

May the Mother Recite the Brakha Of *Li'hakhniso*?

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QUESTION:

I am a woman in my mid-thirties, and my wife and I recently will soon – G-d willing – be having a baby boy. I am the one carrying the baby (a male friend whom we both respect and admire donated his sperm to the cause). As we will be having the brit soon, I wanted to know if either I or my wife could recite the brakha of אבינו של אברהם בבריתו של אברהם [That You sanctified us in Your mitzvot and commanded us] to bring him into the covenant of Avraham our father” at the time when the mohel begins the circumcision.

ANSWER:

Mazal Tov! שתזכו להכניסו בבריתו של ברהם אבינו בזמנו ולגדלו לתורה לחופה ולמעשים טובים.

The answer to your question is yes. Either of you may recite the brakha of להכניסו. Let's see why.

The blessing of li'hakhniso is on the person who is obligated regarding the brit milah

The first thing to note is that this brakha – “to bring him into the covenant” – is distinct from the one that the mohel recites. As its text makes clear, this brakha relates not to the mitzvah act of performing the circumcision, but rather to the mitzvah of fulfilling one's obligation to ensure that his son receive a brit milah. This obligation rests, first and foremost, on the father.

As we will see, when there is no father the obligation shifts to the entire community. For Rambam, however, it is only the father who has a specific obligation, and thus only the father who may recite this blessing (Milah 3:1). If there is no father, then for Rambam, no one can say it:

מצוה על האב למול את בנו יתר על מצוה שמצווין ישראל שימולו כל ערל שביניהן, לפיכך אם אין שם אביו אין מברכין אחריה ברכה זו, ויש מי שהורה שיברכו אותה בית דין או אחד מן העם, ואין ראוי לעשות כן

Ra'avad however, argues, and says that the beit din, or a person of status, would make the brakha –

מסתברא כמ"ד ב"ד או מיוחד שבעם מברך ונהגו אצלנו שהסנדקוס מברך .

Rema rules likewise - YD 265:1 –

ואם אין אבי הבן אצל המילה, יש מי שאומר שאדם אחר מברך ברכה זו, דהרי הבית דין מצווין למולו (רמב"ם בשם י"א). ונהגין שמי שתופס הנער מברך ברכה זו

For Ra'avad and Rema, in the absence of the father, others can make the blessing on his behalf, and they mention that this honor was traditionally given to the sandek, a member of the beit din, an important person in the community, and sometimes to a normal lay person. It would seem, then, that if the father is not present, the mother would also be able to recite this blessing. Before we investigate that further, though, we must ask – where is the father in this case?

Where is the father?

Since the obligation (and hence the brakha) is primarily the father's, we must ask – is the father present at the brit? Your friend, the man who donated his sperm, if he is Jewish, is halakhically the father ([see here](#)) – the implications of this need to be discussed at a different time – and if he attends the brit, he, and only he, would be the one to recite the brakha.

The possibility of you or your wife making the brakha only arises when he is not present.

In this case, given that, from what I understand, he does not want to be playing the role of father or otherwise be involved in the brit, the best solution here is to have him designate you as his representative (*shaliach*) to make sure that the baby has a brit milah. In this way, he will be discharging his obligation regarding the brit milah of this boy. And, as you will be representing the person with the primary obligation, and actively ensuring that everything is being done properly, you are the only person who may and should be reciting this brakha.

There are cases when this will not be possible – for example, when it is not known who donated the sperm (not you case), or when the man is otherwise unwilling or unable to designate the mother as his representative. As such, we must determine the mother's level of obligation in ensuring that the brit takes place as well as the possibility that she can serve as a representative of the community.

Does the mother have a prior obligation regarding the brit milah of her son?

Who is obligated when the father is not present? It is generally assumed that obligation of brit milah passes directly to the community as a whole and that the mother is not obligated more than anyone else (see Kiddushin 29a and AZ 27a. see Rambam, Milah 1:1. and Rishonim on Kiddushin 29a and AZ 27a).

This is certainly true in the case of pidyon ha'ben. However, when it comes to brit milah, there are some who disagree. מהר"ח אור זרוע, based on Yevamot 71, states that the mother is also obligated, albeit in a secondary capacity to the father -

ואם אמו לא היתה חבושה, היא היתה חייבת לעסוק דלא ממעט לה קרא אלא היכא דאיתיה לאבוה. ולא דמי לפדיון ולתלמוד תורה, דהתם יליף מתפדה תפדה ומולמדתם ולמדתם (קדושין ד' כ"ט) מה שאין כן גבי מילה. ואי מאותו לא מצינו למפטרה אפילו כי ליתיה לאב, דכל התורה בלשון זכר נאמרה, והשווה הכתוב אשה לאיש.

As he states, this is suggested by Yevamot 71b - ובית האסורין - and see Rashi there - חבושין - בשעת עשיה ומצות מילה מוטלת עליהם -

Following this position, the mother should be the first person in line to attend to the responsibilities of the brit and the first person in line to recite the *brakha*.

Nevertheless, as a rule, we do not rule in accordance with this position - see SA YD 161:1. However, although this is a minority opinion, there is something compelling about it. It does make sense that the mother is the one who takes over the responsibilities of the bris in the absence of the father, and we have to look no further than Tziporah to find a Torah case when this actually happened. The

power of this position – albeit a minority one – leads me to rule that it is actually preferable for you, the mother, to recite the brakha when the father is not present.

That being said, let us now examine this issue according to those who see the mother's obligation as no greater than that of the rest of the community.

Beit Din and shaliach beit din

As noted, the general practice was for either a member of the *beit din* or the *sandak* to recite the brakha in the absence of the father. The focus on the *beit din* makes sense. They would be seen represent all of Klal Yisrael on whom rests this obligation to see to the child's circumcision. If we are dealing with a standing *beit din* for the community, then it certainly makes sense that they are seen as its representatives. This approach is less compelling if we are dealing with an ad hoc *beit din*, one that was created specifically for this purpose by gathering three men on the spot.

The practice of having any person or the *sandak* recite the blessing may be based on the idea that this person is, de facto, seen to be operating as a *shaliach* *beit din*, an agent of the court, and hence an agent of the entire community. Alternatively, it may be based on the idea that the obligation is not on the corporate entity of Klal Yisrael, but rather every individual in the community separately. Thus, any individual can step up and play this role.

If the *sandak* or a random member of the community can recite this blessing, whether as a representative of the court or on their own behalf, then there is no reason that a woman, and in particular the mother, cannot recite this blessing as well.

These ideas are discussed at length in a responsum of Rabbi Akiva Eiger (Shut Rebbe Akiva Eiger, Mahadura Kamma, 42). In response to a question whether a grandfather, in the absence of the father, can recite this brakha, Rabbi Akiva Eiger steps back to analyze the logic behind why the *sandak* is the one who recites the blessing. He first assumes that not only the *sandek*, but anyone, can recite the brakha because anyone can act as a *shaliach* of the *beit din*, as we discussed above. He goes on to say that because the accepted custom is for the *sandek* to play this role, he thus becomes the implicit, default *shaliach*. Thus, if another person wishes to recite the brakha, this other person would, according to Rabbi Akiva Eiger, need to be explicitly appointed by the *beit din* as their *shaliach*. (It is important to note that he is dealing in a situation where there is a standing *beit din* in the community.)

In the end, however, he rejects this approach which would allow anyone to serve as a *shaliach* of the court. He states that a person cannot be made a *shaliach* to recite a brakha. Only someone who is doing the mitzvah can recite the brakha. For a person to represent *beit din* and recite the brakha, he would have to represent them in the mitzvah act of the *brit* itself.

He therefore rules that the brakha can only be recited by the *sandek*, since he is not only implicitly a *shaliach* of the *beit din*, he is also one who – through his ritual role as *sandak* - is directly involved in the *brit* itself. He can thus recite the brakha on his taking an active part in discharging the obligation of performing the *brit*.

There is good reason to dispute Rabbi Akiva Eiger's requirement that the one reciting the blessing must take an active part in the ceremony. The mitzvah to ensure that one's son have a *brit* does not require –

and isn't even about – doing some ritual act. The father recites the brakha although he does not do any of the rituals for the simple reason that he is – at least in theory – ensuring that everything is being properly taken care of. In the absence of the father, anyone who plays such a role is doing the mitzvah of “bringing the baby into the brit” and can make the brakha. This would certainly apply to the mother.

It could be argued that what allows the father to recite the brakha is not the general overseeing of the proceedings, but rather the act he does in appointing the mohel as his shaliach. It is debatable if this is really required. Even were this the case, in the absence of the father, the mother could be the one to appoint the mohel as a shaliach (here, of the beit din, not of the father). She would then be able to recite the brakha of *li'hakhniso*. Though some will argue that since the brakha is about brit milah, which is only done to males, it may only be recited by a man, I see no reason to assume this. Once it is the obligation of *klal yisrael*, women - especially the mother - should be included. And, as stated above, Tziporah is an excellent example of a mother taking responsibility when the father is not doing so!

Were we to be concerned for Rebbe Akiva Eiger's position, we would conclude that only a beit din, or a person doing part of the ceremony, could recite the brakha. If you wish to be strict in this regard, you or your wife can be the sandak - [something which is definitely mutar מעיקר הדין](#) – and also recite the brakha.

However, for the reasons detailed above, I do not find Rabbi Akiva Eiger's position persuasive and do not believe that it is important that the one reciting the brakha also perform one of the rituals of the brit.

It is important to note that the relevance of this question to cases of **artificial insemination with another man's sperm**. In such a case, the man married to the woman who had the child is not halakhically the father. How, then, can he recite the brakha? The answer is either that he is assumed to be a שליח בית דין – for certainly any beit din would want him more than anyone else to represent them in this case. It is also often the practice to convene an ad hoc beit din in such cases and appoint the mother's husband as their shaliach (I've done this). As noted, this also requires that the one who donated the sperm is not present. If he were, he would be the one obligated to recite the blessing.

CONCLUSION

In conclusion – you or your wife may recite the brakha, either as the child's mother or – following the more majority opinion – as a *shaliach* of the beit din. You or your wife may choose to be the sandak, but it is not necessary to play this role in order to recite the brakha.

To be considered a shaliach beit din, you would convene 3 men as a beit din before the brit. This could obviously be done in private. This beit din would then appoint you as their *shaliach*. As a matter of halakha, we might be able to assume that your appointment to represent the community is automatic and implicit in this case, but it is better to be appointed as such explicitly (especially since, given the general “maleness” of the ceremony, and the fact that the mother is often not in the foreground, I'm not so sure that we could assume that your appointment as a *shaliach* of the community is truly implicit).

IN SUMMATION:

1. The man who donated the sperm, if he is Jewish, is halakhically the father. This must be kept in mind for a range of halakhot in which paternity is relevant.
2. If the man who donated the sperm is present, only he can recite the brakha of *li'hakhniso*.
3. If he is not present, then he should designate you to assume the responsibility to take care of the brit. In this case, you, and only you, should recite the brakha of *li'hakhniso*.
4. If no one was designated by the man who donated the sperm, then an ad hoc beit din of 3 men should be convened and designate either you as their representative in this obligation. You would then be the person to recite the brakha.
5. Your wife can also be the one designated by the man who donated the sperm or by the beit din. In which case, it should only be she who recites the brakha.
6. There is a slight preference for the biological mother to be the one who is designated and who recites the brakha.
7. According to R. Akiva Eiger, it would be better if the one reciting the brakha would also be the sandeket, but it might make more sense for your wife (or someone else) to play this role.