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BRIS MISSED: MAY MILAH BE DELAYED FOR A SURGICAL PROCEDURE?

Adapted from the writings of Dayan Yitzhak Grossman

Business Insider reports:

An Australian hockey player made the shock move to have part of his finger amputated so that he could compete at the Paris 2024 Olympics.

Matthew Dawson, 30, broke the ring finger of his right hand in the lead-up to the international sporting event, which begins on Friday. Speaking to Business Insider on Friday, Dawson recounted the injury, saying another player's stick struck his hand during an inter-squad training match a couple of weeks ago. "There was plenty of emotions running through my head, thinking, 'That could be it, the Olympics are over,'" he said. After his injury, one option would have been surgery to put a wire in his finger, which would have impacted his ability to compete in the Olympics. Dawson said a plastic surgeon advised him that it could involve four to six months of recovery, and there was no guarantee he would regain full function of his finger. Instead, the hockey player opted

to have the top of the finger amputated, which only required about 10 days of recovery, enabling him to play in Australia's first Olympic hockey match on Saturday...

Dawson told BI that it was so important to compete because it may be his last Olympics. He also now has a son, which factored into his decision. He said he wants his son to know how much dedication is required to compete. And hopefully, he added, "I get to show him the gold medal at the end of these two weeks."¹

(Dawson did not medal at the Olympics.)

The incident brings to mind the words of R' Nechunyah ben Hakanah:

I thank You, Hashem, my G-d, that You have established my portion with those who dwell in the study hall, and you have not established my portion with idlers. For I arise early and they arise early: I arise early for words of Torah,

(continued on page 2)

¹Joshua Neikhen-Zitser. An injured hockey player chose to amputate part of his finger so he could compete at the Paris Olympics. Business Insider. <https://www.businessinsider.com/injured-hockey-player-amputates-finger-to-compete-at-paris-olympics-2024-7>.

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PARSHAS EIKEV

WORK-STUDY

Excerpted and adapted from a *shiur* by Dayan Yosef Greenwald

Then I shall provide rain for your Land in its proper time...that you may gather in your grain, your wine, and your oil.

Dvarim 11:14

The Gemara (Brachos 35b) says that according to R' Yishmael, this *pasuk* teaches that a man must earn a livelihood (*minhag derech erez*). R' Shimon bar Yochai maintains that a man must spend all his time studying Torah, because otherwise, "what will become of the Torah?" He understands the *pasuk* to be speaking of when the Jewish people do not follow the will of Hashem, but when they do, their work will be done by others.

But the Gemara in Menachos (99b) cites an apparently contradictory version of these opinions: R' Shimon bar Yochai says one can fulfill the mitzvah of studying Torah by reciting *krias Shma* twice a day, while R' Yishmael maintains that even one who has learned all of the Torah may not study Greek wisdom, because the mitzvah of Torah study applies all day and all night.

We can answer that R' Yishmael and R' Shimon bar Yochai agree that everyone is obligated in the mitzvah of Torah study according to his ability, with some required to study more and others less. R' Yishmael focuses on spending time: If one is busy earning a livelihood, he may spend less time on Torah study, but if he has ample time,

(continued on page 2)

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Metes and Bounds

Q Our shul is a mile down the country road from our bungalow colony, but there are some structures along the way. Do we need an *eiruv tchumin*, and if so, how do we make one?

A On Shabbos, one may not walk more than 2000 *amos* beyond his *mekom shvisah* (place of Shabbos residence)—his location at the onset of Shabbos. If that location is enclosed for residential use (e.g., a fenced-in bungalow colony) or it is located in an *ir* (city; see halachic parameters below), the entire area or *ir* is his *mekom shvisah*.

If there are houses—Jewish, non-Jewish, or even vacant—along the road, they extend the

(continued on page 2)

(continued from page 1)

and they arise early for idle words. I toil and they toil: I toil and receive reward, and they toil and do not receive reward. I run and they run: I run to the life of the World to Come, and they run to the pit of destruction.²

Dawson's dilemma, however, is reminiscent of a fascinating halachic question that arose a century ago.

An infant was born with a deformed leg. A physician declared that he could straighten the leg with a plaster cast,³ but this would have to be done immediately, while the leg bones were still soft and pliant. If the cast was applied immediately, it would be impossible to circumcise the baby on the eighth day (because the treatment would "weaken" him), and the bris *milah* would have to be delayed. But if the cast were applied after the eighth day, it would be difficult or impossible to straighten the leg.

R' Tzvi Yechezkel Michelson, the *rav* of Plonsk, Poland, consulted at least three great halachic authorities of the era about the permissibility of applying the cast immediately and postponing the bris.⁴ All three—R' Avraham Borenstein of Sochachov (the *Avnei Neizer*),⁵ R' Malkiel Tzvi Tannenbaum of Lomza (the *Divrei Malkiel*),⁶ and R' Yehudah Leib Tzirelson⁷—allowed it, but they arrived at this conclusion based upon a variety of different considerations:

COST

The halacha is that one is not required to expend *hon rav* (a great fortune) in order to fulfill a mitzvah, even a mitzvah *overess* (one which will soon become impossible to fulfill).⁸ Rav Borenstein infers from this that a fortiori, one is not obligated to condemn a child to permanent deformity in order to fulfill the mitzvah of *milah* in the proper time.

Rav Tannenbaum, however, rejects this argument out of hand, asserting that because the halacha is that Shabbos may not be violated even for *sakanas eiver* (to save a limb),⁹ the mitzvah of bris *milah* may certainly not be postponed to prevent deformity, which does not even constitute *sakanas eiver*. (This argument is quite baffling, because the halacha clearly distinguishes between a mitzvas *asei* (positive commandment) like bris *milah*, for which one is not required to spend a great fortune,¹⁰ and a mitzvas *lo sa'aseh* (negative commandment) like Shabbos, which one must lose everything he has

to avoid violating.¹¹)

PREEMPTION

Despite rejecting the rationale of Rav Borenstein, Rav Tannenbaum permits the procedure for an entirely different reason: Because the mitzvah of *milah* does not apply until the eighth day, the treatment may be performed sooner, even though this will inevitably result in the postponement of the bris.

Rav Tzirelson builds upon this basic point that the procedure is being performed before the eighth day, i.e., before the mitzvah of *milah* takes effect, by adding two further considerations:

- Curing the child's deformity fulfills the mitzvah of *hashavas gufo* (restoring someone's body), which the Gemara declares to be a form of the mitzvah of *hashavas aveidah* (returning lost property).¹² So one may certainly commence the treatment before the mitzvah of *milah* takes effect, and once we have begun the treatment, we apply the principle that *ha'oseik bemitzvah patur min hamitzvah* (one who is involved in one mitzvah is exempt from another), even where the second mitzvah is greater than the first.¹³ (Rav Borenstein makes a similar point, although he notes that his earlier rationale would allow the procedure even on the eighth day, whereas this latter one would only allow it earlier.)
- One who declines to save a person from the loss of a limb violates two *lavin*: "you shall not hide yourself"¹⁴ (a *lav* against failing to return lost property) and "you shall not stand aside while your fellow's blood is shed"¹⁵ (a *lav* against allowing someone to come to harm). Because these *lavin* take effect before the mitzvah of bris *milah* does, the principle that *asei docheh lo sa'aseh* (a positive mitzvah overrides a negative one) does not apply.

HUMAN DIGNITY

The Gemara teaches: "Great is human dignity (*kavod habriyos*), as it overrides a prohibition in the Torah."¹⁶ Rav Tzirelson asserts that if the child's deformity is not corrected and remains with him for life, "there is no greater disgrace than this," both in terms of the inherent condition of the deformity as well as its implications for the child's eventual status within Klal Yisrael: If he is a kohein, he will be disqualified from entering the *Bais Hamikdash*, performing the *avodah* there, and (under certain circumstances) bestowing *birkas kohanim*. If he is a *yisrael*, he will be disqualified from serving on the Sanhedrin, and even today, he will be disqualified from serving as a *dayan* in cases of get or *chalitzah*, and according to the minhag, even from serving as a witness to a get. (Rav Tzirelson also offers an additional basis

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(continued from page 1)

tchum, provided the gap between them is no more than 70.6 *amos* (O.C. 398:5,6; Mishnah Brurah *ibid.* 19).

According to some contemporary *poskim*, commercial buildings like offices, warehouses, and stores are like houses for this purpose if workers eat their meals there daily (Sheivet Halevi 1:59). Some require that there be a cafeteria (R' Yosef Shalom Elyashiv; see Piskei Teshuvos *ibid.* n. 88). Others contend that only buildings with sleeping quarters count (Chazon Ish 110:28). Consult your *rav* about which view to follow.

This only applies to an *ir*; if a location is not an *ir*, the houses along the road don't extend the *tchum*. An *ir* is defined as an area that contains at least three *chatzeiros* (indoor or outdoor courtyards) within 70.6 *amos* of each other, each having at least two houses (Mishnah Brurah *ibid.* 38). According to other *poskim*, six houses, each with a private *chatzeir*, are sufficient (Piskei Teshuvos *ibid.* 19).

By placing an *eiruv tchumin*, your *mekom shvisah* shifts to the location of the *eiruv*, beyond which you may walk 2000 *amos*.

An *eiruv tchumin* comprises food for two meals for each person that will be using it (O.C. 407:7), even just sufficient *liftan* (condiments) for the requisite number of meals (*ibid.*). Many use peanut butter, as a small amount is sufficient for each meal.

The *eiruv* must be placed in the desired location on Friday afternoon before sunset. The location should be accessible both physically and halachically (e.g., not in a car) at the onset of Shabbos.

If the *eiruv* is lost or destroyed after *tzeis hakoachavim*, it is still effective for the rest of Shabbos.

for considering the deformity a matter of *kavod habriyos*. Accordingly, the need to correct the deformity overrides the mitzvah to perform the bris *milah* on the proper date.



RAV ARYEH FINKEL

2Brachos 28b.

3The precise nature of the deformity in question and the proposed method of treatment are not entirely clear. The Poneti method for the treatment of congenital clubfoot involves plaster casting, but the procedure was apparently not developed until the 1950s.

4Rav Tannenbaum and Rav Tzirelson identify their correspondent as Rav Michelson; Rav Borenstein does not name his correspondent, but it was presumably also Rav Michelson.

5Shu"t Avnei Neizer Y.D. siman 321.

6Shu"t Divrei Malkiel cheilek 5 siman 148.

7Atzei Halevanon siman 61.

8Rama to Shulchan Aruch O.C. 656:1.

9Shulchan Aruch *ibid.* 328:17.

10See Marcheshesh cheilek 1 siman 43.

11Shulchan Aruch Y.D. 157:1, Shach *ibid.* s.k. 3.

12Bava Kama 81b.

13Sukkah 25b.

14Dvarim 22:3.

15Vayikra 19:16.

16Brachos 19b.

(continued from page 1)



he must dedicate it to *talmud Torah* rather than other disciplines. R' Shimon bar Yochai focuses on the extent of a person's

kabalas ol malchus shamayim: Someone who can only do it by reciting Shema has fulfilled the mitzvah, but on the lowest level. One who accepts *ol malchus shamayim* and follows His will to the maximum

recognizes that his livelihood comes from Hashem and his time should be spent serving Him. Such a person will be willing to forgo more time from earning a livelihood and spend it learning instead.

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