

סליחות AND יום כיפור THE FORTY DAYS BEFORE

Sephardim follow the custom of reciting סליחות beginning with ראש חודש אלול:

שולחן ערוך אורח חיים הלכות ראש השנה סימן תקפא' סעיף א' – נוהגים לקום באשמורת לומר סליחות ותחנונים מראש חדש אלול ואילך עד יום הכפורים.

Translation: It is customary to arise at the conclusion of a division of the night to recite Selichos and words of supplication beginning on Rosh Chodesh Elul and continuing until Yom Kippur.

The following sources provide the basis for doing so:

רא"ש¹ מסכת ראש השנה פרק ד' – אמר לי רב כהן צדק מנהג בשתי ישיבות לומר תחנונים בהני עשרה יומי שבין ר"ה ליום הכפורים וכן אומר רב עמרם ורב האי מנהג לומר תחנונים בהני עשרה ימים בלחוד ושמעין דמקצת אתרוותא קיימי מראש חודש אלול ואמרי דביה סליק משה להר פעם שלישית ונחת בלוחות שניות ביום הכפורים וכל המוסף לבקש רחמים זכות הוא לו. להרי"ץ גיאאות ז"ל ואנן מנהגינו מהנך דקיימי מר"ח אלול.

Translation: Rabbi Kohain Tzedek (Katz) related to me that it is customary to recite prayers of supplication on the ten days beginning Rosh Hashonah and ending on Yom Kippur. So wrote Rav Amrom Gaon and so did Rav Hai Gaon that it is customary to recite those prayers solely on those ten days. We know that in some locations, it is customary to recite similar prayers beginning with Rosh Chodesh Elul. That practice is based on the fact that Moshe Rabbenu ascended to Mount Sinai for the third time on Rosh Chodesh Elul and then descended with the second set of Luchos on Yom Kippur. Anyone who adds prayers of supplication during that time frame is gaining merit for himself. So said the Ritx Gayus. We follow the practice of those who begin reciting prayers of supplication beginning with Rosh Chodesh Elul.

טור² אורח חיים הלכות ראש השנה סימן תקפא' – הלכות ראש השנה:

תניא בפרקי ר"א בר"ח אלול אמר הקדוש ברוך הוא למשה עלה אלי ההרה שאז עלה לקבל לוחות אחרונות והעבירו שופר במחנה משה עלה להר שלא יטעו עוד אחר ע"ג והקב"ה נתעלה באותו שופר שנאמר (תהלים מ"ז) עלה א – להים בתרועה וגו' לכן התקינו חז"ל שיהו תוקעין בר"ח אלול בכל שנה ושנה וכל החדש כדי להזהיר ישראל שיעשו תשובה שנאמר (עמוס ג') אם יתקע שופר בעיר וגו' וכדי לערבב השמן וכן נוהגין באשכנז לתקוע בכל בוקר וערב אחר התפלה ויש מי שמרבין לומר סליחות ותחנונים מר"ח אלול ואילך.

Translation: The Laws of Rosh Hashonah. We learned the following in the Teachings of Rabbi Eleizer: On Rosh Chodesh Elul, G-d said to Moshe: ascend the mountain to commune with me. It was at that time that Moshe ascended Har Sinai to receive the second set of Luchos. At that moment, the sound of the Shofar was heard in the Jewish camp to remind the Jewish People not to stray again by worshipping

1. Rabbi Asher ben Jechiel was born ca. 1250 in Germany, and died in 1327 in Toledo, Spain.

2. Rabbi Jacob ben Asher was born in Cologne ca. 1269 and died in Toledo ca. 1343.

idolatry. As the sound of the Shofar was heard, G-d ascended higher into Heaven as we learn: (Tehillim 47) G-d ascended with the sound of the Shofar being heard in the background. Based on this incident, our Sages instituted the practice of sounding the Shofar each day in the month of Elul, year to year. It further serves the purpose of arousing repentance among the Jewish People as we learn: (Amos 3) If the Shofar is sounded in the city etc. and in order to confuse the Satan (those heavenly bodies which argue against granting the Jewish People a favorable year). The practice of sounding the Shofar in the morning and in the evening³ at the conclusion of the prayer service is followed in the Rhineland. Others follow the practice of reciting Selichos and additional prayers of supplication beginning with Rosh Chodesh Elul.

ר"ן⁴ על הרי"ף מסכת ראש השנה דף ג' עמוד א'—אין מקום לקום באשמורת בכ"ה באלול ולפיכך נהגו בגירונ"ה וגלילותיה שלא לקום עד ר"ה ומיהו יש מקומות שמקדימין באחד באלול ויש סמך למנהגן לפי שבו התחילו מ' יום שנתרצה הקדוש ברוך הוא למשה.

Translation: There is no basis to commence reciting Selichos beginning with the 25th day of Elul (the first day of Creation). As a result, it became the practice in Gerona and its surrounding communities not to begin to arise early to recite Selichos until Rosh Hashonah. Nevertheless, some communities begin reciting Selichos on the first day of Elul. They lend support to their practice by pointing to the first day of Elul as the day on which Moshe and G-d began communing and which provided Moshe Rabbenu the opportunity to persuade G-d to release the second set of Luchos.

In last week's newsletter, we attempted to demonstrate that Ashkenazim began the practice of reciting סליחות at least four days between ראש השנה because they began fasting four fast days before ראש השנה to replace the four days within the עשרת ימי תשובה on which fasting was prohibited. None of those cited above provide that the basis behind the practice of the Sephardim of beginning to recite סליחות on ראש חודש אלול involves fasting. Can we then conclude that Sephardim disagree with Ashkenazim as to whether a link exists between fasting and סליחות? At first glance, it may appear to be so except for two facts that mitigate against such a conclusion: 1) משה רבינו fasted all forty days that he spent on הר סיני from ראש חודש אלול until יום כיפור; and 2) some did follow the custom of fasting all forty days from ראש חודש אלול until יום כיפור mimicking משה רבינו's conduct. The following verifies that משה רבינו fasted throughout the time he spent on הר סיני:

שמות פרק לד', כח'— ויהי שם עם ה' ארבעים יום וארבעים לילה; לחם לא אכל ומים לא שתה, ויכתב על הלחת את דברי הברית עשרת הדברים.

Translation: Moshe Rabbenu communed with G-d for forty days and forty nights; He did not eat any food nor drink any beverages. He wrote the words of the Covenant on the tablets, the Ten Commandments.

דברים פרק ט', יח'—ואתנפל לפני ה' כראשנה ארבעים יום וארבעים לילה; לחם לא אכלתי ומים לא שתיתי⁵, על כל חטאתכם אשר חטאתם לעשות הרע בעיני ה' להכעיסו.

3. Notice this difference in practice.

4. Rabbi Nissim ben Reuven of Gerona was born in Barcelona in 1320, and died in 1380.

5. Query—is this not the best evidence that fasting represents a non-verbal act of prayer?

להבין את התפלה

Translation: I fell before G-d, as I did the first time, for forty days and for forty nights; I did not eat anything nor did I drink any beverages. I prayed that G-d forgive all your sins, for all the evil you perpetrated in the eyes of G-d that angered G-d.

The following sources hint at the practice of fasting during the forty days between **ראש חודש אלול** and **יום כיפור**:

שולחן ערוך אורח חיים הלכות תענית סימן תקסח' סעיף ד'—יש מי שאומר ששני ימים ושני לילות רצופים, יש להשוותם לארבעים תעניות שאינם רצופים. *הגה*: וי"א דבאדם חלש סגי לו בב' ימים רצופים; אבל אדם בריא, שלשה ימים (הגהות מנהגים בשם מהר"י ברי"ן). ונראה לי דכל זה לא מיירי אלא במי שנתחייב לצום מ' ימים שאינן רצופים, מכח תשובה כדי להצטער, ואז משוינן האי צער להאי צער, ועל כיוצא בזה נאמרו דינים אלו בדברי האחרונים ז"ל; אבל מי שנדרר לצום מ' יום, צריך לקיים מה שנדרר, דלא גרע מיום זה דאינו לוח ופורע; ואפילו למאן דאמר אפילו יום זה לוח ופורע, הכא מודה דצריך לקיים נדרו, כל שכן מ' יום שלפני יום כיפור, שמתענים לזכר עליית משה בהר, שמי שקבל עליו, שאין להם תשלומין בשנים או שלשה ימים רצופים.

Translation: Some say that fasting two days and two nights in a row is equal to fasting forty non-consecutive days. RAMAH: Others say that for a person with a weak constitution, fasting two consecutive days is equal to fasting forty non-consecutive days. However, for a healthy person, fasting three days in a row is deemed equal to fasting forty non-consecutive days. (Hag'Has Minhagim in the name of Rabbi Brin). It appears to me that the rule applies to someone who vowed to fast forty non-consecutive days as a means of obtaining repentance through personal distress. In that case, we compare the two periods of distress and view them as being equal. It was in reaction to that conduct that the rule was instituted. However, someone who vows to fast for forty consecutive days, must keep that vow. It is no worse than someone who vows to fast on a specific date, a fast which he may not postpone and for which he cannot substitute another day. Even according to those who hold that when a person specifies the date of his fast, he may postpone it, would acknowledge that in the case of vowing to fast forty days, he must keep his vow. And if he vowed to fast all forty days from Rosh Chodesh Elul to Yom Kippur, he must certainly keep that vow since it is an accepted practice to fast all forty days before Yom Kippur, a practice based on Moshe Rabbenu having ascended to Mount Sinai to receive the second set of Luchos and during which he fasted each day. Those individuals cannot fulfill their vow by simply fasting two or three consecutive days.

A further reference to the practice of fasting forty days before **יום כיפור** is found in the next source. We see therein how once customs develop, the customs themselves cause new issues to arise. In this case, some recommended that the forty day fast before **יום כיפור** begin on the 16th day of the month of Av because it is improper to fast on all the forty days that come between **ראש חודש אלול** and **יום כיפור**:

ערוך השולחן אורח חיים הלכות תענית סימן תקסח'—וכ"ש למ' יום שלפני יוה"כ שמתחילין להתענות אחר ט"ו באב ולא יתענו בשבת ור"ח [שם סקי"ז] ומתענים לזכר עליית משה רבינו בהר סיני שמי שקיבל עליו שאין להם תשלומין בשנים או שלשה ימים רצופים ואפילו לא

קיבל דרך נדר אלא בלשון תענית בעלמא אין ללוות וכ"ש לשלם תחתיהם ב' או ג' ימים.

Translation: Even more for those who wish to fast forty days before Yom Kippur, they must begin to fast the day after the 15th day of Av so that they do not fast on Shabbos and on Rosh Chodesh. Those fasts reflect that Moshe Rabbenu ascended Har Sinai to receive the second set of Luchos on Rosh Chodesh Elul and descended with them on Yom Kippur. Those who accept upon themselves to fast those forty days cannot substitute two or three consecutive days of fasting. Even if they did not accept the fasting by way of a vow but only in terms of a fast, they may not postpone any days of the fast nor can they substitute for any of the fast days by fasting two or three consecutive days.

Given that משה רבינו not only ascended הר סיני on ראש חודש אלול but also began to fast for forty days, why do none of the commentators link the custom among Sephardim to recite סליחות beginning with ראש חודש אלול to משה רבינו fasting the forty days he spent on הר סיני before he received the second set of לוחות? We may be witnessing a further example of the rule that caused some not to fast on the day before ראש השנה; i.e. חוקות הגויים, following the practices of the non-Jewish world. Here are two reports of how the forty days of fasts engaged in by משה רבינו while on הר סיני became the basis of a practice to fast for forty days within both Islam and Christianity:

Self and Self-Transformation in the History of Religions, Edited by David Shulman and Guy G. Stroumsa, Oxford University Press, 2002; Chapter 13. The Self And Its Transformation In Sufism With Special Reference To Early Literature, by Sara Sviri; pages 200-201:

Why forty days? Forty days is a paradigmatic unit of time allowing a course of training to take effect and changes to come about. In Sufism, it has become institutionalized in the practice of *chilla*, forty days of seclusion and fasting that a disciple is sometimes bidden to commit himself or herself to by his or her master. Ascetic practices of forty days are, no doubt, pre-Islamic. The biblical origin of this temporal unit, reflected in the Qur'anic Tales of the Prophets, is acknowledged by Sufi authors. Thus, for example, in *Kashf al-Mahjub (The Unveiling of the Veiled)*, a popular Sufi manual of the eleventh century, the author, Ali ibn Uthman al-Jullabi al-Hujwirfi writes: "The forty days' fast (*chilla*) of the saints are derived from the fast of Moses (Kor. vii, 138). When the saints desire to hear the word of God spiritually, they remain fasting for forty days.

Christianity by Brian Wilson. Routledge. 1999, page 124:

Definitions

Lent (forty days of fast before Easter): Commemorates Jesus' forty days in the wilderness and is a preparation for Holy Week.

Ascension (forty days after Easter Sunday): Commemorates Jesus' ascent into heaven.

SUPPLEMENT

כל נדרי - *A Weapon Of Anti-Semitism*

Several contributors to the book: All These Vows, Kol Nidre, Rabbi Dr. Lawrence Hoffman, editor, Jewish Lights Publishing, 2011, refer to the fact that over the centuries, the practice of Jews entering the synagogue on **יום כיפור** and asking by way of **כל נדרי** that G-d cancel any vows or promises that will be made (and in some versions, those that had been made), opened the door for Anti-Semites to question the value of a promise or an oath made by a Jew. This resulted in special forms of oaths being created specifically for Jews; i.e. "Oath More Judaica"; some refer to it as "Oath More Judaico". I have attached some background material on this issue, including a sample of one such oath.

Jewish Worship by Abraham E. Millgram, The Jewish Publication Society of America, Philadelphia, 1971, p. 244:

ATTACKS AGAINST THE KOL NIDRE PRAYER

No sooner was the *Siddur* subjected to the scrutiny of the censors than the Jews were called upon to defend the Kol Nidre prayer, which is recited on the eve of the Day of Atonement. This prayer, as indicated earlier, is an expression of Jewish piety at its best. Before a Jew dares to appear before God with his supplications on the holiest day of the year, he is overcome by a sense of unworthiness, because he may have inadvertently violated a vow during the past year. The Kol Nidre does not deal with vows between man and man; these can be absolved only by the person to whom the vow was made. The Kol Nidre is concerned only with vows between man and God. It is for these private vows that the Jew seeks absolution before he starts the Yom Kippur services. But the inquisitors, guided by Jewish apostates, saw in this prayer evidence that the Jew cunningly absolves himself of all vows and thus enables himself to renege on promises and oaths. According to these accusations, the Kol Nidre prayer enables the Jew to defraud his unsuspecting neighbors. It should therefore be expurgated from the synagogue liturgy.

The Jews vigorously denied these accusations. But denials, however well documented, did not stop the accusations from being revived from time to time. As early as the thirteenth century, during a public disputation forced upon the Jews, Rabbi Jehiel of Paris and several other rabbis had to face a Jewish apostate, Nicholas Donin, and refute his charge that the Kol Nidre prayer enables the Jews to defraud the Gentiles. Commentaries have been included in the prayer books reminding the worshipers that the Kol Nidre applies only to private oaths. Nonetheless, these attacks were repeated with such monotony that in modern times the Reform Jews decided to eliminate this prayer altogether. But this

attempt has not succeeded. In the vast majority of synagogues the Kol Nidre has not only remained an integral part of the Yom Kippur service, but also has retained its powerful appeal to the heart of the Jewish worshiper.

The Jewish Religion, A Companion, Louis Jacobs, Oxford University Press, 1995, page 307

Kol Nidre 'All vows', the opening words of the declaration, largely in Aramaic, at the beginning of the evening service on *Yom Kippur in which all vows that will be uttered in the coming year are declared null and void. The declaration applies only to religious vows and has no effect on oaths taken in a court of law. If a person makes a vow, say, to deny himself wine for a certain period, perhaps as a penance, he must keep his promise, which is thought of as a promise to G-d. But this applies only if the vow is uttered with full intent. A person's declaration beforehand that all vows he will take in the year ahead are null and void means that any vow he will make is held to be without sufficient intention and hence without binding power. Because it was falsely assumed that Kol Nidre does apply to oaths taken in the court, Jews were suspected of unreliability in this matter and in a number of countries the infamous More Judaica, a special humiliating form of oath, was introduced when a Jew had to swear in court. Zechariah Frankel and others in nineteenth-century Germany exposed the falsehood and explained the true meaning of Kol Nidre. In the Middle Ages a number of Rabbinic authorities were opposed to the Kol Nidre on the grounds that its effectiveness to nullify vows was very questionable. Yet the Kol Nidre is still recited in the majority of congregations, the night of Yom Kippur being referred to as 'Kol Nidre Night'. There is no doubt that it is the famous traditional melody, with its note of remorse, contrition, hope, and triumph, that has saved the Kol Nidre. Reform congregations often substitute a Psalm for the Kol Nidre formulation but retain the melody. The usual practice is for the Reader to chant the formula three times, raising his voice each time. An interpretation given to the Kol Nidre is that the congregation declares, by implication, at the beginning of Yom Kippur: "See, O Lord, what miserable sinners we are. We make promises to live better lives each year and yet always fall far short of keeping them. Therefore, help us, O Lord, and pardon us for our shortcomings."

J. H. Hertz, "Kol Nidre", in his *The Pentateuch and Haftorahs* (London, 1960), 730-1.

Jewish History Sourcebook:

An Oath Taken by Jews Frankfort on the Main, about 1392 CE

<http://www.fordham.edu/Halsall/jewish/jewishsbok.asp#The Jewish Middle Ages>

In matters requiring an oath before the civil authorities the medieval Jew did not employ the same formula as the Christian or Muslim. The reason is obvious: the state was Christian or Muslim, and no Jew could or would swear after the Christian or Muslim manner. In a

Christian land this would have meant a recognition of Jesus or the Trinity. Such an oath would not have been binding on the Jew and hence was never imposed. For the convenience of the Jew, therefore, an oath "according to the Jewish custom" (more judaico) was instituted. One of the oldest surviving authentic oaths of this type was promulgated by the Byzantine emperor, Constantine VII (912-959), but in all probability this type is still older. This Byzantine formula, which is probably based on a Hebrew or Aramaic original, was employed, with considerable variations, in most European lands during the Middle Ages.

In the course of time, as prejudice against the Jew grew, the belief became widespread among Christians that Jews would not hesitate to perjure themselves in Christian courts. To counteract this presumed tendency, the various cities and states, particularly in Germany and France, began to make the oaths more formidable and more shocking both in language and in accompanying ceremonial, hoping thereby to frighten the Jews into telling the truth. It was but a step from intimidation to humiliation and to mild torture: Jews had to wear crowns of thorns on their necks and around their knees, and long thorn branches were pulled between their legs while the oath was being administered (France, eleventh century).

The manner of administering the oath varied in different localities. In spite of the emancipation of the late eighteenth and early nineteenth centuries, the oath, "according to the Jewish custom," persisted in France till 1846, in Prussia till 1869, in Roumania till 1912. It is needless to say that Jews have always resented this type of oath, especially because of the presumption implicit in it that the Jew is a perjurer.

The following formula, originally in Middle High German, was used in Frankfort on the Main about 1392. However, there were other oaths imposed on Jews in Frankfort on the Main at this time and in other cities and states, too, that were milder and more dignified. A special oath for Jews was still used in the police-courts of Frankfort as late as 1847 (See JE, "Oath more judaico.")

This Is Indeed An Oath For Jews, How They Shall Take An Oath

The Jew shall stand on a sow's skin and the five books of Master Moses shall lie before him, and his right hand up to the wrist shall lie on the book and he shall repeat after him who administers the oath of the Jews:

Regarding such property of which the man accuses you, you know nothing of it nor do you have it. You never had it in your possession, you do not have it in any of your chests, you have not buried it in the earth, nor locked it with locks, so help you G-d who created heaven and earth, valley and hill, woods, trees, and grass, and so help you the law which G-d himself created and wrote with His own hand and gave Moses on Sinai's mount. And so help you the five books of Moses that you may nevermore enjoy a bite without soiling yourself all over as did the King of Babylon.

And may that sulphur and pitch flow down upon your neck that flowed over Sodom and Gomorrah, and the same pitch that flowed over Babylon flow over you, but two hundred times more, and may the earth envelope and swallow you up as it did Dathan and Abiram. And may your dust never join other dust, and your earth never join other earth in the bosom of Master Abraham if what you say is not true and right. [This refers either to a decent burial or to resurrection.] And so help you A-donai you have sworn the truth.

If not, may you become as leprous as Naaman and Gehazi, and may the calamity strike you that the Israelite people escaped as they journeyed forth from Egypt's land. And may a bleeding and a flowing come forth from you and never cease, as your people wished upon themselves when they condemned god, J. C., among themselves, and tortured him and said [Matthew 27:25]: "His blood be upon us and our children." It is true, so help you G-d who appeared to Moses in a burning bush which yet remained unconsumed. It is true by the oath that you have sworn, by the soul which you bring on the Day of Judgment before the Court, [before the G-d of] Abraham, Isaac, and Jacob. It is true, so help you G-d and the oath you have sworn [Amen].