

SELICHOS AND EREV ROSH HASHANA

by Rabbi Doniel Neustadt

The following is a discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

"You are standing today, all of you..." (29:9)

Common Questions and Answers

QUESTION: May the selichos prayer be recited at night before going to sleep or must it be recited only upon awakening in the morning?

ANSWER: Ideally, selichos should be said at the end of the night, since that is an eis ratzon, a "time of appeasement (1)." But it is permitted to recite selichos any time from midnight on. Before midnight it is prohibited to recite selichos (2). Under extenuating circumstances--if one can not recite selichos at any other time--selichos may be recited once a third of the night has passed (3). But this leniency should not be relied upon on a regular basis.

QUESTION: Must Birchos Hashachar be recited before Selichos?

ANSWER Birchos ha-Torah should be recited before selichos (4). The other blessings need not be recited before selichos, but may be recited then even though it is before Alos hashachar (5). [If Al netilas yadayim is recited before selichos--as recommended by some poskim (6)--one should be sure not to repeat it after selichos from force of habit.]

QUESTION: Are women obligated to recite selichos?

ANSWER Since the recitation of selichos--even for men--is not an obligation but an ancient custom which has been practiced for many centuries, we are not obligated to do more than what custom dictates. Customarily, women did not go to shul to recite selichos. If they wish to do so, however, women may go to shul to recite selichos, or they may recite selichos at home. But the following rules apply when reciting selichos without a minyan [for both men and women]:

1. When reciting E-l melech, the words Zechor lanu hayom bris shlosh esrei are omitted (7).
2. The 13 midos are omitted (8).
3. Machei U'masei (recited towards the end of the selichos) and any other segment which is in Aramaic is omitted (9).

QUESTION: Must a person who fasted [a half day] on Rosh Hashana in the past, continue to do so

every year (10)?

ANSWER Shulchan Aruch (11) writes that it has become customary (12) to fast on Erev Rosh Hashanah (13). Many people, especially during their younger years, adopt this custom but find it difficult to maintain as they get older. The process for giving up fasting on Erev Rosh Hashanah depends on how the custom was adopted originally. There are three possible cases:

- If the custom was accepted initially as a lifelong commitment, one must be matir neder (annul his vow).
- If the custom was accepted initially on a year by year basis, no hatoras nedorim is required.
- If the custom was accepted initially without specifying the length of the commitment, then one follows the general principle that any proper custom which was accepted without a bli neder stipulation, automatically becomes a neder and may not be dropped without hatoras nedorim.

Note that this halachic problem is not unique to the custom of fasting on Erev Rosh Hashanah. Any proper custom, once accepted and followed, may not be dropped without undergoing hatoras nedorim. People who adopt even "simple" customs in which they are otherwise not obligated, like reciting Tehilim daily or studying the daf yomi, without making the bli neder stipulation, require hatoras nedorim should they decide to discontinue their practice.

An exception to this rule is when one undertakes a practice which he thinks is obligatory, but later finds out that it is not. In that case, he may drop his practice without hatoras nedorim (14). For instance, a person who ate cholov yisroel butter only because he thought it was absolutely required, but later found out that this is not the case, may discontinue his practice without being matir neder.

A possible solution to the problem of discontinuing a custom may be found in the concluding declaration that is recited after the hatoras nedorim ceremony that takes place every year on Erev Rosh Hashanah. The declaration states that "I cancel from this time onward all vows and oaths that I will accept upon myself... and that all of them are totally null and void, without effect and without validity". Harav S.Z. Auerbach rules that this declaration can also cover any proper custom that was undertaken without a bli neder (15).

QUESTION: Can anyone be a member of the court for the purpose of annulment of vows (hatoras nedorim)?

ANSWER Any male adult (16) can be a member of the court, even if he is related to the other members or to the petitioner (17).

Three judges suffice for hatoras nedorim. Some poskim prefer ten judges (18) and some insist on eleven (19), but it has become customary to have only three.

QUESTION: Must women participate in the process of Hatoras Nedorim?

ANSWER Hatoras nedorim on Erev Rosh Hashanah (20), even for men, is a custom, not an obligation.

It was never customary for women to annul their vows on Erev Rosh Hashanah, and there is no compelling reason to begin such a custom now.

Many people are accustomed to petition the court to annul their wife's vows at the time that they annul their own (21). The wife need not expressly appoint her husband to annul her vows (22).

A woman who has a specific vow that she must annul should do so in front of a court of three judges. Although her father and brother [or any other relative] may be members of that court, her husband may not (23).

A daughter cannot appoint her father [or anyone else] to petition the court on her behalf (24).

QUESTION: Should annulment of vows be done in Hebrew?

ANSWER For the annulment to be valid, the petitioner and the members of the court must understand exactly what is being said. Anyone who does not understand the published Hebrew text should annul his or her vows in English (25).

FOOTNOTES

1 O.C. 581:1 and Mishnah Berurah.

2 Mishnah Berurah 565:12. One who finds himself in a shul where selichos are being recited before midnight, should not recite the Thirteen Attributes along with the congregation--Sha'arei Teshuvah 581:1 quoting Birkei Yosef.

3 Igros Moshe O.C. 2:105. See Yechave Da'as 1:46 who advises reciting selichos before Minchah as the better alternative.

4 Mishnah Berurah 46:27.

5 Rama O.C. 47:13. See Mishnah Berurah 31 that asher nossan lasechvi binah should l'chatchilah not be recited before alos hashachar.

6 Sha'arei Teshuvah 6:5; Aruch ha-Shulchan 4:5; 6:10. Chayei Adam 7:6 and Mishnah Berurah 4:4; 6:9, however, recommend that it be recited right before davening, after using the bathroom.

7 Mateh Efrayim 581:21.

8 O.C. 565:5. It is permitted, however, to read them as if reading from the Torah, with the proper cantillation marks.

9 Based on O.C. 101:4, quoted by Mateh Efrayim 581:21. Even when reciting selichos with a minyan,

the Aramaic segments should not be recited unless there are ten men present in the shul and at least six of them reciting this segment--Harav S. Y. Elyashiv (quoted in Nitei Gavriel, pg. 27).

10 When not feeling well, one is exempted from this fast. It is proper to mention this fact to the members of the court who are going to annul his vows on Erev Rosh Hashanah after Shacharis.

11 O.C. 581:2.

12 Although Mishnah Berurah 16 writes that women also fast, this is not the custom in many places today.

13 In most communities the fast is only a half day, or until after Minchah Gedolah.

14 Y.D. 214:1. See Igros Moshe Y.D. 1:47.

15 Minchas Shlomo 91 based on Teshuvos Salmas Chayim 2:38. [Although women do not customarily petition for hatoras nedorim on Erev Rosh Hashanah as discussed later, it would be advisable for any woman to recite this declaration, even to herself, thus preventing questionable situations in the future.]

16 An adult is defined as being over thirteen if he has visible beard growth, and at least over eighteen if no beard growth is noticeable--see Magen Avrohom, Shulchan Aruch Harav and Pri Megadim 39:1, and Chayei Adam 14:1. See also Beiur Halachah 39:1 who is even more stringent.

17 Y.D. 228:3.

18 Since vows which were undertaken during a dream can only be annulled by ten judges--see Mateh Efrayim and Elef ha-Magen 581:49.

19 Since no court may be made up of an even number of judges--see Mishnas Ya'avetz O.C. 53.

20 If not done on Erev Rosh Hashanah, it may be done anytime during the week--even at night (Y.D. 228:3)--until Yom Kippur, see Mateh Efrayim 581:49.

21 This is the custom in Israel and other places.

22 Since a husband and a wife are considered as one concerning this halachah. Obviously, if the wife objects to her husband annulling her vows for her, he may not do so.

23 Y.D. 234:57.

24 Y.D. 228:16.

25 Chayei Adam 138:8; Kitzur Shulchan Aruch 128:16.

Inc. Rabbi Neustadt is the principal of Yavne Teachers' College in Cleveland, Ohio. He is also the Magid Shiur of a daily Mishna Berurah class at Congregation Shomre Shabbos.

The Weekly-Halacha Series is distributed L'zchus Hayeled Doniel Meir ben Hinda. Weekly sponsorships are available--please send email to the moderator, Dr. Jeffrey Gross jgross@torah.org.

The series is distributed by the Harbotzas Torah Division of Congregation Shomre Shabbos, 1801 South Taylor Road, Cleveland Heights, Ohio 44118--HaRav Yisroel Grumer, Marah D'Asra
