



Covenant, Women, and Circumcision: Formulating a Covenantal *Simḥat Bat* Ceremony

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Abstract: The *Simḥat Bat* ceremony has become increasingly popular in the Orthodox community as well as throughout the entire Jewish community since the 1970s. This article explains that covenant and circumcision are distinct, yet have become conflated and practically synonymous in popular perception. This misconception has resulted in the lack of recognizing women as members of the covenant. Distinguishing between the transcendent covenant and the specific commandment to circumcise exposes this misconception and affirms women's covenantal membership. Because of the covenant's fundamental role in the traditional Jewish identity and belief, the singular significance of this membership calls for communal commemoration. This article recommends that the *Simḥat Bat* focus on a newborn girl's symbolic covenantal entry by featuring a covenantal theme and incorporating a central covenantal ritual.

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The “*Simḥat Bat*” (Celebration of a Daughter) ceremony welcomes newborn Jewish girls and commemorates their birth and Jewish identity. This ceremony is performed primarily by *Ashkenazim* (*Sefardim* and *Mizrahim* have numerous traditional customs for newborn girls),¹ and has become increasingly accepted in Orthodox communities and the wider Jewish community since it first appeared in the 1970s.² Countless *Simḥat Bat* ceremonies have been performed since then.³

Simḥat Bat ceremony texts have begun to receive the sanction of mainstream Orthodox rabbis and organizations. For example, a *Simḥat Bat* ceremony appeared in 1995 in the *madrikh* (a guide for rabbis) of the Rabbinical Council of America (RCA), the largest

organization of Orthodox American rabbis.⁴ More recently, *Simḥat Bat* texts have appeared in 2005 in a *birkhon* by R. Shlomo Riskin, Chief Rabbi of Efrat,⁵ and, in 2009, in the widely anticipated *Koren Siddur* (Ashkenaz version), published under the auspices of the Orthodox Union.⁶

Orthodox Simḥat Bat ceremonies omit any reference to the covenant

These three published texts and the countless private ceremonies are widely disparate, including recitations of an extensive variety of biblical passages, talmudic and midrashic excerpts, prayers, blessings, Jewish poems,

1. E.g., *Zevad Ha-bat* (Syrian, Spanish, Portuguese, Egyptian, Moroccan, Judeo-Spanish, Indian, Yemen, and Bukhari); Las Fadas (Turkish and Judeo-Spanish); Shisha (or Shashah) festival (Iraqi and Kurdistan); seventh day or night naming ceremonies (Tunisian and Persian); Barsa (“Bene Israel” Indian).

2. See, e.g., Joseph C. Kaplan, “An Orthodox *Simḥat Bat*,” *Sh’ma Magazine* (March 21, 1975), reprinted in Toby Fishbein Reifman with Ezrat Nashim, eds., *Blessing the Birth of a Daughter: Jewish Naming Ceremonies for Girls* (1978), 23 (also available at <http://www.jofa.org/social.php/life/simḥatbatan/simḥatbat>); Nadine Brozan, “A Share for Girls in Jewish Birthright,” *New York Times*, March 14, 1977; Gary Rosenblatt, “A Welcome Ceremony for Baby Girls,” *New York Jewish Week*, September 14, 2007, 7 (briefly describing a 1976 *Simḥat Bat*).

3. E.g., Adena K. Berkowitz and Rivka Haut, eds., *Shaarei Simcha / Gates of Joy* (Jersey City, NJ: Ktav Publishing House, 2007), 132-39; Gary Rosenblatt, “A Welcome Ceremony for Baby Girls,” *New York Jewish Week*, September 14, 2007, 7; Haviva Ner-David, *Life on the Fringes: A Feminist Journey Toward Traditional Rabbinic Ordination* (Needham, MA: JFL Books, 2000), 26-27; *Simḥat Bat* Collection of the Eleanor Leff Jewish Women’s Resource Center, especially documents labeled VF 10610, VF 10609, & VF 11048; *Simḥat Bat* collection, Jewish Theological Seminary library; various private collections.

4. Reuven P. Bulka, *The RCA Lifecycle Madrikh* (New York: Rabbinical Council of America, 1995), 2-7.

5. Shlomo Riskin, *Around the Family Table: A Comprehensive “Bencher” and Companion for Shabbat and Festival Meals and Other Family Occasions* (Efrat and Jerusalem: Ohr Torah Stone and Urim Publications, 2005), 196-201.

6. *The Koren Siddur, Nusah Ashkenaz* (Jerusalem: Koren Publishers Jerusalem Ltd., 2009), 1034-37.

Torah expositions, and other readings.⁷ Some include a reiteration of the girl's name, and the timing and even nomenclature for these ceremonies varies substantially. However, all Orthodox *Simhat Bat* ceremonies have one prominent common element: they omit any reference to the covenant, the eternal agreement between God and the Jewish people that forms the basis of Jewish nationhood and the traditional Jewish belief system. The covenant encompasses (1) the Jewish people's fidelity to God as the one and only God and (2) God's promise to keep the Jewish people as His people and to give them the Land of Israel as an inheritance. The covenant is the *raison d'être* of the Jewish people in that it serves as a national charter and provides the rationale for observing the commandments. The absence of reference to the covenant at a *Simhat Bat* is palpable, since the covenant is a primary theme in the circumcision ceremony that welcomes newborn boys into the Jewish people.

What is the relationship between the covenant and circumcision? How do women figure into this dynamic?

This article assumes that Jewish women are members of the covenant.⁸ Absent the covenant and its commitment to God and the Jewish people, there would be no *a priori* reason to observe the Torah's *mitsvot*, no concept of divine reward and punishment, and no religious significance to the Land of Israel. Membership in the covenant characterizes the

totality of Jewish religious identity. Simply put, every Jew—male or female—is a member of the covenant, and one cannot claim Jewish identity if one is not a member of the covenant. The covenant is so fundamental that it transcends the biological, social, and ritualistic differences that characterize traditional gender roles and responsibilities within Judaism.

The striking, and often deliberate, absence of a covenantal theme in Orthodox *Simhat Bat* ceremonies leads, therefore, to the following question: Why does the Orthodox community avoid referencing the covenant in *Simhat Bat* ceremonies when the covenant would appropriately frame the essential religious significance of a newborn Jewish girl? Put more broadly: What is the relationship between the covenant and circumcision, and how do women figure into this dynamic? This article provides insight into these fundamental questions and, as a result, makes recommendations for enriching the emerging *Simhat Bat* practice.

Section I discusses the distinction between the covenant and circumcision. Section II examines how the covenant and circumcision have become conflated and how this phenomenon may be rooted in classic rabbinic sources. Section III explores the potential theological and historical reasons for the conflation of covenant and circumcision. Section IV makes recommendations for the *Simhat Bat* by applying observations about covenant and circumcision. Section V provides a conclusion.

7. For a sense of this diversity, see, e.g., “Simhat Bat Ceremony,” *Machon Itim*, last accessed on December 23, 2010, <http://eng.itim.org.il/?CategoryID=307>.

8. See, e.g., Deut.17:2-5; 29:9-13, 17,20; 31:10-13; *Sifra* (*Torat kohanim*), *Be-huqqotai*, 8:9; *Mekhilta de-ba-hodesh*, *Yitro*, 7 (s.v. *avdekha ve-amatkha*); 2 (verses 19:3 & 19:7); (verse 19:15); BT *Yevamot* 46b; BT *Keritot* 9a; *Tanhuma* (Buber), *Metsorah* 27:18; *Tanhuma* (*Tanhuma C*), *Metsorah*, 9; *Pirquei de-rabbi eli'ezer*, 41 (referring to “the house of Jacob”); R. Menahem Meiri, *Beit ha-behira* on M *Shabbat* 9:3; R. Ya'ir Chaim Bachrach, *Megor hayyim*, vol. 1, *Hilkhot tsitsit* 17: 2; R. Joseph ben Isaac, *Bekhor shor* on Gen. 17:11; R. Isaac Abrabanel on Gen. 17:9-14. See also Daniel Sperber, *On Changes in Jewish Liturgy: Options and Limitations* (Jerusalem: Urim Publications, 2010), 202, App. 7; Eliezer Berkovits, *Jewish Women in Time and Torah* (Hoboken, NJ: Ktav Publishing House, Inc., 1990), 5, 81, 86, 87; Moses Meiselman, *Jewish Woman in Jewish Law* (New York: Ktav Publishing House, 1978), 61-62 (“a woman becomes a member of the covenant automatically at birth”).

I. The Distinction between Covenant and Circumcision

“*Berit milah*,” the common term referring to circumcision or the circumcision ceremony, literally means “covenant of circumcision.” In particular, “*berit*” means covenant, and “*milah*” means circumcision. As its name indicates, *berit milah* incorporates both the theme of covenantal entry and the commandment of circumcision. One commentator writing with an anthropological perspective notes that the circumcision ceremony incorporates the “twin themes” of blood (i.e., the circumcision) and covenant.⁹ This section demonstrates that covenant and circumcision are analytically

The metaphysical notion of covenant transcends the physicality of the circumcision

distinct although circumcision is a biblically-mandated, physical symbol of covenant. Thus, circumcision is but one facet (albeit an important one) of the larger conception of covenant, and the metaphysical notion of covenant transcends the physicality of the circumcision symbol. Therefore, while it is not marked with circumcision, the metaphysical entry of girls into the covenant is as real and significant as that of boys.

A. Pentateuch

The Torah’s use and placement of the terms “*berit*” (covenant) and “*milah*” (circumcision) supports the proposition that these are separable concepts. It is significant that the Torah nowhere mentions covenant and circumcision together except for Genesis chapter 17, where the commandment of

circumcision is introduced. By contrast, the Torah uses the individual term “*berit*” in numerous passages to mean the covenant between God and the Jewish nation.¹⁰ Further, Biblical episodes involving circumcision, such as that in which Joshua circumcises the Israelite men immediately after the parting of the Jordan River, include no mention of covenant in the text.¹¹ More so, the covenant is the most prominent overarching theme in the literary prophets, who plead with the Jewish people to stop desecrating the covenant and tell them about God’s forthcoming punishments and ultimate forgiveness. Nowhere in these lengthy prophetic writings, however, is circumcision mentioned in relation to covenant. Quite the contrary, these prophets go to great lengths to disassociate the covenant from ritualism¹² and to emphasize the importance of fidelity to God¹³ and good deeds to fellow human beings.¹⁴ Throughout the *Tanakh*, the covenant is directly implicated in every mention of God’s eternal love for the Jewish people and in the reward and punishment dynamic determined by the extent of *mitzvah* observance. All of these observations strongly support the conclusion that the covenant is a core concept that transcends the particular circumcision symbol. This distinction also reinforces the conclusion that every Jew, regardless of sex, is a member of the covenant, although circumcision—one symbol of the covenant, among others—is performed only on men.

There is one biblical passage, however, that seems to equate circumcision with the covenant. Genesis 17:10 states: “This is My covenant that you will guard between Me and you [plural] and between the descendants after you [singular]; circumcise for you [plural] every male.” The medieval commentators do not

9. Chava Weissler, “New Jewish Birth Rituals for Baby Girls” (undated; sometime after 1977), 7-8 in the *Simhat Bat* Collection of the Eleanor Leff Jewish Women’s Resource Center in New York City, labeled JWRC #260.

10. See, e.g., Gen. 15:18; Ex. 6:4-5, 19:5, 24:7-8, 31:16, 34:10, 34:27-28; Lev. 24:8, 26:9, 26:15, 26:25, 26:42-46; Num. 10:33, 14:44; Deut. 4:13, 4:23, 4:31, 7:9, 7:12, 8:18, 9:9, 9:11, 9:15, 10:8, 17:2, 28:69, 29:11.

11. Jos., ch. 5.

12. See, e.g., Is. 1:10-17.

13. See, e.g., Jer. 11:6-8.

14. See, e.g., Is. 1:16-17.

emphasize the question of how the metaphysical covenant can be equated with physical circumcision. However, R. Samson Raphael Hirsch (19th century Germany) addresses this question head-on:

In a striking manner the *milah* [circumcision] itself is first called *berit* [*i.e.*, covenant, in verse 10, above], so that the performance of it itself seems to be fulfilling the covenant, and then, in the following verse [verse 11] it is declared to be “*ote berit*,” the sign of the covenant, as a symbol to represent the Brit, so that the fulfillment of the covenant itself must be something transcending the mere act of the circumcision. The expressions used at the first specific Jewish law—and a symbolic law at that—could be of the highest importance for the correct appreciation of all similar laws that follow.¹⁵

R. Hirsch thus explains that the Torah calls circumcision “*berit*” to convey that performing this act fulfills the covenant, not that the act itself is the covenant, and that the covenant transcends the physical act of circumcision. In this way, R. Hirsch also takes every word of the Torah into account by explaining that calling circumcision “*berit*” in verse 10 expresses the first step for all “symbolic commands” which is to accomplish the commanded act to “fulfill the covenant.”¹⁶ Verse 11, which calls circumcision “the sign of the covenant,” expresses the second step, which is making a symbolic act into a reality by internalizing it. In R. Hirsch’s words:

[P]erforming the act only then achieves its full purpose when it does become an “*ot*” a symbol, if it is taken to heart as such and

the idea it expresses becomes a reality for us. . . .

What the act is to accomplish is, that through it the idea is constantly expressed by us as a declaration of God, and as such is to be firmly held, kept and constantly repeated and revived for ourselves and others.¹⁷

Ot Berit *provides the reason for the mitzvah of circumcision*

This beautiful idea comports with the context of Genesis 17, in which God broadly depicts the covenant to include multiplying Abraham’s descendants, giving them the land of Canaan as a “holding,” and “being God to you.”¹⁸ Only then does God introduce the commandment of circumcision.¹⁹ This idea of circumcision as a “symbolic command” also fits more broadly in the context of the Torah which nowhere else connects the covenant to circumcision.

Centuries earlier, R. Issac Abrabanel addressed the use of *berit* (covenant) and *ot berit* (the sign of the covenant) in a related, if less elaborate, fashion. He explained that *berit* refers to circumcision when it is being performed, and that *ot berit* refers to circumcision after it is performed. In other words, *ot berit* provides the reason for the *mitzvah* of circumcision.²⁰

B. Selected Rabbinic Sources

The metaphysical covenant was apparently not of great interest to the rabbis of the Talmud, who were typically more concerned with practical halakhic analysis. Nonetheless, talmudic statements also support the distinction between covenant and circumcision. Not surprisingly, these

15. Isaac Levy, trans., *The Pentateuch, Translated and Explained by Samson Raphael Hirsch*, vol. I Genesis, (London: L. Honig & Sons Ltd., 1959), on 17:10.

16. Ibid.

17. Ibid.

18. Gen. 17:1-8.

19. Gen. 17:9-14.

20. R. Isaac Abrabanel on Gen. 17:9-14.

statements focus on the *halakhot* of circumcision.

A *mishnah* states:

[If a man swore,] “May any benefit that I derive from the foreskinned be as forbidden to me as a sacrificial offering,” he is permitted to have benefit from the foreskinned of Israel, but is forbidden to have benefit from the circumcised of the nations. [If a man swore,] “May any benefit that I derive from the circumcised be as forbidden to me as a sacrificial offering,” he is forbidden to have benefit from the foreskinned of Israel, but he is permitted to have benefit from the circumcised of the nations, since “*aral*” is but another name for “gentiles.”²¹

This *mishnah* demonstrates that “circumcised” refers to Jews while “foreskinned” refers to gentiles, regardless of whether an individual is actually circumcised. Thus, it would deem “circumcised” a Jew who is actually uncircumcised because of health reasons or the deaths of older brothers due to circumcision.²² Since this “foreskinned” Jew is part of the covenant (*i.e.*, metaphysically “circumcised”) although he does not have the physical mark of circumcision, this *mishnah* leads to the conclusion that circumcision and covenant are analytically distinct. It follows that women, who lack circumcision, can be members of the covenant between God and the Jewish people.

To similar effect is a passage in the *gemara*:

It has been stated: What is the scriptural basis for the ruling that circumcision performed by a gentile is invalid? Daru

ben Papa said in the name of Rav: “You shall keep my covenant.” [Genesis 17:9.] R. Yohanan said: “Circumcised he shall be circumcised.” [Genesis 17:13.] What [practical difference] is there between these [two positions]? . . . [A] woman is [a point of disagreement] between them. For the one who says “You shall keep my covenant”—[the criterion] is [not satisfied], because a woman is not susceptible to circumcision [“*lav bat milah hi*”] [and may not perform a valid circumcision]. For the one who says “You shall circumcise”—[the criterion] is [satisfied], because a woman resembles one who has been circumcised [“*ke-man di-mehula demai*”] [and may perform a valid circumcision].²³

The rabbis of the Talmud understood “You shall keep My covenant” to refer to those obligated to follow the commandment of circumcision. By contrast, the rabbis understood “You shall circumcise” to refer to those who are circumcised.²⁴ It appears that the distinction is one of “action” versus “result.” According to Daru ben Papa, women are not obligated to take action to effect their

What does it mean for a woman to resemble a circumcised man?

circumcision since this is physically impossible, and therefore are deemed not “circumcised.” According to R. Yohanan, women “resemble one who has been circumcised,” regardless of how that result came about, and therefore are deemed to have the status of “circumcised.

”What does it mean for a woman to resemble a circumcised man? Commentators have

21. M *Nedarim* 3:11.

22. Shaye J. D. Cohen, *Why Aren't Jewish Women Circumcised?* (Berkeley: Univ. of California Press, 2005), 95. See also BT *Avodah zarah* 27a (two opinions agree that uncircumcised Jews resemble circumcised Jews and therefore may perform a valid circumcision).

23. BT *Avodah zarah* 27a.

24. S. Cohen, *Why Aren't Jewish Women Circumcised?*, 97; Gary Shapiro, “Sealed in Our Flesh – Women as Members of the Brit,” in *The Pardes Reader: Celebrating 25 Years of Learning* (Jerusalem: The Pardes Institute, 1997), 92.

advanced a number of interesting responses to this question.²⁵ One widely held response is that a woman resembles a circumcised man in that both are part of Israel, the Jewish people.²⁶ Both R. Isaac ben Jacob Alfasi (Rif; 11th Century Morocco), and R. Asher ben Yehiel (Rosh; 13th-14th-century Germany and Spain) explain that, according to R. Yohanan, uncircumcised Jews are considered circumcised and within *kelal yisra'el*, the community of Israel.²⁷ R. Shimon Kayyara, the author of *Sefer halakhot gedolot* (9th Century Babylonia), adds that, for this reason, women are in *kelal yisra'el*.²⁸ One thousand years later, R. Tsadok Ha-kohen Rabinowitz (19th-century Poland) elaborates that a Jewish woman is considered “circumcised” since “her flesh is called holy flesh.” R. Rabinowitz analogizes that the penis of an uncircumcised Jewish man is considered “holy flesh” since he “has already been born in holiness.”²⁹

This idea that Jewish women, and likewise uncircumcised Jewish men, are part of the people of Israel demonstrates that circumcision is not a prerequisite for membership in the Jewish people or the underlying covenant. The belief that this membership exists in the absence of circumcision supports the proposition that circumcision and covenant are distinct concepts.

Note that even the opinion of Daru ben Papa does not conflict with these conclusions since women cannot “be susceptible” to circumcision, *i.e.*, physically effect their circumcision. This opinion, therefore, does not impact the analysis of whether and how a

woman resembles a circumcised man. In any event, the *gemara*'s point of dispute is whether a woman is eligible to perform circumcision on a male, and the *halakhab* is that she may because a woman resembles a circumcised man.³⁰

C. A Modern Example

A story told by R. Joseph B. Soloveitchik about his grandfather, R. Hayyim Soloveitchik demonstrates the clear distinction between covenant and circumcision. R. Hayyim attended a conference of Torah scholars in St. Petersburg that addressed the issue of whether the names of uncircumcised infant boys should be written in the official registers of the Jewish community.³¹ A number of community councils in Germany excluded these boys from registries from the 1840s to 1870s.³² The boys' parents were “assimilationists” who affirmatively chose not to circumcise their sons. The rabbis at the conference supported the exclusion of these boys, with the aim of compelling these parents to circumcise their sons.³³ The controversy was vigorous, with a spectrum of voiced opinions³⁴ and even the intervention of civil authorities.³⁵

R. Hayyim stood up at the conference and said:

My masters, please show me the *Halakhab* which states that one who is not circumcised is not a member of the Jewish people. I am aware that a person who is not circumcised may not partake of the sacrifices or the heave offering, but I am unaware that he is devoid of the holiness belonging to the Jewish people. To be

25. See Yael Levine, “A Woman Resembles One Who Is Circumcised” in *Mesechet* (Jerusalem: Matan, The Torah Institute for Women, vol. 2, 2004), 27-45 (detailing sources); see also S. Cohen, *Why Aren't Jewish Women Circumcised?*, 99.

26. Rif on end of *Shabbat*, ch. 19; Rosh on end of *Shabbat*, ch. 19; R. Ahai Gaon, *She'iltot de-rav ahai ga'on* (Patrikov, 1930), *Vayera*, par. 10; *Sefer halakhot edolot* (Tel Aviv: Lito-Ofsat Leon, 1962), *Hilkhot milah*, 46; R. Tsadok Hakohen Rabinowitz of Lublin, *Poqed aqarim*, (Jerusalem: Mekor Hasifarim, 2002), 45, sec. 5, s.v. *ve-ha-milah*.

27. Rif on end of *Shabbat*, ch. 19; Rosh on end of *Shabbat*, ch. 19.

28. *Sefer halakhot gedolot*, *Hilkhot milah*, 46.

29. R. Tsadok Ha-kohen Rabinowitz of Lublin, *Poqed Aqarim*, 45, sec. 5, s.v. *ve-ha-milah*.

30. Rif on end of *Shabbat*, ch. 19; Rosh on end of *Shabbat*, ch. 19.

31. Joseph B. Soloveitchik, *Halakhic Man* (Philadelphia: The Jewish Publication Society of America, 1983), 90.

32. Robin Judd, “Circumcision and Modern Life: A German Case Study, 1843-1914” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 147.

sure, if he comes of age and does not circumcise himself he is liable to excision. However, he who eats blood and he who violated the Sabbath are also liable to excision. Why then do you treat the uncircumcised infant so stringently and the Sabbath violator so leniently? On the contrary, this infant has not as yet sinned at all, except that his father has not fulfilled his obligation.³⁶

R. Joseph Soloveitchik comments that the rabbis who refused to enter the boys' names into the register were correct "[f]rom a political and practical perspective" and approves of the rabbis' tactics. The point, however, is R. Joseph Soloveitchik's conclusion that "on the basis of the pure *Halakhab*, R. Hayyim was correct."³⁷ In other words, whether a boy is circumcised has no impact on his Jewish or covenantal status, and this status remains intact. It follows that covenant and circumcision are separable notions.

II. The Conflation of Covenant and Circumcision

Although covenant and circumcision are distinct (with circumcision as a covenantal symbol), the prevalent belief today is that covenant and circumcision have blended to such an extent that they have become practically synonymous. In other words, circumcision "occupies the field" with respect to the covenant, and circumcision is the primary or only association with covenant. When asked for their first immediate, instinctive association to covenant, Jews across the spectrum of observances and beliefs inevitably respond "circumcision." The previous story about R. Hayyim starkly

illustrates this conflation of covenant and circumcision. The conference rabbis assumed that circumcision is a prerequisite for being Jewish and hence uncircumcised boys should be excluded from the Jewish community via non-recording in the official communal register. They made this assumption despite the fact that, as R. Hayyim pointed out,

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circumcision is as halakhically weighty as many other Jewish practices and symbols.³⁸ The problematic result of this misconception is that the commandment of circumcision, which symbolizes the covenant, has obscured and overshadowed the covenant as an independent concept. Many mistakenly believe that the covenant applies only to the extent one is or can be circumcised. Since women cannot be circumcised, many Jews today have a gnawing discomfort with associating women and covenant or, worse, an outright belief that women are not members of the covenant. Confusing covenant and circumcision, therefore, has the actual or potential effect of wrongly excluding women from the covenant as matter of common perception.

A. Contemporary Culture

One contemporary example of this phenomenon is the pervasive usage of *berit milah* ("covenant of circumcision") rather than simply *milah* ("circumcision") when referring to the act of circumcising. This practice, which first appeared in the *Mekhilta* (a halakhic midrash codified in the 3rd to 4th century) on Exodus 19:5³⁹, may have become more

33. Soloveitchik, *Halakhic Man*, 90.

34. See generally Judd, "Circumcision and Modern Life," 146-47; Harvey E. Goldberg, *Jewish Passages: Cycles of Jewish Life* (Berkeley: University of California Press, 2003), 57-58.

35. Judd, "Circumcision and Modern Life," 151-53.

36. Soloveitchik, *Halakhic Man*, 90.

37. Ibid.

38. Ibid.

39. Emails from the Academy of the Hebrew Language (acad@vms.huji.ac.il), March 26-27, 2008 (search of the Historical Dictionary database); see *Mikhlita D'bachodesh, Yitro, parsha 2*, "U'shemartem et briti."

commonplace in the Middle Ages.⁴⁰ By contrast, common usage does not covenantalize the Sabbath, a prime manifestation of the covenant in Jewish life today. The Torah refers to the Sabbath as an *ot* (sign or symbol) and as *berit olam*, an everlasting covenant for all generations,⁴¹ the very same terminology it uses for circumcision.⁴² Although the *Mikbilta* passage that first used “*Berit Milab*” also interestingly uses the terminology “*Berit Shabbat*,”⁴³ no one today refers to Shabbat as “Brit Shabbat.”

This shorthand has stripped the covenant of its independent fundamental role in Judaism

In English-speaking countries today, the semantic covenantalization of circumcision has gone one step further with the rampant use of *berit* or *bris* (the Ashkenazi pronunciation) to refer to circumcision.⁴⁴ For example, a number of halakhic works on circumcision use only the term *berit* in the title. The mention of *milab* in the subtitle is not necessary to convey to readers the topic of these works.⁴⁵ Other simple illustrations of this practice are found in English-language newspaper articles.⁴⁶ The point is not so much the newspapers’ inaccurate use of the term *bris* or *berit* to mean

circumcision as their accurate belief that their readership understands this intended meaning. This semantic practice has become so commonplace that it has even seeped into the popular culture, turning up on television shows.⁴⁷ This disturbing usage of *bris* or *berit* to mean circumcision conveys that circumcision is the only expression of the covenant or, simply, that covenant and circumcision actually mean the same thing. While this usage is likely meant as a shorthand, it has unwittingly stripped the covenant of its independent, fundamental role in Judaism.

R. Hayyim Soloveitchik points out this blending of covenant and circumcision on a substantive level (see Section I.C). He states that a male adult who does not circumcise himself is halakhically liable for the same punishment as a Shabbat violator. Observing the furor that had arisen due to uncircumcised boys and the absence of any similar reaction to Shabbat violations, R. Hayyim inquires, “Why then do you treat the uncircumcised infant so stringently and the Sabbath violator so leniently?”⁴⁸ This comment demonstrates that, by modern times, circumcision had become equated with Jewish identity and the covenant itself. Covenantalizing only circumcision and not other covenantal symbols, notably Shabbat, demonstrates the extent to which circumcision and covenant have become conflated.

40. Avraham Even-Shoshan, *Ha-milon be-hadash [The New Dictionary]*, “*Berit*” (Jerusalem: Kiryat Sefer, 1966), vol. 1, 280 (noting by annotation that the term *berit milab*” is linked to medieval literature).

41. Ex. 31:16.

42. Gen 17:7,11,13,19.

43. *Mekbilta ba-hodesh*, Yitro, 2, “s.v. *u-shemartem et beriti*.”

44. To similar effect, see Debra Orenstein, ed., *Lifecycles: Jewish Women on Life Passages and Personal Milestones*, vol. 1 (Woodstock, VT: Jewish Lights Publishing, 1998), 54.

45. See, e.g., Yosef David Weisberg, *Otsar ha-berit: All the Laws and Customs of Brit Milab* (Jerusalem: Machon Torat Haberit, 1993) (4 vols.); Moses B. Pirutinsky, *Sefer ha-berit on the Shulhan arukh, Yoreh de`ab: Halakhot of Circumcision* (New York: Gross Bros. Printing Co., Inc., 1972).

46. Andy Newman, “The Wife’s At Work, So...” *New York Times*, June 29, 2008; Lori Moore, “Born with a Hole in His Heart; the Child Best Known as Magic,” *New York Times*, Nov. 13, 2007; Ashley Dunn, “Renewing Tradition in a New Land; Immigrant Jews Seek the Bris, the Faith’s Ritual Circumcision,” *New York Times*, March 4, 1995; Alex Witchell, “Bagels, Lox, Lollipops, and Smelling Salts,” *New York Times*, March 3, 2004; “Oregon Mom Can’t Block Bris,” *New York Jewish Week*, January 30, 2008; “Judge Kimba Wood Grants ‘Writ of Simcha,’” *New York Jewish Week*, December 3, 2010, 17.

47. See, e.g., Seinfeld, “The Bris,” October 14, 1993, <http://www.seinfeldscripts.com/TheBris.htm>, <http://www.tbs.com/video/index.jsp?cid=137544> (search on “The Bris”).

48. Soloveitchik, *Halakhic Man*, 90.

A more startling illustration of this conflation occurs today. Jews who do not believe in divine commandments and who express their distaste or outright contempt for circumcision, calling it “genital mutilation,” often nonetheless circumcise their sons.⁵⁰ For example, it appears “that almost all Israeli Jews, even those who identify themselves as nonreligious Jews, still have the circumcision ceremony performed on their children.”⁵¹ This surprising phenomenon is the result of a deep-seated feeling that circumcision is the ultimate symbol of “Jewishness.” This feeling stems directly from the prevalent cultural equation of circumcision with covenant.

One modern context for this feeling is where “circumcision may function as the positive assertion of a Jewish refusal to surrender to anti-Semitism.”⁵¹ Two scholars, observing the great efforts of post-Holocaust Hungarian Jewry to effect circumcision, conclude that these efforts may “constitute a complex testament to the endurance of Jewish identity under conditions of stress and adversity.”⁵² Indeed, another scholar comments that “a discussion that might engender doubt or hesitation about circumcision may be viewed, from a Jewish survivalist point of view, as a morally questionable act.”⁵³ Although articulated as a reaction to anti-Semitism, these opinions manifest the prevalent belief that circumcision is inextricably bound with Jewish identity and with the covenant serving as the backbone of that identity.

Both the semantic covenantalization of circumcision and the push to perform

circumcision more meticulously than other commandments have resulted in displacing women from the covenant as a matter of popular perception. If covenant and circumcision are the same, and women cannot participate in circumcision, then they must fall outside the covenant. Most commonly, people are therefore uncomfortable with the idea of associating women with the covenant, having unconsciously internalized their semantic usage of *berit* or *bris*.

*The man's explanation for his refusal was,
“A girl is not part of the berit.”*

However, a more extreme and distressing result of the contemporary conflation of circumcision and covenant is an apparent substantive belief—although hopefully relatively atypical—that women are simply not part of the covenant between God and the Jewish people. One contemporary scholar recounts an anecdote about a young man who refused to accept a gift (a silk screen) on the occasion of the birth of his daughter because the gift was inscribed with the phrase “just as she has been entered into the *Berit*, so shall she be entered into Torah, the marriage canopy, and good deeds.” The young man’s explanation for his refusal was that “[a] girl is not part of the *berit*.” The scholar comments that “it is hard to forget even now the certainty—even arrogance—with which this young man excluded all women from the covenant of Israel.”⁵⁴

49. Accord Michele Klein, *A Time to be Born: Customs and Folklore of Jewish Birth* (Philadelphia: The Jewish Publication Society, 2000), 215; Goldberg, *Jewish Passages*, 60-61.

50. Ephraim Tabory & Sharon Erez, “Circumscribed Circumcision” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 163.

51. Eva Kovacs & Julia Vajda, “Circumcision in Hungary After the Shoah” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 187.

52. Ibid.

53. “Crossing the Gender Divide: Public Ceremonies, Private Parts, Mixed Feelings” (Introduction) in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), xxv.

54. Rochelle L. Millen, *Women, Birth, and Death in Jewish Law and Practice* (Hanover: Brandeis Univ. Press, 2004) 100.

B. Early Texts

This conflation of covenant with circumcision may have its roots in a handful of early texts. I discuss below some examples from the *Mishnah*, *Tosefta*, *Gemara*, and *Midrash*. While these early texts are meant as examples, I speculate that they may signal a shift toward the situation as we find it today.

(1) *Mishnah* and *Tosefta*

One example of a mishnaic passage that conflates circumcision and covenant is the following: “Another matter: Circumcision is great since, without it, God would not have created the world, as it says, ‘Thus says God, ‘If not for My covenant with day and night, the laws of heaven and earth I would not have placed’” [Jer. 33:25].”⁵⁶ This cited biblical passage, however, has nothing to do with circumcision and, instead, explicitly refers to the overarching covenant between God and Israel.

Similarly, a related *baraita* from the *Tosefta* provides: “Something else: Circumcision is ‘great’ since it equals in value all of the commandments in the Torah, as it says, ‘This is the blood of the covenant that God entered

This liturgy transforms circumcision into the primary—perhaps only—manifestation of the covenant

into [Ex. 24:8]. . . .”⁵⁷ Contrary to the *baraita*’s implication, the blood referenced here is not that of circumcision. Rather, it is the blood of sacrifices that the Israelites brought

during the revelation at Sinai. This blood, therefore, is inextricably linked to the covenant between God and Israel, embodied in the Torah. In sum, these two mishnaic-era texts are quintessential examples of the rabbis drawing support for circumcision from unrelated biblical passages. While linking halakhic concepts with facially unrelated biblical verses is common in the Talmud, this semantic technique in this context has broader repercussions.

(2) *Gemara* and Associated Later Texts

One stark example of the conflation of circumcision and covenant is the liturgy in the second blessing of the grace after meals that thanks God for “Your covenant that You have sealed into our flesh” (“*al britekhab she-ḥatamta bi-vesareinu*”). This liturgy attributes physicality to the covenant, transforming the metaphysical covenant into the physical mark of circumcision. This liturgy also transforms circumcision into the primary—or perhaps only—manifestation of the covenant. In other words, this short liturgical phrase encapsulates the conflation of circumcision and covenant.

The phrase “Your covenant that You have sealed into our flesh” reflects the associated discussion in the Babylonian Talmud. The Babylonian Talmud explains that this “covenant” recited in the grace after meals was given in thirteen covenants, referring to the thirteen times the word “covenant” appears in Genesis 17 where circumcision is introduced.⁵⁸ The *Gemara* thus equates circumcision with covenant⁵⁹ and continues to use the term “covenant” to mean circumcision in the talmudic discussion that follows.⁵⁹

55. M *Nedarim* 3:11.

56. *Tosefta Nedarim* 2:6.

57. BT *Berakhot* 48b.

58. S. Cohen, *Why Aren't Jewish Women Circumcised?*, 128-29.

59. BT *Berakhot* 49a.

By contrast, the Jerusalem Talmud refers to the covenant between God and Israel, without any mention of circumcision, in discussing the second blessing of the grace after meals.⁶⁰ This contrast between the Babylonian and Land of Israel liturgical texts for the second blessing of the grace after meals may demonstrate an evolving conception of identifying covenant primarily or exclusively with circumcision during the talmudic era. This connection between covenant and circumcision was not evident *a priori* or else both the Babylonian and the Land-of-Israel traditions would have referenced it. I speculate that it is perhaps no coincidence that the first written record of the terminology of *berit milab* (“covenant of circumcision”) appears in the *Mekhilta*, which was likely codified during the talmudic period in the 3rd to 4th century CE.

Furthermore, the grace after meals in the Siddur of R. Saadia Gaon, written in 10th-century Babylonia, refers to covenant without mentioning circumcision.⁶¹ In addition, manuscripts from the Cairo Geniza demonstrate that, in the Mediterranean region in the 10th to 13th centuries, the dominant covenantal reference in the grace after meals was to the generalized covenant between God and Israel, although the interpretation of covenant as circumcision was also extant.⁶² Thus, the Land of Israel-based tradition that *berit* in the grace after meals refers to the covenant between God and Israel persisted widely even as late as the High Middle Ages, although the association between covenant and circumcision was making inroads as well.

(3) *Midrashim*

This first use of the term “*berit milab*” in the *Mekhilta* is itself a conflation of circumcision and covenant. In the verse on which the *midrash* comments, God conveys a pre-Sinaitic-revelation to message to Moses: “And now if you [the Children of Israel] listen to My Voice and keep My covenant, and you will be for Me a *segulah* [one translation: treasure] from among all the nations since all the land is for Me.”⁶³ This verse captures the essence of the covenant between God and Israel on the eve of the revelation. According to the midrashic exegesis, however, “covenant” in this verse refers to either the covenant of the Sabbath or the covenant of circumcision and avoiding idol worship.⁶⁴ The *Mekhilta* thus conflates the covenant with its manifestations of circumcision and Sabbath.

Likewise, chapter 29 of *Pirkei de-rabbi eli'ezer*, a 9th-century midrash, states:

And on the day that the Children of Israel went out from Egypt, all the people were circumcised, from young until old, as it says “For the entire nation that went out were circumcised, etc.” [Jos. 5:5]. And they [the Children of Israel] would take the blood of circumcision and the blood of Passover [the paschal lamb] and put it on the doorpost[s] of their houses. And when the Holy One Blessed Be He passed over to plague Egypt and saw the blood of the covenant [of circumcision] and the blood of Passover, He was filled with compassion on Israel, as it is said, “When I

60. JT *Berakhot* 1:5; see also *Tosefta Berakhot* 3:9 (substantially similar); S. Cohen, Why Aren't Jewish Women Circumcised?, 128-133 (identifying contrast as between Babylonian Talmud and Jerusalem Talmud and collecting sources). See Sperber, On Changes in Jewish Liturgy, 199-201, App. 7 (collecting sources and discussing more broadly).

61. *Siddur R. Saadia Gaon*, eds. I. Davidson, S. Assaf, B.I. Joel (Jerusalem: *Mekize Nirdamim*, 1941) 102 (cited in S. Cohen, *Why Aren't Jewish Women Circumcised?*, 133, n. 80).

62. Avi Shmidman, “Developments with the Statutory Text of the *Birkat ha-Mazon* in the Light of its Poetic Counterparts” in *Jewish and Christian Liturgy and Worship: New Insights into its History and Interactions*, eds. Albert Gerhards & Clemens Leonhard (Leiden: Koninklijke Brill NV, 2007), 109-126 & n. 1 (cited approvingly in Sperber, *On Changes in Jewish Liturgy*, 201-202, App. 7).

63. Ex. 19:5.

64. *Mekhilta de-ba-hodesh*, *Yitro* 2, s.v. *u-shemartem et beriti*.

passed over you and I saw you wallowing in your bloods, I said to you: ‘In your bloods live.’” [Ezek. 16:6].⁶⁵

There is no textual basis in the Torah for a mass circumcision immediately prior to the Egyptian exodus.⁶⁶ Nonetheless, the midrash inserts circumcision into the quintessential covenantal episode of the exodus from Egypt, by which God demonstrates His love for the Israelites. Indeed, the blending the blood of the paschal lamb (which alludes to the covenant) with the blood of circumcision is a literal commingling of covenant and circumcision, mirroring the *midrash*’s ideological conflation of the two.

Further, the *midrash* connects this mixture of bloods to Ezek. 16:6 (“In your bloods live”).⁶⁷ This passage, however, has nothing to do with circumcision and everything to do with the covenant. Ezekiel chapter 16 provides an allegory for the Jewish people’s infidelity to God and their desecration of the covenant. In addition, the blood referenced (the noun is

Blending the blood of the paschal lamb with the blood of circumcision is a literal commingling of covenant and circumcision

semantically singular but formally plural; hence “bloods”) in Ezekiel is a mother’s birth blood, which bears no relationship to circumcision. Using this covenantal allegory to represent the blood of circumcision therefore demonstrates the conflation of covenant and circumcision.

Based on this *Midrash*, Ezek. 16:6 evolved into an integral feature of the circumcision liturgy⁶⁸ across the spectrum of Jewish traditions.⁶⁹ This practice perpetuates not only this conflation, but also the erroneous assumption that the blood in Ezek. 16:6 refers to circumcision blood.

Pirqei de-rabbi eli`ezer chapter 29 also explains the reasons for the customary chair of Elijah at a circumcision ceremony, citing “the messenger of the covenant whom you desire, he is coming”⁷⁰ (Mal. 3:1). The Book of Malakhi, however, nowhere refers to circumcision. Instead, the messenger’s aim is to purify the Levites so that they may yet again offer sacrifices, *i.e.*, to repair the covenant between God and the Jewish people. The *midrash* also cites Elijah’s zealotry⁷¹ and connects it with that of Pinḥas.⁷² Neither “zealotry,” however, is related to circumcision. Rather, Elijah’s challenging hundreds of idolatrous priests and Pinḥas’s killing to eradicate idolatry are both dramatic efforts to fortify the broader covenant.

Connecting a circumcision practice with covenantal episodes is another prime example of the rabbinic conflation of circumcision and covenant.

(4) Counterpoint

In contrast to this prevalent blending of covenant and circumcision, Maimonides in 12th century Spain, Morocco, and Egypt “de-covenantalizes” circumcision. In his *Guide of the Perplexed*, Rambam discusses circumcision in the context of illicit sexual relations. He maintains, first, that circumcision has the

65. *Pirqei de-rabbi eli`ezer*, 29 (middle). This excerpt is a prime example of the trend, beginning in geonic times, of attributing spiritual power to the blood of circumcision. See S. Cohen, *Why Aren't Jewish Women Circumcised?*, 28-32.

66. We know only that the next generation that entered Canaan was not circumcised in the desert. Jos. 5:5-7.

67. Ezek. 16:6.

68. So the *mohel* at my son’s circumcision in May 2007 instructed us.

69. See, e.g., Weisberg, *Otsar ha-berit*, vol. 1, 493-511.

70. *Pirqei de-rabbi eli`ezer*, ch. 29 (end).

71.1 Kings 18:10, 14.

72. Num. 25:6-9.

benefit of decreasing male lust and sexual excitement.⁷³ Second, he explains that circumcision creates a covenant, meaning an alliance or league, among circumcised peoples who believe in God's unity and, therefore, join in "Abraham's covenant."⁷⁴ These peoples include both Jews and Moslems, and Maimonides does not here characterize

Maimonides "de-covenantalizes" circumcision

circumcision in terms of the special, eternal relationship between God and the Jewish people.⁷⁵ While Maimonides arguably alludes briefly to the generalized covenant in his discussion of circumcision in the *Mishneh torah*,⁷⁶ his emphasis is on the specific covenant between God and Abraham⁷⁷ and on the details of performing the circumcision commandment.⁷⁸

Nowhere in the *Mishneh torah* does Rambam refer to circumcision as *berit milah* (the "covenant of circumcision"); rather, he refers to *milah* ("circumcision") or to the "covenant of Abraham."

Elsewhere in the *Mishneh torah*,⁷⁹ Rambam initially excludes the descendants of Ishmael, *i.e.*, Moslems, and those of Esau (the term used for Christians) from the obligation of circumcision, confining circumcision only to

those of the same "religion and straight path" of Abraham, *i.e.*, Jews. Then, Rambam cites "the sages" for the opinion that the sons of Qeturah (Abraham's third wife, see Gen. 25:1-4) are obligated with respect to circumcision. Explaining that the descendants of Ishmael and Qeturah are today inter-mingled, Rambam obligates both in circumcision.⁸⁰ Requiring non-Jews to perform circumcision exemplifies Rambam's "de-covenantalization" of circumcision, and, on balance, reflects his outlook.

This outlook runs contrary to the trend conflating covenant and circumcision, and is apparently a function of Rambam's lifelong interactions with Moslems who also circumcise.⁸¹ He may have thought that Moslem circumcision somehow severs the practice from the Jewish conception of covenant. However, the conflation of covenant and circumcision persisted and grew through the ages despite the Rambam's distinctive perspective.

III. Possible Reasons for the Conflation of Covenant and Circumcision

This conflation may have occurred because circumcision is the first covenantal manifestation that God commands in conjunction with initiating the Jewish nation,⁸² and the word *berit* appears thirteen times in Genesis 17, where the circumcision

73. Maimonides, *Guide* III:49. Likewise, Rambam lists circumcision among the commandments governing sexual relations. Maimonides, *Sefer Ha-mitsvot*, positive commandment no. 215. Philo, the Hellenistic-Jewish philosopher of the 1st century C.E., advances a similar rationale. Philo, *Questions and Answers on Genesis*, Supp. I, trans. Ralph Marcus (Cambridge: Harvard University Press, 1953), 241-242, 3:47 & 3:48.

74. See Maimonides, *Guide* III:49. Other rabbinic rationales for circumcision abound. See S. Cohen, *Why Aren't Jewish Women Circumcised?*, chs. 5, 7-8; see also Millen, *Women, Birth, and Death*, 75-80, 100-01. I do not here address any proposed reasons for circumcision; rather, I accept circumcision as a fact and draw a conceptual framework.

75. S. Cohen, *Why Aren't Jewish Women Circumcised?* 146-54; "Crossing the Gender Divide" (Introduction) in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), n. 48.

76. Maimonides, *Mishneh torah*, *Hilkebot milah*, 3:9.

77. *Ibid.* 3:8, 3:9.

78. See generally *ibid.* chs. 1-3.

79. Maimonides, *Mishneh torah*, *Hilkebot melakhim* 10:7-8.

80. The descendants of Ishmael and Qeturah, however, are not executed for failure to perform circumcision.

81. S. Cohen, *Why Aren't Jewish Women Circumcised?*, 151-52; "Crossing the Gender Divide" (Introduction) in *The Covenant of Circumcision*, n. 48.

82. While introduced as part of Creation, the Sabbath is not connected to the Jewish people until the Book of Exodus. Ex. 16:28-30; 20:8-11.

commandment is introduced.⁸³ Another possible reason is that many covenantal symbols such as the ark, the Sinaitic tablets, and the Temple *hallot* (bread offering) disappeared with the destruction of the Temples. In turn, the symbols that remained—such as circumcision, Shabbat, *tefillin*, *tsitsit*, and *mezuzot*—took on enhanced significance.

More so, circumcision is the only one of these surviving covenantal symbols that is permanent as a physical matter, truly an ever-present reminder of the covenant.⁸⁴ This distinction sets circumcision apart from other covenantal symbols. Finally, circumcision is a particularly difficult commandment to understand. Circumcision appears to contradict the Biblical injunction not to mutilate our bodies,⁸⁵ and supersedes the Sabbath prohibitions against cutting, tearing, and using tools when the normal day for the circumcision (the eighth day following birth, unless via Caesarian section) falls on the Sabbath.⁸⁶ Elevating circumcision by equating it with the covenant is an effective means of

conceptualizing this commandment's special treatment.

From an historical perspective, male circumcision was vehemently derided in the prevalent Greco-Roman culture to which Jews were subject in late antiquity. In this society, “public nudity both during work and at play was prevalent and . . . the perfection of the unaltered male physique was prized.”⁸⁷ Circumcision thus precluded Jewish use of gymnasias and bathhouses (popular sites for conducting business) and excluded Jews from athletic events that were “often a prerequisite for social advancement.”⁸⁸ After the Jewish revolt against Rome in 66-70 CE, Roman authorities examined men's genitals as a means of enforcing the “punitive Jewish tax.”⁸⁹ Also, circumcision could be a bar to citizenship in Greek cities such as Alexandria.⁹⁰

When a gymnasium was built in Jerusalem, some Jews stopped circumcising their sons as a result of this cultural and political climate.⁹¹ Some Jewish men even attempted to reverse their circumcisions via epispasm,⁹² a procedure that stretches foreskin remnants.⁹³ It is no

83. See, e.g., *M. Nedarim* 3:11; BT Shabbat 132a & 133a, Pesahim 69b, Yevamot 5b.

84. See BT *Menahot* 43b; R. David Qimhi (Radaq) on Gen. 17:11; R. Isaac Abrabanel on Gen. 17:9-14 (penultimate paragraph); Bekhor Shor on Gen. 17:2; Menahem Gottlieb, *Darkhei no'am* (Hanover, 1896), ch. 67, par. 1; see also Pirutinsky, *Sefer ha-berit*, 11, 260:1, par. 62.

85. See Lev. 19:28, Deut. 14:1; see also Lev. 21:5.

86. See generally BT *Shabbat* 131b-132b.

87. Abusch, “Circumcision and Castration under Roman Law in the Early Empire” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 75; Goldberg, *Jewish Passages*, 39.

88. Robert G. Hall, “Epispasm: Circumcision in Reverse,” *Bible Review*, 8:04 (August 1992): 52. Some Jewish athletes, however, wore a penis sheath in an attempt to hide their circumcision. Nissan Rubin, “Brit Milah: A Study of Change in Custom” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 89.

89. Abusch, “Circumcision and Castration,” 75-76; Hall, “Epispasm,” 53; Rubin, “Brit Milah,” 90.

90. Hall, “Epispasm,” 53; Rubin, “Brit Milah,” 90.

91. *Macabees I*, 1:17.

92. Hall, “Epispasm,” 52; Goldberg, *Jewish Passages*, 39; Rubin, “Brit Milah,” 89-92; Shaye Cohen, “A Brief History of Circumcision Blood” in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 30.

93. Rubin, “Brit Milah,” 88; Hall, “Epispasm,” 52. Epispasm was practiced from at least the 2nd century BCE until the 2nd century CE or later, with its height in the 1st century CE. *Ibid.*

surprise that the early Christians in this environment rejected circumcision as a religious requirement, focusing instead on the importance of faith.⁹⁴

These pressures were coupled with outright bans on circumcision. In the 2nd century BCE, Antiochus IV Epiphanes outlawed circumcision on pain of death in the Seleucid Empire, among other edicts aimed at aggressively assimilating Jews in the empire.⁹⁵ Upon discovering two women who had circumcised their sons, the Seleucid authorities tied the boys to their mothers' breasts, paraded the mothers and sons humiliatingly, and threw them off the city walls.⁹⁶ Further, it is generally accepted that, in the 2nd century CE, the Roman Emperor Hadrian (ruled 117-138 CE) prohibited the Jews in the empire from performing circumcision.⁹⁷ Even according to a divergent historical interpretation, circumcision was proscribed in the 2nd-century Roman empire.⁹⁸ Centuries later, the Visigothic Code (*Lex Visigothorum*) of Catholic kings ruling Spain from 586 to 711 CE imposed a virulently anti-Jewish policy.⁹⁹ As part of this policy, the Code outlawed Jewish circumcision, punishing anyone performing or undergoing the rite.¹⁰⁰

Due to these extreme pressures imposed on Jews circumcising their sons, rabbis in late antiquity and the early Middle Ages fervently

sought to persuade Jews to perform circumcision. Beginning in the Mishnaic era, the rabbis used the halakhic system to innovate and require *peri`ab*, the complete uncovering of the penis head, and the removal of residual shreds of foreskin (*tsitsin*).¹⁰¹ These procedures physically prevented the epispasm practice.¹⁰² The rabbis even halakhically equated *peri`ab* with actual circumcision, requiring *peri`ab* to fulfill the circumcision *mitsvah*.¹⁰³

Circumcision results in a man's perfection and completion

The rabbis also substantially heightened the importance of circumcision, a "meta-halakhic" means of encouraging the circumcision practice in the face of Greco-Roman culture and early Christian influences. Most prominently, from mishnaic times and for many centuries following, the rabbis lauded circumcision in an extreme fashion.¹⁰⁴

One prevalent theme of this over-the-top praise is that circumcision is "great," with one *mishnah* providing six reasons to this effect.¹⁰⁵ Two of these reasons are that the world would not have been created without circumcision and that circumcision results in a man's perfection and completion. Some later *midrashim* colorfully explain that circumcision

94. Acts, ch. 15; see also Henry Abramson & Carrie Hannon, "Depicting the Ambiguous Wound: Circumcision in Medieval Art" in *The Covenant of Circumcision*, ed. Elizabeth Wyner Mark (Hanover: Brandeis University Press, 2003), 99-101; Goldberg, *Jewish Passages*, 40-41.

95. 1 Macc. 1:47-48, 1:58-59.

96. 2 Macc.6:11; see also Klein, *A Time to Be Born*, 212.

97. *Historia Augusta* (translated from Latin) in Loeb Classical Library (1921), vol. 1, "The Life of Hadrian" at 14.2, http://penelope.uchicago.edu/Thayer/E/Roman/Texts/Historia_Augusta/Hadrian/1*.html#ref118>. This prohibition is attributed to precipitating the Bar Kokhba Rebellion in 132 CE. *ibid.*; but see *ibid.* n. 18.

98. One scholar maintains that Hadrian forbade only castration and that his successor, Antoninus Pius (ruled 138-161) prohibited circumcision for the first time. While Jews were permitted to circumcise their own sons, anyone circumcising a non-Jew would be punished as a castrator. Abusch, "Circumcision and Castration," 85.

100. S. P. Scott, ed., *The Visigothic Code: (Forum judicum)*, "Jews shall not Perform the Rite of Circumcision," Book XII, Title II, Law VII, <http://libro.uca.edu/vcode/vg12-2.htm#17>; see also Klein, *A Time to Be Born*, 212.

101. M. *Shabbat* 19:2; Rubin, "Brit Milah," 92-96; Goldberg, *Jewish Passages*, 40.

102. Rubin, "Brit Milah," 92; Goldberg, *Jewish Passages*, 40.

103. M. *Shabbat* 19:6; Rubin, "Brit Milah," 92-93 & n. 43 (collecting sources).

104. See, e.g., S. Cohen, *Why Aren't Jewish Women Circumcised?*, 27-28.

105. M. *Nedarim* 3:11; see also BT *Nedarim* 31b-32a; *Yalqut shim`oni*, Genesis, *Lekh lekha, remez* 81 (17:1-4). Drawing from various classic sources, one modern treatise has identified more than twenty reasons that circumcision is "great." Weisberg, *Otsar ha-berit*, vol. 1, 369-383.

made Abraham complete and perfected¹⁰⁶ and that he was circumcised on Yom Kippur,¹⁰⁷ when Jews are perfect and blameless for a fleeting moment. Relatedly, circumcision is compared to a Temple sacrifice. According to later Midrashic sources, an altar was built where Abraham was circumcised,¹⁰⁸ and those who circumcise their sons are compared with those who bring sacrifices.¹⁰⁹ Sacrificial motifs, including that of the binding of Isaac, became prevalent on circumcision bowls, plates, and knives, among other artifacts.¹¹⁰

Another powerful reason that circumcision is “great” is that it “equals in value all of the commandments in the Torah.”¹¹¹ Many centuries later, the *Shulḥan arukh* opens its exposition on the commandment of circumcision by stating that “circumcision is greater than all other positive commandments.”¹¹² A related vein of extreme praise is that circumcision is single-handedly responsible for a range of rewards and punishments. Performing circumcision

resulted in the exodus from Egypt,¹¹³ the splitting of the Red Sea,¹¹⁴ and entry to the Land of Israel¹¹⁵ and will result in the ultimate redemption.¹¹⁶ Furthermore, Abraham is envisioned as sitting at the entrance of Gehenna (often translated as hell) and permitting no uncircumcised Israelite to descend.¹¹⁷ On the other hand, not performing circumcision is the singular reason for the Egyptian enslavement.¹¹⁸ Also, Abraham is believed to remove the foreskins from babies who die uncircumcised, put these foreskins on sinners, and bring them to Gehenna.¹¹⁹ In addition, the uncircumcised will descend to Gehenna,¹²⁰ and even those who perform good deeds have no share in the world-to-come.¹²¹ Thus no good actions can overcome the stigma of non-circumcision.

I contend that the conflation of covenant and circumcision is yet another “meta-halakhic” tactic—along with the extreme praise of circumcision—that the rabbis used to encourage the performance of circumcision in

106. *Tanḥuma* (Buber), *Lekh lekha* 20; *Genesis Rabbah* 46:4; see also *Yalqut shim`oni*, Genesis, *Lekh lekha*, *remazim* 80 & 81 (17:1-4); Saadia Gaon, “Command and Prohibition” in *The Book of Beliefs and Opinions*, trans. Samuel Rosenblatt (New Haven: Yale University Press, 1958), 177, ch. 10. For a contrary view, see Maimonides, *Guide* III:49 (circumcision “has not been prescribed with a view to perfecting what is defective congenitally, but to perfecting what is defective morally”)

107. *Pirḳei de-rabbi eli`ezer*, ch. 29 (beginning); see also *Yalqut shim`oni*, Genesis, *Lekh lekha*, *remez* 80 (17:1-4).

108. *Pirḳei de-rabbi eli`ezer*, ch. 29.

109. *Yalqut shim`oni*, Genesis, *Lekh lekha*, *remez* 81 (17:1-4); *Tanya rabbati*, end of par. 96; *Tanḥuma* (Buber), *Vayeira* 4; *ibid.* par. 2 (parallel source). See also S. Cohen, “A Brief History of Jewish Circumcision Blood” in *The Covenant of Circumcision*, Mark, ed., 38-39.

110. Sperber, *The Jewish Life Cycle*, 79-83. Additionally, the custom of burying a removed foreskin and associated blood invokes sacrificial imagery since sacrificial blood also “return[s] to the earth.” S. Cohen, “A Brief History of Jewish Circumcision Blood” in *The Covenant of Circumcision*, Mark, ed., 39.

111. *Tosefta Nedarim*, 2:6; *BT Nedarim* 32a. Circumcision is greater than all of the *mitsvot* that Abraham performed. *M Nedarim* 3:11. See also *Yalqut shim`oni*, Genesis, *Lekh lekha*, *remez* 81 (17:1-4); Pirutinsky, *Sefer ha-berit*, 13, 260:1, par. 62 (explaining that the letters of the word *berit* are numerically equivalent to 612 and adding the one word of “circumcision” brings this value to 613, the number of biblical commandments).

112. *Shulḥan arukh*, *Yoreh De`ab* 260:1. Other *mitsvot* also are deemed comparable to all of the other *mitsvot* combined. See, e.g., *Exodus Rabbah* 25:12 (*Shabbat*); *BT Menahot* 43b, *Nedarim* 25a (*tsitsit*).

113. *Pirḳei de-rabbi eli`ezer*, ch. 29 (middle).

114. *Yalqut Makbiri*, Psalms 136:19; *Yalqut shim`oni*, Exodus, *Be-shalah*, 14, *remez* 236.

115. *Genesis Rabbah* 46:9; *Yalqut shim`oni*, Genesis, *Lekh lekha*, *remez* 82 (17:8-14).

116. *Pirḳei de-rabbi eli`ezer*, ch. 29 (middle).

117. *Genesis Rabbah*, *Vayeira*, 48:8; see also *Tanḥuma* (*Tanḥuma C*), *Lekh lekha* 20.

118. *Exodus Rabbah* 1:8.

119. *Genesis Rabbah*, *Vayeira*, 48:8.

120. Midrash *Tanḥuma* (*Tanḥuma C*), *Lekh lekha* 20.

121. *M Avot* 3:11.

the face of intense cultural and political influences dissuading this performance from the Mishnaic era until the early Middle Ages. In particular, this conflation imbued circumcision with the utmost importance by characterizing it as the embodiment of Jewish identity and tantamount to the eternal covenant itself. Similarly, the extreme lauding of circumcision substantially elevated the status of circumcision. Thus, the conflation of covenant and circumcision and the extreme lauding of circumcision both developed as persuasive impetuses for Jews to circumcise their sons.

*Male or female, every Jew should commemorate
covenantal membership with a meaningful
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Both the extended praise of circumcision and the conflation of covenant and circumcision follow the same general trajectory. Both trends are rooted in the *Mishnah* and *Gemara* and then developed and expanded over the centuries that followed, particularly in midrashic sources. I therefore hypothesize that the two trends have reinforced each other through the Middle Ages until today. Alternatively, the longevity and evolution of rabbinic praise for circumcision may have resulted in the conflation of covenant and circumcision. In either event, the two trends are inter-mixed. The conflation of covenant and circumcision can be construed as a particularized type of praise for circumcision.

Furthermore, some of the intonations of this praise implicate the covenant, such as the notion of thirteen covenants resulting from circumcision and circumcision's meriting the covenantal promises of the Egyptian exodus and the entry to Israel. Also, circumcision is compared to the entire Torah, the embodiment of the covenant, as is the Sabbath,¹²² another key covenantal symbol. Today, both the conflation of covenant and circumcision and

extreme praise for circumcision remain vibrant and palpable. Both trends are epitomized by the circumcision of sons by Jewish parents who are disdainful of or even outright opposed to the ritual. These parents have been (often imperceptibly) influenced by the longstanding beliefs that circumcision is the essence of Judaism and one of the most praiseworthy Jewish commandments. Other modern examples of the conflation of covenant and circumcision are the contemporary use of *berit* or *bris* to mean "circumcision" (see section II.A) and the 19th-century German controversy over whether community councils should register uncircumcised boys (see section I.C). The extreme praise of circumcision is likewise manifest today in the many pages that modern halakhic treatises on circumcision devote to praising this ritual in the extreme,¹²³ despite the treatises' primary function of documenting the minutia of ritualistic performance.

IV. Application to *Simhat Bat*

I have demonstrated that, for theological and historical reasons, the covenant and circumcision have been continuously conflated over many centuries, resulting in the erroneous belief that the two are practically synonymous. In essence, the physical symbolism of circumcision has subsumed the metaphysical covenant. The substantive effect of conflating covenant and circumcision is the misconception that only men can be members of the covenant. In other words, if the covenant is the same as circumcision, and if circumcision is only for men, then the covenant must also be only for men. I have demonstrated that this popular conclusion is based on false premises. Classic Jewish texts support the axioms that (1) the covenant and circumcision are distinct and separable (although circumcision is a covenantal symbol) and (2) the metaphysical covenant transcends the specific symbolism of circumcision. It follows that women can be—and, in fact, are—members of the divine covenant despite their inability to be circumcised.¹²⁴ My key

122. *Exodus Rabbah*, *Be-shalah*, 25:12.

123. See, e.g., Weisberg, *Otsar ha-berit*, vol. 1, 369-83; Pirutinsky, *Sefer ha-berit*, 11-13, 260:62.

124. See Berkovits, *Jewish Women*, 86.

conclusion, therefore, is that denying women their rightful membership in the covenant runs counter to a Torah-based belief system.

The covenant is a fundamental concept that constitutes the basis of a Jew's religious life and encompasses core Jewish beliefs regarding God's relationship to the Jewish people and the Land of Israel. The only prerequisite for covenantal membership is to be born Jewish. It follows that every Jew, whether male or female, should commemorate covenantal membership with a meaningful ceremony. Symbolic entry into the foundational covenant sets the stage for a productive Jewish life devoted to Torah and *mitsvot*. Thus, it is particularly essential to commemorate the covenantal membership of every newborn. A ceremony marking a newborn's covenantal entrance is a communal, public means of symbolically welcoming a child into the Jewish people and recognizing her religious value as a member of the Jewish community. Hence the covenant should serve as the centerpiece and central theme of every *Simhat Bat* ceremony. This type of ceremony would highlight women's covenantal membership and its significance.¹²⁵

Decoupling covenant and circumcision reveals that the circumcision ceremony encompasses two important purposes: (1) celebrating a baby's entry into the covenant, and (2) fulfilling the biblical commandment of circumcision. A covenantal *Simhat Bat* would accomplish this first purpose but not the second. While related, the two ceremonies

would function independently, as they do currently. It follows that a covenantal *Simhat Bat* would not supplant or diminish the commandment of circumcision. To the contrary, the *Simhat Bat* for girls, if anything, would complement the circumcision ritual for boys, just as the *Bat Mitzvah* complements the *Bar Mitzvah* today.

Separating the circumcision ceremony's strands of covenant and circumcision is instructive in dissecting the argument that "there is no need to welcome [a girl] into something [the covenant] of which she is already a part."¹²⁶ This argument misses the point that both boys and girls who are born of a Jewish mother are members of the covenant immediately upon

Simhat Bat springs not from modern egalitarian impulses, but from a cornerstone of the Jewish tradition

birth. This axiom is clear from the *Mishnah*, which deems a Jew who is actually uncircumcised to be "circumcised,"¹²⁷ i.e., Jewish and a covenantal member. Thus, like a covenantal *Simhat Bat*, the circumcision ceremony (as distinct from the commandment of circumcision) symbolically marks covenantal entry for a baby who has been a member of the covenant since birth. The Torah demonstrates that covenantal affirmation is always valued and appropriate.¹²⁸ Furthermore, this theological distinction between the transcendent covenant and the circumcision

125. See *supra* n. 8.

126. Deborah Nussbaum Cohen, *Celebrating Your New Jewish Daughter: Creating Jewish Ways to Welcome Baby Girls Into the Covenant* (Woodstock, VT: Jewish Lights Publishing, 2001), 73.

127. M *Nedarim* 3:11.

128. 2 Kings 22:8–23:24; Neh. 8:1–17; see also Geza Vermes, *The Dead Sea Scrolls in English* (London: Sheffield Academic Press Ltd., 1962), 96–97 (the Damascus Document, part of the Dead Sea Scrolls, "include[s] the form of the ritual for the Feast of the Renewal of the covenant, so it may be assumed that the entire Damascus Document was originally connected with that festival").

symbol demonstrates that the covenantal *Simhat Bat* springs not from modern, egalitarian impulses, but rather from a cornerstone of the Jewish tradition. As one scholar explains, “It is love of Judaism and deep commitment to the covenant that impels parents to articulate, through ritual, the joy of bringing a girl into their family and the community of Israel.”¹²⁹

The circumcision ceremony and a covenantal *Simhat Bat* would share some liturgy and a common theme only because both boys and girls are marking the same occasion of covenantal entry. Emphatically, the covenantal *Simhat Bat* would not include circumcision or any painful or invasive procedure. Any parallelism, therefore, would not result *a priori* from a need or desire to celebrate girls in the same way as their male counterparts.¹³⁰ Similarly, the brand-new, yet widely accepted, practices of Bat Mitzvah and women’s Torah learning are grounded in a sincere desire to enhance women’s religious lives, not from a need to make women “equal” to men.

While both the miracle of a child’s birth and her given name should be beautiful secondary themes of a *Simhat Bat* (just as they are in a circumcision ceremony), neither captures the essence of Jewish existence and religious significance as completely and poignantly as the covenant does. Every person has been

born and has a name. By contrast, the Covenant encapsulates the traditional conception of the significance of being Jewish.

V. Conclusion

I have explained how, in popular perception, circumcision has blended with covenant and become the one and only manifestation of the covenant. This misconception has resulted in denying women—who cannot be circumcised—their rightful covenantal membership.

I recommend correcting this misconception by recognizing the covenant as a transcendent, metaphysical phenomenon and decoupling it from the physical circumcision rite (except to the extent the latter symbolizes the former). As a result, women reclaim their covenantal status, and it becomes apparent that this all-important status should be commemorated in a communal ceremony. In particular, every newborn Jewish girl should be religiously welcomed in a *Simhat Bat* that focuses on her symbolic covenantal entry. This ceremony should have a central (non-invasive) covenantal ritual and a covenantal theme, while adhering to the strictures of *halakhab*. Such a commemoration promotes Torah values by highlighting the covenantal relationship between God and Israel and conveying the religious value of each and every Jewish soul.

129. Millen, *Women, Birth, and Death*, 83.

130. For an opposing view, see, Joel B. Wolowelsky, *Women, Jewish Law, and Modernity: New Opportunities in a Post-Feminist Age* (Hoboken, NJ: Ktav Publishing House, Inc., 1997), 46; Meiselman, *Jewish Woman in Jewish Law*, 61.