

## *Did a Piyut Change the Halachah? The Curious Question of Circumcision on Rosh Hashanah*

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In general, Jewish law develops rulings and guidance for Jewish practice by taking rulings and legal texts of previous generations and applying them to new situations. A corpus of legal texts, from Scripture to Talmud, as elucidated by commentaries, codes and responsa of the *Rishonim*, are brought into the process of developing *Halachah* in situations where it had been silent. It is not common, however, to use texts of other genres—philosophical, mystical, historical, ethical/moral, or liturgical—to develop the law. There are, however, several well-documented instances where non-legal texts are used to develop Jewish Law, and these instances are of interest to students of *Halachah* and the history of *Halachah*.<sup>1</sup>

This essay focuses on one instance in which an issue of Jewish Law may have been crafted to resonate and conform with a *piyut*, a medieval liturgical poem, instead of being based upon or grounded in classic Halachic texts. Thus, this investigation is simultaneously a consideration of

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<sup>1</sup> The *Kuzari*, a philosophical text, is often cited in discussions of modern legal questions such as the location of the International Date Line and establishing the time of death (see, for example, David Shabtai, *Understanding the Moment* [New York: Shores Press, 2012], pp. 77, 151). The role of Kabbalistic texts in establishing the *Halachah* (whether in contradistinction to the Talmud or when the Talmud is silent) has been discussed for centuries (see R' Yom Tov Lipman Heller's *Lechem Chamudot* [to Rosh's Laws of *Tefillin* #74]). Aggadic, hortatory and/or ethical/moral texts are also occasionally used in formulating Jewish Law. (See, for example, how R' Moshe Feinstein [*CM* 1:104] and R' Yechezkel Landau [*YD* 2:10] invoke the Aggadic statement of *Bava Metz'ia* 112a to create a legal principle regarding self-endangerment and earning a living.

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what the law could have been in a particular case, what non-legal texts have to say about a particular facet of Judaism, and how a liturgical poem opened new ground about that facet of Judaism which in turn impacted Jewish law. The central legal question for us will be the procedure of circumcision on the holiday of Rosh Hashanah. Before analyzing the role the *piyut* played, however, we will need to first introduce the Halachic background.

A major figure in our discussions will be one of the Jewish leaders of early thirteenth-century Germany, R' Yitzchak of Vienna (1180–1250), known also by the name of his book *Or Zarua'*. Born in Prague, R' Yitzchak studied in Paris and was exposed to the major ideas of 12<sup>th</sup>-century French scholarship. He then returned to Germany, where he fused those studies with the traditions of German Jewry, including the traditions of the early German Pietists (*Chassidei Ashkenaz*), and the final member of that group, R' Elazar of Worms (the late 12<sup>th</sup>- and early 13<sup>th</sup>-century author of the *Sefer Rokeach*). R' Yitzchak showed interest in Jewish prayer, as is evidenced from many passages in his book, and so he figures prominently in our topic as well.<sup>2</sup>

### Timing a Circumcision on Rosh Hashanah: Halachic Factors

As Haym Soloveitchik has noted, the question of the timing of a circumcision on Rosh Hashanah has no Talmudic precedent (and little Halachic ramification),<sup>3</sup> though the topic was discussed at length in various Medieval authorities. A responsum<sup>4</sup> attributed to R' Klonimous ben Shabtai, the acquaintance and contemporary of Rashi who moved from

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<sup>2</sup> See *Or Zarua'* 2:42 (the mystical impact of the Shabbos prayers), 2:50 (an early source describing the origin of the Mourner's *Kaddish*), 2:256 (commentary on the prayers for the Shabbos before Pesach), 2:276 (the origin of *Unesaneh Tokef*), among other sources. For a brief biography of R' Yitzchak of Vienna, see E.E. Urbach, *Ba'alei Ha-Tsafos: Toldoseihem, Chibureihem, Shittosam* (Jerusalem, Bialik Institute, 1954), 436–447. See also Yaakov Jaffe, "A Leniency That Is Best Left Alone," *Verapo Yerape* 6 (2016), 43–45.

<sup>3</sup> Haym Soloveitchik, "The Authority of the Babylonian Talmud and the Use of Biblical Verses and Aggadah in Early Ashkenaz," *Collected Essays II* (Portland, Oregon: Littman Library of Jewish Civilization, 2014), 86. Whenever circumcision is performed, no prohibition is violated and the positive commandment is fulfilled.

<sup>4</sup> This responsum is found in *Or Zarua'* 2:275, as a quotation from *Sefer Rokeach*. This source is also found, in abbreviated form, in the *Hagabot Mordechai* to Rosh Hashanah. Israel Elfenbein chose to include this responsum in *Responsa of Rashi*, Responsum 41, although the text clearly has nothing to do with Rashi.

Rome to Worms,<sup>5</sup> says that the issue was raised in Worms after the death of Rashi's teacher R' Yaakov ben Yakar, sometime after 1064,<sup>6</sup> and was resolved at the time based on earlier Italian traditions from around the year 1000.

ואני הקטן מצאתי סמך לדבריהם בתשובת הגאונים<sup>7</sup> רבינו אלעזר ברבי יהודה ורבנא קלונימוס (הזקן) איש רומי בן רבנא שבתאי בבואו למדינת גרמיישא לאחר פטירת רבינו יעקב בר יקר זצ"ל שאלו ממנו דבר זה והוציא חותם עדות קודש והראה מכתב שכבר נשאלה שאלה זו במתא רומי וכתוב בו: שאל מר שלמה היצחקי מן רבנא מרנא רב נתן גאון שחיבר ספר הנקרא ערוך ומן מר דניאל אחיו ומן מר אברהם אחיו והשיבו גם הם שכבר נשאלה בבית מדרשו של אביהם מר יחיאל גאון והשיב בשם מר יעקב [גאון] ריש מתיבתא דמתא רומי דמנהג כשר הוא (1) להיות מילה סניף לקה"ת ותקיעת שופר (2) ועוד דמצוה מן המובחר הוא להקדים מילה בהשכמה משום דזריזין מקדימין למצות (3) ואין נכון לאחרה עד גמר תפילה דרוב פעמים גמר תפילה בסוף ח' שעות והמאחר מצות מילה כל כך נראה דמצות מילה בזויה עליו לכך נכון להקדים להיות תכופה בין קריאת התורה לתקיעת שופר:

And I, the young one, found support for their words in the response of the sages, R' Elazar ben Yehudah and R' Klonimous (the Elder) of Rome, son of R' Shabtai. When he came to Worms after the death of R' Yaakov ben Yakar, *אף*, they asked him this and he brought out a sealed holy testimony, and showed a letter that this question had already been asked in the city of Rome in which it stated: "Mar Shlomo Yitzchaki<sup>8</sup> asked our teacher and rabbi, R' Nattan, who authored a book known as *Aruch* (1035–1106), and from his brother Mar Daniel and his brother Mar Abraham. They

<sup>5</sup> In some versions of this responsum, he is erroneously referred to as Klonimous the Elder, a different sage, who was the son of R' Yitzchak and father of R' Shmuel HaChassid. Elfenbein (34–36) believes this attribution is correct, although the timing of the other personas in the text fit better with Klonimous of Rome. See Rashi to *Beitzab* 24b for more on R' Klonimous of Rome.

<sup>6</sup> Abraham Grossman, *Rashi* (Portland Oregon: Littman Library of Jewish Civilization, 2012), 16.

<sup>7</sup> In Ashkenaz, this word is used to refer to any earlier sage, and not just to the *Geonim* of Bavel.

<sup>8</sup> An Italian scholar who lived in Rome; not to be confused with Rashi, who lived in Troyes. (The text indicates Shelomoh lived in Rome; but even had he not, Rashi would have resolved a question such as this on his own instead of asking his contemporary living miles away in Italy.)

too answered that this question had already been asked in the academy of their father, Mar Yeziel the sage, and he answered in the name of Mar Yaakov the sage, the head of the academy of the city of Rome, that it is the proper custom: (1) That circumcision be a supportive addition to the reading of the Torah and the blowing of the *shofar*. (2) Moreover, it is preferable to perform the circumcision upon arising because zealous ones are quick to perform *mitzvot*. (3) It is not proper to delay it until after the conclusion of prayer, because many times, prayer concludes after eight hours,<sup>9</sup> and when one delays the commandment of *milah* to this extent, it gives the impression that the *mitzvah* is distasteful to him. It is therefore correct to perform it early, and to place it between the reading of the Torah and the blowing of the *shofar*.”

The central argument in this responsum (#2–3 above) uses the traditional Halachic criterion that those who are zealous about the commandments do them as soon as possible, a principle developed in *Pesachim* 4a to explain why a circumcision is generally performed as soon as possible in the morning (and later codified in Rambam, *Laws of Milah* 1:8 and *Shulchan Aruch, Yoreh De'ah* 262:1). The criteria of “as soon as possible” is subject to the particular circumstances. These decisors therefore add that there is an added factor (#3 above) that the commandment might seem distasteful when delayed for eight hours, significantly after midday. Thus, although all-year-round the circumcision is often delayed to the conclusion of services, it is because prayer on those days ends earlier than on Rosh Hashanah.<sup>10</sup> Many later authorities discussing the topic have very similar analyses based on the same factors.<sup>11</sup> *Hagabot*

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<sup>9</sup> Our versions of this responsum read eight hours, significantly after midday. Elfenbein also prefers this version, though he cites some editions which read five hours. *Yabia Omer, YD* 2:18, reads five hours, or an hour before midday. This distinction is significant because if there were a problem to circumcise after the fifth hour, then in modern times, one would also be concerned with circumcisions after Shabbos morning prayers which tend to conclude after the fifth hour.

<sup>10</sup> See *Machatzis HaShekel* to the end of 584, who notes that at least on Shabbos, the circumcision would anyway need to be delayed in a community without an *eruv*, because the circumcision would take place at the baby's home, and so there is no possible way to perform the circumcision any earlier, even if there was a time cutoff for circumcision.

<sup>11</sup> Shevut Yaakov 1:30 analyzes the topic from a Halachic perspective, and sides with the analysis of the Italian rabbis as the primary reason for the timing of circumcision, adding that any philosophical criterion added is merely a “*remez Acharonim*.” He adds that in his view, midday seems to be the point after which

*Mordechai* to *Shabbos* (chapter 17), shares a ruling of Maharam of Rottenburg to similarly conduct a circumcision on Yom Kippur immediately after Torah reading, for ostensibly this very reason.<sup>12</sup>

In any event, the Italian rabbis argued that the circumcision should be earlier primarily based on Halachic criteria. They do not argue based on the historical or religious primacy of the circumcision,<sup>13</sup> but based on clearly well-defined Halachic principles. Reason 1 above, undeveloped and mystical, does not serve as a major factor in their own discussion, and not in citations of later Italian rabbis.

A few centuries later, in the early 15<sup>th</sup> century, Terumat Hadeshen (266) argues that the primary factor should be which *mitzvah* is more common, since more common *mitzvos* come first. The *locus classicus* for this topic is *Zevachim* 91a which addresses the priority of circumcision and a different *mitzvah* performed annually, the Pesach offering. In theory, one might argue that any *mitzvah* performed on an annual basis has the status of being more common than circumcision, which most Jews will only perform a few times in a lifetime, but this is not the Talmud's conclusion. The Talmud instead argues that an annual *mitzvah* is uncommon and the circumcision more common because it happens for the Jewish people multiple times a year, and therefore it should come first. More calendar days in the year will contain circumcisions than Pesach offerings, so circumcision is common and it precedes an annual *mitzvah*.

The Talmud then retreats slightly and gives other rationales why circumcision should come first: either because circumcision is more important (Rashi, for it has 13 covenants attached to it), or because it is vastly more common and not just slightly more common. But in the end the essential decision remains unchanged that circumcision should precede an annual *mitzvah*. On this basis, circumcision should precede the blowing of the *shofar* because it is more common than *shofar*, another annual *mitzvah*.

Here, too, we find an early authority using Talmudic explanations to address the previously unresolved question of circumcision on Rosh Hashanah. And here, too, we find later authorities also being swayed by the same argument (see Vilna Gaon 584). Upon this background, it

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“*zerizin makdimin*” expires. R' Mordechai Jaffe (*Levush* 584:4) agrees with the analysis as well.

<sup>12</sup> This ruling is also found in Yitzchak Z. Kahana, *Maharam: Tesbuvas u'Psakim u'Minhagim* (Jerusalem: Mossad Harav Kook, 1957), 306.

<sup>13</sup> As Shach 305:12 does, regarding a similar conflict of circumcision and *Pidyon Haben*. See also *Yabia Omer*, YD 6:25.

would surprise us were we to find alternative accounts which attempt to use other reasons for the timing of the *mitzvah* which fail to give either of these Halachic justifications, and instead provide other reasons for the timing of the *mitzvah*. The principles of “common *mitzvos*” and “as early as possible” appear to be the best Halachic evidence that relate to this question.

### The Greatest Achievement of Specific Patriarchs

Turning now to our liturgical poem, and the new ground it offered in Jewish thought and themes, we begin by surveying the earlier literature on a key aspect of our poem, the role the Patriarchs play in the modern prayer service.

Surprisingly, the Patriarchs—Abraham, Isaac and Jacob—appear only a few of times in *Tanach* outside the book of *Bereishis*. Yitzchak appears outside of *Bereishis* (and the parallel chapter in *Divrei HaYamim*) only 25 times, with almost all of those appearances serving merely as short, impersonal references to the G-d of “Abraham, Isaac and Jacob” or to the oath (*shevuah*) or covenant (*bris*) made with “Abraham, Isaac and Jacob.”<sup>14</sup>

In truth, each time Isaac is referenced outside the book of *Bereishis*, it is as a member of the triumvirate of Patriarchs, and not as an individual. The only source in which Isaac is even provided with his own independent clause is *Divrei HaYamim* 1:16:16 (and the parallel in *Tehillim* chapter 105:9<sup>15</sup>): “The covenant that he cut with Abraham, and his oath to Isaac, and he established it to Jacob...” Still, even this source does fold all three together in relation to that one covenant, and does not treat them as being separate from each other in any substantive way.

In the later texts of the *Tanach*, the Patriarchs of the Jewish people are treated as being of the same status: they are the progenitors of a nation, originators of a faith, and recipients of an oath and covenant with their Creator. In fact, Abraham, Isaac and Jacob appear side by side

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<sup>14</sup> “G-d of Abraham, Isaac and Jacob” seven (7) times, in *Shemos* 3:6, 3:15, 3:16, 4:5, *Melachim* 1:18:36, *Divrei HaYamim* 1:29:18, 2:30:6; “Covenant” four (4) times in *Shemos* 2:24, 6:3, *Vayikra* 26:42, *Melachim* 2:13:23; “Oath” eleven (11) times in *Shemos* 6:8, 32:13, 33:1, *Bemidbar* 32:11, *Devarim* 1:8, 6:10, 9:5 (and probably 9:27), 29:12, 30:20, 34:4. *Yehoshua* 24:3–4 briefly recounts the narrative of the Patriarchs, without adding any new perspective about them.

<sup>15</sup> Using the alternative spelling of the name “Yishak.” *Yirmiyahu* 33:26 also uses this spelling in “the descendants of Abraham, Isaac and Jacob.” See further *Amos* 7:9–16.

twice as often in all the books of the Bible after *Bereishis*, as Abraham appears alone without Isaac.<sup>16</sup> In its conception of the role the Patriarchs play in the future of Judaism, *Tanach* does not speak of a unique achievement that a particular Patriarch had that is different from the others; they all have the same, shared achievement: the founding of the nation and their new relationship with G-d. Moreover, *Tanach* never makes mention of the merit or heroism of the Patriarchs, fulfilled or realized in a particular heroic moment, as much as it invokes the fact that they are the fathers of a nation and the parties in a covenant and oath with G-d. And since that covenant was extended equally to each of the Patriarchs, it is sensible to treat them as one.<sup>17</sup>

Though G-d also promises to guard the “*chessed*” of forefathers for generations (*Shemos* 34:7), we should understand “*chessed*” as a synonym for “covenant” (see *Devarim* 7:9–10, *Yonah* 2:9, and elsewhere),<sup>18</sup> indicating that the promise, *chessed*, and covenant is what lasts for generations.<sup>19</sup>

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<sup>16</sup> Abraham appears alone in 11 texts; we will return to three of those texts (*Michah* 7:20 and *Nechemiah* 9:7–8) later. Some of those 11 texts refer to the Jewish people as “the descendants of Avraham” (*Yeshayahu* 41:8, *Tehillim* 105:6, *Divrei HaYamim* 2:20:7). See also *Yeshayahu* 29:22, 51:2 (the only source to mention Sarah as well), 63:16, *Yechezkel* 33:24, and *Tehillim* 47:10.

<sup>17</sup> This brief Biblical analysis focuses on the concept of “*bris avos*” (covenant with the Patriarchs) as distinct from “*zechus avos*” (merit of the Patriarchs). Rabbeinu Tam (cited in *Tosafos* to *Shabbos* 55a) is of the view that both our prayers and the key scriptural verses speak only of the covenant with the Patriarchs and not of any conveyed merit from the forefathers.

Ri of Dampierre disagrees (*loc. cit.*) and ignores the distinction between the two categories. Yet, Ri’s rejection of two categories can be understood in one of two ways: either (a) all the texts only speak of ancestral merit (*zechus avos*): that many of the key scriptural verses and our prayers speak of conveyed ancestral merit and not merely a covenant, or (b) there is only a covenant (*bris avos*), and the Talmud’s use of the term “*zechus avos*” should be understood as “*bris avos*.” Supporting this second reading is the fact that the Talmudic discussion cites *Melachim* 2:13:23 (which explicitly mentions the covenant and not ancestral merit) in this conversation. Thus, a reasonable conclusion is that both of the Tosafists understood that the conventional understanding in Judaism is to the ancestral covenant and not ancestral good deeds or merit.

<sup>18</sup> See also the *Zichronos* section of the Rosh Hashanah *davening*: “Remember for us the covenant, the *chessed*, and the oath that you swore to Abraham our father on Mount Moriah.”

<sup>19</sup> The Talmud contains four views as to the date of the expiration of this connection, based mostly on the sources cited above in Note #14. (1) Shmuel believes that the Patriarchal covenant expired at the time of Yehoachaz (*Melachim* 2:13:23), for that is the latest time it is mentioned in *Tanach*. (2) Rebbi Yehoshua ben Levi says it ended at the time of Eliyahu (based on *Melachim* 1:18:36).

There are few Biblical sources, if any, that speak of an ancestral merit that remains relevant for later generations.<sup>20</sup>

### Abraham's Greatest Achievement

Later sources, particularly later additions to the prayer service, begin to look at the Patriarchs differently, trying to identify the moment of most

(3) Rabbi Yochanan says the Davidic covenant provides protection until the time of Chizkiyahu, but beyond that point the Davidic covenant no longer provides protection. (Though he does not cite *Melachim* 2:19:34 and 2:20:1–6 as proof-texts, one imagines Rabbi Yochanan had them in mind.) (4) Finally, Rav believed that the exile of the 10 tribes provides the moment when the Patriarchal covenant expires—either arguing based on logic that the exile indicates the end of merit, without a proof-text, or essentially agreeing with the first view that Yehochaz had the merit, but the next time it was needed, at the time of the exile a few short years later, the Patriarchal covenant was no longer available.

Commentators grapple with the follow-up question: If the covenant has expired, how it can still be invoked in our prayers today? Three answers are offered:

(a) Rabbeinu Tam argues it is only the *ancestral merit* that may have expired and not the firmly established *covenant*, which never expires.

(b) Ri argues that the presence of righteous descendants perpetuates the covenant, even if it might have expired under normal circumstances.

(c) Or Zarua' (1:106) offers the most challenging view in the name of R' Yehonasan, that the covenant remains in effect, but only when invoked through prayer.

Interestingly, Or Zarua' uses the very same *piyut* which we discuss later in this essay in its role in establishing the time for circumcision, as the proof that we can still invoke the covenant during prayer.

<sup>20</sup> The first blessing of the *Amidah* ends with the promises that G-d (a) remembers the “*chesed*” of the patriarchs; (b) thus brings a redeemer to their children’s children; (c) for the sake of His Name; and (d) that He is the King who is also a Shield. All four are linked, with the first three serving as reference to the sixth chapter of the book of *Shemos*, which notes (a) that G-d remembers (6:5); (b) that he will bring a redeemer (6:6); and that (c) this is done for the sake of His Name (6:3–4, see Rashi). This strongly supports reading “*chesed*” as referring to a covenant, and not meritorious deeds. This seems to be the way that this section of the blessing is understood in *Sefer HaPardes* (H.L. Ehrenreich [Budapest, 1924], 299–301), that the blessing uses the word “*chesed*” to mean “covenant.” Section d, that the King is also a Shield, is a reference to *Bereishis* 15:1, the paragraph of the *Bris Bein HaBesarim*.

Tur (end of 113) seems to support our reading of clauses b and c, “His redemption is always standing for he swore to them in His Great Name, and just as His Name lasts forever, so too His Redemption lasts forever,” but Tur seems to read clause “a” as referring to merits of the Patriarchs, as does R' Simchah of Vitri (*Machzor Vitri*, Ed. Aryeh Goldschmidt [Jerusalem, 2004], 29).

significant greatness for each specific Patriarch, to use that moment as a source of ancestral merit. It is no longer sufficient to look at all three together, or even to look at them primarily as recipients of the oath and covenant. Instead specific, heroic actions become sources of merit that continue through to later generations.

The selection of the moment of Isaac's greatest accomplishment would not pose much debate, and virtually every source identifies Isaac's greatest moment as the *Akeidah* (*Bereishis* 22), when he willingly acquiesced to give his life upon the command of his Creator.<sup>21</sup> For Jacob's greatest moment, the choice is more difficult, perhaps because no moment stands out as being particularly impactful. The plurality of sources that mention his great deeds focus on his pursuit of truth and honesty even to the point of physical exhaustion in his dealing with the trickster Lavan, as illustrated in *Bereishis* 31:38–42;<sup>22</sup> Jacob remained committed to values of truth even at challenging times.<sup>23</sup> The more stimulating ques-

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<sup>21</sup> Jewish tradition, including the Talmud and *Midrashim*, has always considered Isaac an aware adult who actively joined in the decisions of the *Akeidah*.

<sup>22</sup> “I brought no torn animal before you, I would bear the loss for it, you would ask me for it—whether stolen by day or stolen by night. I was there during the day: consumed by heat, and frost at night, and sleep drifted from my eyes...” Jacob indicates that he worked ethically for his father-in-law and embraced supererogatory conduct, accepting the burden of loss for an animal even in cases that he would normally be exempt (*Shemos* 22:9–12), and working for more hours than expected.

Other sub-sections of the wider Jacob story seem more ethically questionable, particularly Jacob's choice to put spotted sticks in the sheep troughs. These questions are beyond the scope of this paper, but we note that Or Zarua', himself, whom we address extensively throughout this paper, gives an interesting account in 1:769 that the colored sticks were only placed in the drinking water of Jacob's own flock, to ensure they would be clearly demonstrably his. They were not placed before Lavan's flock to defraud him of his own sheep. Thus, for Or Zarua', the colored sticks also reflect supererogatory ethical conduct and not theft or fraud. Another popular modern defense of Jacob stems from Mendelian Genetics. See Yehuda Feliks's article in *Techumin* 3 (1982).

<sup>23</sup> One of the *kinos* of HaKalir (Daniel Goldschmidt, *The Order of the Kinot for the Ninth of Av* [Jerusalem: Mossad Harav Kook, 1972], 100), offers exactly three words to note Jacob's heroism “*olalai she'tipachti b'elef*—my young ones (see *Bereishis* 33:13) that I nurtured to exhaustion,” and probably also refers to the heroism of the sheep. Some interpreters argue this line refers to Jacob's nurturing of his own children, but this reading is questionable for three reasons: (1) though the *Chumash* records how the sheep were cared for to the point of exhaustion, there is no description of Jacob's exhaustion in childrearing; (2) the *olalai* in the Jacob story (33:13) refers to sheep, not children; and (3) the continuation of the line notes how in exchange, despite his good deed, many

tion for our purposes comes when attempting to identify the greatest achievement of Abraham.

The Mishnah (*Avos* 5:3) realized that Abraham's life contains no fewer than ten great achievements,<sup>24</sup> and later Jewish writers and thinkers looking to invoke Abraham's greatest moment would have many choices from which to choose. Though the Mishnah and most commentaries fail to specify which moment is the greatest, a few stand out as possibilities. Some commentaries on the Mishnah (see Rabbeinu Yonah) are explicit that Abraham's unique and greatest moment is the *Akeidah* as well. Much as it is Isaac's greatest moment, it was also as great a heroic moment for his father.

A significant number of earlier prayers, both those that precede the Medieval Period and some from the Medieval Period, are even more explicit in associating the heroism of the *Akeidah* with both Abraham and Isaac. The central blessing of the *Mussaf Amidah* on Rosh Hashanah speaks passionately about the heroism of the *Akeidah*, with positive mention of both Abraham and Isaac. (Jacob is conspicuously absent from this blessing). The ancient, albeit post-Talmudic,<sup>25</sup> morning prayer "*L'olam yehei adam*" speaks of the heroism of Isaac at the *Akeidah* and of Abraham at Mount Moriah. (Here, Jacob appears, but without reference to any heroism.)

In the *Selichos*, a genre of prayer/*piyyut* called an "*Akeidah*" is recited on most days, and this genre is specifically intended to describe the

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of his descendants were sheared ("*gazal*"), a verb associated with sheep, not people.

<sup>24</sup> Because of debates among the commentaries (including Rambam, Rashi (= *Pirkei d'Rebbi Eliezer*), Rabbeinu Yonah, Bartenura loc. cit.; *Avos d'Rebbi Nasan* 33, and *Midrash Shocher Tov*), no fewer than 14 great achievements are offered for this list, with seven bolded accomplishments generally included in all lists: (1) living in hiding for more than a decade; (2) being cast into the furnace; (3) the Covenant Between the Parts; **(4) leaving his homeland;** **(5) the famine;** **(6) Sarah taken by Pharaoh;** (7) Sarah taken by Avimelech; **(8) the war with the four kings;** (9) marrying Hagar; **(10) circumcision;** **(11) sending out his son;** (12) sending out Hagar; **(13) the *Akeidah*;** (14) burying Sarah. See also Nachmanides to *Bereishis* 23:19 and Chizkuni to 23:2 who join their contemporary and landsman Rabbeinu Yonah in including the burial of Sarah on the list.

<sup>25</sup> This prayer appears in the *Siddur* of R' Amram and in *Machzor Vitri*, 102. It is also attested to in *Tanna D'vei Eliyahu* (21), and is discussed at length in *Shibbolei Haleket (tefillah)*, 6), and in Rambam's *Siddur*. It is not mentioned in the Talmud, however (*Aruch HaShulchan* 46:16), leaving a small window of a few centuries in the Geonic period when it must have been written.

heroism of Isaac and Abraham at the *Akeidah*.<sup>26</sup> In these prayers, the binding of Isaac and the oath given by G-d at its climax is as much a statement of Abraham's sacrifice and commitment as it is a statement of Isaac's. Some sources—including one of HaKalir's *kinos* for the Ninth of Av—focus Isaac's heroism on the *Akeidah* but consider all ten of Abraham's tests, including the *Akeidah*, as moments of his heroism.<sup>27</sup>

A series of *Midrashim* focus on Abraham's kindness and generosity in opening his tent to wayfarers. In seeking to explain the frequent pairing of one ram with one bull and a series of small livestock in the sacrificial realm, the *Midrashim* explain that the ram invokes the ram sacrificed after the binding of Isaac;<sup>28</sup> the bull invokes Abraham's generosity, and the small livestock recall Jacob's conduct when tending Lavan's sheep.<sup>29</sup>

Still other sources invoke a third moment as Abraham's greatest achievement, the covenant made with G-d “*Bris Bein HaBesarim*—Covenant Between the Parts” (*Bereishis* 15:7–21), when G-d first committed to give the Land of Israel to Abraham and his children. The special addition to *Tachanun* for Mondays and Thursdays asks that G-d “Remember and look to the Covenant Between the Parts (=Abraham), and it should be seen before You, the *Akeidah* of the only-child (=Isaac), for the sake of Yisrael (=Jacob)”<sup>30</sup> invoking all three Patriarchs, but focusing Abraham's role on the Covenant Between the Parts. Targum looks towards the Covenant Between the Parts as well, in interpreting *Michah* 7:20: “Grant truth to Jacob, kindness to Abraham, as you swore to our ancestors from the days of old.”<sup>31</sup> Targum explains: “Grant the

<sup>26</sup> Daniel Goldschmidt, *Seder HaSelichos* (Jerusalem: Mossad Harav Kook, 1965), 109–111, #39, 151–153, #52, 184–185, #65, 203–204, #74, 225–226, #83, 243–246, #92. This genre of *selichos* also helps highlight the problem of identifying a key moment of Jacob's heroism. Most *selichos* in this genre seek to preserve the symmetry of mentioning all the Patriarchs, but the allusions to Jacob rarely display the same passion, fervor, or clarity as the ones to his father or grandfather. His heroism can include the conduct with Lavan's sheep (#52), his establishment of 12 tribes (#65), his facial image appearing on G-d's divine throne (#74), and even his travel to the city Succot (#83).

<sup>27</sup> Goldschmidt, *Kinos*, 99, discussed previously in the above notes.

<sup>28</sup> Though today we might speak of Isaac's ram, it is interesting that the *Mishnah* still refers to this primarily as Abraham's ram (*Avos* 5:6).

<sup>29</sup> See with nuanced differences *Vayikra Rabbah* 21:11, 27:9, 31:4, *Bemidbar Rabbah* 13:14 and 14:5, *Tanchumab*, *Tetzaveh* (13), and Rashi's citation of this *Midrash*, *Bemidbar* 7:18, 28:19.

<sup>30</sup> *Machzor Vitri*, 117.

<sup>31</sup> Though this view is not furthered by the commentaries, a simple reading of this verse focuses on Abraham's kindness (in welcoming wayfarers) and Ja-

truth of Jacob to his sons as you promised to him in Beis-El, the kindness of Abraham to his children after him as you promised him *Between the Parts*, remember us the *Akeidah* of Isaac...”<sup>32</sup> again positioning the *Bris Bein HaBesarim* as the parallel to the binding of Isaac and Abraham’s greatest moment.

*Nechemiah* (9:8) singles out Abraham for “establishing the covenant with Him, to give the land of the Canaanite, the Hittite, the Amorite and the Perizzite and the Jebusite and the Gergashite.” Though this verse does not specify which covenant it refers to, the only covenant when Abraham is promised the land of these specific nations is the Covenant Between the Parts, the *Bris Bein HaBesarim*.<sup>33</sup> Lastly, many commentaries take the verse we discussed (*Tehillim* 105:9)—“The covenant that he cut with Abraham, and his oath to Isaac, and he established to Jacob...”—to refer also to the Covenant Between the Parts.<sup>34</sup>

In summary, classical texts focus on Abraham’s promise at the Covenant Between the Parts, his heroism at the *Akeidah*, or his kindness, when invoking his good deeds and meritorious actions during our prayers, but almost never make mention of his role in the *bris milah* when invoking his merit in our prayers. This is not particularly surprising: though Abraham is the only Jew to experience the Covenant Between the Parts or the *Akeidah*, the circumcision was repeated by Isaac and Jacob and by countless Jews in the generations afterwards (many in periods of great danger and risk), and so there is little reason to associate the merit of the circumcision specifically with Abraham.<sup>35</sup> This point is

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cob’s truth (ostensibly in his dealings with Lavan), as per the *Midrashim* cited above.

<sup>32</sup> Though the binding of Isaac does not appear explicitly in this verse, Isaac’s inclusion by the Targum is not particularly surprising given: (1) this is the rather rare instance in which Abraham and Jacob are mentioned together outside of *Bereishis* without Isaac, and given (2) that the only time an “oath” was given explicitly to the Patriarchs was at the binding of Isaac, and the prophetic verse makes reference to an oath.

<sup>33</sup> After this verse, the description moves to the Exodus, which further recalls the Covenant Between the Parts, for it was that moment at which the Exodus was predicted and to some extent began. Some take this verse to refer instead to the covenant of the circumcision: see *Shir HaShirim Rabbah* to 4:6, *Machzor Viti-ri*, 29; *Or Zarua’* 2:107, *Tosafos, Nedarim* 32b.

<sup>34</sup> See Ibn Ezra, loc. cit.

<sup>35</sup> Rashi and Rabbeinu Tam (*Shabbos* 137b) also in their analysis of the blessing after the circumcision attribute phrases of the blessing to Isaac and Jacob and do not focus the blessing on Abraham at all. “That you made the beloved one holy from the womb (Abraham or Isaac), and a decree you placed in his flesh

striking and is worth reiterating. Though the circumcision is clearly associated with Abraham more than anyone else (it is even called “*briso shel Avraham Avinu*” in its blessing, and Abraham’s relationship with the *mitzvah* is apparent in *Bereishis Rabbah* 48), Abraham’s action of circumcision is never invoked as a source of particularly significant ancestral merit for his later generations in the first millennia of Jewish history.

### A New Pairing in Medieval Germany: The Circumcision of Abraham and the Binding of Isaac

The Ashkenazic *Selichos* service contains three different liturgical poems which use the circumcision of Abraham in parallel to the binding of Isaac, to invoke merit for their descendants, the Jewish people. The three are written by R’ Shelomoh HaBavli of Italy (late 10th century), Rabbeinu Gershom of Mainz (960–1040), and R’ Elazar of Worms (often referred to by the name of his book the *Rokeach*, 1175–1240).<sup>36</sup> All three begin with the same first stanza:

זכור ברית אברהם<sup>37</sup> ועקידת יצחק

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(Isaac), and his descendants (Jacob) you sealed with the sign of the holy covenant, thus in the merit of this—O Living G-d, our Portion, our Rock—command to save the beloved ones of our flesh from the underworld, for the sake of His covenant that He placed in our flesh.” See also *Or Zaru’a* 2:107 and *Smag*, 28.

<sup>36</sup> Goldschmidt, 117–119, 155–157, 258–259. The first is generally recited in modified form on the fast of Gedalyah, and the second in abbreviated form on the day before Rosh Hashanah. The third, meanwhile, is generally not recited. The poem of Rabbeinu Gershom is also analyzed, with a line-by-line commentary in Yisachar Yaakovson, *Nesiv Binah*, vol. 5 (Tel Aviv: Sinai, 1989), 37–41. As will become apparent, it is unequivocal that the last two understand the *bris* to refer to the circumcision, but the question is somewhat more unclear whether the first had in mind the *bris milah* or some other covenant.

<sup>37</sup> This phrase is likely inspired by *Vayikra* 26:42. The phrase, as currently constituted, is fascinating from a linguistic perspective. The parallel phrase in the blessing of circumcision is בריתו של אברהם אבינו, the conventional way to refer to the circumcision of Abraham using a preposition (של אברהם), and not two nouns in the construct form (ברית אברהם). This new phrase, ברית אברהם, only appears in *Tanach* once at *Bereishis* 14:13 and, though taken by some *Midrashim* to refer to the circumcision, probably simply refers to some sort of military alliance. (In that verse, one should read בעלי-ברית אברהם the “members of a covenant” with Abraham instead of members of “the covenant of Abraham.”) Thus, our poet creates a new idiom, using the contract form instead of the more conventional prepositional form, so that the

והשב שבות אהלי יעקב<sup>38</sup>  
והושיענו למען שמך

Several changes from the earlier Biblical and liturgical literature are worthy of note. (a) Though at first glance all three Patriarchs are mentioned as is the convention, the word “Jacob” is subverted from the usual, referring not to the third Patriarch but instead to the entire Jewish people, and consequently (b) Jacob is not the source of the covenant or merit, but is instead the recipient of the merit. (c) Choosing to single out the *binding* of Isaac, as opposed to an oath or covenant made at the *Akeidah*, shifts the focus from remembering the arrangement/covenant of the *Akeidah* to the merit associated with the *action* of the *Akeidah*, and (d) thus necessitates a re-understanding of “Abraham’s covenant” to no longer refer to the arrangement/covenant, but to instead refer to the meritorious action undertaken by Abraham in the *action* of the covenant or circumcision.

Here, the contrast with *Divrei HaYamim* 1:16:16 (and the parallel in *Tehillim* 105:9), “The covenant that he cut with Abraham, and his oath to Isaac, and he established it to Jacob...,” is telling. The binding of Isaac is referenced here, but *Tehillim* focuses on the *oath* to Isaac: the focus is not the story of *Akeidah* heroism, as much as it is the oath, relationship

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clause of Abraham is perfectly grammatically parallel to the clause of Isaac (which was in the construct form: עקידת יצחק).

In Hebrew, the use of the construct form can indicate many things including possession or ownership, or the object of a verbal noun. (See E. Kautzsch *Gesenius’ Hebrew Grammar* [Mineola, NY: Dover, 2006], 416.) In the case of עקדת יצחק, the binding of Isaac, one imagines that Isaac is the object of the action, the person who was bound. Yet, in contrast, in the case of בריתו של אברהם, the preposition של clearly indicates possession or authorship, the covenant is *his*, it is Abraham’s covenant. He is the party of the covenant and not the object. But what happens when בריתו של אברהם is converted into the construct state ברית אברהם? Did the poet intend for the two phrases to be translated in an unparallelled way, with Abraham’s relationship with *bris* still being possession: “Abraham’s covenant, and the binding done to Isaac”? Or did the poet subtly shift the way Abraham’s relationship to the circumcision was supposed to be constructed, turning him into an object, translating “the circumcision done to Abraham, and the binding done to Isaac”? The word *bris* is used in the construct form in *Tanach* over 100 times, at times indicating the author of the covenant, at times the material of the covenant (ברית מלח), at times the nature (ברית עולם), but it is never used in the Bible to indicate the object upon whom a covenant was performed. For an example of a similar though not identical problem, see Rashi to *Shemos* 21:2.

<sup>38</sup> An almost verbatim quote from *Yirmiyahu* 30:18: הנני שב שבות אהלי יעקב.

and commitment that came as a result. Even the word “*Akeidah*” is absent; there is only “oath.” In contrast, this new genre of *selichah* speaks of the *Akeidah* with Isaac, a story of heroism.

When inspecting the shift in Isaac’s treatment, we note how slightly different wording reflects the philosophical change in the way the event is considered (from oath to heroism). Regarding the “covenant of Abraham” the words stay the same, but the meaning changes. For the first time, it refers not to the agreement and covenant of Abraham but instead to the heroism of Abraham to undertake the physically demanding action of the circumcision.

This new arrangement begs the questions: What changed? Why does the heroism of the circumcision begin to take center stage as a source for merit for the Jewish People, particularly in the middle of the Medieval Period?

### The Centrality of Self-Sacrifice in Medieval Culture

Scholars have long developed the idea that the heroism of self-sacrifice, or even martyrdom, saw significant development in the Medieval Period, and finds few major precedents in earlier sources.<sup>39</sup> By the late Medieval Period, and surely by the time of Or Zarua’ and Rokeach, the idea of personal sacrifice was central to the Jewish psyche.<sup>40</sup> Jews writing retrospectively about the First Crusade, clearly reflect this perspective:<sup>41</sup> a Jew is hurt, pained, bleeds, or even dies for the sake of his religion; at times an enemy is the source of the physical harm, but at times, the Jew him-/herself might take the initiative and cause him-/herself to bleed, be hurt, or die for the sake of Judaism. Thus, the *Av HaRachamim* prayer, the First Crusade *kinos*, as well as numerous other *selichos*, turn to G-d and beseech Him to look at the self-sacrifice and the spilt blood of the Jew-

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<sup>39</sup> Simcha Goldin’s *Almos Aberucha: Al-maves Aberuka* (Lod: Dvir, 2002) contains a lengthy discussion of earlier precedents for martyrdom, and how little they impact the *Halachah* as practiced in the Middle Ages. See also Haym Soloveitchik, “Halakhah, Hermeneutics and Martyrdom in Ashkenaz,” *Collected Essays II*, 228–287. See also Avraham Grossman, “The Cultural and Social Background to Jewish Martyrdom in Germany in 1096” in A. Haverkamp (Ed.), *Juden und Christen zur Zeit der Kreuzzüge* (1999), 73–86.

<sup>40</sup> See *ibid*, and Haym Soloveitchik “Religious Law and Change,” *AJS Review*, 12.2 (1987) 207–210.

<sup>41</sup> See *Kinos*, 82–88, #22, 23, 93–98, #26. Though some of these sources might allude to the binding of Isaac, they do not reference the circumcision, likely because the circumcision did not have the same threat to life as the *Akeidah* or First Crusade, even if it also featured the spilling of one’s own blood.

ish people at the hands of their enemies, and for this to serve as a merit for the salvation of the nation. The best Biblical precedent for a Jew choosing self-sacrifice for the sake of his Creator is the binding of Isaac, and a second precedent (albeit less direct) is Abraham, who caused his own blood to run after the circumcision.

Part of our challenge when considering three different authors living at three different times who tackle the same theme, is trying to disentangle whether they all understood the binding of Isaac and the circumcision in the same way, as a quintessential example of Jewish martyrdom and self-sacrifice. For Haym Soloveitchik,<sup>42</sup> the concept of Jewish martyrdom is born only *after* the First Crusade, and if this is true, we would be forced to conclude that though R' Elazar of Worms likely had the category of martyrdom in mind when speaking of the binding of Isaac, Rabbeinu Gershom may only have had in mind more general notions of heroism and dedication, and perhaps even the oath of the *Akeidah* and not martyrdom.<sup>43</sup> R' Shelomoh HaBavli's *piyut*, written even earlier, is even more troubling. One of the themes of his poem is the oppression and loss of life to the Jew because of sustained Christian attacks; he does not speak of only generic troubles or the more abstract pain of being distanced from a long-destroyed Temple. Yet, though for Rabbeinu Gershom, one could look to a few earlier anti-Semitic attacks to argue that the pattern had been established before his death,<sup>44</sup> this argument will be even harder to make regarding R' Shelomoh HaBavli.<sup>45</sup>

Our challenge, thus, is that the opening line in the three poems could have meant two entirely different things depending on the poem:

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<sup>42</sup> The major thesis of Soloveitchik, "Hermeneutics and Martyrdom," is exactly this point.

<sup>43</sup> One line in Rabbeinu Gershom's *piyut* reads, "They have hunted her like a bird from Mount Moriah," and the decision to focus this hunting on Mount Moriah is striking. Is Mount Moriah chosen because this is the location of the sacrifice of the *Akeidah*, or because that was where the Temple sat? The idea of a bird on Mount Moriah does not seem to have many connections elsewhere in the liturgy, and so in any event, this line remains challenging.

<sup>44</sup> See Berger, *Persecution, Polemic, and Dialogue* (Boston: Academic Studies Press, 2010), 20–23 for the attempt to establish an earlier date for the start of persecutions.

<sup>45</sup> See Kenneth Stow, *Alienated Minority: The Jews of Medieval Latin Europe* (Cambridge, Mass.: Harvard University Press, 1992), 68: "Regrettably, Solomon the Babylonian's references to Jewish suffering are too generic to say whether they were evoked by specific stimuli, a general change in Christian behavior or the overall exilic condition..." His version of the *piyut* talks a lot about the sadness at the lack of a Temple and the pain of exile, but mentions little about the self-sacrifice of the Jews in Medieval Europe.

some focusing on martyrdom, circumcision and the binding of Isaac, and others focusing on oath and covenant. Put slightly differently: each other time the word “*bris*” is used in Rokeach’s version, the circumcision is clearly intended. However, the only time “*bris*” appears later in Rabbeinu Gershom’s version, it is the more generic meaning, covenant: “The covenant of the Patriarchs and Matriarchs and the tribes/ and your mercy and kindness in many times/ O G-d! Remember these for the ones that are beat and have their hair torn out/ and for your sake, they are slaughtered the entire day.”

Rabbeinu Gershom’s *piyut* contains the first themes of spilt Jewish blood and the redemptive power of our suffering, even though there is no mention of the circumcision or martyrdom after the first line. In a long poem consisting of 14 four-line rhyming verses, Rabbeinu Gershom uses an acrostic to spell the entire Hebrew alphabet doubled and then his name “Gershom Bar Yehudah, *Chazak*.” The most prevalent poetic techniques in the *piyut* are alliteration and its cousin internal rhyme, which appear in roughly half of the verses. In a prayer intended for the somber yet optimistic High Holiday season, however, the dark clouds over Europe are palpable. *Eichah*, the bitter laments of the Temple’s destruction, is quoted at least seven times, and the suffering of the exiled Jew becomes the central theme.

The vision is captured succinctly in the second verse: “Exile after exile, Yehudah, entirely, has been exiled.” Daniel’s vision of the four exiles also provides the inspiration for the sixth and seventh verses:

We have been conquered as slaves, and we have been made weary  
When we fled from the lion, the bear encountered us<sup>46</sup>  
We were oppressed by the leopard<sup>47</sup> until we were weary  
The pig made us stumble, and we were not relaxed.  
From all the oppressors of the three-part nation<sup>48</sup>  
The fourth kingdom has continued-on and lengthened  
And they have placed a **yoke**<sup>49</sup> of iron on the poor nation [=Israel]

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<sup>46</sup> This line uses chiasmus, and references the Babylonian exile (lion) and the Persians (the bear). The next lines refer to the Greeks (the leopard), and the Romans/Christians (the pig).

<sup>47</sup> Though leopard is the conventional translation of “*namer*” based on *Yirmiyahu* 13:23, the animal only appears in *Tanach* a handful of times.

<sup>48</sup> Probably a reference to the Jewish people, called the three-part nation in *Shabbos* 88a, although Goldschmidt and Yaakovson in his wake take this to mean the third enemy nation.

<sup>49</sup> The idea of the yoke, referenced three times in this section, also references a key point in Christian theology.

And she has become full with agony and grief.  
 The leftovers of the nation accept the **yoke** of Your monarchy  
 But the one who hates pushes, destroys, and wounds  
 To remove Your **yoke**,<sup>50</sup> that is pleasant and accepted  
 And a disgraced idol is to be accepted as a god.

Rabbeinu Gershom's version also contains numerous references to spilt blood and wounded bodies: "Was trampled with feet" (7), "Slaughtered their young ones in the Temple" (9), "Bleeding wound and black-and-blue-mark, and wet wound, they have been wounded for Your sake the daughter of the Hebrew" (17), and ends with the line "He Who avenges blood judge our judgment, return to those that afflict us seven times."<sup>51</sup>

Rokeach's version of the *selichah* deftly weaves together three themes, adding a third theme to the first two that were also present in Rabbeinu Gershom's version:

- (a) Jewish blood has been spilt in Christian Europe
- (b) We pray G-d will remember this blood and act to save us
- (c) We see in our own condition a clear parallel to Abraham and circumcision

The entire *piyut* appears below; excluding the choruses, the *piyut* contains three rhyming stanzas (all four lines long with three lines of five words each, and a final line consisting of a scriptural quote of four words beginning with "*Zachor*," remember), spelling out the name of the poet "Elazar, the younger" in an acrostic. The original "*bris*" with Abraham, who is called "the one that You love," is referenced both in the opening line and in lines three and nine. The spilt Jewish blood at the time is mentioned in lines 5 and 11. Lastly, the plea that G-d remember, see, and act in response to the blood is referenced both in the opening

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<sup>50</sup> In other words: our enemies push, destroy and wound us, with the express purpose of inciting us to remove the yoke of Heaven, and accept an idol (the cross) as a god. Deftly, Rabbeinu Gershom also references here the blessings of Jacob and Esav, *Bereishis* 27:40, further anchoring this line to the Jewish-Christian relations of his day. Rabbeinu Gershom's son is alleged to have apostatized to Christianity, making this line even more poignant.

<sup>51</sup> The final verse contains four lines, with each of the first three containing significant alliteration (*Doresh Damim Don Dineinu, Hashev Shevasayim, and Chinam Nimekarnu*). It ends, as Rokeach's version also does, with the invocation to the Avenger of spilt blood. Rabbeinu Gershom asks that the enemies be punished seven-fold (as in *Tehillim* 79:12), and for the Jews to be redeemed from being owned by their enemies and returned to a rebuilt Temple.

line, in lines 4–8, and 10–12. Finally, the word “*bris*,” itself, is mentioned four times.

זכור ברית אברהם ועקידת יצחק והשב שבות אהלי יעקב והושיענו למען שמך  
 אות ברית ביני ובינך<sup>52</sup> אבינו  
 למי החותמת? הכר!<sup>53</sup> כי-אם בבשרינו  
 עם אוהבך<sup>54</sup> כרת ברית, תוחלתינו  
 זכר אל-תפר בריתך אתנו (ירמיהו יד:כא)  
 רחמך זכר להלבין כש לג אדם<sup>55</sup>  
 הבט לברית בנך, נא תפדם  
 קול יעקב איש תם הקודם<sup>56</sup>  
 זכר עדתך קניית קדם (תהילים עד:ב)  
 טפי אהבך עד בינך ובין-ידידך<sup>57</sup>  
 נא הרם "לאות למשמרת"<sup>58</sup> לעבדך

<sup>52</sup> A near verbatim quote from *Bereishis* 17:11 describing the circumcision.

<sup>53</sup> A play on words, based on *Bereishis* 38:25, which does not mention circumcision, and instead refers to a signet ring. But Rokeach speaks of a seal in the flesh (“*basar*”) hearkening back to the use of the word often in connection to circumcision in *Bereishis* 17:11, 13, 14, 23, 24, 25 and *Vayikra* 12:3. Interestingly, R’ Yehudah HaLevi had also used the reference to 38:25 poetically to refer to circumcision in his poem “*Yam LeYabasbab*.”

<sup>54</sup> In the Bible, “The one that G-d loves” refers to Abraham. See *Divrei HaYamim* 2:20:7, and *Yeshayahu* 41:8.

<sup>55</sup> A reference to *Yeshayahu* 1:18 describing how repentance changes the sin of red into white. Clearly, the invocation of the color red brings spilt blood of circumcision to mind.

<sup>56</sup> This line melds together the two versus in the Bible which contrast Jacob and Esav: 25:27 (contrasting the simple man and the hunter) and 27:22 (contrasting the man of voice and the physical man of hands). In general, Medieval references to these verses, which highlight the Jacob and Esav relationship, are designed to capture the distinction between the Jew (Jacob’s descendants) and the Christian (Esav’s progeny). See Rashi to *Bemidbar* 20:14–20, 31:8 *et al.*

<sup>57</sup> “The drops (of blood) of the one that you love (=Abraham) is a sign between you and your friend (the way one of the Patriarchs is referred to in the blessing of circumcision).”

<sup>58</sup> *Bemidbar* 17:25, one of the few references in this *piyut* that does not seem to have much connection to circumcision. “*Os*,” sign, connects in general to circumcision, but the “*os* and *mishmeres*” construction does not (unless we take *mishmeres* to reference the Pesach offering [see *Shemos* 12:5] and *os* to reference circumcision). For another example of a striking, even shocking, invocation of circumcision in the Medieval Period, see Rashi to *Shemos* 12:6 which argues that the Jews circumcised themselves during the night of the plague of the

חזק דרש דמים<sup>59</sup> שפכו דמי חסידך  
זכר רחמך ה' וחסדך (תהילים כה:ז)

Abraham's heroism in leaving his homeland, being a paragon of kindness, and launching a new faith and covenant are great deeds, but those deeds did not contain any element of physical self-sacrifice. Only the circumcision, when Abraham spilt his own blood and put his own life at risk, could serve as the most fitting parallel to the binding of Isaac. Jewish self-sacrifice and blood spilt for the sake of being Jewish could have great metaphysical impact, and G-d's recollection of that sacrifice might lead to a change in Jewish fortunes.

The circumcision becomes the most fitting parallel and paradigm for the Medieval Jew, confronting regularly the idea that blood is spilt for the sake of their faith, and so the circumcision of Abraham is now firmly paired with the binding of Isaac, as precedents and sources of merit for the nation. For our purposes, the exact reasons why circumcision becomes so crucial is not as important as the shift itself. Whether it was threat to life, self-harm, the notion of sacrificial blood,<sup>60</sup> or the role circumcision played in Jewish-Christian debates,<sup>61</sup> it is clear that circumcision now played an important role in the minds of many that it may not have previously played.

### **Timing a Circumcision on Rosh Hashanah: Thematic Factors**

Returning to our Halachic question, we note that the early German rabbis refrain from framing the topic in terms of Halachic factors and categories, and instead give arguments of a totally different nature. This would be striking enough if there were no possible Halachic arguments

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firstborn. This idea of Rashi's does not appear in the Midrashic source from which Rashi was working (*Mechilta*) and by all logic is also impossible given that (a) the Jews needed to have been circumcised that morning before offering the Pesach, and (b) in general, circumcision cannot take place at night. Evidently, circumcision was so critical to national self-definition that Rashi could conceive of nothing less than a circumcision at the moment they became a people, during the plague of the firstborn.

<sup>59</sup> *Tehillim* 9:13, a verse that also appears in the *Av HaRachamim* prayer and Rabbeinu Gershon's *piyut*.

<sup>60</sup> A thorough treatment of the role of blood for Medieval Europe is Yisrael Yuvav's "*HaNakam VeHaKelalab, HaDam VeHaAlilab*," *Tzion* 58 (1992), 33–90. See also Elisheva Baumgarten, "Marking the Flesh: Circumcision, Blood, and Inscribing Identity on the Body in Medieval Jewish Culture," *Micrologus* 13 (2005), 313–330, esp. 316–317. For a more recent discussion see Berger, 31–37.

<sup>61</sup> See Berger, 141–147, 277–283, 370, for a few examples.

to be made, but is even more striking given that their approach involves refraining from using the evident Halachic criteria we have cited above. The clearest discussion of the problem is found in *Or Zarua'* (2:275), quoting from *Rokeach*, reproduced here below:

אמר אבא מרי רבינו יהודה בר קלונימוס<sup>62</sup> בשם מרנא ורבנא ר' יהודה החסיד בשם ר' שמואל החסיד שאמר בשם רבינו קלונימוס הזקן בן רבינו יצחק<sup>63</sup> בן רבינו אלעזר הגדול, שאירע במגנצ"א מילה בר"ה ושאלו לקדושים אשר בארץ רבינו גרשום בר' יהודה מאור הגולה ורבינו שמעון הגדול בר יצחק<sup>64</sup> ורבי' יהודה הכהן שעשה ספר הדינין ור' יהודה הגדול שהיה ראש לנהרגין<sup>65</sup> ושאר בני הישיבה הקדושה, והורו כולם למול הנער לאחר קריאת התורה והפטרה קודם שיתקעו בשופר: כדי שתהא ברית מילה תכופה לתקיעת שופר שיזכור לנו הקב"ה "ברית אברהם ועקידתו של יצחק".

והביאו סמך לדבריהם (I) ממתבע שטבעו חכמים בתפילת היום וקיים לנו ה' אלהינו את הברית ואת החסד ואת השבועה אשר נשבעת לאברהם אבינו בהר המוריה ותראה לפניך עקידה שעקד אברהם אבינו את יצחק בנו על גבי המזבח וכו' דהיינו ברית תחילה ואח"כ עקידה דהיינו תקיעת שופר שנשחט תמורו איל; ועוד (II) דחתימת הברכה ועקידת יצחק לזרעו היום תזכור ברחמים בא"י זוכר הברית וסמיך ליה אתה נגלית דהיינו שופרות וחזותין שומע קול תרועת עמו ישראל ברחמים.

<sup>62</sup> The speaker here is R' Elazar of Worms, the son of the younger R' Yehudah ben Klonimous. See Urbach, 388–411. Here, he cites a tradition from his father and from the founders of the movement of *Chassidei Ashkenaz* in the middle of the 12th century. Though this passage is not found in our standard versions of the *Rokeach*, others attribute it to *Rokeach* 217.

<sup>63</sup> As we have noted, R' Klonimous ben Yitzchak HaZaken was the father of R' Shmuel the Chassid, who died in 1126 and so was a slightly younger contemporary of Rashi. See Urbach, 192. Thus, this responsum is published in a 13th-century book (*Or Zarua'*), citing a late 12th-century responsum (R' Elazar of Worms), which invokes an early 12th-century rabbi (R' Klonimous HaZaken), describing an event in the early 11th century (at the time of Rabbeinu Gershom). R' Klonimous HaZaken gives a tradition about a circumcision in Mainz (his former home) a century before his own lifetime.

<sup>64</sup> A contemporary of Rabbeinu Gershom, R' Shimon ben Yitzchak, is also called Shimon HaGadol. In the version of this responsum found in *Hagabot Mordechai* to Rosh Hashanah, "Shimon bar Yehudah" appears in error, likely as the abbreviated letter "yud" was interpreted by a copyist to be "Yehudah" instead of "Yitzchak."

<sup>65</sup> Clearly not a First Crusade martyr, given that this figure overlaps in time with Rabbeinu Gershom. Calling someone the first of those who were killed clearly reflects the general atmosphere, as discussed above.

והרבה מבני הישיבה הקדושה היה קשה בעיניהם לעכב תקיעת שופר כל כך בשביל המילה ורצו לדחותה עד גמר כל התפילה והשיבם רבינו גרשום (III) אם אין מילה אין תקיעת שופר בעולם שנאמר אם לא בריתי יומם ולילה וגו' (IV) ועוד דמצות מילה קדמה לתקיעת שופר.

Several observations can be made from this critical source:

- (1) Though a number of clear Talmudic principles could be adduced to address the question at hand, none are offered or even alluded to, even as corroborating evidence. We know that the Italian rabbinate addressed the same question at almost the same time (the year 1000), using primarily Halachic arguments, none of which are offered here.
- (2) As the last section of this source notes: The decision to move circumcision before *Shofar* was evidently controversial and a break from expectations when the ruling was first issued. Since normally a circumcision follows the prayers, “many of the members of the holy Yeshivah” found it hard to delay *Shofar*; Rabbeinu Gershom’s choice is a radical break, and not just a continuation of earlier principles.<sup>66</sup> The decision here involves the creation and development of new law, and not just the continuation of previously established principles.
- (3) The entire tradition here comes to us via a report from Rokeach, with the primary figure being Rabbeinu Gershom, the two rabbis who also composed poems about “the circumcision of Abraham and the binding of Isaac.” We already know how they considered the thematic questions of circumcision and the *Akeidah* in advance of reading this responsum, and the selection of scholars here could not be more fortuitous.
- (4) The core argument given is the need to juxtapose the circumcision and the binding of Isaac (which is recalled through the *shofar*) “So that the circumcision will be attached to the blowing of *shofar* so that the Holy One Blessed-Is-He will recall for us ‘the circumcision of Abraham and the binding of Isaac.’” Yet the pairing of circumcision and *Akeidah*, here paired so matter-of-factly, appears in no earlier source as a pair in Midrashic or Talmudic literature before Rabbeinu Gershom himself.<sup>67</sup>
- (5) Four other pieces of evidence are then cited, but none of the four seem to be the essential source of the position. As we shall see, the primary motivator is the thematic connection between circumcision and

<sup>66</sup> One wonders whether Rabbeinu Gershom’s antagonists also rejected the reasoning of the Italian rabbis, thinking that so long as the circumcision followed services it was still early enough.

<sup>67</sup> Terumas HaDeshen also cites this rationale: "דהתם הטעם הוא משום דכך הסדר ברית אברהם ועקידת יצחק" without explaining why this must be so.

*Shofar* (which recalls the *Akeidah*), and not the four weak pieces of evidence.

First, the rabbis argue in favor of a close juxtaposition with circumcision first on the basis of two occasions when in liturgy the word “*bris*” precedes the binding of Isaac (I and II). However, close inspection reveals that the word “*bris*” in both of those contexts refers to the generic notion of covenant, or even the binding, itself, and makes no reference to circumcision. Clearly, the liturgical citations are not reasons to order the circumcision before *Shofar*. At the end, two more arguments are given to prove that circumcision must come first in time (although without evidence of juxtaposition and immediately coming one before the other) based on the more general axiological primacy of circumcision (III and IV), either for it is critical for the existence of heaven and Earth, or because historically it is the first *mitzvah*. Yet, these two arguments are also weak: they don’t support the core argument that circumcision specifically comes after *Shema*, prayer, and Torah reading and specifically before *Shofar*; they could just as easily be adduced to prove that *milah* should come first thing in the morning.

In summary, Rabbeinu Gershom argues for the juxtaposition of the two *mitzvos* without Halachic reasons, and does so for essentially thematic reasons, and even though no earlier source that he is able to cite argues for that thematic juxtaposition at all. It is an assertion made based on conviction and not based on an earlier source.<sup>68</sup>

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<sup>68</sup> Our argument can be diagramed briefly as follows: (A) the 10th- and 11th-century rabbis develop a thematic juxtaposition and parallel between circumcision and the binding of Isaac, without earlier evidence, (B) those same rabbis then use the juxtaposition in a Halachic context in place of conventional Halachic argumentation. It goes without saying that key to our argument has been demonstrating that there is no mention of either the juxtaposition/relationship of the *Akeidah* and the circumcision or the resulting ruling in any source before these Medieval German rabbis.

Yet, Or Zarua’ (2:96) does cite a source that would seem to challenge this, a responsum attributed to the Babylonian R’ Sherira Gaon, a slightly older contemporary of Rabbeinu Gershom. This responsum provides a list of the correct time for circumcision on various days: the Ninth of Av (in the afternoon), on Shabbos and Yom Tov (after services), Yom Kippur (as Maharam argued, after *Shacharis*), and Rosh Hashanah (before *Shofar*), and so relates both to the Halachic questions and also the thematic ones.

What is the reason for circumcision at that time on Rosh Hashanah? The responsum proceeds to provide the same reason Rabbeinu Gershom provides:

וראיה, כדי שתהא מצות ברית מילה תכופה לתקיעת שופר, כדי שיזכור לנו הקב"ה ברית אברהם ועקידת יצחק.

And what is the proof that the two must be juxtaposed with each other?

וראיה, מבוררת שבתחילה אנו אומרים זכור ברית אברהם [ועקידת יצחק] לזרעו היום תזכור בא"י זכור הברית ואח"כ שופרות והותמין שומע תרועות.

If this source were accurate, it would constitute the earliest source for the juxtaposition of circumcision and the *Akeidah*, and also the earliest source for the turn of phrase זכור ברית אברהם ועקידת יצחק.

Before analyzing this source, we note that it is problematic on numerous levels. First, the source begins in Aramaic (using words like *בתר* and *מקמי*, before and after), and later shifts to Hebrew (using *בתחילה* and *כך*). Second, the source seems to have an alternative version for the second blessing of the *Mussaf Amidah* of Rosh Hashanah: זכור ברית אברהם ועקידת יצחק לזרעו היום תזכור. בא"י זכור הברית which is unattested to in any other version of the Rosh Hashanah prayers. (See, for example, Dordzon and Asaf, *Siddur Rav Saadiab Gaon*, 2<sup>nd</sup> Ed. [Jerusalem: Makitzei Nirdamim, 1963], 222–224, an earlier version of the blessing which is nearly identical to ours and without these words.) Third, it is striking that R' Sherira Gaon would have weighed in on the same issue as Rabbeinu Gershom, at the exact same time, yet no source ever saying that the two were in agreement and no source cross-referencing between the nearly identical proofs and positions. Fourth, and perhaps most crucially, the proof seems to suffer from serious scribal error, for as constructed, R' Sherira adduces a proof from a hitherto unknown and grammatically clunky prayer, “Remember the covenant of Abraham, and the binding of Isaac to his descendants You should remember, blessed are You...,” whose grammar seems difficult (the verb “remember” appears in the quote twice, once in the imperative, and once in the future tense).

Without a doubt, this source suffers from either homoeoteleuton or haplography and probably involves the combination of two proofs on the basis of scribal error, around the words *עקדת יצחק* marked above with brackets.

The first few words of proof should read, “זכור ברית אברהם, שבתחילה אנו אומרים [ועקידת יצחק], a citation of a prayer that has been lost, or to the *piyut* which R' Sherira could not have been aware of. The second proof speaks of the order of the blessings in the Rosh Hashanah prayers, and seems to be a citation of the parallel proof offered by Rabbeinu Gershom. Contrast: [ועקידת יצחק] לזרעו היום ועקידת יצחק לזרעו and תזכור בא"י זכור הברית ואח"כ שופרות והותמין שומע תרועות היום תזכור ברחמים בא"י זכור הברית וסמיך ליה אתה נגלית דהיינו שופרות והותמין שומע קול תרועת עמו ישראל ברחמים.

The best solution would be to attribute the entire long section of text in *Or Zarua'* to R' Sherira, up until the proofs, and then to attribute these two proofs to a later hand—who interrupts the citation from R' Sherira and argues for the order on the basis of two things: (1) the order of the prayers on Rosh Hashanah, and (2) the *piyut* of R' Shelomoh HaBavli and Rabbeinu Gershom, much as the early German rabbis had. This responsum of R' Sherira also appears in B. Lewin, *Otzar HaGeonim*, Volume II: *Shabbos* (p. 120, section 374) as a direct quote from *Or Zarua'* without changes or additions.

### **Did a *Piyut* Change the *Halachah*?**

We have demonstrated that major Jewish authorities argued for a connection between circumcision and the binding of Isaac just after the year 1000, and applied this connection in three areas: thematically, in the way Jews would consider these topics; Halachically, in the laws of circumcision on Rosh Hashanah; and liturgically, in composing a prayer for the High Holiday season.

We still do not know which arena came first. Did a Halachic question encourage the rabbis to consider the themes and then write a poem in response? Or was the order reversed—that the rabbis considered the ideas poetically, and the prayers strengthened a connection in their minds which later was used to provide legal force for a Halachic question? Though we have correlated the shift with a narrow band of time and a small number of key figures—we are likely to never know what impacted what: the ideas impacting prayers and law, law impacting prayer, or any other sort of combination.

Still, even without the precise reconstruction of the exact order, considering the revolution about how these topics were considered at or around the year 1000 is surely significant, and is relevant for how we consider the role of prayers, the history of *Halachah*, the story of Jewish martyrdom and self-sacrifice, and the way the Jew thinks about circumcision. ❧