

Kol Nidrei 5781/2020

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Please note that this is not an official responsum of the CJLS.

1) Is there an obligation to recite Kol Nidrei?

Answer: It is a custom to recite Kol Nidrei. While it is only a custom, not an obligation, Kol Nidrei has great spiritual resonance for many Jews, especially in its tunes for Ashkenazim and Sefardim.

Shulhan Arukh O.H. 619.1

ליל יום הכפורים נוהגים שאומר שליח צבור בישיבה של מעלה ובישיבה של מטה ע"ד המקום ועל דעת הקהל אנו מתירים להתפלל עם העבריינים ונוהגים שאומר כל נדרי וכו' ואח"כ אומר שהחיינו בלא כוס:

On the night of Yom Kippur it is customary that the Sheliah Tzibbur says, "In the heavenly court and in the earthly court, with the permission of the Omnipresent and with the permission of the congregation, we permit to pray with sinners." And it is customary to say Kol Nidrei etc. And after that one says Shehehiyanu without a cup (of wine).

2) How early can Kol Nidrei be recited?

Answer: Kol Nidrei is supposed to be recited while it is still day.

ReMA O.H. 619.1

הגה ואח"כ מתפללים ערבית ונוהגים לומר כל נדרי בעודו יום וממשיך בניגונים עד הלילה ואומרים אותו שלשה פעמים וכל פעם מגביה קולו יותר מבראשונה (מהרי"ל) וכן אומר הש"צ ג"פ ונסלח לכל עדת וגו' והקהל אומרים ג' פעמים ויאמר ה' סלחתי כדבריך (מנהגים) ואל ישנה אדם ממנהג העיר אפילו בניגונים או בפיוטים שאומרים שם (מהרי"ל):

ReMA: And after that they pray the evening service. And it is customary to say Kol Nidrei while it is still daytime, and to continue with singing until nightfall. One says it three times, and each time one raises one's voice more than previously. (Maharil). Similarly the Sheliah Tzibbur says, "And the whole community will be forgiven." And the community says three times, "And the Lord said, 'I have forgiven like you said.'" One

should not deviate from the local custom even concerning the tunes and piyutim that are said there.

It is crucial that Kol Nidrei not be recited late because hatarat nedarim cannot take place on Shabbat or Yom Tov.

Mishnah Berurah 619:5

בעודו יום - אע"ג דאנו סוברין כר"ת ומתנין על להבא שלא יחולו מ"מ דמי קצת להפרת נדרים שאין מפירין בשבת ויו"ט וה"ה יוה"כ:

While it is still day: Even though we hold according to Rabbeinu Tam and make a *tenai* (condition) about the future so that it will not be in force, nevertheless it looks a bit like the annulment of vows so that we do not abrogate (what looks like the abrogation of vows) on Shabbat, or Yom Tov, and this is the law for Yom Kippur [as well].

Arukh Hashulhan O.H. 619:6

ואת ה"כל נדרי" אומרים קודם הלילה, כי אין מתירין נדרים ביום טוב:

We recite "Kol Nidrei" prior to the evening because we do not abrogate vows on Yom Tov.

Minhah should be recited first because Shulhan Arukh O.H. 607 assumes that that is the order (see entire siman 607 - se'if 1 quoted below). This means that the earliest that Kol Nidrei can be recited is after the earliest recitation of *minhah*, whether *minhah gedolah* or *minhah ketannah*.

Shulhan Arukh O.H. 607:1

צריך להתודות במנחה קודם סעודה המפסקת: הגה ויחיד אומרו אחר שגמר תפלתו וש"ץ אומרו ביו"כ בתוך התפלה (טור):

One must say vidui (confession) at minhah prior to the final meal before the fast. *ReMA: Someone by himself says it after he finishes his prayer (i.e. the Amidah) and the Sheliah Tzibbur says it on Yom Kippur during his recitation of the Amidah (Tur).*

3) If the recitation of Kol Nidrei concludes before the start of the holiday with ample time to eat before the start of the Yom Kippur, may one eat?

Answer: As long as one does not intend that the fast has begun, one may eat.

Shulhan Arukh O.H. 608.3

אם הפסיק מאכילתו בעוד היום גדול יכול לחזור ולאכול כל זמן שלא קבל עליו התענית: הגה ועיין לעיל
סימן תקנ"ג דאם קיבל בלב לא הוי קבלה:

If one breaks from his eating when still there is much of the day, he is able to return and eat, as long one did not accept the fast. *ReMA: And see prior in section 553 that one accepted (only) in his heart, it is not an acceptance.*

Those leading Kol Nidrei should emphasize this point if they want to allow the kahal to eat after Kol Nidrei. Importantly, if Kol Nidrei is recited early, do not include Shehehiyanu at the conclusion because that will enact the holiday, thereby the fast.

b. Eruvin 40b

התינח עצרת וראש השנה יום הכפורים היכי עביד אי מברך עליה ושתי ליה כיון דאמר זמן קבליה עליה
ואסר ליה:

Granted, [one can recite the blessing over a cup of wine on] Shavuot and Rosh Hashanah; but what does one do on Yom Kippur? If he should recite the blessing over it [a cup of wine before the actual commencement of Yom Kippur] and drink it, [there is a difficulty:] Since he recited the blessing for time [Shehehiyanu], he accepted [the sanctity of the day] upon himself, [and therefore caused the] wine to be prohibited to himself [by the laws of Yom Kippur].

However, if the Sheliah Tzibbur recited Shehehiyanu, the members of the kahal intending to eat after Kol Nidrei (but before Yom Kippur starts) should say “amen” but not say the blessing themselves.

Magen Avraham 619:3

אומר שהחיינו. כל הכל בו והכי שפיר לברך כ"א לעצמו ע"כ ואין נוהגין כן אלא הכל סומכין על הש"ץ (ד"מ)
ושל"ה כת' דמותר לסמוך על הש"ץ כמ"ש סי' רצ"ח סי"ד וה"ה בברכת הלל ולולב עכ"ל ול"נ דעכשיו על
הרוב אין הש"ץ מכוין להוציא אחרי' לכן יברך לעצמו וכן נוהגין בהלל ולולב .

He says Shehehiyanu: The Kol Bo wrote, “And so it is best to bless each one by himself, but that is not our custom, but instead everyone depends on the leader.” The Shenei Luhot Ha-brit wrote that “It is permitted to depend on the leader, as he wrote in section 298, paragraph 14. And the same is true for the blessings of Hallel and Lulav.” Those are his words. But to me it seems that now in general the leader does not intend to fulfill the obligation of others. Therefore he blesses for himself, and that similarly is our custom with regard to Hallel and Lulav.

Mishnah Berurah 619:3

ואח"כ אומר שהחיינו - וגם הצבור יאמרו כ"א בלחש. וטוב שימהרו לסיים הברכה שמברך לעצמו כדי שכל שיש"ץ הברכה יאמרו אמן. ומ"מ יש להש"ץ ליזהר שיכוין להוציא הצבור מי מהם שירצה לצאת בברכתו:

And after, he recites Shehehiyanu: All of the congregation will say [Shehehiyanu] quietly [for themselves]. It is preferable that they will move quickly to complete the blessing, so that [when] the Sheliah Tzibbur completes his blessing on his own behalf, the congregation will [be prepared to] say "amen." Nevertheless the Sheliah Tzibbur should take heed to align his intention with those in the community who want the Sheliah Tzibbur to fulfill their recitation of the Shehehiyanu.

4) Can one abrogate their vows or oaths through Hatarat Nedarim on Erev Rosh Hashanah or some other time prior to Yom Kippur?

Answer: Yes

Rabbi Ovadiah ben Abraham of Bartenura on Mishnah Nedarim 3:5

ר"א בן יעקב אומר אף הרוצה להדיר את חבירו כו' ויעמוד בראש השנה לאו דוקא אלא ה"ה בכל עת שירצה ולכל זמן שיקבע.

Rabbi Eliezer ben Jacob says: Also one who wishes to subject his friend to a vow... Can do so not necessarily on Rosh Hashanah, but the same applies at all times that he might want and at any period that he might designate.

5) Can one fulfill the process of Hatarat Nedarim or Kol Nidrei through streaming?

Answer: Yes, for a number of reasons: a) When Kol Nidrei dealt with vows *"miyyom kippur she-avar ad yom kippur zeh,"* "from the past Yom Kippur to this Yom Kippur," it required a Beit Din, but now that we say *"miyyom kippur zeh ad yom kippur haba,"* "from this Yom Kippur to the next Yom Kippur," it is about future vows, which an individual is allowed to qualify. Individuals should say the words themselves along with the Sheliah Tzibbur (Mishnah Berurah 619:2). The Beit Din is there more for solemnity and show; and 2) According to the Rosh (on Yoma 8:28) and Ra'avya (Yoma 528), Kol Nidrei does not require a Beit Din of three (nor a minyan for that matter), only the individual and an expert in hatarat nedarim. If the individual is an expert, s/he can abrogate his/her own vows through reciting Kol Nidrei. If they are not an expert, they can rely on the Sheliah Tzibbur reciting Kol Nidrei as their expert. All Shelihei Tzibbur are considered as experts while reciting Kol Nidrei at its appropriate time by virtue of the consent of the majority.

Rosh on b. Yoma 8:28

ומה שהקשה דבעיא שלשה הדיוטות הרי כל הקהל אומרים אותו איש איש בלחש וגם החזן הקהל מתירין אותו.

And what did he object that he inquired about three laypeople? Indeed, each individual in the congregation recites [Kol Nidrei] for himself, each in a whisper, including the Hazzan, and the congregation abrogates his vows.

Rabbi Eliezer ben Yoel Ha-Levi, the Ra'avya Yoma 528

וכלם מכוונים לדעת השליח ציבור כאילו אמרו בפירוש שבנו ונתחרטנו על הנדרים והננו נשאלין, והוא מתיר להם בהסכמת רבים, שאין יחיד מתיר אלא אם כן מומחה.

[The entire congregation] aligns their intentions with the Sheliah Tzibbur, as if they said explicitly “And we regret the vows [we have made],” and they are consulting (or asking permission) (about annulment of vows), and he releases them with the consent of the community because an individual cannot absolve vows unless he is an expert (mumhe).

In other words, the Sheliah Tzibbur is the individual judge, as the community appointed him/her as their abrogator.

Please note that this differs for Beit Din for a conversion, which it must meet in person for *kabbalat 'ol mitzvot*. See the [joint statement on conversion](#) by the CJLS and JBD)

6) Are sifrei Torah required for Kol Nidrei?

Answer: Traditional practice to have at least two sifrei Torah, but not necessary.

Arukh Hashulhan O.H. 619:6.

ונוהגים להוציא שנים או שלושה ספרי תורות, שעומדים סביבות שליח הציבור באמירת "כל נדרי".

It is customary to bring out two or three sifrei Torah, and to stand flanking the Sheliah Tzibbur during the recitation of “Kol Nidrei.”

7) Must two people stand with the Sheliah Tzibbur to form a Beit Din?

Answer: Two others must stand with the Sheliah Tzibbur according to Shulhan Arukh O.H. 619:4.

Shulhan Arukh O.H. 619:4

צריך להעמיד א' לימין שליח צבור וא' לשמאלו:

It is necessary for one to stand to the right of the Sheliah Tzibbur and one to the left.

If there will be two others who stand with the Sheliah Tzibbur, which is not obligatory, they should observe the appropriate physical distance from the Sheliah Tzibbur as health experts direct. If no public gathering is permitted, and the community allows for live streaming in accordance with Rabbi Joshua Heller's teshuvah, then the community should make an effort for the Sheliah Tzibbur and two others to be visible on the stream. If the community cannot show additional people, solely showing the Sheliah Tzibbur is sufficient.

8) Do sifrei Torah need to be present with the Sheliah Tzibbur, or can community members hold them in their private spaces and appear on the screen?

Answer: Because this is a custom, community members can hold the sifrei Torah on their screens if live streaming.

9) May a pre-recorded Kol Nidrei be used as part of the liturgy?

Answer: A recording by the current or past hazzanim of a congregation or the great cantorial interpreters of the past may be used for study but may not be used as part of live davenning.