

# SHE'AILOS U'TESHUVOS

*by Rabbi Doniel Neustadt*

**QUESTION:** Is there any reason to have a new fruit on the table during Kiddush on the first night of Rosh Hashanah?

**DISCUSSION:** No, there is not. Many people mistakenly confuse the first night of Rosh Hashanah with the second night and place a new fruit on the table on both nights.<sup>(1)</sup> But there is no basis for eating a new fruit on the first night, and indeed, l'chatchilah, one should specifically remove any such fruit from the table when Kiddush is recited. This is because some poskim hold that the shehecheyanu recited during Kiddush, which is a blessing over the Yom Tov day, and the shehecheyanu that one needs to recite over a new fruit, are two different "types" of shehecheyanu blessings, and one cannot fulfill both requirements with one shehecheyanu blessing.<sup>(2)</sup> According to this opinion, even if the fruit were on the table during Kiddush, another shehecheyanu would have to be recited over the fruit when it is time to eat it. While this is not necessarily the opinion of all poskim, in order to avoid getting involved in this dispute one should remove the fruit from the table before Kiddush, and then recite shehecheyanu over it when he is ready to eat it during the meal.<sup>(3)</sup>

**QUESTION:** If a new fruit is not available for the second night of Rosh Hashanah, may shehecheyanu be recited during Kiddush?

**DISCUSSION:** Absolutely. The reason that we place a new fruit on the table during Kiddush on the second night of Rosh Hashanah is to satisfy a minority opinion which holds that no shehecheyanu is recited over the second day of Rosh Hashanah as we normally do on Yom Tov Sheini - the two days of Rosh Hashanah are halachically considered as one long day, and shehecheyanu over this long day was already recited during Kiddush on the first night of Rosh Hashanah. But the majority of the poskim disagree and hold that the two days of Rosh Hashanah are considered - in regard to this halachah - as two separate days, and a shehecheyanu must be recited over the second day as well. While l'chatchilah we look for a new fruit so that shehecheyanu could be recited according to all opinions, if for any reason a new fruit is not available,<sup>(4)</sup> we rely on the majority opinion and recite shehecheyanu over the second day of Rosh Hashanah.<sup>(5)</sup>

Indeed, it is important to remember that even when a new fruit is on the table on the second night of Rosh Hashanah, the primary reason that the shehecheyanu is recited is not because of the fruit, but because of the new day of Rosh Hashanah. Thus the proper kavanah (intent) of the person reciting Kiddush (and all those who are yotzei with him) should be as follows: Primarily, the shehecheyanu is being recited because another day of Yom Tov has arrived; and, secondly, in case this second Yom

Tov day does not warrant a shehecheyanu, the blessing should be over the new fruit. (6) B'diavad, however, one does not need to repeat Kiddush if, mistakenly, his primary intent was to recite shehecheyanu over the fruit.(7)

**QUESTION:** What should a woman do if it is difficult for her to go to shul to listen to tekias shofar on Rosh Hashanah?

**DISCUSSION:** According to the basic halachah, women are exempt from listening to the sounding of the shofar.(8) The mitzvah of sounding the shofar is a mitzvah which is restricted to a certain time of the year and of the day, and generally, women are exempt from mitzvos restricted by time.

There are poskim who hold that although women are exempt from listening to shofar, they have nevertheless accepted this mitzvah upon themselves as an obligation.(9) Based on this view, it has become customary all over the world for women to go to shul to listen to the shofar, or else to hear the shofar blown in their homes by a qualified ba'al tokei'a.

Not all poskim, however, agree that women have accepted upon themselves an obligation from which they are clearly exempt.(10) Some poskim rule, therefore, that women are not obligated to listen to tekias shofar.(11) As stated earlier, though, the custom has followed the first view and most women observe this mitzvah stringently. Nevertheless, a woman who is weak and needs to eat before tekias shofar, may do so,(12) unlike a man who may not eat before discharging his Biblical obligation to hear the shofar.(13)

If it is difficult, however, for a woman to come to shul because her children would disturb the silence that must be maintained for the congregation to properly hear the shofar blowing, and it is also difficult to arrange for a ba'al tokei'a to blow the shofar privately for her, a woman may rely on the poskim who hold that women are exempt from listening to the blowing of the shofar.(14)

Since most women have made it their annual custom to hear the blowing of the shofar, if a woman finds it too difficult and wants to change her custom and not be obligated to listen to the shofar any longer, she must go to a beis din to receive their permission to do so. Her custom is considered a "vow", and in order to discount a vow it must be annulled by a beis din.(15)

If, however, she plans to listen to the shofar in future years, but finds it difficult to do so in the present year due to her small children, minor illness, etc., many poskim rule that she need not annul her vow.(16) A temporary lapse in observing a correct custom [for a good reason] is not considered as intention to break a vow. Since not all poskim agree to this leniency,(17) it is preferable that the husband mention the change in his wife's custom to the beis din at the time that he annuls his own vows on erev Rosh Hashanah. If he fails to do so, the woman can still rely on the poskim who do not require an annulment in this case.(18)

A woman who can attend shul for only part of the time, should preferably come to listen to the tekios which are blown before Mussaf, since then she can hear the blessings as well. For her to fulfill

the mitzvah properly, she must make sure that she is standing (not leaning) throughout the thirty tekios that she is obligated to hear.(19)

**QUESTION:** Should people who continue to rely on the lenient opinion of those poskim who permit drinking "company milk"(20) (chalav stam) throughout the year(21) be encouraged to drink only chalav Yisrael during Aseres yemei teshuvah - just as they are careful to eat only pas Yisrael at this time of year?

**DISCUSSION:** While this issue is not explicitly addressed by the poskim, (22) we may assume that it is appropriate to be stringent about chalav Yisrael during Aseres yemei teshuvah. This is because the poskim suggest a number of reasons, all interrelated - as to why everyone should be careful to eat only pas Yisrael during Aseres yemei teshuvah, and the parallel between pas Yisrael and chalav Yisrael is obvious:

\* So that we conduct ourselves with an extra measure of purity during these Ten Days of Repentance.(23)

\* To serve as a reminder of the unique status of these days.(24)

\* To beseech Hashem not to judge us stringently, just as we have adopted a practice which is not strictly required of us.(25)

Those who are lenient regarding chalav stam rely on a controversial ruling of some poskim who in the past - when chalav yisrael was not readily available - reluctantly permitted the consumption of "company milk." Clearly, then, for all of the reasons cited above, it is appropriate not to rely on this leniency during Aseres yemei teshuvah.(26)

#### FOOTNOTES:

1 Mishnah Berurah 600:5.

2 Ksav Sofer, O.C. 26.

3 Harav S.Z. Auerbach (Minchas Shelomo 1:20; Halichos Shelomo 2:1-16).

4 In the United States, especially, it is most difficult to find a shehecheyanu fruit, since almost all fruits are available throughout the year.

5 O.C. 600:2 and Mishnah Berurah.

6 One who intends the shehecheyanu to be solely over the fruit is actually making an improper hefsek between borei pri ha-gafen and the drinking of the wine, since reciting shehecheyanu over a new fruit at this point has nothing to do with the Kiddush. It is only if the shehecheyanu is recited over the Yom Tov that it would not be considered a hefsek.

7 Harav S.Z. Auerbach (Minchas Shelomo 1:20; Halichos Shelomo 2:1-20); Teshuvos v'Hanhagos 2:272;

2:303.

8 O.C. 589:6.

9 Maharil (Hilchos Shofar). See also Magen Avraham (O.C. 489:1, concerning sefiras ha-omer) who says that women have accepted [certain] time- restricted mitzvos as an obligation. He does not, however, single out shofar more than any other time-restricted mitzvah. Chayei Adam (141:7) and R' Akiva Eiger (Teshuvos 1, addendum) also state that women have accepted shofar as an obligation.

10 See Minchas Chinuch 306, who questions the Magen Avraham quoted above. In his opinion, women can only accept a mitzvah whose obligation is questionable, such as davening Ma'ariv. A mitzvah from which they are clearly exempt, like listening to shofar blowing, cannot be "accepted." See also Nezirus Shimshon (quoted in Sdei Chemed, Ma'areches Mem, 136) and Teshuvos Sha'arei De'ah 2:237.

11 Harav Y. C. Sonnenfeld in Salmas Chayim 1:88. Note also that neither the Mateh Efrayim, Kitzur Shulchan Aruch, Mishnah Berurah or Aruch ha- Shulchan quote the opinion that women have accepted tekias shofar as an obligation.

12 Chayei Adam 141:7; Kitzur Shulchan Aruch 129:19.

13 See O.C. 652:2 and Mateh Efrayim 588:2. See The Monthly Halachah Discussion, pgs. 312-316, for an elaboration.

14 Mateh Efrayim 589:4.

15 R' Shelomo Kluger in Teshuvos u'Vacharta b'Chayim 51; Ben Ish Chai (1 Nitzavim 17); Kaf ha-Chayim 589:34.

16 Magen Avraham O.C. 581 according to the explanation of the Dagul me- Revavah (Y.D. 214) quoted by the Sha'ar ha-Tziyun 581:33. See mi-Beis Levi, Tishrei, pg. 20, that this is also the ruling of Harav Wosner.

17 See Shach Y.D. 214 quoted in the Mishnah Berurah 581:19. Ben Ish Chai and Kaf ha-Chayim quoted above also require hataras nedarim for a woman who cannot listen to the shofar even once.

18 Yabia Omer 2:30 and Yechaveh Da'as 2:70.

19 Based on Mateh Efrayim 585:5.

20 Although Shulchan Aruch rules that for milk to be kosher, the milking must be supervised by a Jew, some have argued that in the United States (and other developed countries) where government authorities closely monitor the dairy industry and strictly enforce the law against mixing other milk with cow's milk, government regulation should be tantamount to supervision. According to this argument, the fear of being caught by government inspectors who are empowered to levy substantial fines serves as a sufficient deterrent, and may be considered as if a Jew is "supervising"

the milking. Based on this argument, several poskim allowed drinking "company milk" (chalav stam), i.e., milk produced by large companies, without supervision.

21 See The Monthly Halachah Discussion, pgs. 145-150, for a complete overview and analysis of this subject.

22 Obviously, the earlier poskim could not have dealt with this question, since chalav akum is forbidden according to all views all year round. It is only with the fairly recent introduction of chalav stam, which is permitted by some poskim during the year, that this question arises.

23 In Talmudic times, everyone was careful not to allow their food to become impure (chullin b'taharah) during Aseres yemei teshuvah; Tur quoting the Yerushalmi (Shabbos 3:3).

24 Levush, O.C. 603.

25 Chayei Adam 14:1; Kitzur Shulchan Aruch 130:2.

26 See Sha'ar ha-Tziyun 609:1 and Igros Moshe, O.C. 3:12 who write that during Aseres yemei teshuvah we should be stringent when it comes to all questionable issues.

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