

SELICHOS: SELECTED HALACHOS

by Rabbi Doniel Neustadt

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

Discussion: Ideally, Selichos should be said at the end of the night^[1], since that is an *eis ratzon*, a "time of appeasement." But it is permitted to recite Selichos anytime from midnight on^[2]. Before midnight it is prohibited to recite Selichos^[3]. Under extenuating circumstances—if one cannot recite Selichos at any other time—Selichos (without *nefilas apayim*^[4]) may be recited once a third of the night has passed. But this leniency should not be relied upon on a regular basis^[5].

Question: Must *Birchos ha-shachar* be recited before Selichos ?

Discussion: *Birchos ha-Torah* should be recited before Selichos^[6]. The other blessings need not be recited before Selichos, but may be recited then even though it is before *alos ha-shachar*^[7]. [If *Al netilas yadayim* is recited before Selichos—as recommended by some^[8] *poskim*—one should be sure not to repeat it after Selichos from force of habit.]

Question: Are women obligated to recite Selichos?

Discussion: 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*, some *poskim* hold that the words *Zechor lanu ha-yom b'ris shelosh esrei* are omitted^[9]. 2) The 13 *midos* are omitted^[10]. 3) *Machei u'masei* (recited towards the end of the Selichos) and any other segment which is in Aramaic is omitted^[11].

When reciting Selichos with a minyan, an individual who falls behind may still recite the Aramaic segments until the final *Kaddish* after Selichos is recited^[12].

Erev Rosh Hashanah

Question: Is a person who was accustomed to fast on *erev Rosh Hashanah* obligated to continue fasting year in year out even if he is no longer as robust as he once was^[13]?

Discussion: The *Shulchan Aruch* writes that it has become customary to fast (until *chatzos*^[14]) on *erev Rosh Hashanah*.^[15] Many men^[16], 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 annul his vow in front of beis din.
- If the custom was accepted initially on a year-by-year basis, no hataras nedarim (annulment of vows) 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 beli neder stipulation automatically becomes a neder and may not be dropped without hataras nedarim.

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 hataras nedarim. People who adopt even "simple" customs which they are not really obligated to practice, like reciting Tehilim daily or studying the daf yomil^[17] without making the beli neder stipulation, require hataras nedarim 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 hataras nedarim^[18]. For instance, a person who ate chalav Yisrael 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 hataras nedarim 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." Several poskim rule that this declaration covers any proper custom that was undertaken without a beli neder^[19].

Question: Can anyone be a member of the court for the purpose of annulment of vows (hataras nedarim)?

Discussion: Any adult^[20] male can be a member of the court, even if he is related to the other members or to the petitioner^[21].

Three judges suffice for hataras nedarim. Some poskim prefer ten^[22] or eleven^[23] judges, but it has become customary to have only three.

Question: Must women officially annul their vows on erev Rosh Hashanah?

Discussion: Hataras nedarim on erev Rosh Hashanah^[24], 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^[25].

Many men are accustomed to include their wife's vows at the time that they annul their own[26]. L'chatchilah, a wife should appoint her husband to be her emissary for annulling her vows[27]. If, however, she forgot to do so, her husband may annul her vows for her without being expressly appointed as her emissary, as long as he is absolutely certain sure that she wants him to annul her vows for her.

A married woman who has a specific vow that she must annul (and does not wish to appoint her husband as her emissary) 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[28].

A daughter cannot appoint her father (or anyone else) to petition the court on her behalf[29].

For the annulment to be valid, the petitioner and the members of the court must understand exactly what is being said. A person who does not understand the published Hebrew text should annul his vows in his native language[30].

Minors, even a boy over the age of twelve and a girl over eleven, need not perform hataras nedarim[31].

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

2. It is also permitted to begin the Selichos before midnight as long as the Thirteen Middos are said after midnight; Halichos Shelomo 2:1, Devar Halachah 4.

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

4. O.C. 131:3.

5. Igros Moshe, O.C. 2:105. See Yechaveh Da'as 1:46, who advises reciting Selichos before Minchah as the better alternative.

6. Mishnah Berurah 46:27.

7. Rama, O.C. 47:13. Asher nassan la-sechvi binah should l'chatchilah not be recited before alos ha-shachar; Mishnah Berurah 31

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

9. Be'er Heitev 565:6; Mateh Efrayim 581:21; Kitzur Shulchan Aruch 128:9.

10. O.C. 565:5. It is permitted, however, to read them as if reading from the Torah, with the proper cantillation marks. See also Igros Moshe, Y.D. 3:21 who allows to chant them to any melody, as long

as it is different from the melody used in davening.

11. Mateh Efrayim 581:21; Mishnah Berurah 581:4..

12. Halichos Shelomo 2:1-4.

13. If one is not feeling well, he is exempt from fasting on erev Rosh Ha-shanah. It is proper to mention this problem to the members of the court who are going to annul his vows on erev Rosh Hashanah after Shacharis.

14. Once chatzos arrives, there is no requirement to daven Minchah first; Elef ha-Magen 581:73, quoting Shealas Ya'avetz 2:147.

15. O.C. 581:2.

16. And some women; see Mishnah Berurah 581:16.

17. See Teshuvos Ohr ha-Meir 75 (Rav M. Shapiro), who remains undecided as to whether one may switch his study schedule from the study of daf yomi. See also Yechaveh Da'as 6:52, who rules that one who switches from studying the daf yomi to studying practical halachah does not need any hataras nedarim, since he is raising his level of learning.

18. Y.D. 214:1. See Igros Moshe, Y.D. 1:47.

19. Salmas Chayim 2:38; Minchas Shelomo 1:91-20; Yabia Omer 2:30, 4:11-9. [Although women do not customarily petition for hataras nedarim 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.]

20. See Rav Akiva Eiger and Pischei Teshuvah, Y.D. 228:3. [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 Avraham, Shulchan Aruch ha-Rav and Pri Megadim, O.C. 39:1, and Chayei Adam 14:1. See also Beirur Halachah 39:1, who is even more stringent.]

21. Y.D. 228:3.

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

23. Since a court should not be made up of an even number of judges; see Mishnas Ya'avetz, O.C. 53.

24. 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.

25. Halichos Shelomo 2:1-10.

26. Although this is customary in many places, Rav S. Vosner is quoted (mi-Beis Levi, Tishrei, pg. 18)

as dismissing this custom.

27. Teshuvos v'Hanhagos 1:338; Yabia Omer 2:30.

28. Y.D. 234:57.

29. Y.D. 228:16.

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

31. She'arim Metzuyanim b'Halachah 128:24. See Shevet ha-Levi 5:129-3.

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