

## *Mezizah be-Peh—Therapeutic Touch or Hippocratic Vestige?*<sup>1</sup>

By: SHLOMO SPRECHER

With the appearance of a news article in the mass-circulation *New York Daily News*<sup>2</sup> implicating *mezizah be-peh*<sup>3</sup> in the death of a Brooklyn

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<sup>1</sup> The author wishes to emphasize that he subscribes fully to the principle that an individual's halakhic practice should be determined solely by that individual's *posek*. Articles of this nature should never be utilized as a basis for **changing** one's *minhag*. This work is intended primarily to provide some historical background. It may also be used by those individuals whose *poskim* mandate use of a tube instead of direct oral contact for the performance of *mezizah*, but are still seeking additional material to establish the halakhic bona fides of this ruling. Furthermore, the author affirms that the entire article is predicated only on "Da'at Ba'alei Battim."

<sup>2</sup> February 2, 2005, p. 7.

<sup>3</sup> I am aware that purists of Hebrew will insist that the correct vocalization should be *be-feh*. However, since **all** spoken references I've heard, and all the published material I've read, use the form "*be-peh*," I too will follow their lead. I believe that a credible explanation for this substitution is a desire to avoid the pejorative sense of the correct vocalization. Lest the reader think that Hebrew vocalization is never influenced by such aesthetic considerations, I can supply proof to the contrary. The *Barukh she-'Amar* prayer found in *Tefillat Shabharit* contains the phrase "*be-feh 'Amo*." Even a novice Hebraist can recognize that the correct formulation should be in the construct state—"be-fi 'Amo." Although many have questioned this apparent error, Rabbi Yitzchak Luria's supposed endorsement of this *nusah* has successfully parried any attempts to bring it into conformity with the established rules of Hebrew grammar. However, this *nusah* appears originally only in French and German medieval manuscripts hundreds of years prior to the *AR"i*. The actual reason for this substitution, according to N. Wieder, the noted scholar of Jewish liturgy, is a desire to eliminate

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newborn, this component of a traditional *brit milah* entered its third century of controversy. But this time, given the potency of current mass media, the issue received far broader and more intensive coverage than ever in its previous two centuries. Also for the first time, the issue inserted itself into the electoral process—with the *haredi* community refusing to endorse Mayor Bloomberg for re-election until the New York City Health Commissioner agreed to an entente on this issue.<sup>4</sup>

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placement of the phoneme “fi” juxtaposed to *Hashem* since “fi” was an expression of contempt in both Medieval French and German. Wieder’s essay is entitled “*Tikkunim be-Nusah ha-Tefillah be-Hashpa’at Leshonot Lo’aziot*” and is available in his collected articles entitled “*Hitgabsht Nusah ha-Tefillah be-Mizrah u-be-Ma’arav*,” pp. 469–491, see especially p. 480 and p. 486, Jerusalem: 1998. (For the remainder of the article, the acronym MBP will be used interchangeably with the full phrase *mezizah be-peh*.)

<sup>4</sup> An extensive analysis of this aspect of the controversy can be found in an unusually candid article by Chaim Dovid Zwiebel entitled “Between Public Health And Mesores Avos; An Inside Account of the *Metziza B’peh* Controversy,” which appeared in the April 2006 issue of *The Jewish Observer*, pp. 6–21. Although Zwiebel presents a critique of the conclusions reached by the authors of the paper in *Pediatrics*, “Neonatal Genital Herpes Simplex Virus Type I Infection After Jewish Ritual Circumcision: Modern Medicine and Religious Tradition,” B. Gesundheit, et al. (2004), and critiques as well Dr. Thomas R. Frieden (Commissioner, Department of Health and Mental Hygiene – City of New York), the article still confirms what had been suspected by those closely monitoring the *Haredi* response—there was a significant divergence between the Agudah’s position and that of the *Hasidic* leadership. He also airs a good deal of criticism directed at the tactics of the latter. To the best of my recollection, this appears to be a unique event in the history of that publication, which has often targeted those to the left of the Agudah, but has been reticent to criticize those to the right. The article also presents the most detailed discussion of the tragic events in the fall of 2004 that led to the intervention of the New York City Department of Health and its attempts to dissuade the *mohel* involved (Rabbi Fischer) from personally performing MBP. Had he voluntarily complied, as did another prominent *mohel* in 1998 who was associated with two cases of post-circumcision herpes, the entire controversy may have been avoided. Also evident to the careful reader

Since there is an extensive secondary literature on *mezizah be-peh* that is readily available,<sup>5</sup> there is little need to review the basic

is Zwiebel's dissatisfaction with some of the decisions made by Rabbi Fischer's advocates, as contrasted with the great personal esteem he has for Rabbi Fischer. Apparently, one such attentive reader is Rabbi M. Orbach, a Monsey-based rabbi, who issued a blistering attack on Zwiebel, accusing him (and implicitly, the Agudah leadership) of manifesting "*Da'as Ba'alei Battim* which is opposed to *Da'as Torah*." Incidentally, Rabbi Orbach is misquoting the original source of this phrase, which is a passage in the *Sm'a*, *Hoshen Mishpat*, 3:13 (who attributes it to the Mahari Weill), who actually wrote the following—*piskei ba'alei battim upiskei lomdim shnei bafochim heim*. The entire riveting correspondence can be found at [yeshivaworld.blogspot.com](http://yeshivaworld.blogspot.com).

<sup>5</sup> For a comprehensive analysis of the early stages of the controversy see Jacob Katz's "*Pulmos ha-Mezizah*" in his collection of articles entitled *Halakha be-Mezar*, pp. 150–183, Jerusalem: 1992. A voluminous treatment of the material up to the beginning of the 20th century can be found in the "*Kuntres ha-Mezizah*" Volume 8 in the 1962 New York reprint edition of Rabbi C.C. Medini's *Sdei Hemed*, pp. 236–280 and 433–450. Contemporary material defending MBP can be found in the following three works: Rabbi Y. B. Goldberger's *Brit Kerutab le-Sfatayyim*, Brooklyn, NY: 1990; Rabbi Abraham Cohn's *Brit Avraham ha-Koben*, pp. 190–206, Brooklyn, NY: 1993; and Rabbi Menashe Klein's *Mol ve-Lo Por'a*, Brooklyn, NY: 2002, pp. 191–199. Particularly comprehensive is the section entitled "*Milhemet ha-Mezizah*" found in Y. D. Weissberg's *Ozar ha-Brit*, Volume 4, pp. 7–38, Jerusalem: 2002, which also presents opposing views fairly. Some excellent articles in English are also available: Dr. Y. P. Shields, "The Making of Metzitzah" in *Tradition*, volume 13, # 1 1972, pp. 36–48; A. Cohen, "Brit Milah and The Spectre of Aids" in *Journal of Contemporary Halachah*, Number XVII, Spring 1989, pp. 93–115; D. Shabtai and R. Sultan, "Medical Risk Taking in Halacha: A Case Study—Metzitzah b'peh" in *Journal of Contemporary Halachah*, Number LI, Spring 2006, pp. 12–43 (my thanks to the authors for allowing me to read their article prior to publication); Israel G. Hyman, "The Halakhic Issues of Mezizah," *Proceedings of the AOJS*, 8-9 (1987), pp. 17–44; Dr. Edward Reichman, "Metzitzah B'peh: A Medical Historical Note," *AOJS Intercom*, vol. xxv, issue 3, Fall 2005, pp. 1–2; Robin Judd, "German Jewish Rituals, Bodies and Citizenship," Ph.D. Dissertation, Univ. of Michigan 2000 (my thanks to Prof. Judd for sharing her thesis with me, which will be forthcoming as a full-length book); and "The Metzitzah B'Peh Controversy: A Historical &

material here. This paper will focus instead on clarifying what I consider to be widely held misconceptions and errors disseminated by the proponents of *mezizah be-peh*.

### **The Rationale for *Mezizah be-Peh***

The entire Talmudic reference to the act of *mezizah* (note, the Talmud never specifies nor utilizes the term *be-peh*) consists of the following few lines of text. There is a Mishnaic dictum that reads: “We perform all the necessities of circumcision on *Shabbat*: We may circumcise, uncover and draw out.”<sup>6</sup> Rav Pappa adds the following comment: “The expert surgeon who does not draw out is a danger.”<sup>7</sup> The *Gemara* then questions the need for Rav Pappa’s comment—the Mishnah specifically allows the drawing out to be done on *Shabbat*, which entails a violation of Sabbath law, a waiver of which can be due only to circumstances of danger! The *Gemara* then explains that without Rav Pappa’s comment one might have interpreted the Mishnah’s statement about drawing out blood as referring **only to blood that had already separated** from the underlying tissue, an activity that does not involve a Sabbath violation. Rav Pappa’s clarification tells us that **the blood to be drawn out is still contained within the underlying tissue**, which does constitute a Sabbath violation of inducing a wound, but is nevertheless required to avert harm to the infant.

This Talmudic passage is codified by Rambam as follows: “One draws out the *milah* until the blood comes out of the distant places, so that no danger shall prevail.”<sup>8</sup>

What exactly is this danger referred to by the Talmud and the Rambam? Neither *Hazal* nor Rambam feel any need to describe it, presumably because they assumed it would be obvious to any of their

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Halachic Perspective,” Reviewed by Horav Yisroel Belsky, *Halacha Berurah*, Vol. 9, Issue 1, Fall 2005, pp. 1–6.

<sup>6</sup> Talmud *Bavli*, *Shabbat* 133a. All Talmudic references will be cited from the Schottenstein edition of the Talmud, with my slight (non-referenced) modifications.

<sup>7</sup> *Ibid*, 133b.

<sup>8</sup> *Yad*, *Hilkhot Milah* 2:2.

contemporaries, who shared the same medical frame of reference, namely, a Hellenic and Hellenistic system of medicine.<sup>9</sup>

Since this system is so unfamiliar to moderns, let me present a brief extract from a work I've consulted, *The Healing Hand—Man and Wound in the Ancient World*, by Guido Majno:<sup>10</sup>

The Greek physicians studied disease primarily by giving it a lot of thought [as opposed to observation]. The result was an overall, synthetic, but wholly imaginary theory of disease, in which the basic disturbance, and therefore the treatment, was always of the same kind, even in the case of a wound. The reasoning went about as follows. In nature everything is balanced. “Too much” or “too little” causes an imbalance, which is disease. The actual components of the body that may go out of balance are the celebrated four humors: blood, phlegm, yellow bile, and black bile. In the normal body these humors are harmoniously mixed; disease ensues if they are mixed in the wrong proportions, or if they become unmixed...[A]ny pain or lump could be explained as a “distemper” or disharmony of the blend... [B]lood was regarded as the worst offender, because it was liable to spill out easily and therefore to “stagnate.” This was

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<sup>9</sup> I assume the readers of this journal do not need a primer on this very weighty issue of the fallibility of *Hazal's* scientific pronouncements, especially in light of the enormous literature generated by the Slifkin ban. I would merely add that Prof. S. Sternberg's essay “Review of I. M. Levinger's *Guide to Masekhet Hullin and Masekhet Bekhorot in Bekhol Derakbekha Dae'hu*, *Journal of Torah and Scholarship* 4, Winter 1997, pp. 84–102 and follow-up comments in *Bekhol Derakbekha Dae'hu*, *Journal of Torah and Scholarship* 7, Summer 1998, pp. 99–101 represent my personal choice for elegance of expression and, of course, cogency of the arguments. As for the interface between Talmudic and Hellenistic medicine, please refer to the comprehensive review article by Meir Bar-Ilan, “*ba-Refuah be-Eretz Yisrael be-Me'ot ha-Rishonot le-Sefirah*,” *Cathedra* 91 (1999) pp. 31–78, for extensive documentation of the dependency of our Talmudic Sages on the Alexandrian medical tradition. As a sampler of Talmudic material confirming this dependency, see *Bavli Bava Mezi'a* 107b where Rabbi Elazar attributes numerous ailments to an excess of bile, and *Bavli Bava Batra* 58b where Rabbi Bana'ah considers an excess of blood **the** major source of disease.

<sup>10</sup> This long citation consists of material found on pp. 178–184, Cambridge, MA: 1976.

supposed to be dangerous, because one of the key propositions in Greek medicine maintained that stagnating blood will decay...and in decaying, it might even become pus...the parts around the wound will develop spasms, attract blood, become soaked with it, and decay. The beauty of this thought (corruption originates *around* the wound), however wrong it may sound today, is that it shows how the Greeks struggled to explain the mechanism of what we call infection—or in their terms, corruption. They could have no idea that the cause was something [micro-organisms] deposited on the surface of the wound. Therefore, using their principle that “stagnating blood decays,” they rationalized that the trouble had to arise all around the wound: *blood was attracted there, and turned into pus*. This thought is stated or hinted at many times in the Collection [Hippocratic Corpus]; for instance, **“all wounds draw their inflammation and swelling from the surrounding parts, because of the blood flowing into them. In every recent wound...it is expedient to cause blood to flow from it abundantly, for thus will the wound and the adjacent parts be less attacked with inflammation...when the blood flows they become drier and less in size, as being thus dried up. Indeed what prevents the healing...is the decay of the blood.”**

This doctrine, originally formulated by Hippocrates and his disciples,<sup>11</sup> received an enormous boost through its enthusiastic endorsement by the great second-century Alexandrian physician

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<sup>11</sup> My attribution of this medical theory to Hippocrates should be understood in only a general sense, and I agree fully with the following quote: “The formidable reputation posthumously acquired by Hippocrates of Cos (circa 460 BCE.) had little factual basis. He may, as a successful physician, perhaps have composed a small part of the miscellaneous corpus of writings which bears his name. Quite probably, the collection was compiled from a variety of sources by scholars working in Alexandria during the third century BC; the fact that it became associated with a man singled out for praise by Plato and Aristotle because of his fame as a doctor encouraged others to accept and elaborate the legend of authorship.” C. Rawcliffe, *Medicine & Society in Later Medieval England* (UK: 1995), p. 30.

Galen, whose works became synonymous with the practice of medicine for at least fifteen centuries.<sup>12</sup>

Preventing wound complications by “**causing blood to flow from it abundantly**” provides the objective for the practice of *meziḥab* perfectly. It also clarifies the famous difficulty in Rambam’s formulation—what is Rambam’s source for the additional requirement “until the blood comes out of the distant places?” No mention of this requirement can be found in the Talmud’s discussion of *meziḥab* cited above.<sup>13</sup>

It appears that the only commentator who actually understood this enigmatic Rambam is Rabbi Nachum Rabinovitch, who writes:<sup>14</sup>

The Rambam’s additional phrase explains the technique of *meziḥab* necessary to avoid danger—“Until the blood exits from distant places.” This is similar to the technique expressed by Rambam in the first chapter of his work, “Poisons and Their Antidotes.” In that work Rambam refers repeatedly to the value of *meziḥab* in treating a victim of a snake or scorpion bite. Without *meziḥab* to draw out the poison, it would spread in the blood and reach the life-sustaining internal organs. If one succeeds in drawing the poison out from their distant places, before further spread, the danger is averted. Since the Rambam ruled that a metal

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<sup>12</sup> “[T]he attention and praise lavished upon them [Hippocratic Corpus] by Galen, a towering figure in the medieval medical pantheon, bestowed a lasting imprimatur.” *Ibid.*

<sup>13</sup> Although Owsei Temkin, the great historian of medicine, has characterized the Rambam as “the severest theological and philosophical censor of Galen,” he also quotes the Rambam’s statement “**related to the medical science, as he [Galen] is the chief of this science and has to be followed in it; but his opinions ought to be followed in medicine and in nothing else.**” Rambam rejected Galen’s non-medical philosophical musings, but was most certainly a Galenic physician. See Temkin’s *Galenism, Rise and Decline of a Medical Philosophy*, p. 123 and pp. 77–78, respectively, Ithaca and London: 1973.

<sup>14</sup> Nachum E. Rabinovitch, *Mishneh Torah ‘im Peirush Yad Peshutah, Sefer ‘Ahavah*, Volume 2, p. 1274, Jerusalem: 1984. The translation provided is my own, and is non-literal for the sake of clarity.

blade instrument is preferred for *brit milah*, and *Ḥazal* in *Yevamot* 76a teach us that iron causes inflammation, it is evident why *mezizah* is needed.

Rabbi Rabinovitch's comparison of *mezizah* following *brit milah* to *mezizah* following a toxic bite indicates an awareness (though unstated) that the bleeding following a *brit milah* is equivalent to a toxin, a notion that is sensible only in the Greek model outlined above—blood becomes attracted to a wound and subsequently decays into pus.

Now, one of the points of contention between the pro-and anti-MBP forces centers on whether the medical benefits of the MBP procedure outweigh any possible risk associated with its performance.<sup>15</sup> Those advocating MBP maintain that the medical necessity for its performance continues in force, and so they (not cognizant of the actual Hippocratic origin of the practice) are constrained to provide a basis for its therapeutic effect.

What then are the rationales offered for *mezizah*? At the beginning of the twentieth century, Rabbi C. C. Medini summarized the possibilities for the nature of the danger prevented by MBP:

1. Infection, transmitted either by the *mobel's* hands or instruments, is the danger that is eliminated by the act of MBP.<sup>16</sup>

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<sup>15</sup> Analysis of precisely this aspect of the issue is the focus of the paper by Shabtai and Sultan cited above in bibliographical note 5.

<sup>16</sup> "It is known that the air is filled with tiny creatures called bacilli, and it is also known that when these creatures enter an open wound they can endanger the patient. So too, the contact from the hands of a person in which an evil spirit is known to dwell on them, as well as the pressure of the knife in cutting off the foreskin, may cause the toxin to enter the internal organs of the newborn infant undergoing a *brit milah*. Therefore, *Ḥazal*, in the depth of their wisdom and from whom no secret was concealed, instituted the process of MBP so that if any toxin enters the organ, it can be extracted. This is what is referred to as 'antisepticus.'" (*Sdei Ḥemed*, vol. 8, p. 440.) Shabtai and Sultan (cited above in note 5, p. 36) seem to endorse this theory: "From a modern medical perspective, one could speculate that since sterilization was not



2. Swelling and inflammation is in some unspecified manner reduced by MBP.<sup>17</sup>
3. Excessive hemorrhage from the wound is the danger prevented by MBP.<sup>18</sup>
4. Unbearable pain, which is alleviated by the anesthetic effects of MPB.<sup>19</sup>

Of course, from a 21<sup>st</sup> century medical perspective, none of these possibilities have any resonance. Aware of the complete lack of cogency in these explanations, a modern proponent of MBP, Dr. Mordechai Halperin, rejected them all. Dr. Halperin has excellent credentials—he is a graduate of Ponevievz Yeshiva and Hadassah Medical School as well as a recipient of an undergraduate degree in Mathematics and Science from Hebrew University. Currently he is an editor of *Assia*, a publication of the Falk Institute of Jewish Medical Ethics at Sha'arei Zedek Hospital, and serves a Chief of Medical

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possible, the purpose of *mezizab* was to remove any bacteria that may have accumulated on the wound during the *milah*.” I am puzzled by this comment, because it seems to indicate that *Hazal* were aware of the existence of bacteria. If that was the case, why were they unconcerned with the abundant bacterial population found in everyone’s mouth? Alternatively, their comment could mean that through trial and error, MBP was instituted as the most effective anti-bacterial available. But this claim is also erroneous, since there are ancient folk-remedies that are far superior to saliva in their anti-septic properties, and do not present the risk of inoculating the infant with the *mohel’s* oral, gingival or blood-borne micro-organisms. See, Majno, cited above, who demonstrates that wine by itself—“the commonest item in wound treatment since the Greeks” is an effective anti-microbial (p. 186).

<sup>17</sup> “When one cuts a finger and immediately performs oral suction on the cut, the swelling and inflammation passes.” (*Sdei Hemed*, vol. 8, p. 440.) Exactly how swelling and infection are affected by MBP is left to the reader’s imagination.

<sup>18</sup> “Because of the pressure and pulling of the skin, the blood vessels constrict after MBP and the blood does not flow in any greater amount than is absolutely necessary.” (*Ibid.*)

<sup>19</sup> “Without the soothing consequences of MBP, the intense pain following the circumcision might cause grave harm, even death, to the infant.” (*Ibid.*)

Ethics at Israel's Ministry of Health—and he certainly recognized the utter failure in these traditional explanations of the medical purpose of MBP.

His solution was to propose an entirely novel theory—MBP was not intended to counter the danger of post-*milah* hemorrhage by **constricting the blood vessels** (as postulated in one of the traditional explanations outlined above). Instead, MBP was needed for the very opposite effect—**dilatation of the blood vessels** so that the complication of penile necrosis could be avoided.<sup>20</sup>

Dr. Halperin based his theory on two Israeli cases of penile necrosis following *brit milah* that resulted in malpractice litigation brought against the *mobelim* responsible for those tragic outcomes. Plaintiff's experts in both cases attributed the horrific complication to poor technique by the *mobelim*—either they negligently extended the foreskin cut into the glans itself at the time of the *brit milah*; or, alternatively, they applied the post-*milah* wound dressing too tightly and thereby constricted the arterial supply. Dr. Halperin's own analysis of the evidence in those two cases (based primarily on his confidence in the extensive prior work experience of the *mobelim* involved) caused him to reject both those possibilities. He posited that those two infants likely suffered from congenital anomalies of their penile arterial system, which placed them at grave risk for necrosis and gangrene, and blame should not have been assigned to the *mobelim*.

Dr. Halperin further buttressed his theory by using the expert testimony of a Dr. Gonen, a general surgeon as well as a *mobel* with 25 years experience, regarding the incident of an infant who developed clinical evidence of compromised penile blood supply following a *brit milah* he had performed in 1980. Dr. Gonen recounted how he successfully treated this complication by immersing the infant in hot water for forty minutes, repeating this process every two hours over a period of several days. The vasodilatation induced by the hot-water bath restored adequate

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<sup>20</sup> Dr. Halperin's essay "*Meziqah u-Rehizab le'achar Brit Milah: Ta'alumot Refu'iyot u-Pitronon*" appeared originally in *Sefer Rappa'el*, edited by HaRav Y. E. H. Movshovitz (Jerusalem: 2000), pp. 161–176. An expanded version of the essay appeared in the periodical *Shanah be-Shanah*, 2001.

circulation, and the infant was spared the complication of penile necrosis.

Dr. Halperin surmised that avoiding this complication was exactly the rationale for the ruling by Rabbi Elazar ben ‘Azariah that infants be bathed in hot water on the third day following a *brit milah*, even if it is *Shabbat*.<sup>21</sup> This requirement was so absolute that he also permitted heating the requisite amount of water on *Shabbat* itself, if necessary. This ruling, allowing desecration of the Sabbath to prepare hot water so that the child might be bathed, was codified by Rif<sup>22</sup> and Rambam,<sup>23</sup> as well as by the Tur.<sup>24</sup> Rabbi Joseph Karo, however, dissents in both his commentary to the Tur and his formulation in the *Shulhan Arukh*.<sup>25</sup> This dissent, for which Rabbi Karo provides no precedent whatsoever, is understood as based on the principle of “*shinui ha-teva*.” Bathing following *brit milah* is no longer critical for the health of the infant, because either the nature of people or the nature of illness has changed.<sup>26</sup> Dr. Halperin’s analysis proceeds from the premise that there are major geographic variations in the frequency of congenital malformations of the penile blood supply. In Rabbi Karo’s bailiwick, the complication leading to penile necrosis was simply not encountered, and desecrating the Sabbath to ensure adequate hot water for the newly circumcised infant was therefore no longer justified.

Dr. Halperin is convinced he has rediscovered the reason *Ḥazal* mandated MBP—it is simply the most effective manner of preventing penile necrosis. Oral suction creates a vacuum at the site of the *brit milah*, and the differential pressure between the distal capillaries and the more proximal arteries ensures that these delicate arteries remain patent and free of thrombosis.<sup>27</sup>

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<sup>21</sup> Talmud *Bavli*, *Shabbat* 134b.

<sup>22</sup> Ad loc.

<sup>23</sup> *Yad*, *Hilkhot Milah* 2:8; *Hilkhot Shabbat* 2:14.

<sup>24</sup> *Tur*, *Orah Ḥayyim* 331:1.

<sup>25</sup> *Orah Ḥayyim* 331:9.

<sup>26</sup> See N. M. Gutal, *Sefer Hishtanut ha-Tevo'im*, pp. 48–52, Jerusalem: 1998.

<sup>27</sup> Dr. Halperin claims that this explanation was originally given by Rabbi Yaakov HaGozer (the cognomen *HaGozer* refers to his occupation), a twelfth-century German *mohel* who wrote *Kelalei ha-Milah* (brought to print for the first time in 1892 by Yaakov Glassberg in Berlin). In that work, Rabbi Yaakov writes (on p. 20) that *mezizah* is necessary to

Dr. Halperin's ingenuity notwithstanding, the theory fails on historical and physiological grounds. As incredible as it appears to the modern mind, the purpose and function of the heart and circulatory system were completely misunderstood by the ancient and medieval medical experts. The liver was considered the central organ of the vascular system, responsible both for producing all of the body's blood and for then dispatching it to the rest of the body via a network of veins. Once reaching its local destination, the blood was **entirely** absorbed by the local tissue. This absorption supplied the necessary nourishment to meet the body's needs. The arterial system, on the other hand, primarily contained and distributed the life-sustaining "*pneuma*," derived from air inhaled by the trachea and then transformed by the heart into this vital "life-force."<sup>28</sup> The arterial and

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prevent blood from clotting in the urethral meatus. I believe an objective reading of this comment indicates nothing more than ensuring that the urinary stream is not impeded by a post-*milah* blood clot. The notion that Rabbi Yaakov was concerned about penile necrosis is a modern projection on an unremarkable medieval observation. This technique of seizing upon a stray Talmudic or post-Talmudic comment and re-casting it as a profound modern scientific insight is quite common in *Hareidi* circles. A particularly good example of this was Rabbi Shlomo Miller's December 2005 attack on R. Slifkin, in which Rabbi Miller claimed the phenomena of the wave-particle duality of light and quantum non-locality entanglement were known by Jewish sages long before physicists were aware of those notions.

<sup>28</sup> Edward Reichman, "The Halakhic Definition of Death in Light of Medical History," *The Torah U-Madda Journal*, Volume Four, 1993, pp. 149–173, especially p. 150. As we have come to expect of Dr. Reichman, whose contribution to the field of the history of medical halakhah is enormous, this article is both comprehensive in its general historical and halakhic content and is completely free of any apologetics. But there is one additional obscure reference that was apparently unknown to Dr. Reichman. In 1915, the Rabbi of Temple Israel in Wilmington, N. C., Rabbi S. Mendelsohn, published an article in the *Charlotte Medical Journal* entitled "The Arterial Function and the Circulation in Ancient Rabbinic Literature." The article was subsequently published by the author as a 32-page booklet, and he mailed a hand-corrected copy of the work to the Jewish Theological Seminary. The author cites the Talmudic requirement that *Shehitah* be performed in the ventral-to-dorsal direction as proof that the Talmudic

venous systems were thus separate and distinct; hence there was no “circulatory” cardiovascular system to speak of until 1628 when the English physician William Harvey published his revolutionary *Exercitatio Anatomica De Motu Cordis et Sanguinis in Animalibus*.<sup>29</sup> The celebrated dispute between Rabbi Zvi Ashkenazi and Rabbi Yonatan Eibenschutz, over the *kasbrut* of a slaughtered chicken whose heart could not be found, indicates that even as late as nearly a century following William Harvey’s discovery of the systemic circulation, rabbinic authorities were still apparently unaware of the true role of the heart and arterial system.<sup>30</sup>

As for Dr. Halperin, he feels no need in his article to attempt to prove that *Hazal* were familiar with the structure and function of the arterial system. He does argue forcefully that *Hazal* made significant advances over the prevailing medical knowledge in the following conditions: Hemophilia and its exclusively maternal genetic

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Rabbis were aware of the critical role of the carotid arteries. However, the actual state of *Hazal*’s acquaintance with these matters can be found in ‘Amaimar’s statement in *Hullin* 45b that “there are three pipes: one splits off to the heart, one to the lungs, and one to the liver.” Even a *Harvidi* author such as Rabbi Yaakov Dovid Lach is forced to acknowledge the grave difficulties in both the Gemara’s teaching and Rashi’s commentary, which indicate that the trachea leads directly into the heart. See p. 155 in his *Sefer Temunei Hol, Hullin Illuminated*, HaMesivta Publications, Jerusalem: 2003, where Rabbi Lach also concedes that this same faulty anatomic scenario is explicitly adopted by the *Shulhan Arukh* and the Rema, *Yoreh De’ah* 34:10. This issue is treated in great detail by Sternberg (cited above in note 9) on pp. 88–92. The first unequivocal reference to Harvey’s discovery in Jewish literature can be found in the Hebrew medical tome *Ma’ase Tuviah*, published in Venice in 1707.

<sup>29</sup> There are historians who have credited the Italian physician Andreas Cesalpinus with anticipating much of Harvey’s research, but being deliberately unacknowledged by the Padua-trained Englishman. “In 1571 Cesalpinus published his *Peripateticum questionem libri quinque*, in which he assumes a constant and physiological transit of the blood from the arteries to the veins through the ‘*vasa in capillamenta resoluta*’ to every part of the body.” L. Luciani, *Human Physiology*, Vol. 1, p. 157, London: 1911.

<sup>30</sup> See Reichman, cited above in note 28, p.160, for the section titled “The *Hakham Zevi* and the ‘Heartless’ Chicken.”

transmission; Neonatal Hemolytic Anemia; and Hypospadias. In a subsequent article he presents a comprehensive treatment of *Hazal's* scientific knowledge entitled “Science and Medicine in the Talmud—Tradition or Reality?”<sup>31</sup> But he never supplies evidence that the true nature of the vascular system was so well understood that MBP was instituted to ensure that the local blood supply would remain uncompromised, simply because no such evidence is available.

Just as Dr. Halperin’s theory fails on historical grounds, so too does it fail on its physiological premises. For the pressure in the proximal arterial supply to register a change, the vascular tone in the **entire** distal capillary bed would have to change. Applying a moment’s suction to the superficial capillaries via the technique of MBP would never affect the vascular tone of the entire capillary bed, and so it would cause no increased flow in the proximal arteries. To cause dilatation of the entire local capillary bed, either a pharmacologic approach should be utilized, such as the administration of vaso-dilating agents, or Dr. Gonen’s hot-water immersion technique would be a possible alternative.

Despite my critique of Dr. Halperin’s explanation of the medical benefits of *mezizah*, it is critical to elaborate on his response to the by-now-famous August 2004 article published in *Pediatrics* that presented a series of eight infants who apparently contracted Herpes Simplex following MBP.<sup>32</sup> Dr. Halperin, in his position as Chief Medical Ethics Officer at the Ministry of Health, convened a number of high-level meetings with *mobelim* and rabbinic authorities to lessen the risks of *mobel*-to-baby transmission.<sup>33</sup> His behavior provides a notable contrast to the American *Hareidi* response, which was primarily one of launching a campaign of vilification and demonization of the investigators associated with the paper.<sup>34</sup>

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<sup>31</sup> *Assia*, Volume 18, Kislev 2003, pp. 90–104.

<sup>32</sup> See the full citation in note 4.

<sup>33</sup> All of this is detailed in a Memorandum prepared by Dr. Halperin and shared with members of the Ministry of Health and the Rabbinic Board tasked with supervising *mobelim*. I thank E. Bohm, editor of the periodical *Halacha Berurah*, for providing me with a copy.

<sup>34</sup> Especially Rabbi MD Tandler, who I assume had no involvement in gathering or interpreting the clinical data, but consulted only on the

Although Dr. Halperin enjoyed some initial rabbinic support in his efforts, once “community activists” became involved, any possibility of modifying the risk factors associated with MBP was thwarted.<sup>35</sup>

At this point, we are left with no alternative but to invoke the authority of Hippocrates and Galen as a rationale for performing MBP, which should give the Jewish community pause, especially in light of the *Herem ha-Kadmonim* regarding the continued utilization of Talmudic remedies.<sup>36</sup>

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halakhic and historical background of MBP. I am, of course, not justifying the egregious comments made by Rabbi Tendler in the course of this controversy (examples can be found in Zwiebel’s article cited in footnote 4). In many ways Rabbi Tendler’s role in this matter can be characterized by the popular expression “With friends like these...” The campaign defending MBP was promoted vociferously by *Hareidi* print media and included mass mailings and broadsides plastered throughout *Hareidi* neighborhoods, which Zwiebel (*ibid.*, p.15) characterized as “shrill, hyperbolic overdrive.” For example, one broadside that I personally viewed on display in Borough Park had the following text (paraphrased from *Be-Midbar* 25:4) printed in bold blood-red type: “Take all the oppressors of the people and hang them before *Hasbem*, facing the sun.”

<sup>35</sup> The entire saga is described in the Memorandum cited in note 33.

<sup>36</sup> See the discussion in Gutal (above, note 26) pp. 43–46 for a full analysis of this topic. Of course, I am aware that advocates of MBP insist on characterizing it as a component of the *mizvah* of *brit milah*, but no credible reading of the Talmudic or post-Talmudic texts can deny that the essential feature of MBP—“preventing a danger to the infant”—represents a therapeutic intervention. Perhaps, after being made aware of how MBP fits so completely into the medical framework of the Talmudic period, some undecided interpreters may be convinced that the texts really mean what they say and that MBP was intended **only** as a medical procedure.

**“Anyone Claiming that *Mezizah be-Peh* is a Danger or Harmful to Infants is Stating an Absolute Falsehood.”<sup>37</sup>**

Representative of this continuing argument is the following citation from Dr. Daniel Berman, Chief of Infectious Diseases, New York Westchester Square Hospital Medical Center, Bronx, NY: “By contrast, *metzitzah b’peh*—assuming the worst, which has not been proved—has had [only] one death attributed to it in the several thousands of years it has been practiced.”<sup>38</sup>

Unfortunately for Dr. Berman and those of like mind, that contention is certainly more myth than fact. The nineteenth century literature contains numerous case reports of fatalities, which contemporary physicians attributed to lesions spread by MBP. Now, I recognize that absolute laboratory corroboration of such transmission would be finding the genetically identical pathogenic micro-organism responsible for the fatality, present as well in the oral cavity of the *mohel*. This technology would not be available for at least a century, and was therefore certainly lacking in these cases. Nevertheless, the outstanding clinicians of that era were developing the diagnostic acumen to recognize venereal lesions and track the spread from person to person. For example, the first report documenting transmission of illness via MBP dates back to one of the most prominent 19<sup>th</sup>-century medical authorities—Johann Nepomuk Rust.<sup>39</sup> In his seminal work on cutaneous ulcerations entitled *Helkologie oder über Natur, Erkenntniss und Heilung der*

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<sup>37</sup> *Maharam Schick, Orach Hayyim*, Responsum 152, dating from the late 1870s and cited by Dayyan Freund of the *Eidab ha-Hareidit* in a proclamation dated *Parshat Mishpatim*, 5765.

<sup>38</sup> Letter to the *Forward*, March 3, 2006, p. 10.

<sup>39</sup> Dr. Rust served initially as a surgeon in Krakow and Lemberg. After achieving fame in these cities, he was hired by the Government of Prussia to serve as the Surgeon General of both the civilian and military medical systems and Professor of Medicine at Friedrich-Wilhelm University. His 17-volume textbook on the theory and practice of surgery, ophthalmology, and venereal diseases represented the apex of mid 19<sup>th</sup> century medicine.



*Geschwüre*,<sup>40</sup> he records an outbreak of syphilis with many fatalities among the newly circumcised infants in Krakow. His own investigations led to his attributing the fatal epidemic to the active venereal lesions that he personally visualized in the oral cavity of the local *mohel*.

The next documented transmission occurred in 1837. Dr. S. Wertheim, the physician in chief of the Jewish Hospital in Vienna, observed a spate of fatalities among the newly circumcised infants of his community. Although he could not identify any lesions in the *mohel's* mouth, he attributed the outbreak to MBP, since the afflicted all suffered initially with incurable rashes on the *brit milah* wound.<sup>41</sup> He consulted the Chief Rabbi, Rabbi Elazar Horowitz, and requested authorization to substitute manually applied pressure, with the interposition of absorbent gauze dressing, to accomplish the drawing out of blood instead of utilizing MBP. After Rabbi Horowitz received approval from his teacher, the Ḥatam Sofer, this change was instituted in Vienna, and Rabbi Horowitz attests there were no further cases of this nature.<sup>42</sup>

During the next several decades there were sporadic case reports from various German localities, but no detailed descriptions are available. The next fully documented article appeared in 1873, when the New York City Board of Health was called to investigate the cases of four healthy Jewish newborns, who had contracted genital ulcerations following their ritual circumcisions.<sup>43</sup> Three of the four infants succumbed to their illnesses. The findings of Dr. Taylor, surgeon to the New York Dispensary Department of Venereal and

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<sup>40</sup> Vienna, 1811.

<sup>41</sup> In fact, Dr. Reichman argues that in these Viennese cases, Herpes Simplex was the more likely ailment transmitted, rather than syphilis, as in the Krakow cases, precisely because there were no overt lesions in the *mohel's* mouth, which should be easily found in syphilitics. See Dr. Reichman's *AOJS* article cited above in note 5.

<sup>42</sup> These incidents in Vienna can be credited with igniting the entire *Mezizab* controversy. See Katz in footnote 5. The role of the Ḥatam Sofer will be treated more extensively in the next section.

<sup>43</sup> R.W. Taylor, "On the Question of the Transmission of Syphilitic Contagion in the Rite of Circumcision," *New York Medical Journal*, Vol. XVIII, December 1873, No. 6, pp. 560–582. I obtained this reference from Dr. Reichman's article cited in footnote 5.

Skin Diseases, were published in the New York Medical Journal. Dr. Taylor writes, “The opinion has been suggested that these Jewish children became syphilitic in consequence of the wound in circumcision having been sucked, according to a custom prevailing among the low classes of stopping hemorrhage, by the operator, who had syphilitic lesions in his mouth.” Since Dr. Taylor was not able to document an active lesion in the mouth of the *mohel*, Mr. H., he could not certify that Mr. H. was the source of the outbreak, or indeed that the three boys died as a result of syphilis.<sup>44</sup> Dr. Taylor concluded his piece with the following observations:

1. That in the Jewish rite of circumcision there is a possibility of the occurrence of syphilis.
2. That the contagion is most likely to be communicated in the act of sucking the wound, the mouth containing a styptic liquid, and that perhaps it may occur by means of instruments soiled by syphilitic blood.
3. That the chances of such contagion are rendered greater by the performance of the operation by irresponsible, nonprofessional persons.
4. That the operation of sucking should be wholly abolished, and that, if a styptic solution of any kind is used, it should be poured from a vessel on the wound rather than squirted upon it from the mouth of the operator.
5. That in no instance should two or more children be thus operated on consecutively without a thorough cleansing of the instruments and utensils used after each operation, and that in every instance the greatest care should be taken in cleansing the instruments.
6. That the performance of the rite should be absolutely confined to responsible and educated persons; either a

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<sup>44</sup> Dr. Taylor did not offer an alternative explanation for the disease process that felled these infants. Using Dr. Reichman’s rationale (cited in note 41), we can postulate that here too, as in Vienna, herpes was the causative agent.

physician alone being selected, or a physician assisting an officiating rabbi, or a circumciser of recognized merit.

7. That, under these circumstances, accidents of any kind are reduced to a minimum.

Dr. Taylor expressed the hope that adhering to his guidelines “will render a rite, which has useful sanitary bearings, less liable to fall into disrepute among those upon whom it is obligatory.”<sup>45</sup>

The next documented outbreak occurred in central Germany. In a four-year period between 1879 and 1883, five babies who had been circumcised in Baden contracted syphilis-like symptoms.<sup>46</sup> The city medical officer, fearing the possibility of an epidemic, conducted an inquiry and, in conjunction with the Jewish physician who assisted him, concluded that the illnesses were to be traced to two *mohelim* who had performed the five rituals using MBP. Another recorded instance took place in Heidelberg in 1888, when a local *mohel* was accused of causing a number of infants to die soon after their circumcisions through his performance of MBP.<sup>47</sup>

In 1888 a number of infants developed genital lesions following circumcisions performed by London’s most senior *mohel*, Reverend Saul Levi. Several of those infants perished as a result of the lesions. The bereaved parents were persuaded, after protracted

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<sup>45</sup> *Ibid.*, p. 582. This portion of Dr. Taylor’s article is also cited by Leonard B. Glick in *Marked in Your Flesh: Circumcision from Ancient Judea to Modern America* (NY: 2005), p. 167. Dr. Glick devotes an entire chapter, “Good Sanitarians: Circumcision Medicalized,” pp. 149–178, to the adoption of circumcision by 19<sup>th</sup> century physicians as a medically required procedure for the prevention of penile cancer, and to suppress the transmission of venereal disease. For example, Dr. Jonathan Hutchinson, the leading syphilologist of the last third of the 19<sup>th</sup> century, was a strong proponent. In fact, he was partially anticipated by Dr. Rust, who blames the condition of phimosis for increasing one’s susceptibility to acquiring syphilis (p. 9 of his *Helkologie*, Volume 2, cited above, note 40). Recognition that medical authorities strongly encouraged circumcision should dispel any notion that bias against the procedure was responsible for the reports citing MBP as a source of infection.

<sup>46</sup> I obtained this reference from Prof. Judd’s thesis cited in footnote 5, p. 289.

<sup>47</sup> *Ibid.*, p 292.

pleadings by community leaders, not to seek legal redress. The parents settled instead for significant reparations paid out of community funds. Keeping the matter out of the public venue of the British legal system was considered key to preserving the honor of London Jewry.<sup>48</sup>

In response to these tragedies, the London Rabbinate assembled all the city's *mohelim* and instructed them to immediately suspend MBP. Over the ensuing decades there were no additional cases of post-*milah* complications.<sup>49</sup>

Data regarding post-*mezizah* infections in Russia began appearing at the turn of the century. The Hebrew newspaper

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<sup>48</sup> Although an article documenting the spread of tuberculosis via *Brit Milah* had already appeared in the leading British medical journal *The Lancet*, transmission of a venereal disease was considered far more shameful. See F. S. Eve's "Communication of Tuberculosis by Ritual Circumcision," *The Lancet* (January 28, 1888), pp. 170–171.

<sup>49</sup> Page 1 of *Sefer Dam Brit*, published by Alexander Tertis, a senior *mohel* of Metropolitan London (London: 1901). Reverend Tertis was a disciple of the *mohel* implicated in causing harm to these infants in 1888. Tertis attests that although *brit milah* without MBP prevented any new cases of infection, he sought to develop a safe substitute for MBP, so that the practice of *mezizah* could be restored. Toward this end, he spent the intervening twelve years attempting to create a device that could accomplish both goals, i.e., *mezizah* that caused no harm. A similar instrument had already been patented in 1888 by Rabbi Michael Cahn, the District Rabbi of Fulda. Rabbi Cahn had developed his glass cylinder in consultation with the greatest German non-Jewish scientists of the period—Robert Koch (the future Nobel Prize winner and considered by Germans the true founder of microbiology), Rudolf Virchow (the great German pathologist) and Max von Pettenkorff (the founder of the discipline of epidemiology, and a noted rival of Koch's). Rabbi Cahn also obtained the approval of Rabbi S. R. Hirsch, Rabbi E. Hildesheimer, and Rabbi Yitzchok Elhanan Spektor for his device. Tertis, however, evoking true British patriotism, believed his rubber tubing and siphon system was a significant advance over Cahn's glass-rod implement. He named his device the "Tertis Apparatus," and published *Sefer Dam Brit*, a 76-page compilation of correspondence with noted *Rabbonim* about his new device. This correspondence represents a great resource in the history of this controversy. I will draw heavily on this work in subsequent sections.

*HaMelitz* gave extensive coverage to this issue. In 1899,<sup>50</sup> Yakov Moshe Aaron Ovitz, who had 40 years experience as a *mobel* in Vilna, shared information he had received from local physicians about many cases of cellulitis, syphilis and diphtheria transmitted via MBP. The most comprehensive treatment of this issue came from a Dr. Samuel Kohn—a physician and *mobel* from the province of Vitebsk—whose 1899 essay documenting the dangers of *mezizab* was serialized over sixteen issues of *HaMelitz*.<sup>51</sup> In 1903 he published *‘Ot Brit*, a scholarly treatment of *brit milah*, which included a thirty-five page chapter focusing on MBP complications.<sup>52</sup>

Returning to the American literature, the Journal of the American Medical Association published a contribution from Dr. L. Emmett Holt, who gathered forty cases of penile tuberculosis recorded in the medical literature that traced the disease to ritual circumcision.<sup>53</sup> A subsequent study written in 1946 by Dr. Evan L. Lewis and entitled “Tuberculosis of the Penis: A Report of 5 New Cases, And A Complete Review of the Literature,” found 72 out of 89 primary cases to have been the result of Jewish ritual circumcision. In enumerating these cases, Dr. Lewis writes: “The actual incidence of tuberculosis of the penis following this rite was much higher than a review of the literature would indicate...Syphilis and diphtheria have also been contracted through this act. After the turn of the last century this act was practically eliminated from the ritual so that tuberculosis of the penis is seen only rarely now.”<sup>54</sup>

The medical literature of the past five years has documented an additional eleven cases, and the New York City Department of Health has added five cases since November 2003, resulting in one fatality and one child with significant residual neurological deficits.

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<sup>50</sup> Issue # 128, p. 6.

<sup>51</sup> The essay appeared in the following issues: 149, p. 6; 153, pp. 5–6; 156, pp. 6–7; 162, p. 7; 164, pp. 6–7; 170, p. 7; 173, p.7; 178, pp. 7–8; 181, p. 6; 182, pp. 6–7; 184, p. 6; 185, p. 6; 192, p. 5–6; 195, p. 6.

<sup>52</sup> *Sefer ‘Ot Brit*, Krakow: 1903, pp. 173–218.

<sup>53</sup> I obtained this reference from Dr. Reichman’s article cited in footnote 5.

<sup>54</sup> Evan L. Lewis, “Tuberculosis of the Penis: A Report of 5 New Cases, and a Complete Review of the Literature,” *Journal of Urology*, 1946:56, pp. 737–745.

The three “cured” infants are still being maintained on Acyclovir, the anti-viral medication.<sup>55</sup>

At the AOJS Modern Medicine & Jewish Law 2006 Conference, one of the presenters, Rabbi Dr. A. Glatt, declared that a local pediatrician had observed ten cases of post-*mezizah* herpes during her career. Other busy pediatricians, on the other hand, were convinced they had never encountered this complication. Obviously, the incidence of transmission is small and sporadic, but nevertheless it would be unreasonable to deny its existence, particularly when the mechanism of such transmission is in accord with all principles of the discipline of infectious disease. Yes, the laboratory “gold standard” is lacking in the current New York City cases, but when the *mohelim* involved refuse either to be studied (in the case of Rabbi Fischer) or to be identified (in the case of the last two infants who developed Herpes Simplex, in the Fall of 2005), establishing this “gold standard” becomes a self-fulfilling impossibility. Regarding Rabbi Fischer’s claim that the twin boys were afflicted with a Herpes Simplex rash before their circumcision,<sup>56</sup> it is directly refuted by the treating pediatrician, who noted nothing other than the typical inter-triginous fungal rash prior to the *brit milah*.<sup>57</sup>

Now, proponents of MBP argue that if it is truly a source of infection and danger, why did that not become clinically evident much sooner?<sup>58</sup> After all, MBP had been practiced for centuries before Dr. Rust’s report of 1811 first indicated it was a health risk.<sup>59</sup>

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<sup>55</sup> See the relevant data summarized in the fact sheet available at [www.nyc.gov/html/std/std-bris.shtml](http://www.nyc.gov/html/std/std-bris.shtml).

<sup>56</sup> See Zwiebel, p. 6.

<sup>57</sup> Personal communication from the attending pediatrician. Of course, some may argue that the pediatrician’s claim is self-serving, but then so is Rabbi Fischer’s. Furthermore, the Department of Health’s investigation could never establish any other mode of transmission than that of MBP.

<sup>58</sup> See, for example, Zwiebel (p. 8), who writes: “the historical experience of the Jewish people...represents a much more powerful “case study” than that performed by any contemporary researchers.”

<sup>59</sup> Evidence that *mezizah* was performed via oral suction can be found not only in halakhic sources but also in at least four 16<sup>th</sup> & 17<sup>th</sup> century Christian eye-witness accounts. See E. Frojmovic’s essay “Christian Travelers to the Circumcision,” pp. 131–139, in *The Covenant of*

The answers are quite simple. Scholars estimate that the minimum pre-modern infant mortality rate (defined as death within the first year of life) remained steady at 20–30%. In some years, German demographers recorded that only **one in three** infants survived their first year!<sup>60</sup> Not until the last decades of the nineteenth century did improvements in urban water supply and sanitation coupled with better nutritional support (e.g., pasteurization of milk) begin to decrease the infant death rate. This overall high mortality made attributing an infant's death to MBP difficult to isolate and distinguish as a separate process.

Furthermore, to identify disease causality, a mechanism of action has to be postulated. It was not until the late 18<sup>th</sup> century that the theory of “contagionism” took root, first among British researchers, and later among some pioneering Continental physicians. Before this paradigm shift, disease was understood as either a result of an internal derangement in the humoral balance by traditional

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*Circumcision*, edited by E.W. Mark, Hanover, NH: 2003. These observers all note with some surprise the practice of MBP. The account of the late 16<sup>th</sup> century English tourist Thomas Coryat warrants repeating. While in Constantinople, he expressed an interest in observing a *brit milab*. “The whole company being desirous that we Christians should observe their ceremony called us to approach near the child...and after a very strange manner unused (I believe) of the Ancient Hebrews, did put his mouth to the child's yard and sucked up the blood.” Apparently, these Turkish Jews did not fear any opprobrium in allowing Christians such intimate access. Contrast this behavior with that described by A. Gross in “The Blood Libel and The Blood of Circumcision: An Ashkenazic Custom That Disappeared In The Middle Ages,” in *The Jewish Quarterly Review*, LXXXVI, Nos. 1–2 (July–October, 1995), pp. 171–174. He documents that the original Ashkenazi *minbag* was to place, at the synagogue's entrance, the blood-soaked cloth used by the *mohel* to wipe his hands and mouth “to publicize the *mizvab*, as they publicized the blood of circumcision and the blood of the Paschal sacrifice in Egypt, when they placed it as a sign on the lintel.” Gross contends that this practice disappeared once accusations of the blood libel were directed at Europe's Jews.

<sup>60</sup> See the chapter entitled “Urbanization, Infant Mortality, and Public Health in Imperial Germany,” by J. Voegelé, p. 109, found in *The Decline of Infant and Child Mortality: The European Experience 1750–1990*, edited by C. A. Corsini and P. P. Viazzo, The Hague: 1997.

Galenists; or as secondary to external atmospheric factors (“miasma”), which was the explanation rendered by the “progressive” physicians of the 16<sup>th</sup> and 17<sup>th</sup> centuries.<sup>61</sup> Therefore, attributing an infant’s illness to contagion or spread from one individual to another was not yet an available option for physicians (or anyone else, for that matter) before the nineteenth century.

Another critique of the theory of MBP spreading disease could consist of the following: how can we trust that these 19<sup>th</sup> century clinicians arrived at the correct diagnosis? Precisely because the overall infant mortality was so high, isn’t it likelier that these infants dying after MBP were suffering the same illnesses that afflicted their female and non-Jewish cohorts who did not have this particular risk? Again, the answer is straightforward. The diseases that were then responsible for the great preponderance of infant morbidity and mortality were a) scarlet fever and diphtheria, causing severe throat inflammation and breathing difficulties; b) cholera and other gastro-intestinal pathogens that produced fatal dehydration secondary to unremitting diarrhea; c) smallpox and measles; and d) respiratory diseases secondary to pulmonary infections.<sup>62</sup> All these entities were easily distinguishable from the post-MBP genital ulcerations, which first alerted those 19<sup>th</sup> century physicians to the dangers of MBP.

When we consider that it was not until 1877 that Louis Pasteur first proved transmission of an infectious microbe from subject to subject, it is comprehensible that many *poskim* refused to accept the untested hypotheses of earlier 19<sup>th</sup> century physicians and continued to argue for the **perfect** safety of MBP. That position, however, is certainly no longer credible. As Rabbi Yisroel Reisman acknowledges: “No new ground has been broken in the debate regarding metzitza b’peh during the last hundred years. Few (if any) new *teshuvos* on the topic exist, aside from those that simply reflect the older literature.”<sup>63</sup> When we consider that many of the pro-MBP

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<sup>61</sup> See Margaret Delacy, “The Conceptualization of Influenza in Eighteenth-Century Britain: Specificity and Contagion,” *Bulletin of the History of Medicine*, 1993, 67:74–118.

<sup>62</sup> See Voegelé, pp. 113–115.

<sup>63</sup> Rabbi Y. Reisman, “A Call to Reason: Focusing the Debate” in *The Jewish Observer*, April 2006, pp. 22–27. The quote is found on p. 23.



adherents rely on Responsa that pre-date the recognition of the germ theory of infectious disease, the question of the continued relevance and dispositiveness of that material should certainly be posed.

Nevertheless, as pointed out by Shabtai and Sultan:

Much of the scientific literature from the late nineteenth and early twentieth century adduced to defend the practice is no longer considered valid and is not relied upon medically...Many of these authorities were unaware of many of the myriad infectious agents known today and therefore could not have considered their effects appropriately. R. Goldberger quotes extensively (p. 26) from Dr. Sherhai (*Meishiv Nefesh*) indicating the “current” medical opinion of 1906 that was unaware of blood-borne pathogens. **Today we are aware that many pathogens live, replicate and cause infection in the blood, making Dr. Sherhai’s discussions no longer relevant but nonetheless cited by R. Goldberger as authoritative.**<sup>64</sup>

In 1991, Rabbi Y. B. Goldberger prepared an English translation of his “*Brit Kerutah le-Sfatayim*,” entitled “*Sanctity and Science*.” The publisher’s recommendation defines the work as “a review of **the latest scientific research demonstrating the safety and desirability** of *b’rit milah* as performed by the traditional method.” Apparently Dr. Sherhai’s opinions expressed in 1906 still qualify as “the latest scientific research.”<sup>65</sup>

### **The Ḥatam Sofer’s Position**

While it is generally known that R. Moses Sofer (1763–1839) issued an uncharacteristically lenient ruling regarding *mezizab be-peh*, the proponents of the practice have succeeded in enveloping this opinion in a haze of obfuscation that has essentially nullified its message

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<sup>64</sup> Shabtai and Sultan (cited above in note 5), p. 37.

<sup>65</sup> It is also more than a bit ironic that century-old “experts” are considered reliable, whereas current leaders in the fields of epidemiology, public health, and infectious disease are not considered credible.

entirely. The recipient of this Responsum, Rabbi Elazar Horowitz, Chief Rabbi of Vienna since 1829, was a disciple of the Ḥatam Sofer, and had been sent to Vienna upon his recommendation. By 1846, Rabbi Horowitz was compelled to vigorously defend himself against charges that he had fabricated the entire Responsum.<sup>66</sup> He stressed that he had enacted Rabbi Sofer's ruling immediately upon receiving it, in the spring of 1837, two and a half years before Rabbi Sofer died. The short distance between Vienna and Pressburg of only 35 miles, and the extensive traffic and family connections between these two cities, ensured that the information traveled back to Pressburg at once. If his opponents were correct, why had the Ḥatam Sofer refrained from exposing the forgery? Rabbi Horowitz further informs his audience not only that he is still in possession of the original correspondence, but that he also received two follow-up letters from his revered teacher, affirming his original *psak*. He cites one of these: "As for my original Responsum regarding *mezizah*, I wish to add that although I permit *mezizah* via another method [i.e., a gauze sponge] without utilization of the *mobel's* mouth, nevertheless I still permit the method of MBP on *Shabbat*, because utilizing the sponge also entails *hillul Shabbat*."<sup>67</sup>

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<sup>66</sup> Rabbi Horowitz's response to an attack by an anonymous critic (likely a Hamburg-based disciple of Rabbi Ettlinger) that had appeared in the periodical *Der Treuen Zionswächter* (August 25, 1846, pp. 285–291) can be found in *Der Orient* (1846) # 43, pp. 338–340; and # 44, p. 345.

<sup>67</sup> *Ibid.*, p. 345. In 1850, Rabbi Binyamin Zev Wolf Löw, Chief Rabbi of Verbau, Slovakia and author of the celebrated *Sefer Sha'arei Torah*, wrote a long Responsum to Zvi Hirsch Lehren, the Ashkenazi *Rosh ha-Kahal* of Amsterdam, instructing him how best to deal with an overly pious *mobel*. This individual, aware that physicians no longer considered MBP beneficial, refused to perform MBP on *Shabbat*, because without any therapeutic benefit it was simply an act of *hillul Shabbat*. Rabbi Löw's analysis accepted the premise that the nature of people has changed and so omitting MBP no longer entails any danger to infants. For that precise reason, he argued, performing MBP on *Shabbat* can no longer be characterized as having any constructive purpose – "Therefore, *mezizah* which has absolutely no *tikkun of the mizvah of milah*, and **as there is no danger in omitting it**, it is clear that there is no *issur de-'oraita* at all [in performing *mezizah* on *Shabbat*] and there remains only an *issur de-rabbanan of mekalkeil*," which is not enough of a violation to

Yet allegations that the entire communication might be a fabrication continue to be aired.<sup>68</sup> Another tactic employed is to acknowledge the authorship of Rabbi Sofer, but attenuate its import by claiming it was a *Hora'at Sha'ab*—a specific ruling given only for that time (1837) and place, Vienna, and having no relevance for anyone else. The “background” for this explanation relies on creating a persona around this Viennese *mohel* responsible for transmitting the fatal infection as someone too well-connected to the Hapsburg Imperial Court to be able to be relieved of his duties.<sup>69</sup> The complete

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stop the performance of *minhag Yisrael*. This Responsum appeared initially in *Shomer Ziyon ha-Ne'eman*, serialized in fascicles 93 through 98. A slightly modified version, based on the author's original autograph manuscript, was published by Rabbi E. Marder, appended to his edition of Rabbi Yaakov Emden's *Drush Pesah Gadol* (Podgorze, 1900). The excerpt quoted above appears on page 19, column b of the Podgorze edition. Both versions of this Responsum were reprinted by the Makhon Beit Aharon ve-Yisrael of Mosdot Karlin-Stolin in *Shu"t Sha'arei Torah ha-Hadashot* (Jerusalem: 2005), as Responsa #2 and #3. The quote cited above appears at the bottom of page 8, column a of the Jerusalem edition, with the deletion of the phrase “of the *mizyah* of *milab*” and the addition of the phrase “**in those locations where** there is no danger in omitting it.” (These editorial changes, however slight, appear designed to attenuate the impact of these remarks.) In any event, Rabbi Löw's ruling provides an authoritative basis for our current halakhic practice of performing *mezizah* on *Shabbat*, whether by direct oral contact or with the interposition of a tube. For later authorities who dealt with this concern, but who were apparently unaware of the *Sha'arei Torah*'s compromise, see Rabbi Yaakov Neuberger's “Halakhah and Scientific Method” in *The Torah u-Madda Journal*, Volume Three, 1991-1992, pp. 82-84.

<sup>68</sup> Most recently at the AOJS Modern Medicine & Jewish Law Conference, Symposium on *Metzitzah B'Peh* on February 19, 2006. Rabbi Dr. A. Glatt presented the Hatam Sofer's authorship of this ruling as still being the subject of legitimate difference of opinion, noting that some of his most illustrious disciples maintained it was a forged Responsum. This belief is no longer valid, as I will demonstrate.

<sup>69</sup> It is curious how those far removed in time and place from the events in 1837 Vienna seem to know more about the particulars than Rabbi Horowitz himself, who could have easily deflected the opprobrium

non-sustainability of this contention is obvious to anyone who cares to read R. Sofer's own remarks, where there is absolutely no reference to any concept of this being a limited ruling.<sup>70</sup> Rabbi Sofer does not even provide any hint that his analysis is contingent on any particular or unique circumstance regarding a specific problematic *mohel*.

How then are we to interpret the Hatam Sofer's leniency in this matter and his apparent lack of concern about altering a traditional practice?<sup>71</sup> What is particularly unexpected in his ruling is that he does not even accord *mezizah be-peh* the status of *minhag*, for had he considered it as such, we can be confident that he never would have sanctioned any tampering with it. The Hatam Sofer was absolutely unyielding in the necessity of maintaining the observance of all *minhagim*, according the non-observance of a *minhag* equivalent to violating a Biblical prohibition.<sup>72</sup>

The answer is really quite simple. In 1837, it was inconceivable to the Hatam Sofer that circumcision could be subject to Reformist pressures, because no male born to Jewish parents could be registered by the local municipality unless he underwent a

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from his rabbinic colleagues by invoking the constraints of removing such a powerful figure as this well-connected *mohel*!

<sup>70</sup> See the facsimile of the initial publication of the Responsum reproduced at the end of this article. Therefore, reports that the original manuscript copy of the Responsum, currently in the possession of a London-based descendant of the Hatam Sofer, bears a notation—*hora'at sha'ab*—purportedly emanating from the Hatam Sofer's son or a disciple of his, do not add one iota of credence.

<sup>71</sup> At first blush, the Hatam Sofer's dismissal of the kabbalistic basis of MBP might seem out of character. But as Marc Shapiro demonstrates, the Hatam Sofer used precisely this formulation in nine other Responsa, and it is to be thus interpreted: "in halakhic matters, in particular when normative halakhic tradition is challenged by positions advocated in mystical texts, in the course of this controversy kabbalistic traditions are not authoritative." See p. 305 in his essay "Rabbi Moses Sofer's Intellectual Profile," in *Beerot Yitzchak: Studies in Memory of Isadore Twersky*, (Cambridge, MA: 2005), pp. 285–310.

<sup>72</sup> For a superb synopsis of the Hatam Sofer's uncompromising adherence to *minhagim*, see Rabbi Daniel Sperber's *Minhagei Yisrael*, Volume 2 (Jerusalem: 1992), pp. 188–190.

*brit milah*. Non-affiliation with a religious community was not an option—a newborn was either baptized into the Christian community or, if a Jewish newborn, registered as a member of the Jewish *Kehillah*, and for males this required a *brit milah*. Thus, the Ḥatam Sofer was able to issue a purely halakhic ruling—devoid of any meta-halakhic considerations.<sup>73</sup>

All of this complacency regarding circumcision came to an abrupt end in the early 1840s (several years after the Ḥatam Sofer's death). First, a group of young Frankfurt intellectuals issued a challenge to the Reform leadership upbraiding them for their timidity in limiting their innovations of Jewish practice. Specifically, they questioned the necessity of *brit milah* as a pre-requisite for Jewish affiliation. This radical demand was too extreme for the Reformist leadership; nevertheless, at the first Reform synod held in Braunschweig in 1844, the attendees endorsed a ban on the practice of *meziṣah*. One of the speakers at the conference emphasized that even among the extremely traditional Jews in Germany the practice of MBP was declining.

Once news of this was disseminated, it elicited a vigorous counterattack from the camp of the traditional community, who could not tolerate or fathom how one of the pillars of orthodoxy—the Ḥatam Sofer—could possibly have conceded that an element of traditional ritual practice was problematic and so could be modified drastically. This discomfiture resulted in creating a counter-narrative to deny entirely or blunt significantly the very straightforward and direct *psak* of the acknowledged *Gadol ha-Dor* of the first half of the 19<sup>th</sup> century. This counter-narrative was helped immeasurably by the Ḥatam Sofer's descendants who, not surprisingly, ensured that the Responsum was not included in the published Responsa of the Ḥatam Sofer, which appeared in six volumes between the years 1841 and 1864.<sup>74</sup>

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<sup>73</sup> I am indebted to the article of Katz, cited above in footnote 5, for this entire section.

<sup>74</sup> Even in the absence of any deliberate suppression, there were difficulties in reproducing all of the Responsa recorded in the Ḥatam Sofer's notebooks. For example, the title page of the first published volume promised a total of 1,377 Responsa, but at the conclusion of the six-volume project, only 1,058 Responsa were actually printed. The

In fact, the Ḥatam Sofer's original Responsum appeared in print only once—in early 1845—in the pages of the first issue of a Hebrew literary periodical issued in Vienna, entitled *Kokhvei Yizhak*. Its editor, Mendel Stern, was a native of Pressburg and had served as a tutor in the Ḥatam Sofer's household, instructing his children. This publication was not the usual kind of reading material favored by the disciples of the Ḥatam Sofer, and so it is not surprising that many 19<sup>th</sup> Century authorities could seriously doubt the veracity of this attribution. However, to continue to maintain these doubts or posit qualifications such as “*hora'at sha'ab*” given the state of information available today is simply wrong.

Perhaps the *posek* most responsible for creating resistance to accepting the Ḥatam Sofer at face value was the Maharam Schick, who is relied upon by both Zwiebel<sup>75</sup> and Rabbi Yisroel Reisman, who invoked his authority as **the** leading disciple of the Ḥatam Sofer in his address to the AOJS Modern Medicine & Jewish Law 2006 Conference as well as in an article based on that lecture published in the April 2006 *Jewish Observer*.<sup>76</sup>

There is certainly no one capable of denying the status of the Maharam Schick as a leading *posek* and communal leader of the second half of the 19<sup>th</sup> century, and as the *Gadol* who came closest to

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publisher was constrained to place the following ad in the literary supplement to *HaMagid*—a leading Hebrew newspaper (Year 8, 1864, 15 Av edition): “I have heard numerous complaints that I have deleted many Responsa from the Ḥatam Sofer's collected Responsa and that I have not fulfilled the totals I had promised (on the original title page of the first volume). Lest I be suspected of shortchanging the purchasers because of any desire to lessen the expenses of printing, I come today to apologize before my nation and to inform all that the cause of the shortfall is simply due to the unavailability of all the Responsa recorded in our Master's notebooks.” Signed—Yosef Schlesinger Ginz. See Avraham Halevi Schischa's essay “*He'arot Bibliografiot le-Sifrei ha-Ḥatam Sofer u-le-Tshvotav*” in *HaMa'ayan*, 9, pp. 50–54, Jerusalem: 1969.

<sup>75</sup> Page 7 of his article in *The Jewish Observer* cited above.

<sup>76</sup> A tape or CD of the lecture is available from the AOJS @ 718-252-5274. A modified version of the lecture appeared in *The Jewish Observer* cited above. Page 23 of this article contains Rabbi Reisman's citation of the Maharam Schick's version limiting the general application of the Ḥatam Sofer's Responsum.

inheriting the mantle of leadership of his teacher, the Ḥatam Sofer. But, his ascendance to that stature occurred **after** his teacher's death. He studied in Pressburg under the Ḥatam Sofer from age fourteen until age twenty. He then married and moved to his father-in-law's village of Halitsch, where he engaged in intensive Torah study, without being burdened by any role as a *rav*. This predominantly private study lasted for eleven years, until financial reverses suffered by his father-in-law made it imperative that he seek his first position as a *Rov*. In 1838, a year or so before his teacher's death, he was chosen by the villagers of Szent György (Georgen) to serve as their rabbi. The Ḥatam Sofer certainly did not consult Rabbi Schick (who at that time was still engaged in private study in Halitsch) before composing his 1837 reply to another former student—Rabbi Horowitz, Chief Rabbi of Vienna since 1829. Rabbi Schick certainly did not receive any **direct** information on this issue from his revered teacher,<sup>77</sup> **for if he had, he most certainly would have mentioned it at some point in the two Responsa that he composed regarding MBP.**

A close analysis of these Responsa will verify our contention. The first, written in the early 1850s, is a lengthy reply to a *mohel* who seeks guidance about remaining at his post after his community has banned *mezizah*.<sup>78</sup> Rabbi Schick's retort indicates that he did not fully comprehend what critics of *mezizah* were concerned about, for it is based primarily on the assumption that the controversy regarding *mezizah* was created by the contention of contemporary physicians that MBP did not provide any benefit to the newly circumcised infant. Rabbi Schick counters that medical opinions are relevant only for the standard patient, whereas halakha considers the fate of every individual to be of critical importance—**“When it comes to matters of *pikuaḥ nefesh*, we do not adhere to the principle of “follow the majority,” rather even if there is only one child among many**

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<sup>77</sup> The Ḥatam Sofer did spend at least one *Shabbat*, in 1838, visiting the newly appointed *Rov* of Szent György. But the visit was marred by the Ḥatam Sofer's discovery of a copy of Moses Mendelssohn's *Bi'ur* in his disciple's home. See S. Z. Leiman, “R. Moses Schick: The Ḥatam Sofer's Attitude toward Mendelssohn's *Biur*,” *Tradition* 24, No. 3, (Spring 1989) pp. 83–87.

<sup>78</sup> Responsa Maharam Schick, *Yoreh De'ah*, # 244.

tens of thousands that may come to a danger, we are required to violate the laws of *Shabbat* for that child and perform *mezizah*.”<sup>79</sup> Rabbi Schick never refers to the Hatam Sofer, and apparently was still unaware that communities were banning MBP because it directly harmed infants, and not because it conferred no health benefits.

More than two decades later, Rabbi Schick had occasion to re-visit this issue,<sup>80</sup> and by now was fully acquainted with claims of harm caused by MBP. He begins his reply by denying that MBP can cause harm,<sup>81</sup> and referring to the case of the Viennese *mobel* as “presumably”<sup>82</sup> a situation of “*hora’at sha’ab*” and “*sha’at ha-dehak*.” Rabbi Schick never claims that he heard this explanation from the Hatam Sofer himself, or from any of his descendants, or from Rabbi Horowitz. Furthermore, the recipient of this 1877 Responsum, which was so relied upon by Rabbi Reisman and Zwiebel, described it this way:

“He [Rabbi Schick] **did not wish to know** that his teacher, the Gaon, the Hatam Sofer, permitted the performance of *mezizah* via manual pressure. He sought out prohibitions from scattered citations that have no bearing on the issue.”<sup>83</sup>

Further proof that the Hatam Sofer did not consider MBP a component of the *Mizvah* can be found in his *Hiddushim to Masekhet Shabbat*, 106a, where he questions why every *Shabbat brit* is not

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<sup>79</sup> *Ibid.* Rabbi Schick cites testimony from “Professors” who defend the medical benefits of MBP in support of his opinion. (Were he aware of current medical science, which knows of no such medical benefits, might he too not come to a different conclusion, and perhaps append “not” before the last clause. In any event, the sentiment expressed in this pronouncement matches exactly the thinking of the anti-MBP forces.)

<sup>80</sup> Responsa Maharam Schick, *Orah Hayyim*, # 152.

<sup>81</sup> “Anyone claiming that *mezizah be-peh* is a danger or harmful to infants is stating an absolute falsehood.”

<sup>82</sup> The Hebrew phrase he uses is “*nir’eh mevuar*.”

<sup>83</sup> *Responsa Rashban*, # 144, Satmar: 1900. The Rashban is an acronym for Rabbi Salomon Schuck, District Rabbi of Karczag, Hungary, who was both a relative of the Maharam Schick and his disciple. He also wrote, among his many halakhic works, a biography of his famous teacher entitled *mi-Moshe Ad Moshe*, Munkacs: 1903.



performed at twilight so that the *mezizah* can be performed after nightfall and thereby eliminate the *hillul Shabbat* of *mezizah*. He ultimately rejects this proposal and upholds the universal practice of a *Shabbat* morning ceremony on the grounds that the *mizvah* of the *brit milah* itself (i.e., the *hituch* and *peri'ah*) should be performed as early on the eighth day as possible. At this point then there is no longer any option but that the *mezizah* follow immediately, even though it entails a violation of *Shabbat*. It is evident, however, from his entertaining of the initial proposal, that the *mezizah* component is **not** part of the *mizvah* of *milah*, which may never be performed after nightfall.<sup>84</sup>

### **The Views of the Late 19<sup>th</sup> Century Lithuanian *Gedolim***

Since a significant proportion of the non-Hasidic Orthodox population in both America and Israel considers itself “*Litvish-Yeshivish*,” it is critical to determine the position of the Lithuanian *Gedolim* in the *mezizah* controversy. In 1972, Rabbi Moshe B. Pirutinsky, a prominent New York City *mohel*, published a work entitled *Sefer ha-Brit*. As customary, the author gathered approbations—*haskamot*—to convince potential buyers of the halakhic reliability of his writings. What is remarkable about this *sefer* is the stature of those issuing the *haskamot*. Appended to the work were approbations from nearly all the leading *Roshei Yeshiva* of the *Litvish* community—Rabbis C. Shmulevitz, Y. Hutner, Y. Ruderman, M. M. Zaks, M. Gifter, M. Feinstein and S. Kotler. Rabbi Zaks explains that while normally he doesn’t issue *haskamot*, Rabbi Pirutinsky’s status as a former student at the Hafez Hayyim Yeshiva in Radin, Poland, warrants an exception. Rabbi Pirutinsky re-issued the work six years later with no modifications. The reliability of the work therefore appears well-founded.

Rabbi Pirutinsky devotes a long section of his work to the issue of MBP, and cites much of the previously discussed material.<sup>85</sup>

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<sup>84</sup> This proof is taken from *Sefer Hatam Sofer ‘al Brit Milah*, by Dovid Deutsch (Jerusalem: 2003), p. 183.

<sup>85</sup> All the following citations are found on pp. 223–225 of *Sefer ha-Brit*.

But the nature of his selections indicates a distinct bias in favor of using a device such as a glass tube instead of direct oral contact. For example, he includes the entire 1899 Responsum by Rabbi Shlomo HaCohen, who served as the primary *Moreh Zedek* of Vilna from 1865 until his death in 1906.<sup>86</sup> The halakhic ruling, directed to the Reverend Tertis of London, reads as follows:

“I come to inform you that your letter regarding the permissibility of utilizing an instrument to perform *mezizah* arrived and I respond with amazement at the nature of this question. It is well-known to every Rabbi and discerning person that the commandment of *milah* is comprised of cutting the foreskin and tearing the mucus membrane. As far as *mezizah* that is mentioned in the Mishnah, the Talmud and the Codes, it has no bearing or connection to the *mizvah* of *milah* that we have been commanded by the Torah, rather it is a matter of health and healing of the newborn. The entire matter of *mezizah* is only to remove the danger. It is not recorded any place in *Hazal* in what manner to perform *mezizah*, because it is known that therapeutic measures change from period to period and location to location. In the Talmud we find many therapeutic measures provided for many illnesses, but in our time we never heard that anyone should utilize these therapies recorded by *Hazal*. Rather, we follow the therapies selected by the contemporary physicians since the nature of people and therapies have changed from the time of *Hazal*. So in each generation the therapeutic measures change. So too with the therapy of *mezizah*.

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<sup>86</sup> Rabbi Shlomo HaCohen was, to all intents and purposes, the Chief Rabbi of Vilna during this forty-one-year period. But he could not be designated as such because of the *takkanah*, agreed upon in 1793, to avoid the formal appointment of a chief rabbi. Since that time, there was a large stone placed on the rabbi's chair to symbolize this resolution. This drastic act followed a thirty-year conflict between the community and its Chief Rabbi, Shmuel ben Avigdor. That hostility resulted in denunciations and arrests, and included the imprisonment of the Gaon of Vilna, who was a partisan of the intensely unpopular Shmuel ben Avigdor. Only Shmuel ben Avigdor's death in 1793 brought the conflict to a resolution.

Apparently it was formerly the custom to perform MBP, as we see from the writings of many authorities. Until about ten years ago, when there was an agreement among many expert physicians that the method of *mezizah* must be changed, no longer to practice MBP but rather to utilize a dressing to accomplish the *mezizah*, and the *mohelim* of many communities accepted this new method. Thank God we have not seen any damage or pain to the newborns who underwent *mezizah* by the method of dressing the wound. It is possible that in other lands there are newer techniques offered by the local expert physicians to accomplish the *mezizah*, and it is appropriate to follow these new methods. This entire matter is not something that requires rabbinical input, but rather requires the input of expert physicians. Therefore, I cannot really respond to his query, since I am not knowledgeable in medical affairs.”

Other *Litvish* authorities, who expressed similar sentiments, are cited, including Rabbi Y. Y. Rabinowitz, the Chief Rabbi of Ponevez, and Rabbi Elyahu Klatzkin, at that time the Chief Rabbi of Mariampol, but later to gain fame as the Chief Rabbi of Lublin.<sup>87</sup> Rabbi Chaim Berlin, too, is quoted: “I wonder at your efforts to gather rabbinic opinions approving the new method of *mezizah* via a tube, since does one need to permit the permitted and to proclaim pure that which is pure? Nowhere is it recorded in *Hazal* that *mezizah* needs to be performed exclusively by oral suction. Nevertheless, one should not change the old practice of oral suction except when there is any **possibility** of any danger.”

Rabbi Elyakim Shapiro, the Chief Rabbi of Grodno, writes, “I remember when I was young that there were many unfortunate episodes caused by MBP from one with an unclean mouth. To substitute direct oral suction by utilization of a tube is clear to us to be totally permitted without any hesitations.” Other notable authorities cited as permitting a substitute for MBP (utilizing either a tube or manual pressure) include the author of the ‘*Arukh ha-Shulhan*,

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<sup>87</sup> Rabbi Klatzkin’s general medical expertise was legendary in his city of Lublin. See the article “*ha-Rav Elyahu Klatzkin, Raba’d of Lublin*, by Rabbi M. Ze’irah in *Yeshurun* 15, pp. 745–797, esp. p. 781.

the author of the *Divrei Malkiel*, Rabbi Dovid Friedman of Karlin, and Rabbi Chaim Ozer Grodzinski. Rabbi Pirutinsky then contributes additional information:

“It is well-known that in the year <sup>88</sup> Rabbi Chaim Soloveitchik, the Chief Rabbi of Brisk, summoned the *Mobelim* of his community and instructed them to cease performing MBP.<sup>89</sup> Many other Gedolim have corroborated this information. So too, I have heard from the holy Gaon, Rav Aaron Kotler, who said to me, ‘I have always seen Gedolim who have stopped the practice of MBP. However, I will not stop you if you choose to perform MBP.’”

Finally, Rabbi Pirutinsky cites the *Hazon Ish* as consenting to serve as *sandek* even when MBP was not performed.<sup>90</sup>

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<sup>88</sup> The blank space is in the original, as Rabbi Pirutinsky apparently forgot to supply the missing information.

<sup>89</sup> Rabbi Pirutinsky cites a personal communication from Rabbi Aaron Soloveitchik as his source. Rabbi Yosef Dov Soloveitchik confirmed this independently (see Rabbi Shachter’s *Nefesh Harav*, p. 242, NY: 1994). Jerusalem-based contemporary descendants of the Brisker Rav would have us believe that, just as the pro-MBP forces claim in the case of the Viennese *mobel* active in 1837, this was also somehow due to the impossibility of sidelining **one** specific *mobel* (who was responsible for the transmission of disease to the infants) because of his stature in the community. (See *Halacha Berurah*, cited above in note 5, p. 6.)

<sup>90</sup> *Sefer ha-Brit*, p. 418. Rabbi Wosner, in his Responsa *Shevet ha-Levi* (Vol. 1, # 131) renders the *Hazon Ish* into an opponent of using a glass tube for *mezizah*. However, other reliable informants, including Rabbi Greineman, insist that the *Hazon Ish*, in keeping with his native Lithuanian practice, did not consider MBP even a *biddur mezizah*. A prominent local *mobel* attests that this too was the *psak* he personally received from Rav Shlomo Zalman Auerbach in the late 1980s. When asked why he did not publicize his position, Rav Shlomo Zalman replied, “I am too old and too weak to withstand having bricks hurled through my windows.” It must be acknowledged that not all *Litvishe* authorities were willing to forgo MBP. In 1909, Rabbi Moshe Mordechai Epstein, *Rosh Yeshiva* and *Rav* in Slabodka, issued a Responsum (*Levush Mordechai*, # 30) in which he entertains the claim that without MBP, the *brit milah* may not be valid, and such an

The *Hafez Hayyim*, in a terse comment in his *Bei'urei Halakhab* (331:1), appears to rule in favor of the position of Rabbi Elazar Horowitz (i.e., accepting the dispensability of MBP).<sup>91</sup> Rabbi Mordechai Zimmerman, a prominent Brooklyn-based *mohel*, who received his training in Vilna during the last half-decade before WWII, publicly attested that **no one in Vilna practiced MBP**. In fact, during his entire stay in Lithuania he witnessed only a single

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individual might be forbidden to partake of the *Korban Pesah*. This notion was first raised by Rabbi Y. L. Diskin. However, Rabbi Y. Z. Stern (in his Responsa *Zekher Yehosaf, Oraḥ Hayyim* # 106, p. 49) and Rabbi M. Feinstein (in his Responsa *Iggerot Moshe, Yoreh De'ah*, I, # 223, p. 491) among others, completely dismiss this idea, with Rabbi Stern suggesting that surely the great Rabbi Diskin meant this only as a playful comment, and it was misunderstood by his London-based interlocutor (Rabbi Lazerowitz) to represent a serious remark. Rabbi Pirutinsky does not cite Rabbi Epstein, perhaps because he considered his opinion to be so at odds with his *Litvish* colleagues. Rabbi Epstein's proof is as follows: "Since sucking blood and placing the bloody *'eiver* in one's mouth are so repulsive, how can anyone be so dense as to presume that this process was instituted without it being an essential part of the *mizyah*." With all due respect, there have developed other equally repulsive practices that certainly are not part of any *mizyah*, but were thought to be therapeutic. For example, Rabbi Hayyim Yosef David Azulai (in *Mahzikei Berakhab*, # 79) and Rabbi Hayyim Palachi (in *Refu'ah ve-Hayyim*, p. 35b) specifically allow the *minbag* of providing the freshly removed foreskin to barren women (defined as those who have as yet not borne male infants), who then ingest it and expect to be cured of their condition. Another gruesome practice, recorded in *Sefer Zikbron Yaakov Yosef* by Rabbi Y. Y. Rubinstein (printed in Jerusalem in 1930, with an *haskama* from Rabbi Yosef Hayyim Sonnenfeld) directs that epileptics be given a potion containing a young maiden's first menstrual blood as a cure for their seizure disorder.

<sup>91</sup> Both Rabbi Waldenburg and Rabbi Wosner were quite unhappy with this formulation of the *Hafez Hayyim*, and explained it by claiming that no doubt the *Hafez Hayyim* never saw the primary sources, but was **misled** by relying on secondary sources. See *Otzar ha-Brit*, Volume 4, p. 18.

incidence of MBP—when the *Brit* was conducted by a visiting *mobel* from Warsaw.<sup>92</sup>

It should be obvious from these testimonies that the “*Litvishe-Yeshivish*” community’s current alliance with the Ḥasidic efforts to “preserve” **their** holy practice of MBP from the depredations of the New York City Department of Health is more of a recovered text-based practice than an actual preserved tradition.<sup>93</sup> In fact, Rabbi Reisman in his previously cited article in *The Jewish Observer* concedes that:

“Lithuanian Jewry, following leading authorities in their communities, did not consider *metzitzta b’peh* as an obligation...”<sup>94</sup>

## Conclusion


I hope this excursion through the arcana of medical history has not obscured the basic message that paramount halakhic authorities, such as the Ḥatam Sofer and most of the *Litvishe Gedolim*, accepted at face value the **nascent** medical evidence that MBP poses a risk. Now that the process of person-to-person transmission of infection is so firmly established, can we really be cavalier about that risk? For example, the CDC Hepatitis C guidelines include the risk of transmission of this deadly disease via even occasional sharing of a toothbrush! Can

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<sup>92</sup> The claim, cited in *Halacha Berurah*, p. 6, attributed to Rabbi Y. Kamenetsky, that there was only a **single** *mobel* in Vilna who refused to practice MBP, and that he died from a horrible throat affliction (presumably *middah kenegged middah*), is quite problematic, since it appears contrary to the evidence presented above. Rabbi N. Kamenetsky, the celebrated biographer (and son) of Reb Yaakov, in a personal reply to my inquiry, could neither confirm nor impugn this attribution.

<sup>93</sup> This too would be another example of the phenomenon so perfectly described by H. Soloveitchik in his landmark article “Rupture and Reconstruction” *Tradition*, 28, No. 4 (Summer 1994), pp. 64–130.

<sup>94</sup> P. 23 of *The Jewish Observer* article cited above. This acknowledgment represents somewhat of a change since Rabbi Reisman’s February 2006 AOJS lecture that served as the basis of the article, since Rabbi Reisman had declared at that time “that for the **majority** of Jewish communities, *Knesset Yisroel* has *paskend* in favor of MBP.”

we guarantee that no *mobel* performing MBP can transmit this illness, which can be latent for several decades? Can our community anticipate a *nes nigleh* each time MBP is performed? 

## Appendix

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