as if it bled a lot and the child died. There was some sort of death from that weakened his strength. That is, the child became weaker, he caught a fever and right after that he died, whatever.

Speaker 2: No, it becomes it's something not necessarily, not when one can say it was just an accident, when it wasn't a good brit. Rather when one can say it had to do with the child...

Speaker 1: Ah, you mean the opposite. I meant the opposite. Doesn't necessarily mean he died at the moment of circumcision.

Speaker 2: Ah, yes. True. Circumcision weakness. Circumcision weakness. Circumcision, something that one can say not... Okay, it will take a better mohel there. It shouldn't make a lot of bleeding. I could all these things, he says I can be stringent.

Speaker 1: And she returned and circumcised the second and he died from circumcision. The same thing

happened with the second child, also died from circumcision. **Whether from this husband or from another husband.** No difference whether both children are from the same man, or from another man. **She should not circumcise the third at its proper time.** She should not circumcise her third child at its proper time. **But waits for him until he grows a bit and his strength is established,** she should wait until he becomes a bit bigger and he gets more strength. Because we're afraid that this...

Discussion: Established Pattern Regarding Danger to Life

Speaker 1: I thought that here it already turns into an established pattern, even if there isn't yet an established pattern. Two children is already an established pattern, okay, but regarding danger to life. The word is... Regarding danger to life two is an established pattern. So it seems?

Speaker 2: So you see here?

Speaker 1: Yes, I mean, that it's even they killed him. Regarding danger to life, even one child, one has fear of danger to life.

Speaker 2: No, no, one child one can say it was an incident, it was a result of some moment, this and that, the mother ate something, I don't know, it made the children weak. Two children already makes a doubt, it already makes a doubt, and in doubt of danger to life, and one doesn't circumcise the third until he becomes older.

Speaker 1: Where does the Rambam rule? Can one ask a doctor? I don't know etc. It's all such definitions, throwing principles. You see he's tired, it can happen, one must wait.

Conclusion

Okay, until here Laws of Circumcision Chapter One.