

Daf Notes is currently being dedicated to the neshamah of

Tzvi Gershon Ben Yoel (Harvey Felsen) o"n

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

1. Milah is unique that thirteen covenants were made regarding it.

The *Gemora* states that Rabbi Eliezer derives his ruling that preliminaries for *milah* override *Shabbos* prohibitions from the verse that states: *and on the eight day the flesh of his skin shall be circumcised*, and the word *ubayom*, which is extra, teaches that even on *Shabbos* one can perform preliminaries of *milah*. We cannot, however, derive from *milah* to all other cases that the preliminaries should override *Shabbos*, because *milah* is unique in that there were thirteen *brisos*, covenants, made with it. (131b - 132a)

2. A kal vachomer cannot be learned out from a Halacha.

The *Gemora* states that *milah* overrides *Shabbos* because of a *Halacha leMoshe miSinai*, a law taught to Moshe at Sinai. The difficulty with this is that there is a *braisa* that states that Rabbi Elazar ben Azariah maintains that saving a life overrides *Shabbos* prohibitions because of a kal vachomer which is as follows: *milah*, which is a mitzvah that involves one limb of a person, overrides *Shabbos* prohibitions, then certainly saving a life, which allows the one being saved to fulfill the entire torah, should override the *Shabbos*. Now if the law that *milah* overrides *Shabbos* is derived from a *Halacha leMoshe*

miSinai, we learned elsewhere that a kal vachomer, which is one of the thirteen methods of interpreting the law, cannot be applied to the Oral Law. Thus, the law that *milah* overrides the *Shabbos* prohibitions cannot be a *Halacha leMoshe miSinai*. (132a)

3. One source for milah overriding Shabbos prohibitions is from the words os, Bris, and doros.

The *Gemora* suggests that the source for *milah* overriding *Shabbos* prohibitions is from a *gezeirah shaveh* of the words *os*, a sign, said with regard to *milah* and with regard to *Shabbos*. The *Gemora* rejects this, because then *tefillin*, of which is also said *os*, should override the *Shabbos* prohibition of wearing *tefillin*, which it does not. The *Gemora* then attempts to learn a *gezeirah shaveh* from the word *bris*, covenant, said by *milah* and the word *bris* said by *milah*, which is also rejected, because then the *milah* of an adult who is not circumcised, of whom it is also said *bris*, should override the *Shabbos* prohibition, which it does not. The *Gemora* also attempts to derive that *milah* overrides *Shabbos* because by *milah* it is said *doros*, generations, and by *Shabbos* it is said *doros*, and the *Gemora* rejects this suggestion also, because then *tzitzis* of which is also said the word *doros*, should override the *Shabbos* prohibitions, which it does not. The *Gemora* therefore concludes that we derive from



the words *os*, *bris*, and *doros* said by *milah* from *Shabbos*, where it is also said *os*, *bris*, and *doros*. Regarding *tefillin*, however, it only states *os*, regarding circumcision of an adult it only states *bris*, and regarding *tzitzis* it only states *doros*. (132a)

4. Another source for *milah* overriding *Shabbos* prohibitions is from the word *bayom*.

A further source for *milah* itself overriding *Shabbos* prohibitions is because it is said: *and on the eighth day the flesh of his foreskin shall be circumcised*, and the word *bayom*, on the eighth day teaches that circumcision is performed whenever the eighth day is, even if that day is on *Shabbos*. (132a)

5. Another source for *milah* overriding *Shabbos* prohibitions is from the word *Shemini*.

A different source for *milah* overriding *Shabbos* prohibitions is because it is said: *hashemini*, on the eighth day, which also teaches that whenever the eighth day, is even on *Shabbos*, circumcision is performed. The *Gemora* rejects this reason, however, because the word *hashemini* excludes performing the *milah* on the seventh day or any day prior to the eighth day. Although a different verse can be the source of the law that circumcision is not performed on the seventh day, one of the verses is required to exclude the seventh day, and another verse is required to exclude the ninth day. That circumcision prior to the eighth day is excluded is understandable, because it has not yet reached the proper time to perform the circumcision. One would think, however, that once it has reached the eighth day, then even after the eighth day one can perform the circumcision, and the extra verse teaches us that this is not so. Thus, the *Gemora* rejects

the opinion that maintains that the source for *milah* overriding *Shabbos* prohibition is from the word *hashemini*. (132a3-132a4)

6.

7. The prohibition of *tzaraas* overrides the offering of sacrifices.

In explanation of a *braisa*, the *Gemora* states that *milah* overrides *Shabbos* prohibition because of the following *kal vachomer*: *tzaraas* has a stringency that a *Kohen* is prohibited from cutting off *tzaraas* even if there are no other *Kohanim* to perform the sacrificial service, and a non-*Kohen* cannot cut off his *tzaraas* in order to be able to bring a *korban pesach*. The sacrificial service has a stringency that it overrides the *Shabbos* prohibitions, in that the daily offerings, the *mussaf* offerings and all public offerings that have a set time can be offered on *Shabbos*. Nonetheless, one can cut off the *tzaraas* on the foreskin while performing the circumcision. It would follow, then, that since the sacrificial service overrides the *Shabbos* prohibitions, certainly *milah* should override the *Shabbos*. (132a -132b)

8. *Milah* overrides *tzaraas* whether the circumcision is performed in its proper time or not.

Milah overrides the prohibition of removing *tzaraas* from the body where the circumcision is performed on the eighth day or even after the eighth day. This law is derived from the verse where it is said: *the flesh of his foreskin shall be circumcised*, and this means that even if there is *tzaraas* on the foreskin, it should be cut off. When the torah issues an injunction against one removing *tzaraas*, that injunction only applies to other areas of the body besides the area that is circumcised. (132b)

9. A positive commandment supersedes a negative commandment.

The *Gemora* offers an alternative reason for *milah* overriding *tzaraas*. It is based on the principle of *aseh doche lo saaseh*, in this case the positive commandment of *milah* overriding the negative commandment of cutting off the *tzaraas*. One might have thought that this rule should not apply because *milah* is a positive commandment and *tzaraas* contains a positive commandment and a negative commandment, and one would learn the verse that states: *the flesh of his skin shall be circumcised* to be referring to a case where there is no *tzaraas* on the foreskin. The word *besar*, the flesh, precludes this notion, and teaches us that even if there is *tzaraas* on the foreskin that will be removed, the circumcision can be performed. (132b)

10. Even the *tzaraas* of a minor after the eighth day can be cut off during the circumcision.

The *Gemora* states that *milah* overrides the prohibition of removing *tzaraas* with regard to an adult who has not yet been circumcised and with regard to a child who is eight days old, because concerning both these categories, the word *besar* teaches us that *milah* overrides *tzaraas*. With regard to a minor who is circumcised after the eighth day, however, we must employ the following logic: This category of a minor after eight days cannot be derived from an adult because an adult who dies without having been circumcised is liable *kares*, excision. This stringency does not apply to a minor after eight days who has not been circumcised. This category of a minor after eight days cannot be derived from the category of a child eight days old, because such a child is circumcised in the proper time i.e. on the eighth day. We have to look at

the common denominator in that they are circumcised and their being circumcised overrides *tzaraas*, so the same will apply to anyone who is circumcised, including a minor after eight days, that *milah* will override *tzaraas*. (132b)

11. A positive commandment only supersedes a negative commandment when the negative commandment is violated at the moment the positive commandment is fulfilled.

The *Gemora* states that we only say that *aseh doche lo saaseh*, a positive commandment overrides a negative commandment, when at the same time the negative commandment is violated, the positive commandment is fulfilled. Examples of this precept would be when one performs *milah* and the area has *tzaraas*, or when one places *tzitzis* with strings of *Techeiles*, a thread of blue-dyed wool, on a garment that is made of linen, which would normally be forbidden because of the prohibition of *shaatnez*, wearing a garment that contains a mixture of wool and linen tied together. With regard to a Kohen who has *tzaraas* on his body, however, he cannot cut off the *tzaraas*, because when the negative commandment of cutting off the *tzaraas* is violated, he is not performing the positive commandment of performing the sacrificial service, as cutting off the *tzaraas* is merely a prerequisite to performing the service. (132b4)

DAILY MASHAL

Aseh Doche Lo Saaseh

The *Gemora* states that the positive commandment of performing *milah* overrides the negative commandment of cutting off *tzaraas*.

Rabbeinu Nisim Gaon writes that many people cast doubt on this precept, as we know that a negative commandment is more stringent than a positive commandment, so why should a positive commandment supersede a negative commandment?

Rabbeinu Nisim answers that a positive commandment is set, and if there is a negative commandment, the negative commandment only functions if there is no contradiction to the positive commandment. This is what Hashem decreed, that the positive commandments remain in place, and the negative commandment only functions if there is no contradiction to the positive commandment.

The Ramban¹, however, writes that the reason a positive commandment supersedes a negative commandment is because in reality, a positive commandment is greater than a negative commandment. A positive commandment is a reflection of the love Hashem has for us, because one who fulfills the instructions of his master is beloved by his master and the master will have compassion on him. A negative commandment, however, is a reflection of Hashem's Attribute of Judgment, and stems from fear. Since love is greater than fear, the Torah states that a positive commandment supersedes a negative commandment.

Based on this premise, the Meshech Chochmah explains that one who violates a negative commandment deserves a greater punishment than one who does not fulfill the will of Hashem. Nonetheless, since it is the will of Hashem that one observes both positive and negative commandments, one who fulfills a positive commandment demonstrates his love for Hashem. One who does not violate a negative commandment, however, merely demonstrates that he is afraid and nothing more. For this reason, the Torah states that a positive commandment supersedes a negative commandment.

An example of this is one can wear *tzitzis* with *techeiles* on a garment of linen, as the positive commandment of wearing *Tzitzis* supersedes the negative commandment of *shaatnez*. The reason for this is that one who wears *shaatnez* does not transgress the will of Hashem. In fact, the opposite is true, as by donning *tzitzis*, he is fulfilling the will of Hashem.

¹ Commentary to the Torah Shemos 20:8