**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH PROJECT (VBM)**

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**Laws of Conversion and Circumcision**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

By Debbie and David Sable

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**Shiur #02: Who is Obligated in *Brit Mila*?**

**Introduction**

 On the eighth day, the flesh of his foreskin shall be circumcised. (*Vayikra* 12:3)

The Torah teaches that a male child should be circumcised on the eight day after birth. This commandment raises an interesting question: Who is obligated in this *mitzva*? While the child is the “object” of the *mitzva*, others (the child’s father or *beit din*) are responsible to ensure that the child is circumcised.

The Talmud relates to this issue in the context of a well-known discussion regarding the *mitzvot* that the father is obligated to fulfill vis-à-vis his son:

We learn in this *mishna* that which the Sages taught: A father is obligated with regard to his son to circumcise him, to redeem him, to teach him Torah, to marry him to a woman, and to teach him a trade. And some say: A father is also obligated to teach his son to swim…

From where do we derive this? As it is written: “And Avraham circumcised his son Yitzchak” (*Bereishit* 21:4). And in a case in which one’s father did not circumcise him, the court is obligated to circumcise him, as it is written: “Every male among you shall be circumcised” (ibid. 17:10). And in a case in which the court did not circumcise him, the son is obligated to circumcise himself [when he reaches adulthood], as it is written: “And the uncircumcised male, who is not circumcised in the flesh of his foreskin, that soul shall be cut off from his people” (ibid. 17:14). (*Kiddushin* 29a)

A three-tiered obligation emerges from the *gemara*: First the father is obligated, and if the father cannot or does not circumcise his son, the *beit din* is obligated, and when child becomes an adult (bar mitzva), he assumes the responsibility for this *mitzva*. The Talmud excludes the mother from the obligation of *brit mila*, as we will discuss.

 This week we will discuss the nature of the father’s obligation, the scope and nature of the mother’s exemption from this *mitzva*, and the role of the *beit din* and child.

**THE FATHER’S OBLIGATION**

 The *Acharonim* (see, for example, R. Meir Dan Plotsky, *Keli Chemda*, *Parashat* *Lekh Lekha*) raise the following question: Is the father actually commanded to circumcise his son, or is he responsible to ensure that his son is circumcised?

Seemingly, one might suggest that this depends on the source for *brit mila*. The Talmud cites a verse, “And Avraham circumcised his son Yitzchak” (*Bereishit* 21:4), as the source for the father’s obligation. This verse may imply a direct, paternal obligation to circumcise the child son. Interestingly, the Yerushalmi (*Kiddushin* 1:5) cites a different verse, “On the eighth day the flesh of his foreskin shall be circumcised” (*Vayikra* 12:3), which may imply that the father is not actually obligated to perform the *brit mila*; rather, as a member of the Jewish People, he is obligated to ensure that this child is circumcised.

 We might also examine the language of the *mishna* cited above. The *mishna* (*Kiddushin* 29a) states: “All *mitzvot* of a son with regard to his father, men are obligated.” The Talmud explains that the *mishna* means: “With regard to all *mitzvot* of a son that are incumbent upon his father to perform for his son…” The *gemara*’s formulation implies that fundamentally, the *mitzva* belongs to the father. However, the original formulation of the *mishna*, along with an analysis of the other mitzvot, leaves room to suspect that this obligation can be interpreted in multiple ways.

 The *Rishonim*, in different contexts, appear to relate to this issue. For example, the Rambam (*Hilkhot Mila* 1:1) writes: “A father is commanded to circumcise his son, and a master his slaves.” The Rambam appears to maintain that the father himself is obligated to circumcise his son. If the father will not or cannot fulfill his personal obligation, then *beit* *din* or the son assumes the responsibility to perform the circumcision.

A number of *Rishonim* disagree and describe the father’s relationship to this mitzva differently. Some reveal their approach to this question in the course of explaining the mother’s exemption from *brit mila*. The Talmud (ibid.) teaches:

From where do we derive that his mother is not obligated to circumcise her son? As it is written: “[And Avraham circumcised his son Yitzchak when he was eight days old] as God commanded him” (ibid. 21:4). [The verse emphasizes that God commanded] him, and not her.

Many *Rishonim* question why the mother is not exempt for the simple reason that *brit mila*, which can only be performed during the day, is a *mitzvat aseh she-hazeman gerama* (a time-bound commandment), from which women are generally exempt. Some *Rishonim*, such as Tosafot (s.v. *oto*), explain that since the *mitzva* can be performed each and every day after the eight day, it is not considered to be time-bound. Other *Rishonim*, however, suggest that the nature of *brit mila* may be fundamentally different than other *mitzvot*.

 For example, the Ramban (*Kiddushin* 29a; see also Ritva ibid.) explains:

One might have thought that women are only obligated from time-bound *mitzvot* that are personal obligations, such as *tefillin*… However, *mila*, which is for another person (*le-achrini*), one might say that a woman would be obligated, just as *beit din* is obligated to circumcise [the child].

In other words, the exemption from time-bound commandments applies to *mitzvot* that one is personally, physically obligated to perform, like *tefillin*. However, the exemption would not apply to a broader, general obligation to ensure that someone else performs their *mitzva*, and the *gemara* therefore brought another source for the mother’s exemption. The Ramban implies that the *mitzva* of *brit mila* belongs to the child; the father is entrusted with the responsibility of ensuring that the child’s *mitzva* is fulfilled. Apparently, as we will discuss later, when the child reaches adulthood, he assumes total responsibility for his *mitzva*.

 The Or Zaru’a’s son, R. Chaim Eliezer, known as the Maharach Or Zaru’a (11), writes:

Regarding circumcision it appears that the father is not obligated to circumcise his son with his hands, but rather to be involved and ensure that his son will be circumcised… And if the father was personally obligated to circumcise his son, or his agent, if a different person circumcised him without the father’s permission, who did not wish for him to be his agent, the child would not be considered to be circumcised and it would be necessary to extract from him a drop of blood (*le-hatif mimenu dam brit*).

He cites a passage from the Talmud (*Menachot* 43b) as a proof:

King David entered the bathhouse and saw himself naked, he exclaimed: “Woe is me! I am no longer clothed with Your *mitzvot*.” When, however, he remembered that he was circumcised, he regained his calm.

The Maharach Or Zaru’a proves from this passage that the *mitzva* is to ensure that that the child is no longer an “*arel*” – i.e., that merely being circumcised is itself a *mitzva*.

 We have delineated a number of understandings of the father’s relationship to the *brit mil*a: The father is personally and physically obligated to circumcise his son (Rambam), or assumes the responsibility for the fulfillment of the child’s *mitzva* (Ramban), or that the father must simply make sure that the child is no longer an “*arel*” (Maharach Or Zaru’a).

 It is interesting to note that the Chatam Sofer (*Chullin* 87a, s.v. *vechatav*) asserts that there are actually two separate obligations: There is a special obligation upon the father to circumcise his son, and there a separate *mitzva* upon the entire Jewish People to ensure that other Jews are properly circumcised.

**The Blessings**

 This disagreement may be reflected in the debate regarding the proper blessings recited at the *brit mila*.

The Talmud (*Pesachim* 7b) mentions that a *birkat ha-mitzva* is recited before the circumcision. The Rambam (*Hilkhot Mila* 3:1; see also Or Zaru’a, *Hilkhot Mila* 107), based upon a certain understand of the *gemara*, writes that when a father circumcises his own son, he says, “*la-mul et ha-ben*.” If another person performs the *brit mila*, however, the *mohel* recites the blessing, “*al ha-Mila*.” Elsewhere (*Hilkhot Berakhot* 11:11), the Rambam explains that when one performs a *mitzva* for another person, the proper formula is “*al*,” whereas when performing a *mitzva* that one is personally obligated to perform, like a father who must circumcise his son, the proper *nusach* is “*la*.” This is consistent, of course, with the Rambam’s view that it is the father’s personal obligation to circumcise his son.

The Meiri (Magen Avot, *Inyan Ha-Shemini*) records that despite local protests, the custom in his time was in accordance with the Rambam. Other *Rishonim* (see Rashi, *Pesachim* 7b, s.v. *ve-hilkhata*; Ran, *Pesachim* 3b, s.v. *ve-kashya*; Hagahot Maimoniot, *Hilkhot Mila* 3:2; Sefer HaYashar 259), however, rule that the *nusach* of “*al ha-Mila*” is always recited. This is the custom of *Ashkenazim* (see Rema, YD 265:2). Different reasons are given for this practice.

 This question may also affect the second blessing recited at the *brit mila*, “*le-hakhniso le-brito shel Avraham Avinu*” (see *Shabbat* 137b). The Rambam (*Hilkhot Mila* 3:1-2) writes:

[At the circumcision,] the father of the child recites another blessing: “Blessed are You, God, our Lord, King of the universe, who has sanctified us with His commandments and commanded us to have our children enter the covenant of Avraham Avinu.

[This blessing was instituted because] it is a greater mitzva for a father to circumcise his son than for the Jewish People as a whole to circumcise the uncircumcised among them. Therefore, if a child's father is not present, this blessing should not be recited. There are those who have ruled that the court or one of the people [in attendance should recite this blessing in the father's absence]. [Nevertheless, this ruling] should not be followed.

The Rambam (see also Yereim 402; Rosh, *Kiddushin* 1:40) rules that this blessing was only instituted for the father, reflecting the father’s unique obligation in *brit mila*. However, other Rishonim, including the Raavad (ibid.), rule that others, including the *beit din* or *sandak*, may recite the blessing.

 Similarly, the Rambam (*Hilkhot Mila* 3:3) rules that the *Shehechiyanu* blessing is recited by the father at the *brit mila*, like any other *mitzva* that is performed “from time to time.” The Raavia (*Shabbat* 289) explains that only the father recites *Shehechiyanu*, as the primary obligation rests upon him. Other *Rishonim* disagree, as we will discuss in a future *shiur*. Here too, whether or not the father recites the *Shehechiyanu* blessing may indicate whether he performs his own *mitzva* or is merely entrusted with the responsibility of his son’s *mitzva*.

***Shelichut***

This question may relate to another halakhic issue: May the father appoint a *sheliach* (agent) for fulfill the obligation of *brit mila* for him? Some maintain that the father cannot appoint a *sheliach* to fulfill his *mitzva*, either because he must personally fulfill the *mitzva* whenever possible or because fundamentally it doesn’t really matter who performs the circumcision. Others believe that the father can and should appoint a *sheliach* if he does not wish to perform the *brit mila* himself.

This question arises regarding a Talmudic passage (*Chullin* 87a) that relates how a certain person slaughtered an animal and another person came and covered the blood (performing the *mitzva* of *kisuy ha-dam*). Rabban Gamliel obligated the second person to pay the first person ten *zehuvim* because he performed the first person’s *mitzva* without permission. In other words, one who takes away another person’s *mitzva* may have to pay a fine of ten *zehuvim*.

The Rosh (*Chullin* 6:8) relates a similar episode regarding *brit mila*:

It once happened that [a father] asked a *mohel* to circumcise his child. Another person stepped up and performed the *brit mila*. The *mohel* demanded ten *zehuvim* from the second person, claiming that the father had asked him to perform the *brit mila*.

The Rosh explains why he believes that the second person is exempt from paying ten *zehuvim* to the *mohel*:

It appears to me that the second *mohel* is exempt, and although the father asked the first *mohel* to circumcise his son, it does not become his *mitzva* in that if another person performs the *mitzva* he can claim [the ten *zehuvim*]. This case is not similar to the covering of the blood, regarding which the Torah says, “and he should spill [the blood] and he should cover it” – [and the Rabbis said] one who pours the blood should cover it. Similarly, if the father wanted to perform the circumcision himself, and another person [circumcised his son instead], he would be obligated [to pay], but if the father does not wish to circumcise his son himself, then all of the Jewish People are obligated to circumcise him, and through the father’s request to the *mohel*, he does not acquire the *mitzva* in that another person [who performs the mitzva] who be required [to pay him].

The Rosh appears to believe that if the father does not wish to perform the circumcision, the *mohel* does not fulfill the father’s *mitzva* as his agent, but rather serves as any member of the Jewish People who are obligated to ensure that the child is circumcised.

 Based on this Rosh, the Shakh (CM 382:4; see also Or Zaru’a *Hilkhot Mila* 106:5) rules that a father who is able to circumcise his son should not ask another person to perform the *brit mila*, as in that case he is considered to have intentionally chosen not to perform a *mitzva*. This is the view of the *Ketzot Ha-Choshen* (ibid) as well.

Other authorities, however, clearly maintain that the father can appoint a *sheliach* to fulfill his obligation of *brit mila*. The Darkhei Moshe (YD 264:1), for example, insists that one may appoint a *sheliach* to fulfill this *mitzva*, “like any other *mitzva*.” This is also implied by the Shulchan Arukh (YD 265:9; see also *Tevu’ot Shor*, cited by the *Ketzot Ha-Choshen* cited above), who writes: “The father stands at the side of the *mohel* and informs him that he is his agent.”

 Whether or not *shelichut* applies may depend on the nature of the father’s obligation. If the father’s obligation is viewed as a “*mitzva she-bagufo*,” a *mitzva* that he must personally perform, then it would seem that he cannot appoint a *sheliach*. If, however, the father enjoys a broader responsibility to ensure that the circumcision is performed, the father may (and possibly does not need to) appoint an agent.

In addition, different understandings of whether (and when) the well-known principle of “*shelucho shel adam kemoto*” (*Kiddushin* 41b) applies to the performance of *mitzvot* may also be significant. The commentators discuss whether and which *mitzvot* can be performed through a *sheliach*. The Tosafot Rid (*Kiddushin* 42b), for example, as explained by the *Ketzot HaChoshen* (182:1), distinguishes between *mitzvot* performed by one’s body (tefillin, sitting in a *sukka*, etc.) and other *mitzvot*. Others (see *Kovetz Shiurim*, *Ketubot* 253) suggest that we might distinguish between *mitzvot* that focus on the “impact,” as opposed to those which focus on the “action.” Interestingly, R. Chaim Soloveitchik claimed that *shelichot* does not apply at all to *mitzvot*; rather, a *sheliach* can only create a *chalot* (status) for another person. These different understandings, along with certain approaches towards the nature of the father’s obligation of *brit mila*, may determine whether *shelichut* is at all applicable to *brit mila*.

As we mentioned above, the Chatam Sofer (*Chullin* 87a, s.v. *vechatav*) asserts that there are actually two separate obligations: There is a special obligation upon the father to circumcise his son, and there is a separate *mitzva* upon the entire Jewish People to ensure that other Jews are properly circumcised. Furthermore, he explains that the father’s obligation is similar to his obligation to don *tefillin*, which cannot be fulfilled by a *sheliach*.

**When the Child Becomes an Adult**

The Minchat Chinukh (2:2) discusses whether the father’s obligation to circumcise his son applies only when the child is a minor or even after he becomes an adult (i.e. after his bar mitzva). He raises a number of practical ramifications, including whether the father, if he is a *mohel*, must be offered the opportunity to circumcise his adult son.

Interestingly, the Semak counts this commandment as two separate *mitzvot*. He dedicates one *mitzva* (157) to the *mitzva* “to circumcise his son,” and another *mitzva* (289) to the child’s obligation “to circumcise himself.” Seemingly, if the child becomes an adult and is not yet circumcised, these two *mitzvot* overlap.

Some suggest that according to the Rambam, when the child becomes obligated in *mitzvot*, the father’s obligation is replaced by the child’s. Indeed, the Rambam rules (*Hilkhot Korban Pesach* 5:5) that it is only when one’s young children (*milat ketanim*) are not circumcised that a father cannot participate in the *Korban Pesach*. Similarly, in his Commentary to the Mishna (*Shabbat* 19:6), the Rambam writes: “If the child grows up and reaches the age of punishments, the obligation is removed from others and he is obligated to circumcise himself immediately.”

However, the Rivash (131) insists that the Rambam believes that even after the child becomes an adult the primary *mitzva* is incumbent upon the father. This, of course, makes sense, as the Rambam believes that the *mitzva* of *brit mila* is the father’s personal, even physical obligation. This may also be inferred from Tosafot (*Kiddushin* 29a, s.v. *oto*), who explain that the after the eight day, the father’s obligation continues uninterrupted (and it therefore cannot be considered to be a time-bound commandment). Seemingly, if the commandment fundamentally belongs to the child or if the father was merely entrusted with the responsibility of ensuring that the son is circumcised, once the son becomes obligated in *mitzvot*, the *mitzva* of *brit mila* certainly falls upon him.

**The *Beit Din*’s Obligation in *Brit Mila***

 The *beit din* presumably represents the community and carries out their responsibility regarding the circumcision of the child (see, for example, Rosh, *Chullin* 8:8; Devar Avraham 2:1; and Sefer Ha-Mikneh, *Kiddushin* 29a).

 At what point does the *beit din* or the community become obligated to circumcise the child?

 The Rambam (*Hilkhot Mila* 1:2) writes that the *beit din* is not permitted to circumcise a child without the father’s knowledge, unless he intentionally refrains from circumcising his son. The Arukh Ha-Shulchan (YD 261:5) explains that the Rambam does not mean that the *beit din* can circumcise the child immediately; rather, they must wait at least a day in order to determine that the father is indeed intentionally denying his child a *brit mila*.

**The Mother’s Relationship to the *Mitzva* of *Brit Mila***

 As we saw above, the Talmud (*Kiddushin* 29a) derives the mother’s exemption from the obligation to circumcise her son from a verse:

From where do we derive that his mother is not obligated to circumcise her son? As it is written: “[And Avraham circumcised his son Yitzchak when he was eight days old] as God commanded him” (ibid. 21:4). [The verse emphasizes that God commanded] him, and not her.

The *gemara* teaches that since the verse emphasizes that God commanded “him” (Avraham), we learn that the mother is exempt from the Biblical obligation.

 As we discussed above, a number of *Rishonim* question why the *gemara* did not simply assume that the mother is exempt because *brit mila*, which can only be performed at night, is a time-bound commandment. Some *Rishonim* explain that the *mitzva* is not time-bound, as it can be performed any day after the eight day (Tosafot, *Kiddushin* 29a, s.v. *oto*; Turei Even, *Chagiga* 16b, s.v. *benei*). Others suggest that since the father’s obligation does not relate to the act of circumcision, but rather to the overall responsibility of ensuring that the son is circumcised, it is not considered to be a time-bound *mitzva* (see Tosafot Rid, ibid.; Ramban and Ritva ibid.).

R. Yaakov Yechiel Weinberg (Seridei Eish 3:104) suggests that *brit mila* may indeed be a time-bound *mitzva*; the *gemara*’s derivation teaches us that a woman is completely removed from the commandment of *brit mila*, and therefore should not even recite the blessing. This, of course, challenges us to understand the mother’s exemption from the obligation of *brit mila*.

In contrast to R. Weinberg’s interpretation, the Sefer Ha-Mikneh (*Kiddushin* 29a) suggests that while the mother may be exempt from the “parental” obligation derived from the verse regarding Avraham Avinu, women are certainly part of the communal obligation, the *beit din’s* obligation derived from the verse, “Every male among you shall be circumcised” (*Vayikra* 17:10).

**Is the Grandfather Responsible for the *Brit Mila* of his Grandson?**

 The Rambam (*Hilkhot Talmud Torah* 1:2) teaches that in addition to the father’s obligation to teach his son Torah, a grandfather also enjoys a unique obligation:

Just as a person is obligated to teach his son, so, too, is he obligated to teach his grandson, as the Torah commands ([*Devarim* 4:9](https://www.chabad.org/9968#v9)): "And you shall teach them to your sons and your grandsons."

The Kesef Mishneh (ibid.; see also Shakh, YD 245:1 who cites the Maharshal) suggests that the grandfather would be obligated to hire a teacher for his grandson, just as a father must hire a teacher to teach his son Torah.

 R. Akiva Eiger (Mahadura Kama 42) suggests that his unique relationship between the grandfather and grandson may be expressed regarding *brit mila* as well. If the father is not present, the grandfather should recite the blessing “*le-hakhniso le-brito shel Avraham Avinu*,” as just as he is obligated to teach his grandson Torah, he participates in the *mitzva* of bringing the child into the covenant through the *brit mila*.

**A Broader Approach to the Father’s Obligation to Circumcise His Son**

 In addition to the various approaches, including that of the Rambam and Rabbeinu Tam, the Abudraham (Sha’ar 8, *Hilkhot Berakhot*) suggests another understanding of the father’s obligation to circumcise his son. Regarding the blessing of “*le-hakhniso*,” he writes:

This blessing was established because the father is commanded to circumcise his son, redeem him, teach him Torah, and to afford him a wife to marry. [This blessing] hints that from this day onwards all of these obligations are incumbent upon him.

This blessing is about raising a Jewish child. It therefore makes sense that since the grandfather certainly plays an important role in raising this child, it is appropriate that he should say the blessing of “*le-hakhniso*” if the father is not present.

We may add another layer to our understanding of the obligation of *brit mila* and suggest that it is the father, who himself was circumcised – and, in his absence, the community – who initiates this child into the covenant of Avraham Avinu.

Interestingly, regarding the father’s obligation of *mila*, the Rambam (*Sefer Ha-Mitzvot*, Positive Commandment 215) refers to a different verse than that which appears in the Talmud Bavli or Yerushalmi: “As for you, you and your offspring to come throughout the ages shall keep My covenant. Such shall be the covenant between Me and you and your offspring to follow which you shall keep: Every male among you shall be circumcised” (*Vayikra* 17:9-10). This verse may imply that the father is obligated to initiate his son into the covenant through the *brit mila*.

A similar idea may be found regarding the *le-hakhniso* blessing. As we shall see, the *Rishonim* discuss whether this blessing is a *birkat ha-mitzva* or a *birkat ha-shevach*. However, some *Rishonim* suggest that this blessing does not align with the familiar categories of *birkot ha-mitzva* and *birkot ha-shevach*, but is rather most similar to the “*she-hakol bara le-khevodo*” blessing said at a wedding. Rashi (Machzor Vitry 505)explains that the blessing is meant to publicly welcome the child into the covenant of Avraham. He describes how as the child is brought into the room, the congregation says “*barukh ha-ba*” and the father takes the child and recites the *le-hakhniso* blessing, like any other *birkat ha-mitzva* said before a *mitzva* is performed. After welcoming the child into the covenant, he is then circumcised.

Similarly, the Seder Rav Amram (Seder Mila) states that when the father is not present, the entire congregation recites the *le-hakhniso* blessing. The blessing is not a *birkat ha-mitzva* or a *birkat ha-shevach*, but rather a public welcoming of the child into the *brito shel Avrahama Avinu*.

 Next week we will discuss who may perform the *brit mila*.