

# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## SERIES 3: 62 - KOL NIDREI OU ISRAEL/BEIT KNESSET HANASI - FALL 2026

• Kol Nidrei is on of the best known and most moving 'prayers' in the Jewish liturgy<sup>1</sup> and yet it is not actually a prayer at all but a legal declaration. Although emotionally charged, it is little understood by many. In this shiur we will uncover some of its historical<sup>2</sup>, halachic, hashkafic and musical developments<sup>3</sup>.

### A] ORIGINS AND REFERENCES IN THE GEONIM

1. תפלת ערבית של ליל יום הכפורים .....

יש מי שעושין כך, כשעומד שליח צבור מתחיל ואומר. "כל נדרים ואיסורים ושבועות וקיומין וחרמין, שנדרנו ושאסרנו ושנשבענו ושקיימנו על נפשנו בשבועה, מיום הכפורים שעבר עד יום הכפורים הזה הבא עלינו, בכולם חזרנו ובאנו לפני אבינו שבשמים. אם נדר נדרנו אין כאן נדר, ואם שבועה נשבענו אין כאן שבועה, אם קיום קיימנו אין כאן קיום. בטל הנדר מעיקרו, בטלה השבועה מעיקרה, בטל הקיום מעיקרו. אין כאן לא נדר ולא איסור ולא חרם, ולא שבועה, ולא קיום. יש כאן מחילה וסליחה וכפרה. ככתוב בתורה (במדבר ט"ז) וְנִסַּלַח לְכָל-עֲדַת בְּנֵי יִשְׂרָאֵל וְלִגְדָּהּ הִנֵּה בְּתוֹכְכֶם כִּי לְכָל-הָעָם בְּשֹׁנְהָ. ואומר ברוך שהחיינו, לפי שאין כוס ביום הכפורים לאומר. אבל שגרו ממתיבתא הקדושה שמנהג שטות הוא זה ואסור לעשות כן.

סדר רב עמרם גאון (הרפנס) תפילת ערבית של ליל יום הכיפורים

*The first<sup>4</sup> mention<sup>5</sup> of a Kol Nidrei 'service' is not in the Talmud, but in the Siddur of Rav Amram Gaon, head of the Academy at Sura (c.880 CE)<sup>6</sup>. It begins in a similar manner to our contemporary version, although only relates to past, and not future vows. In the middle, the wording switches to something much more like our standard 'hatarat nedarim' declaration<sup>7</sup>. It then states that the position of the 'Mesivta' at Sura<sup>8</sup> is that Kol Nidrei is a 'minhag shtut'<sup>9</sup> - a foolish custom and should not be said<sup>10</sup>!*

1. Jewish philosopher Franz Rosenzweig (1886-1929), was prepared to leave the Jewish faith altogether in 1913. Before he took that fateful step, he attended services at a small synagogue in Berlin. After hearing Kol Nidrei, and the rest of the Yom Kippur prayers, he had a mystical experience that renewed his identity and set him on a course to renew and strengthen and deepen his faith and the faith of others through his writing and teaching. Other secularized Jewish intellectuals claiming to have been "converted" back to Judaism by Kol Nidrei include German poet Heinrich Heine, French writer Edmond Fleg and Theodor Herzl.
2. See *Kol Nidrei - Its Origin, Development and Significance*, Stuart Weinberg Gershon, Jason Aaronson 1994 and also *Od Al Tefilat Kol Nidrei BeKehilot Ashkenaz*, Yosi Grun, Hakira 34, pp27-53, available at <https://hakirah.org/Vol34Green.pdf>
3. See also <https://torah.org/torah-portion/weekly-halacha-5771-yomkippur/> by R. Doniel Neustadt from which some of the sources in this shiur were taken.
4. Scholars are divided on the very earliest origins of the Kol Nidrei formula. Some suggest that it originated in Eretz Yisrael before 650 CE as a Hebrew text called *Kol Nedarim*. This is evidenced by the Palestinian Aramaic used in some early nuschaot and also the Geonic rejection of the custom. Others assert that the Aramaic may have been imprecise usage by Babylonian communities. Also, there was a very strong Babylonian (Jewish and non-Jewish) tradition of magic bowls on which incantations were written to remove demons and curses. Some of the wording on these bowls resembles that of Kol Nidrei. For instance: "by this counterclaim do I disenchant and in the name of this True One annul all vows (*kol nidrei*) and curses and knocks and spells .... He who cancels (*miftan*) the vows (*nidrei*) of mankind and the decree of heaven, He will annul (*yabtil*) these vows (*nidrei*)." Cyrus Gordon, *Aramaic Incantation Bowls*, *Orientalia* 10 (1941) 341-342.
5. The Karaite, Sahl ben Maslia reported the existence of a form of Kol Nidrei in the ninth century. As we will see below, the Karaites were implacably opposed to Kol Nidrei.
6. One theory is that it commenced during and because of a period of extreme persecution, in which Jews were forced at sword's point to convert (either to Christianity or Islam) and that Kol Nidrei would restore the person's Jewish identity by nullifying the conversion in the eyes of the Jewish community. It seems from the reaction and reception of the Geonim (who were almost all strongly against the introduction of Kol Nidrei) that its origins lie outside Bavel. It may have been composed in Europe during the reign of Reccared I, a sixth-century Visigoth king of Spain who ordered the Jews to convert on pain of death. According to this theory, Kol Nidrei was a response to grief at having had to commit apostasy and Spanish Jews chanted it when they gathered secretly to observe Yom Kippur. They did the same later under the Byzantine persecution of the ninth century. See Idelsohn, Abraham Z., *Jewish Liturgy and its Development* (1932, NY, Henry Holt) pages 227-228. Kol Nidrei was also said to be a central prayer for the Marrano secret Jews in post-expulsion Spain and Portugal who recited it to declare that their vows to the church were null and void. This connection with the Marranos/Anusim is underscored by the introductory words to Kol Nidrei in which we declare that "it is lawful for us to pray with the *avayanim* (transgressors)." Introduced the Maharam of Rottenberg in the 13th century, this formula was used to affirm on Yom Kippur that it was lawful for the Jewish community to pray "alongside the transgressors" who had (at least visibly) abandoned Judaism.
7. Interestingly, this nusach is in Hebrew and not Aramaic. An alternative nusach of Kol Nidrei is recorded by the Shibolei Haleket (13th century, Italy), *Laws of Yom Kippur* #317 in the name of Rav Hai Gaon (who, like most of the other Geonim, was opposed to its recitation), which is in a mixture of Babylonian and Palestinian Aramaic. It reads "כל נדרי ואסרי וקנמי וחרמי ושבועי, דנדרנא ודאישבענא ודאחרמנא ודאסרנא על נפשנא, מיום צום הכיפורים שעבר עד יום צום כיפורים הזה. ועברנא עליהן בשלו או באונסא. ניבעי רחמי מן קדם מרי שמאי דלישרי לן דלישבוק לן. נדרנא לא נדר למחייב עליהן, איסרנא לא אסרי למחטא בהון, ושבוענא לא שבועי למילקי בדילהון. ככתוב ונסלח וגו'."
8. Some scholars have suggested that while the academy of Sura was strongly opposed to Kol Nidrei, the Geonim of Pumbedita were more open to it. Other scholars reject this and it is also contradicted explicitly by Rav Netrunai Gaon - see below.
9. The 'minhag shtut' accusation cannot be leveled specifically at the question of Shehechyanu since this is discussed explicitly in the Gemara (Eruvin 40b) which rules that Shehechyanu must be said on Rosh Hashana and Yom Kippur even though these are not the 3 Regalim.
10. See also Teshuvot Ha-Geonim, Sha'arei Teshuva 143.

2. ערבית נכנסין לבית הכנסת .... ומוציא ס"ת השליח ציבור ואוחזה בחיקו ואומר 'כל נדרי ואסרי וכו' די נדרנא ודי אשתבענא ודאחרמנא מ"ה שעבר עד י"ה הזה, שמכווין להתיר הנדרים והחרמות והשבועות אולי עברו עליהן, וכדי לינצל מן העונש ..... אבל רב נטרונאי כתב אין נוהגין לא בב' ישיבות ולא בשום מקום להתיר נדרים לא בר"ה ולא בי"ה. אלא שמענו שבשאר ארצות אומרים 'כל נדרי' אבל אנו לא ראינו ולא שמענו מאבותינו. דמה מועיל התרה למי שמתנה אחר נדרו שיהא בטל?! הלכך אין אנו סוברים ולא נוהגין לעשות כן. וכ"כ רב האי אין מתירין נדרים לא בר"ה ולא בי"ה ולא שמענו מרבותינו שהיו עושין כן כל עיקר. אף אתם החמירו כמוותינו ואל תשנו ממנהג הישיבות.' וכבר פשט המנהג בכל המקומות לאומרו.

טור אורח חיים הלכות יום הכיפורים סימן תריט

*The Tur (14th century) later records the minhag of Kol Nidrei but also notes the firm opposition of many of the Geonim to this practice. Notwithstanding that opposition, he also notes that the custom prevailed (for both Ashkenazim and Sefardim)!*

- What might be the reasons for such strong Geonic opposition to the custom of Kol Nidrei?

(i) It has no basis in the Talmud. On the contrary, Chazal make it clear that hatarat nedarim requires a formal procedure in front of a qualified Rav or a court of 3 knowledgeable laymen. Simply making a declaration to oneself in shul, or through the shaliach tzibur does not satisfy the halachic requirements for hatarat nedarim<sup>11</sup>.

(ii) There was a serious concern that the option of Kol Nidrei might cause people to treat their vows and word lightly in the knowledge that they would be able to annul it on the coming Yom Kippur. They would therefore become liable for the Torah prohibition against breaking oaths. This is already expressed by Rava in the Talmud (see below) and the Geonim.

(iii) Many objected to the past tense of the original formulation which annuls oath from the previous year. In halacha, one cannot retroactively erase an oath that was knowingly broken. This requires teshuva and mechila from the wronged party, not a legal 'shortcut'. We will see below that this led Rashi to change the wording to a future orientation.

(iv) Even if Kol Nidrei worked for vows in ritual matters between man and God, it would not work for interpersonal obligations such as financial debts, loans, contracts or promises. To annul these requires the agreement of the beneficiary.



- Interestingly, some of the Geonim had other more general concerns with the halachic mechanism of hatarat nedarim in public.

3.

### סליק פירקא וסליק מסכת נדרים בסייעתא דשמיא בריך רחמנא דסייען אמן

מר רב יהודאי ז"ל החמיר ואמר אין בנו מי שיודע להתיר נדרים ושבועות ואין בנו לשון סרפא ומשני מר רב יהודאי לא נשנית נדרים בישיבת הגאונים שאחרינו נמנעו מלהתיר נדרים אלא לדבר מצוה כגון שימת שלום בין איש לאשתו וכעין ארבעה נדרים שיקרא כאילו נדר טעות ולא בהרפא ודוקא בתורת חכם

ר"ף בסוף מסכת נדרים

*After his commentary on Mesechet Nedarim, the Rif adds an addendum saying that Mar Rav Yehudai Gaon<sup>12</sup> and Geonim after him were machmir not to permit hatarat nedarim other than in exceptional situations for shalom bayit, and he even stopped teaching Mesechet Nedarim in the Yeshiva<sup>13</sup>!*

11. In fact some poskim understood that Kol Nidrei could work halachically for retrospective hatarat nedarim. The Ra'avya (Yoma 528) (12/13th century Germany) insists that Kol Nidrei does work to annul past vows, and the entire congregation "aligns their intentions with the shaliach tzibbur's, as if they said explicitly 'and we regret the vows we have made, and we request annulment,' and he releases them with the consent of the community, as an individual cannot absolve vows unless he is an expert (mumche)." In other words, with the consent of the community, the chazan serves as an individual judge, empowered to annul vows and oaths.
12. 8th century Babylonian scholar Pirqoi b. Baboi wrote a strong polemic letter (c. 812 CE) to the communities of North Africa defending the Babylonian mesora and critiquing that of Eretz Yisrael which he felt had been corrupted due to intense persecution and associated breakdown of accurate transmission. This includes a discussion of the practice of annulling vows. He reports that a group of people came to R. Yehudai Gaon (757-61 C.E.), requesting that he release them from their vows and oaths. The Gaon refused to do so, telling them, "Go fulfill your oaths and pay your vows." When asked his opinion of "those who release vows and oaths on the eve of Rosh Hashana and the eve of Yom Kippur, the Gaon replied that such people "utter falsehoods and make themselves a laughing-stock in the Academy (Sura), since no one in the world does that not even the *amei ha'aretz*". See *Kol Nidrei: Past, Present and Future*, Richard C Steiner. JSIJ 12 (2013) 1-46.
13. It is not clear what the specific issue was concerning nedarim. A number of suggestions have been made: (i) The Geonim may have been concerned about a generally laxity by people in keeping oaths which they felt could be easily set aside by hatarat nedarim, as we see from Rava's comments in the Gemara (Nedarim 23b below); (ii) Was there pressure from the negativity of the Karaites? (Often such pressure engendered an opposite reaction!); (iii) Some scholars have suggested that the negativity stems from a reaction against the widespread use of vows and oaths in magic. See above concerning widespread Babylonian use of magic bowls against demons, bearing incantations including the words 'kol nidrei'.

4. רב הונא בר חנינא סבר למידרשיה בפירקא, אמר ליה רבא: תנא קא מסתים לה סתומי כדי שלא ינהגו קלות ראש בנדרי, ואת דרשת ליה בפירקא?<sup>14</sup>

נדריס כג:

Concern about widespread awareness of hatarat nedarim is in fact found in the Gemara. When Rav Huna bar Chinana proposed to teach publicly a specific leniency in nedarim<sup>14</sup>, Rava criticized him on the basis that people would become less particular about keeping their vows. This may be the reason that the Torah itself never mentions the concept of hatarat nedarim.

5. רבינו האי ז"ל השיב על אותם האומרים דהתרת נדרים ושבעות, שיעמוד אדם בראש השנה ויאמר 'כל נדר שאני עתיד לידור כל השנה הרי הוא בטל ובלבד שיהא זכור בשעת הנדר' וכו'. אמר ח"ו שאין לנו להתנהג בכך .... ואין מפרין לא בראש השנה ולא ביום כ"ו. ולא שמענו מרבתינו ז"ל שיהיו נוהגים מנהג זה כל עיקר ואל תתנהגו גם אתם במנהג זה .... וכי דבר קל הוא בעיניכם לחטוא אדם בענין נדרים ושבעות ויעשה זה בר"ה קודם או ביום כ"ו ויכפר לו? ח"ו! כִּי לֹא אֶל חֶפְזָךְ הָשַׁע הוּא וְלֹא יגור עמו רע (ע"י תהלים ה:ה). אלו יהיו יודעים בני אדם ענין נדר וענין שבעה לא יהיו מערימים עליהם כלל. .... לכן אתם החמירו כמותינו ואל תשנו ממנהג הישיבות.

תשובות הגאונים - שערי תשובה סימן לח

Although a version of Kol Nidrei is recorded in the name of Rav Hai Gaon, in fact he strongly argues against it<sup>15</sup>, or indeed any kind of hatarat nedarim before Rosh Hashana or Yom Kippur. He sees it as a dangerous legal fiction - ha'arama - which is likely to cause people to become lax in keeping their word.

6. בתשובות הגאונים זצ"ל מצאתי רוב הגאונים מוחין לומר כל נדרי לפי שאין בו שום תקנה רק רע!

ספר שבלי הלקט סדר יום הכיפורים סימן שז

The Shibolei HaLeket (13th century Italy) records that most of the Geonim were opposed to Kol Nidrei, which has no redeeming features - only bad!

- The Geonic custom of NOT saying Kol Nidrei was maintained in a many communities, particularly in Provence, Catalonia and Algeria.

7. והאי מנהגא דקא עבדי בהני דוכתי לאפוקי ס"ת ולומר כל נדרי חזינן לרבוותא דאמרי דהאי מנהגא לית ליה עיקר וטעותא הוא. וטובא מרבוותא דמבטלי ליה בדוכתייהו דלא למימר יתיה כלל. ולא עוד אלא שרוב עמי הארץ טועין בכך וסבירא להו שכל נדרים וחרמות שעליהן בטלין בכך ונוהגין קלות ראש בחרמות ובנדרי. .... וכן אמר רב סעדיה גאון ז"ל אלא שאומר בסוף דבריו וכי תקון רבנן לומר כל נדרי זהו לעדה בשגגה ואסרו אסר על נפשם בבית הכנסת כגון נדרי אונסין ושגגת צבור כדכתיב (ויקרא ד:יג) וְאִם כָּל עַדְתְּ יִשְׂרָאֵל יִשְׁגֹּגוּ. אבל מי שנשבע כל השנה להתיר שבעות ולבטלה, לא.

ספר כלבו סימן סח

The Kol Bo (14th century France/Spain) considers Kol Nidrei to be a mistake and notes that many poskim tried to have it stopped in their communities<sup>16</sup> since it encouraged people to be less careful with their vows. He also records Rav Sa'adia Gaon as stating that Kol Nidrei was only ever introduced to deal with vows extorted from the community in times of persecution and certainly not to address vows made by individuals.

8. .... ונראה שמה שאומרים קִלְתָּ קְהִלְתָּ זי"כ כ' כל נדרי ואסרי' וכו' לדבר זה הם מתכוונים לבטל נדרים שידרו לאחר מכן .... ואין ראוי לומר כן כדי שלא יקלו ראשם בנדרי.

הר"ן נדריס כג:

The Ran (14th century Spain) states that, in his experience, only a 'few communities' actually say Kol Nidrei and recommends not to say it at all!

9. .... ומ"מ .... טוב שלא לאמרו כלל כדי שלא יקלו ראשם בנדרי. דהא תנא מסתם לה סתומי, כדאיתא התם. ובכל קטלוגיא אין אומרים אותו .... ואי ישר חילך ותצטליני לגמרי יודוך כל חכמי הארץ!

שר"ת הריב"ש סימן שצד

The Ran's student, the Rivash (14th century Spain) advises against saying Kol Nidrei and notes that it was not said in Catalonia and states that would be delighted if someone had the rabbinic authority to abolish it entirely!

14. This is discussed below concerning *mesirut moda'a* and the possibility of declaring at the beginning of the year that certain vows made in the following year will not be binding.

15. Some scholars suggest that the recommended text of Kol Nidrei is by the famous Hai ben Sherira, who ultimately yielded to public demand and included Kol Nidrei, notwithstanding the opposition of previous Geonim, but the clear rejection of Kol Nidrei in this source is by a different and earlier R. Hai Gaon - Hai bar Nachshon (Gaon of Sura from 885-896).

16. Other poskim who were against the reciting of Kol Nidrei include the Sefer Hachinukh (R. Yehuda ben Barzillai, 12th century, Spain), Rabbeinu Yerucham, Ritva and Rivash - see below.

10. חלל ודאי שורש מנהגיו אינו יולא מן הלכה זו ..... ואנשי כנסת הגדולה תקנו לנו להסיר מן המכשול. כי כמה בני אדם יש שגוררים ושוכחים הנדר ואין צאים לפני חכם להחיר ועוצרין על נדרן בשוגג. ותיקנו שזחלת יום הכיפורים צפתיחת תפילותיהם יתוודו ויתחרטו מנדריהם כדי שלא ישכחו הדבר. ....

שיטה מקובצת נדרים כג:

However, the Shita Mekubetzet<sup>17</sup> defends the custom of Kol Nidrei to the points that he claims it was imitated by the Anshei Keneset HaGedola in the Second Temple Period!<sup>18</sup>

## B] THE IMPORTANCE OF KEEPING NEDARIM

11. איש כי ידבר נדר לה' אלהי שבע שבועה לאסור אסר על-נפשו לא יחל דברו ככל-היצא מפיו יעשה:

במדבר לג

The Torah instructs us not to break a vow (neder) or oath (shevua)<sup>19</sup> that we expressed. Our word must not be treated as 'chol'<sup>20</sup> but should be seen as 'kodesh'.

12. (כב) כִּי־תִדְרֹךְ נִדְרֶךָ לֵאמֹר אֶלְקִידָא לֹא תֵאָחֵז לְשִׁלְמוֹ כִּי־דָרַשׁ יְדִרְשֵׁנוּ ה' אֱלֹקֶיךָ מַעֲמֹד וְהָיָה בָךְ חֹטֵא: (כג) וְכִי תִחַלְדַּל לְנִדְרֶךָ לֹא־יִהְיֶה בָךְ חֹטֵא: (כד) מוֹצֵא שְׁפָתֶיךָ תִּשְׁמֹר וְעֲשִׂיתָ בְּאִשְׁרֵי נִדְרֶךָ לֵאמֹר אֶלְקִידָא נִדְבָה אֲשֶׁר דִּבַּרְתָּ בְּפִי: ס

דברים פרק כג

The Torah encourages us not to make any kinds of oath<sup>21</sup> at all!

13. .... משך הימנו פירות ולא נתן לו מעות אינו יכול לחזור בו. נתן לו מעות ולא משך הימנו פירות יכול לחזור בו. אבל אמרו 'מי שפרע מאנשי דור המבול ומדור הפלגה הוא עתיד להפרע ממנו שמינו עומד בדבור'.

משנה בבא מציעא ד:ב

The Mishna singles out those who do not keep their word as being subject to a 'Mi Shepara' - that they should be punished like the generations of the Flood and the Dispersal.

14. תנאי רבי נתן אומר: בעון נדרים מתה אשה של אדם, שנאמר (משלי כב:כו): אם אין לך לשלם למה יקח משפךך מתחתידך. רבי אומר: בעון נדרים בנים מתים קטנים, שנאמר (קהלת ה:ד-ה): [טוב אשר לא תדור משתדור ולא תשלם]. אל תתן את פיקך לחטיא את בשרך ואל תאמר לפני המלאך כי שגגה היא למה יקצוף האלהים על קולך וחבל את מעשה ידיך. איזה הן מעשה ידיך של אדם? הוי אומר בניו ובנותיו של אדם.

שבת לב:

The Gemara speaks in many places<sup>22</sup> about the extreme seriousness of violation oaths and the consequences c.v. to one's family.

15. מִוֶּת וְחַיִּים בִּיד־לִשְׁוֹן וְאֶהְיֶה לְאִכָּל פְּרִיָּה: (רש"י - אורבז את לשונו ומרגיל לתורה ...)

משלי יח:א

Mishlei emphasizes that the misuse of our tongue can bring death c.v., but this does not mean that a person should stop speaking! If a person likes to talk, they should get used to speaking about Torah!

17. R. Betzalel Ashkenazi, 16th century Egypt and Eretz Yisrael.

18. It seems unlikely that he meant this literally since the custom is not mentioned at all in the Talmud. But he clearly feels that it is of ancient provenance. There is even evidence that some communities made a beracha with Shem U'Malchut on hatarat nedarim - see *Kol Nidrei*, Gershon p34.

19. There are a number of differences between a neder and a shevua. These include:

(i) A neder creates a prohibition on an object (*cheftza*). If one says "this loaf is forbidden to me like a korban," the loaf itself becomes forbidden. A shevua creates an obligation on the person (*gavra*). If one swears "I will not eat this loaf," one is binding themselves, not the loaf. See Rambam (Hilchot Nedarim 1:1-2) and Ramban.

(ii) Nedarim are usually restrictive in form, even when their content pushes toward an action (e.g., "korban that I will eat this" - technically the object, i.e. eating, becomes forbidden if one does not). A shevua can go either way: one can swear to do something (shevua bituy - e.g., "I will eat this") or to refrain from something (e.g., "I will not eat this").

(iii) A neder can be formulated in a way that also forbids an object to others ("this produce is forbidden to Reuven"), because it attaches to the cheftza. A shevua only ever binds the person who swore; it cannot obligate or restrict another person, since it operates on the gavra.

(iv) A neder requires language of hekdesch or invoking a forbidden item as the model of prohibition ("like a korban", "like the flesh of a shelamim" etc.) or at minimum a clear kinuy (substitute term) for such. A shevua requires an oath formula - invoking God's name or a recognized kinuy for an oath ("I swear", "like the oath of so-and-so").

20. Note the remez to Elul in the final letters of the words.

21. Hence the encouragement to say 'bli neder' before committing to certain things. There are at least 6 ways in which our statements or actions can become halachically binding: (i) Nedarim - vows; (ii) Shevuot - oaths; (iii) Kabbalat mitzva - declaring that one will perform a 'good deed' (iv) Pledges to tzedaka - intending to donate charity; (v) Stringencies - performing a halachic chumra; (vi) Performing an action three times.

22. See also Yevamot 109b; Nedarim 20a, 22b; Yavikra Rabba 37:1; Kohelet Rabba 5:2; Tanchuma, Matot 1.

## C] HATARAT NEDARIM

16. הַתֵּר נְדָרִים פּוֹרְחִין בְּאֹוִיר, וְאֵין לָהֶם עַל מָה שְׁיִסְמְכוּ. הַלְכוֹת שֶׁבֵּת, חֲגִיגוֹת וְהַמְעִילוֹת, הָרִי הֵם בְּהִרְרִים הַתְּלוּיִן בְּשַׁעְרָה, שֶׁהֵן מִקְרָא מֵעֵט וְהַלְכוֹת מִרְבוֹת. הַדִּינִין וְהַעֲבֻדוֹת, הַטְּהוֹרוֹת וְהַטְּמְאוֹת וְעֲרִיּוֹת, יֵשׁ לָהֶן עַל מָה שְׁיִסְמְכוּ. הֵן הֵן גּוֹפֵי תוֹרָה:

משנה חגיגה א:ח

*Hatarat Nedarim by a Chacham is not mentioned in the Torah, unlike Hafarat Nedarim by a husband or father which is explicitly stated (in Bamidbar chapter 30<sup>23</sup>). However, Hatarat Nedarim is an ancient element of the Oral Law, as set out in the Mishna.*

17. אִם מִי שֶׁנִּשְׁבַּע שְׁבוּעַת בְּטוֹי וְנָחַם עַל שְׁבוּעָתוֹ, וְרָאָה שֶׁהוּא מִצְטָעֵר אִם יִקְרָא שְׁבוּעָה זֹאת, וְנִהְפָּכָה דַּעְתּוֹ לְדַעַת אַחֲרֵת, אוֹ שֶׁנִּלְדָּ לוֹ דָּבָר שֶׁלֹּא הָיָה בְּדַעְתּוֹ בְּשַׁעַת הַשְׁבוּעָה, וְנָחַם בְּגִלְלוֹ - הָרִי זֶה נִשְׁאָל לְחֹכֶם אֶחָד, אוֹ לְשִׁלּוּשָׁה הַדִּיּוֹטוֹת בְּמִקּוֹם שֶׁאֵין שָׁם חֹכֶם, וּמַתִּירִין לוֹ שְׁבוּעָתוֹ. וְיִהְיֶה מִתֵּר לַעֲשׂוֹת דָּבָר שֶׁנִּשְׁבַּע שֶׁלֹּא לַעֲשׂוֹת, אוֹ שֶׁלֹּא לַעֲשׂוֹת דָּבָר שֶׁנִּשְׁבַּע לַעֲשׂוֹת. וְזֶה הוּא הַנִּקְרָא 'הַתֵּר שְׁבוּעוֹת'

ב וְדָבָר זֶה אֵין לוֹ עֵינֶקֶר כָּלֵל בְּתוֹרָה שֶׁבִּכְתָּב. אֲלֵא כִּן לְמַדּוֹ מִמִּנְשָׁה רַבֵּנוּ מִפִּי הַקְּבֵלָה, שֶׁזֶה שְׁכָתוֹב (במדבר ל, ג) לֹא יִחַל דְּבָרוֹ - שֶׁלֹּא יִחַל הוּא בַּעֲצָמוֹ דֶּרֶךְ קְלוֹת רֹאשׁ בְּשִׁאֵט בְּנֶפֶשׁ, כַּעֲנִין שֶׁנֶּאֱמַר (ויקרא יט:ב) וְחִלַּלְתָּ אֶת שֵׁם אֱלֹהֶיךָ. אֲבָל אִם נָחַם וְחִזֵּר בּוֹ, חֹכֶם מַתִּיר לוֹ.

ג וְאֵין אָדָם יָכוֹל לְהַתִּיר שְׁבוּעַת עֲצָמוֹ. וְאֵין אָדָם רֹשֵׁאי לְהַתִּיר שְׁבוּעָה אוֹ נֶדֶר בְּמִקּוֹם שֶׁיֵּשׁ בּוֹ גְּדוֹל מִמֶּנּוּ בְּחֻמָּה. וּבְמִקּוֹם שֶׁיֵּשׁ בּוֹ רֶבּוֹ, אֲסוּר לוֹ לְהַתִּיר אֲלֵא מִדַּעַת רַבּוֹ. ....

ד זֶה שֶׁנִּשְׁבַּע הוּא שֶׁיִּבְּאוּ לִפְנֵי הַחֹכֶם לְהַתִּיר לוֹ, בֵּין אִישׁ בֵּין אִשָּׁה. וְאֵינוֹ עוֹשֶׂה שְׁלִיחַ לְהַשְׁאֵל לוֹ עַל נֶדְרוֹ. וְהַבֶּעַל נֶעֱשֶׂה שְׁלִיחַ לְחִרְטוֹת אִשְׁתּוֹ, וּמַתִּירִין לָהּ, ....

ה כִּיצַד מַתִּירִין? יָבֹאוּ הַנִּשְׁבַּע לְחֹכֶם הַמְּבָהֵק, אוֹ לְשִׁלּוּשָׁה הַדִּיּוֹטוֹת אִם אֵין שָׁם מְמַחֶה, וְאוֹמֵר 'אֲנִי נִשְׁבַּעְתִּי עַל כֵּן וְכָךְ, וְנִחַמְתִּי, וְאֵלּוֹ הֵייתִי יוֹדֵעַ שֶׁאֲנִי מִצְטָעֵר בְּדָבָר זֶה עַד כֹּה אוֹ שֶׁיִּצְרַע לִי כֵּן וְכָךְ, לֹא הֵייתִי נִשְׁבַּע, וְאֵלּוֹ הֵייתִי דַּעְתִּי בַּעַת הַשְׁבוּעָה כְּמוֹ עֵתָה לֹא הֵייתִי נִשְׁבַּע. וְהַחֹכֶם אוֹ גְּדוֹל הַשְׁלֹשָׁה אוֹמֵר לוֹ 'וְכָכָה נִחַמְתִּי', וְהוּא אוֹמֵר 'הֵן'. חוֹזֵר וְאוֹמֵר 'שְׂרִי לָךְ', אוֹ 'מִתֵּר לָךְ', אוֹ 'מַחֲוִיל לָךְ', וְכֵן כָּל כַּיּוֹצֵא בַּעֲנִין זֶה בְּכָל לְשׁוֹן. ....

רמבם משנה תורה הלכות שבועות פרק ו

*The Rambam lays out the basic parameters of Hatarat Nedarim.*

- Due to the importance of keeping oaths and the severe punishment for breaking them, it was understandable that people would seek out a chacham before Rosh Hashana to have their personal and specific oaths annulled so as not to take that burden into the Yemei HaDin. As such the annulment is retrospective and relates to prior vows during the previous year.<sup>24</sup>
- For those people who were not able to do this Kol Nidrei emerged as a 'bedieved' ceremony in which people could express their nedarim 'in front' of the 'beit din' comprised of the Chazan and the two people standing by him. On that basis, the wording of Kol Nidrei is retrospective - focusing on oaths we may have made over the last year.
- Nevertheless, this fails to satisfy many of the halachic requirements for a true hatara - the oath is not specified, no attempt is made to establish if there really is 'charata', and the 'beit din' cannot even hear the declaration by the individual people. Nevertheless, the minhag of many communities is for the individuals to say Kol Nidrei along with the Chazan.
- Due to the halachic problems with Kol Nidrei, a custom arose, probably around 400 years ago<sup>25</sup>, for men to say hatarat nedarim on Erev Rosh Hashana in a more 'halachic' manner - in front of a panel of 3 people. However, there is still no specific mention of any particular neder. Indeed, the wording of the declaration specifically says that it is impossible to specify the nedarim because there are so many! Therefore, this too is not a full halachic annulment, but more of a means of repentance for the sin of breaking a neder and also a prospective mesirut moda'a - see below.

23. Hafarat Nedarim relates only to vows by unmarried daughters and wives which can be released by their father/husband on the day they hear of them. Chazal emphasize a major legal distinction between Hafarat Nedarim, which simply released the vow from that point on, but does not annul it retroactively, and Hatarat Nedarim which annul the vow ab initio. A number of important practical differences flow from this conceptual distinction.

24. See Rosh Yoma 8:28. The Rosh also proves that Kol Nidrei relates to vows of the previous year from the fact that it is recited three times, just as a Chacham declares "mutar lach" three times when he annuls one's Neder. He cites further proof from the fact that it is followed by the recitation of the verse, "v'nislach lekol adat Bnei Yisrael...", which implies a pardon of the transgressions of the past.

The Rosh questions, however, how nedarim may be annulled in such a manner. The annulment of Nedarim requires a Beit Din of three men. Moreover, it requires a petach (grounds for regret for having made the neder)! The Rosh answers that since everyone recites "Kol Nidrei" quietly with the Chazan, they all serve as a Beit Din of three men (*hedyotoh*) to annul each other's nedarim. It is not necessary to find a petach because it is assumed that everyone regrets (*charata*) the nedarim which he made.

25. It is not explicitly mentioned in the Shulchan Aruch but appears in the Shela (beginning of 'Mesechet' Yoma), which is early 17th century, See also Chayei Adam, Part 2-3, 138:8.

**D] TOSAFOT'S CHANGE TO KOL NIDREI - MESIRUT MODA'A**

- Unlikely the position of most Sefardic poskim, the Ashkenazim fundamentally accepted the Kol Nidrei formula in principle, but they were opposed to its retrospective formulation.

18. הרוצה שלא יתקיימו נדריו כל השנה, יעמוד בראש השנה ויאמר 'כל נדר שאני עתיד לידור יהא בטל' .... ובלבד שלא יהא זכור בשעת הנדר.

נדרים כג:

*The Gemara gives another option for the prospective annulment of vows. This is known as 'mesirut moda'a' and requires a person to state on Rosh Hashana that all vows they make over the following year will be considered void. But this only works if they do not remember that condition at the time they make a future vow.*

19. כל נדרי דאמרין בלילי יום הכפורים הגיה אבא מרי זצ"ל 'מיום כפורים זה עד יום כפורים הבא עלינו לטובה, כולהון דאחרטא בהו'. וכן עיקר. והאומר מיום כפורים שעבר עד יום כפורים הבא עלינו לטובה כולהון איחרטא בהון אינו אלא טועה. שאי אפשר להתיר את עצמו ובלא חרטה דמעיקרא, ובלא יחיד מומחה או ג' הדיוטות. .... והכי נהגין אלא 'מיום כפורים זה עד יום כפורים הבא עלינו לטובה' עיקר. וסמך לדבר דאמרין בד' נדרים הרוצה שלא יתקיימו נדריו של השנה כולה יעמוד בראש השנה ויאמר כל נדרים שאני עתיד לנדור יהו בטלים. ....

ספר הישר לר"ת (חלק החדשים) סימן ק

*In Sefer haYashar, Rabbeinu Tam cites his father, R. Meir ben Shmuel<sup>26</sup> who challenged the original wording of Kol Nidrei on the grounds that; (i) there is no established charata; (ii) it is not said before a Chacham or beit din; (iii) the vows being annulled are not specified; and (iv) a person cannot annul their own vow. He proposed instead that the wording of Kol Nidrei be change to be prospective - we annul all vows we make in the coming year.*

20. .... ואף על גב דעומד אדם בר"ה תנן ואנן ציוכ"כ עבדינן אשכחן יוכ"כ דאקרי ר"ה כדכתיב ציחזקאל .... ועוד שהוא כמון לר"ה. ולכך תקנוכו ציוכ"כ לומר טפי משום דיוכ"כ בטל מכל מלאכות ואיכא כנופיה טובא.

תוספות נדרים כג: ד"ה ואת דרשת

*This position is also brought in Tosafot to Nedarim 23b, together with a justification for doing Kol Nidrei on Yom Kippur, rather than on Rosh Hashana, as suggested in the Gemara.*

- This change of Tosafot was not widely accepted among Ashkenazim until the 17th century and was never accepted by the Spanish-Portuguese community.
- One of the problems with this pivot to a future focus is that the Aramaic wording of Kol Nidrei contained verbs in the past tense - 'that we vowed, swore, consecrated or prohibited'. A number of ways have been suggested<sup>27</sup> to address this:
  - some have suggested spelling changes to move the verbs into the future tense, for instance or even wording changes, for instance די עתידין אנחנא למדר ולקיומי ולמיסר. However, these have been rejected in practice, perhaps because they don't fit with the tune!<sup>28</sup>
  - others have suggested more subtle changes in vocalization which do not change the spelling and scan of the words, for instance to replace the sheva or chataf patach with a kamatz, which changes the verb to the future tense - דנדרנא ודאסרנא. The words אחרמנא and אשתיבענא are replaced respectively with מחרמנא and משתיבענא.<sup>29</sup>
  - others have chosen to keep the original traditional Aramaic (in the past tense) but translate it incorrectly in the future tense<sup>30</sup>.

21. הרי אני מוסר מנדע לנפיקם .....

נוסח התרת נדרים

*Our Erev Rosh Hashana Hatarat Nedarim text expresses itself explicitly as a Mesirut Moda'a.*

26. In fact, this position was held by a broader group of Rashi's family, including Rabbeinu Tam's brother, Rashbam, and also by Rashi himself (quoted by the Likutei ha-Pardes, one of Rashi's students, as being the actual practice of Rashi). However, Rabbeinu Tam made the push to change the text and pivot it to the future and it became known as his innovation. The final 'new' version was completed by the Maharam of Rottenberg, last of the Ba'alei haTosafot.

27. See Steiner for a very detailed analysis of the options, and their grammatical effect, and the many traditional commentators who raised this issue and made suggestions.

28. See the Levush below, who states this explicitly.

29. Steiner suggests that an accurate prospective Aramaic version may have been used by Rashi, but has been lost. He also suggests that, by the period of the Acharonim, most commentators no longer grasped the very technical and subtle implication of Aramaic grammar in the way that Rashi and his school had. Concerning Rashi's family, he writes: "The level of sophistication is so high that it would be almost unimaginable outside of Rashi's family—a family that produced commentaries on the Bible (Rashi, Rashbam, and Rabbeinu Tam), commentaries and *tosafot* on the Talmud (Rashi, Rashbam, and Rabbeinu Tam), Aramaic poetry (Rabbeinu Tam), halakhic responsa (Rashi and Rabbeinu Tam), and a treatise on Hebrew grammar (Rashbam)."

30. This is the position of the Taz (see OC 619:2) and the Magen Avraham and is the approach of Artscroll, who include a footnote saying that the traditional words have been retained but the (incorrect) translation has been changed to fit with Rabbeinu Tam's emendation.

**E] NUSCHAOT OF KOL NIDREI TODAY**

- There are now three different versions of the text<sup>31</sup> of Kol Nidrei:<sup>32</sup>
  - (i) one refers to the past year's declarations, which means it is purporting to act like hatarat nedarim;
  - (ii) one refers to the coming year's declarations, which means that it is a mesirut moda'a; and
  - (iii) one refers to both the past and the future years, which means that it is trying to accomplish both.

22. כל נדרי ואסרי ושבועי, וחרמי וקונמי, וקנוסי וכנויי, דנדרנא ודאשתבענא ודאחרמנא על נפשנא. ומיום כפורים זה עד יום כפורים הבא עלינו לטובה. בכלהון אחרטנא בהון. בלהון יהון שרון, שביקין, שביתין, בטלן ומבטלן, לא שרירין, ולא קימין. נדרנא לא נדרי, ואסרנא לא אסרי, ושבויעתנא לא שבויעות.

כל נדרי - נוסח אשכנז

The standard 'old' Ashkenaz nusach follows Rabbeinu Tam and is prospective - from this Yom Kippur to next<sup>33</sup>. This is also the nusach used by Chabad.

23. כל נדרי ואסרי ושבועי, וחרמי וקונמי, וקנוסי וכנויי, דנדרנא ודאשתבענא ודאחרמנא [ודאסרנא] על נפשנא. מיום כפורים [שעבר עד יום כפורים זה, ומיום כפורים] זה עד יום כפורים הבא עלינו לטובה. בכלהון אחרטנא בהון. בלהון יהון שרון, שביקין, שביתין, בטלן ומבטלן, לא שרירין, ולא קימין. נדרנא לא נדרי, ואסרנא לא אסרי, ושבויעתנא לא שבויעות.

כל נדרי - נוסח אשכנז

All vows, and prohibitions, and oaths, and consecrations, and *konamei* and *kinusei* and synonymous terms, that we may vow, or swear, or consecrate, or prohibit upon ourselves, [from the previous Day of Atonement until this Day of Atonement and] from this Day of Atonement until the next Day of Atonement that will come for our benefit. Regarding all of them, we repudiate them. All of them are undone, abandoned, cancelled, null and void, not in force, and not in effect. Our vows are no longer vows, and our prohibitions are no longer prohibitions, and our oaths are no longer oaths.

The Artscroll machzor has the prospective nusach as the basic one and adds in the retrospective - from last Yom Kippur to this one - for those people who wish to say both<sup>34</sup>.

24. כל נדרי ואסרי ושבועי וחרמי וקונמי וקנוסי וכנויי, דנדרנא ודאשתבענא ודאחרמנא ודאסרנא על נפשנא, מיום כפורים שעבר עד יום כפורים זה הבא עלינו לטובה. בכלהון אחרטנא בהון. בלהון יהון שרון, שביקין, שביתין, בטלן ומבטלן, לא שרירין ולא קימין. נדרנא לא נדרי, ואסרנא לא אסרי, ושבויעתנא לא שבויעות.

כל נדרי - נוסח עדות המזרח

The old Eidot Hamizrach nusach is ONLY retrospective. However many contemporary Eidot Hamizrach machzor now have BOTH retrospective and the prospective versions.

- The Romaniote and Italian nusach retains the original wording in Hebrew of Rav Amram Gaon (see above).
- Some communities sing both versions - starting with the 'old' (now Sefardic) retrospective version for the first two recitations of Kol Nidrei and then switching to the 'new' (Ashkenazi) prospective version for the third and final recitation.

25. וא"כ רוב נוסח של כל נדרי אשר נדפס במחזורים אין בו ממש, ואין לו שום פירוש אלא הניגון בלבד. ואינם יודעים ואינם מבינים מה אומרים. ואם אישיר חילי אתקננה. וכמה פעמים רציתי לתקנו וללמדו לחזנים כהוגן ולא היו יכולים לשנות צעת תפלתם מפני הרגל הניגון שצפיהם. על כן אומר אני הרולה לדקדק יאמרנו לבדו צחשאי וכאשר תקנתי ולא יסמוך על הש"ץ לומר אחריו מלה צמלה. כי ודאי נוסח של טעות הוא מה שאומרים ואינו תנאי לא לש"ץ ולא לקהל רק לפזן דברים צעלמא כמו העופות שמנפלין ואין צהם דיבור, נ"ל.

לבוש אורח חיים סימן תריט סעיף א

The Levush (16th century, Poland) expresses his frustration in trying unsuccessfully to change the nusach to a more correct (prospective) version. But the chazanim and the community were so fixated on the tune (was it our tune?) that they refused to change to words which did not fit the music. As such, the Levush regards most Kol Nidrei services at best as 'mood setters' ('the chirping of birds') and ineffective halachically. He recommends that people read the correct version to themselves rather than follow the chazan.

31. All of these versions are, to a large degree, based on the nusach cited by Rav Hai Gaon, being in Aramaic, listing the types of vows as in that nusach, and largely using the same verbs. But they also incorporate some of the 'nullification' rubric of the nusach cited by Rav Amram Gaon. For a more specific analysis, see *Kol Nidrei*, Gershon pp. 35-38.

32. See the Jewish Encyclopedia on 'Kol Nidrei' for accounts of the severe resistance in some communities to making changes to Kol Nidrei - [https://en.wikisource.org/wiki/Jewish\\_Encyclopedia/Kol\\_Nidrei](https://en.wikisource.org/wiki/Jewish_Encyclopedia/Kol_Nidrei).

33. This is the text in all of the 'older' machzorim I looked at, such as Birnbaum, Routledge and Schlesinger.

34. This 'compromise text' was introduced by the Radvaz (4:33) and later adopted by R. Yaakov Emden (She'elat Yaavetz 145) and other poskim. See also Kaf ha-Chayim 619:17 who supports this version and quotes other poskim who use it, including (with a slight variation) the kabbalists of Bet El.

26. .... ונוהגין אנו כר"ת. ולפי"ז ז"ל ידי נדירנא דמישתעבנא' לשון עתיד. והמ"א מסיק דאפילו לדעת ר"ת ג"כ יכול לומר בתיבה אחת נדירנא דלשון זה גם להבא משמע. והקהל יאמרו עם הש"ץ בלחש דאין תנאי הש"ץ מועיל לליצור.

משנה ברורה סימן תריס"ק ב

The Mishna Berura rules that the Ashkenazi minhag is like Rabbeinu Tam - that Kol Nidrei is a mesirut moda'a for the future. As such, he rules that it MUST be said individually together with the chazan since a mesirut moda'a must be made by the individual. If Kol Nidrei were a form a hatarat nedarim, it could simply be said by the Chazan (with two others standing around him as the 'Beit Din') as a form of 'mutar lach' (three times).

- So, other than as a prayer for forgiveness for breach of past nedarim, and an emotionally moving way to begin the awesome day of Yom Kippur, does Kol Nidrei have any real halachic implications?

- The only real halachic impact it will have is on the FUTURE adoption of religious positive minhagim. If over the coming year we take on certain practices (eg saying tehillim, learning a certain amount daily, doing a certain mitzva regularly) and we (i) forget to stipulate in advance that this is 'bli neder' and (ii) did not have in mind the Kol Nidrei mesirut moda'a from the previous Yom Kippur, these "proper customs" are not binding and may be discontinued<sup>35</sup>. On that basis, the following halachot should be observed for Kol Nidrei:

(i) Each individual must understand exactly what is being said during Kol Nidrei. Since this is intended as a legal declaration, it cannot have force if one does not understand what he is declaring<sup>36</sup>. The Aramaic text should, therefore, be studied and understood before Yom Kippur.

(ii) Each individual must verbally recite Kol Nidrei along with the chazan since the chazan cannot make a mesirut moda'a for anyone but himself. It should not be recited in an undertone, but loudly enough for a person nearby to hear<sup>37</sup>. If it is whispered too softly, it may be invalid<sup>38</sup>.

(iii) Kol Nidrei should be recited while it is daylight, since the process of annulling vows and the declaration of voiding them in the future should not be done on Shabbat or Yom Tov<sup>39</sup>.

- The final format of the Kol Nidrei service emerged over the last 800 years. The Maharam of Rottenberg added the formula recited at the beginning of the service:

27. על דעת המקום ועל דעת הקהל. בישיבה של מעלה ובישיבה של מטה. אנו מתירין להתפלל עם העברניים:

- By the late 16th/early 17th centuries it had become customary to add at the end of the service the verses Bamidbar 15:26 and Bamidbar 14:19-20.

28. ונסלח לכל עדת בני ישראל ולגר הגר בתוכם כי לכל העם בשגגה:

29. סלח נא לעון העם הזה כגדל חסדך וכאשר נשאתה לעם הזה ממצרים ועד הנה: וישם נאמר: ויאמר ה' סלחתי כדברך:

## F] ALTERNATIVE APPROACHES TO THE FUNCTION OF KOL NIDREI

30. ויותר נראה לומר לפי המנהג ולשון הנהגו בו והכתוב בסדר רב עמרם ז"ל שאין אומר כן לא בדרך נדרים הקודמין ולא בדרך תנאי נדרים העתידים. אלא שאומרים כן דרך תפלה להב"ה שלא יכשלו ושלא יענשו על הנדרים ועל השבועות שעשו בשנה שעברה ושיהיו שזיתין ושזיקין לפניו יתברך כאילו לא היו. וזה שנהגו לומר בסוף ונסלח לכל עדת בני ישראל וכופלין אותו ג"פ בדרך הוידוי בלצור.

נמוקי יוסף נדרים זב

The Nimukei Yosef (14/15th century Spain) rules that the halachic problems with Kol Nidrei are so significant that it cannot perform any halachic function at all. Rather, it is a prayer to God for forgiveness for oaths that we may have broken<sup>40</sup>.

35. This is the ruling of R. Shlomo Zalman Auerbach (Minchat Shlomo 1:91) based on Shu't Salmat Chayim 2:38, although R. Auerbach is focusing on the halachic value of the Hatarat Nedarim before Rosh Hashana which has some halachic advantages over Kol Nidrei. See also Yabia Omer 2:30 and 4:11-9, who relies on this as well.

36. See Chayei Adam 138:8 and Kitzur Shulchan Aruch 128:16.

37. Shulchan Aruch HaRav 619:3 based on Y.D. 211:1. On the other hand, it should also not be said too loudly, so as not to confuse the chazan and other mitpallelim (Mateh Efrayim 619:11).

38. See Minchat Yitzchak 9:61.

39. Mishna Berura 619:5. Mateh Efrayim 619:11 explains that as long as Kol Nidrei begins during the daytime it does not matter if it continues into the night. See also Halichot Shlomo 1:17, note 43, where R. Shlomo Zalman Auerbach questions the custom of reciting Tefilla Zaka before Kol Nidrei, since it contains within it an acceptance of Yom Kippur.

40. See above for the alternative nuschaot of Rav Amram Gaon and Rav Hai Gaon. The former reads more like an attempt to effect a legal hatarat nedarim. The latter reads much more like a prayer for forgiveness for false oaths.

- The Shiblei Haleket<sup>41</sup> suggests that Kol Nidrei may serve as a reminder before Succot, during which time one traditionally fulfills one's vows, to keep all of one's commitments.

31. וקל'ת גאונים מתירים לאמרו אל'א שאין כולל'ין צו נדרי יחיד אל'א נדרי לצור ובסכמותיהם צנדר או צחרם. ומפני שהלצור רשאים להתיר נדריהם לדעתם בל'א שאל'ה וחרט'ה ובל'א פתח, ואפילו היה על דעת רבים. ואף קל'ת קדמונינו כתבו צמסכת שצועות שהגזירות והתקנות שאל'ו גוזרין על דעת המקום ועל דעת הקהל יש להם היתר אף בל'א חרט'ה, שכך הוא דעת הלצור שיתירו לשיר'לו. ודעת רבים מן הסתם חל על כל מה שהלצור נסכס – אס לקיים אס לצטל. וכל שהלצור נסכס עליו לורך מל'ה הוא ומחוך שורך ההפרה מפורסם אפשר להתירו אף על ידי עזמן. אצל נדר ושצועה של יחיד אינו ניתר צדצרים אל'ו. ומכל מקום הרבה גאונים חולקים לומר שאף נדרי קהל ובסכמותיהם וחרמותיהם לא ניתנה התרתן אל'א על ידי שאל'ה וילכו אל'ל חכס וכו' על הדרך שכתבו למעלה. אצל מודים הם שיש להם היתר אף כשהוא על דעת רבים אל'א שצקל'ת מקומות נוכגים להתיר שלא על ידי חכס ושאל'ה וחרט'ה אל'א שמוציאים ספר תורה ומודיעים על ידי שליח לצור שהם נמלכים להתיר אותו הנדר מעיקר.

בית הבחירה למאירי נדרים כ"ב

*The Meiri (13th century, Provence) suggests that the function of Kol Nidrei may have nothing to do with individual oaths but relates to public oaths of the community. According to some opinions, these can be annulled without many of the normal requirements for hatarat nedarim - ie without specific regret and without going to a Chacham. Although he brings other opinions that disagree with this, he also cites a general custom for communities to annul public oaths by removing a Sefer Torah and having the Shaliach Tzibur announce the annulment - very similar to the procedure of Kol Nidrei.*

## G] KOL NIDREI AS A SOURCE OF ANTISEMITISM

- The Karaites objected strongly to the entire concept of hatarat nedarim and used it as an opportunity to attack rabbinic Jews<sup>42</sup>.
- Over the centuries, many antisemites (often apostate Jews) cited the apparent 'loophole' or legal fiction of Kol Nidrei as evidence that Jews cannot be trusted to keep their word.

32. We only annul unintentional vows in order that a person should not transgress with his vows or oaths... and only those [vows] which relate exclusively to himself, and not to others. However vows which involve other people may not be annulled.

R. Yechiel of Paris in his disputation with Nicholas Donin 1240

- Many non-Jewish courts throughout the Middle Ages insisted on administering a special oath for Jews - "Oath More Judaico" - partially out of concern about Jews using Kol Nidrei to justify lying. These special oaths were often accompanied by humiliating rituals intended to mock the Jew in court, such as making them stand on a pig hide<sup>43</sup>.
- In 1875, Czar Alexander II issued an 'ukase' - an official proclamation concerning the wording of Jewish prayer books. This addressed Kol Nidrei but rather than censoring it entirely, the Russian authorities required a rabbinic explanation to be added in the machzor.

33. In the name of God, and according to the Torah, we annul vows and oaths in which a person prohibits upon himself... However, God forbid that anyone should think that we annul vows and oaths which we swear to the government and in courts, or vows and oaths which we take between other parties.

Rabbinic Response to Czar Alexander II 1875 ukase

- Many Machzorim printed over the last 300 years included 'self-censoring' explanations declaring that Kol Nidrei was not intended as an excuse for Jews to avoid keeping their word<sup>44</sup>.

41. #317 - R. Tzedkia ben R. Abraham Ha-Rofe (13th century, Italy).

42. The Karaite Judah Hadassi, who wrote the "Eshkol ha-Kofer" at Constantinople in 1148 (see Nos. 139,140 of that work), protested against Kol Nidrei. He writes: "They anger the Lord even more, since they come and gather in their synagogues on the eve of the fast of Yom Kippur, because they think it is particularly holy to the Lord. The cantor of the congregation stands before your God 'like a nation which is doing justice' [Isa. 58:2], in the presence of all the congregation, and the congregation is standing with him, 'like the nation which has not abandoned the judgement of its God' [ibid.]. He begins with a pleasant and loud tune in their ears, and they pay close attention, both students and rabbis, and they join in the recitation and believe that in this manner they are forgiven and have reached atonement from the God who atones for His people. Is there any greater breach than this for the ignorant? This is a great opportunity for those who wish to take false oaths throughout the entire year, constantly acting in this manner. They are of the opinion that with these words, they will achieve atonement and will be forgiven each and every year forever. If they see that this is the case according to your instruction, they will never repent from violating the commandment that one must observe and act according to the Lord's directives." See <https://readingjewishhistoryintheparsha.substack.com/p/the-promise-of-karaism>.

43. See [https://en.wikipedia.org/wiki/Oath\\_More\\_Judaico](https://en.wikipedia.org/wiki/Oath_More_Judaico). Most countries stopped this in the 19th century but some persisted into the 20th. As late as 1844, a judge in Germany could force any Jew to go to the synagogue, put on tallit and tefillin, and swear in the presence of the Torah scrolls that his oaths made in court would not be annulled by Kol Nidrei.

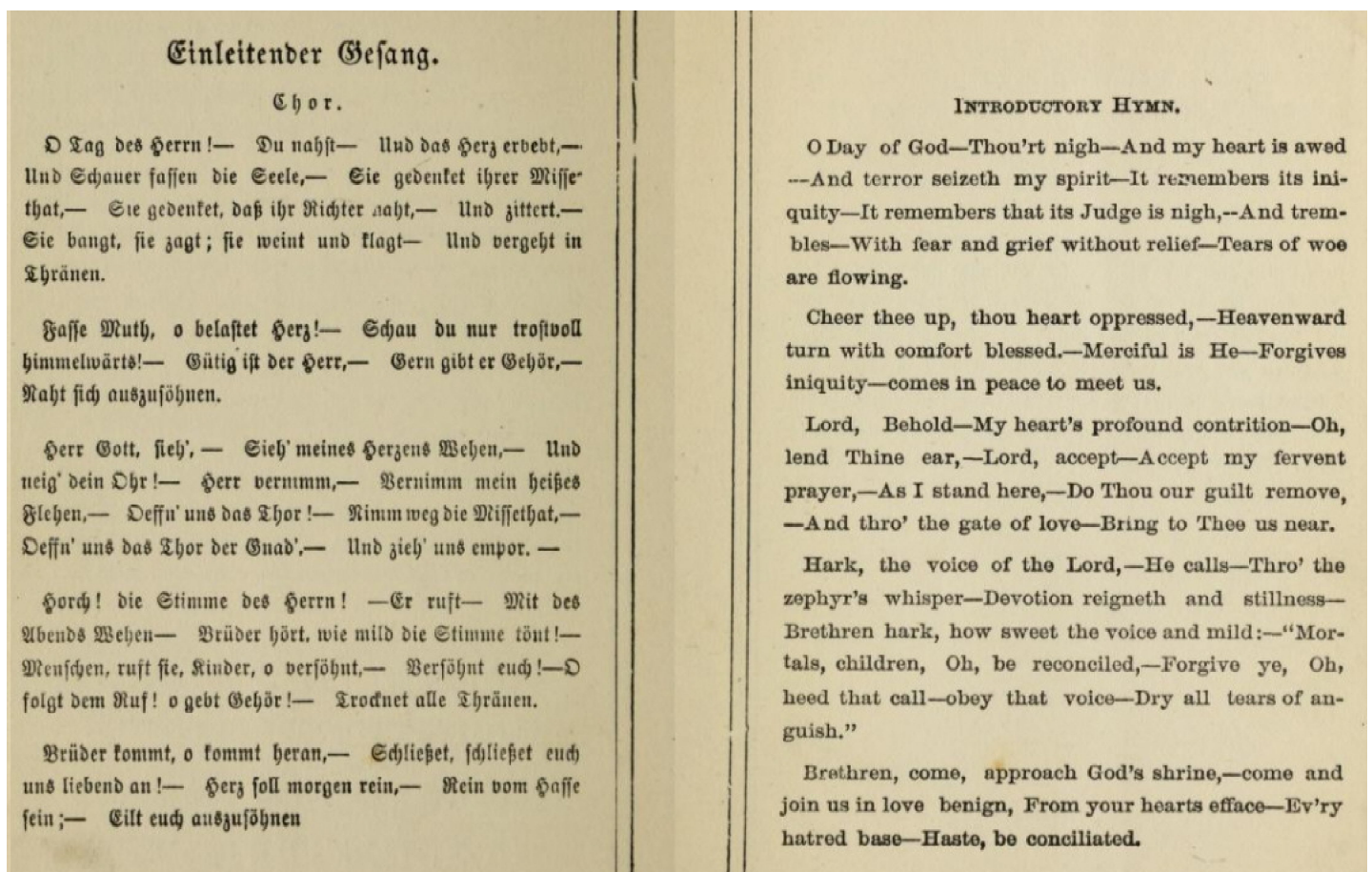
44. Even in the 20th century, R. Joseph Hertz writes in his Chumash (Additional Note to Numbers, 2nd ed p. 730): "... Not all vows or oaths could be absolved. A vow or oath that was made to another person, even be that person a child or a heathen, could not be annulled except in the presence of that person and with his consent; while an oath which a man had

However, this advance disavowal of oaths, and sanction of perjury, did become known at various times. The Jewish Encyclopedia account [Exhibit 303] concerning Kol Nidre relates how this practice of revoking all vows to be made, a year in advance, was used in European countries to bar the oath of a Jew as of no value. Contemporaneously, however, as we have been in ignorance of the Kol Nidre and what it means, such oaths, no matter how valueless, are foolishly accepted in our Courts.

The Jewish Religion: Its Influence Today, formerly titled The Plot Against Christianity, Fourth Edition 1983, p49<sup>45</sup>

## H] AMENDMENTS TO KOL NIDREI AS A RESULT OF ANTISEMITISM

- In the early 19th century various proposals were made by laity in Reform communities to abolish Kol Nidrei, which was often seen as an embarrassment due to traditional Christian opposition. Kol Nidrei was omitted from prayer books used by the Berlin reform community in 1815 and 1817 and was removed by the Hamburg Temple from its prayer books in 1819 and 1841.
- At the Reform Movement's Brunswick Conference in 1844, Kol Nidrei was official removed from the Reform prayers due to concern that it would be misinterpreted by the non-Jewish world as an excuse to break secular promises or business contracts<sup>46</sup>.
- However, congregants complained that they missed the evocative tune so the music was restored as background music from the organ, or with different words substituted from Tehillim (often Tehillim 103 or 130<sup>47</sup>) which ignored the issue of vows entirely. One replacement version was 'O Tag des Herrn', composed by Leopold Stein in 1840 and then translated into English and adapted by Isaac Mayer Wise in 1866. This was sung to the traditional Kol Nidrei melody.



taken in a court of justice could not be absolved by any other authority in the world." (emphasis in original).

45. Dilling (d. 1966 and sometimes known now as 'the Original Candice Owens') was a far-right fascist sympathizer and antisemitic political activist in the US. She is still quoted by white-supremacists.

46. Abraham Geiger replaced the wording with "all my transgressions and the transgressions of this congregation (הזה) shall be removed and made null."

47. In a German version "Aus der Tiefe ruf ich" set to the Kol Nidrei melody.

## O Day of God

L. Lewandowski  
English by I. M. Wise

Cantor

Organ

*p*

O Hark! The day of God, Thou'rt nigh, and my  
Now, The voice of the Lord! He calls nigh thro' the

**Nº 70.**

**O Tag des Herrn.**

*Largo con molto espressione. M.M. ♩ = 88.*

(Für die neue Synagoge in Berlin nach der Melodie von „Kol Nidre“ bearb.)

Vorbeter.

Organo.

O Tag des Herrn! du nahst und das  
Horch! die Stim-me des Herrn! sie ruft mit des  
Nun, o Tag des Herrn! so na - he und

- From 1870 to 1929 all European and Liberal prayer books contained an alternative prayer for Kol Nidrei, which turned Kol Nidrei on its head by calling for divine assistance in fulfilling vows<sup>48</sup>.
- Kol Nidrei was excluded from the origin Reform Union prayer book in 1894 and was vehemently opposed by Isaac Mayer Wise.
- In 1930 the tide began to turn and a resolution was passed at the CCAR (Central Council of America Rabbis) to reintroduce an acceptable form of the traditional Kol Nidrei prayer in Hebrew. Although the council noted that it “thoroughly disagree[d] with the theology expressed in the *kol nidrei* .... [it] has a certain emotional force that no other song can convey to our people”.
- The American Reform movement officially reintroduced a revised version of the text in 1945 and, since 1961 many reform communities now say an Aramaic text which follows the standard version. This is mostly due to public demand for the tradition of Kol Nidrei but partly also in recognition of the history of Jewish communities which had been forcibly converted and found comfort in this ceremony.
- Perhaps more surprisingly, R. Shimshon Refael Hirsch also removed the Kol Nidrei prayer in Oldenberg in 1839, although he later retracted and reinstated it<sup>49</sup>!

## I] THE ASHKENAZI MELODY

- The origins of the classic Ashkenazi melody<sup>50</sup> are unknown but it is considered to be one of the ‘Misinaï Nigunim’ or ‘Scarbova’ that emerged in Germany between the 11th and 15th centuries<sup>51</sup>.

35. לֹא תִסָּגֵר גְּבוּל רֵעֶךָ אֲשֶׁר גָּבְלוּ רֵאשֵׁינָם (דברים יט:ד) - שתקנו הנגונים שלא יאמר נגון של תורה לנביאים וכתובים, ושל נביאים לתורה ולכתובים, ושל כתובים לתורה ונביאים. אלא כל ניגון כמו שהוא מתוקן שהכל הלכה למשה מסיני שנאמר (שמות יט:יט) [וְהֶאֱלָקִים] יַעֲנֶנּוּ בְקוֹל. (אפשר דכונס דהל"מ שינגנו תורה לחוד וכו' דכא צנגון יש חלוק צין הארצות ואפילו צמצטא וגם אפשר דהל"מ לאו דוקא).

ספר חסידים (מרגליות) סימן שב ופירוש ברית עולם ושומר הברית של החיד"א

*The Sefer Chasidim (12th century, Germany) write that there is a Torah prohibition akin to 'hasagat gevul' - moving a fixed boundary fence - in changing the nigunim which have been traditionally sung to liturgy.*

48. "All the vows of the children of Israel which they vow unto Thee, O our King, to keep the words of Thy Torah and Thy testimonies, not to depart from the commandments either to the right or to the left, from this Day of Atonement unto the next Day of Atonement, may it come to us for good, yea, may all of them ascend and come and be accepted before Thee for mercy. And put it in their heart to love and fear Thy great and awesome Name; and may they never be put to shame."

49. R. Immanuel Jacobovitz (a descendant of R. Hirsch) asserted that, in fact, Hirsch omitted Kol Nidrei in Emden in 1843 as a *hora'at sha'a* due to dishonest business practices in his communities. Other scholars understand that Hirsch omitted it in both Oldenberg and Emden. It is interesting that Hirsch's classic work *Horeb* contains no reference to Kol Nidrei, Tashlich or Kapparot.

50. The Sefardim have a completely different melody for Kol Nidrei, which is based on other selichot tropes.

51. Some scholars suggests that the motifs of the Misinaï nigunim are derived from even earlier cantillation themes and connected to German folksong (Minnesong).

Many of these are considered to be 'miSinai'. The Chida comments that 'miSinai' is not literally from that time, but means ancient and precious like Torah from Sinai.

- These tunes are often also called 'Nigunim of the Maharil'.

36. הגה: .... ומוכחים לומר כל נדרי צעודו יום וממשיך צניגונים עד הלילה. ואומרים אותו שלש פעמים, וכל פעם מגזירה קולו יותר מצראשונה (מהרי"ל). .... ואל ישנה אדם ממנהג העיר אפילו צניגונים או צפויטים שאומרים שם (מהרי"ל).

אורח חיים הלכות יום הכיפורים תרי"א

The Rema records the psak of the Maharil (14/15th century, Germany) that there are special nigunim for Kol Nidrei that may not be changed.

37. Rabbi Adin Steinsaltz writes that, "...also being one of the great prayer leaders of his time, he (the Maharil) traveled from one community to another, reestablishing the traditional prayer melodies. By virtue of his great authority, the Maharil succeeded in laying the foundations for the prayer rite accepted by all Ashkenazi communities...."

The Maharil also served as a chazzan, which was often the custom of rabbinical leaders since the time of Rabbi Yehuda Gaon of the Yeshiva of Sura in the 8th century. The Maharil was distressed by the incursion of many "foreign" melodies into the musical liturgy of the synagogues of his time. Over a period of many years he carefully interviewed immigrant Baalei Tefillah from all over Europe to determine which time-honored melodies were the authentic tradition, and discarded those that were incompatible with the consensus. He then sanctified those melodies that he determined were authentic with the title "MiSinai", to emphasize their ancient and immutable quality. In his Sefer HaMaharil, compiled by his student Eliezer Ben Yaakov, he declares categorically the rule that one may not change the traditional melodies (nusach) of a community.

<sup>52</sup>Cantor Sherwood Goffin, Kosher Music - The Music of the Yamim Noroim

- According to Cantor Goffin<sup>53</sup>, the Kol Nidrei nigun was one of the last of the MiSinai nigunim to form and is partly formed by older ones<sup>54</sup>.
- The musical notation for the famous Ashkenazi nigun for Kol Nidrei was first printing in Berlin in 1765 by cantor Ahron Beer.
- In 1871 Louis Lewandowski, one of the greatest composers of Jewish liturgical music, published the standard modern version of the melody.
- Protestant German composer Max Bruch created an arrangement of the Jewish melody for cello and orchestra in 1880 - Op. 47 in D minor<sup>55</sup>. Although Bruch was not Jewish, he was friends with Abraham Jacob Lichtenstein, chief cantor in Berlin who encouraged the composer's interest in Jewish folk music. Bruch wrote in an 1889 letter to cantor and musicologist Eduard Birnbaum, "Even though I am a Protestant, as an artist I deeply felt the outstanding beauty of these melodies and therefore I gladly spread them through my arrangement."<sup>56</sup>

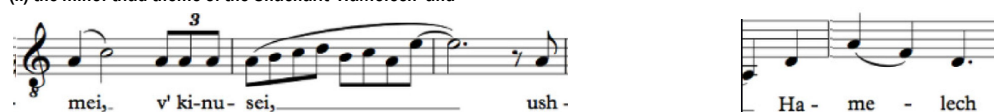
52. <https://www.es.ok.org/kosherspirit/fall-2009/kosher-music/>

53. Note for instance:

(i) the strong harmonic minor themes of the kaddish before Rosh Hashana Musaf at the beginning of Kol Nidrei;



(ii) the minor triad theme of the Shacharit 'HaMelech' and



(iii) the triumphant major theme of the 'Aleinu' nigun in 'haba aleinu letova' and at the end.



For a fantastic nusach musical data base see <https://offtonic.com/nusach/index.html>

54. Eric Werner, *A Voice Still Heard*, p37 identifies 8 distinct motifs that Kol Nidrei shares with other Misinai nigunim.

55. The music quickly veers away from Jewish onto Scottish themes and Bruch was not particularly interested in the Jewishness of the piece. See <https://forward.com/culture/194853/how-an-anti-semitic-composer-created-kol-nidrei-and/>

56. <https://open.spotify.com/track/5dZvtyvGVp2XUETmxtSLz?si=4f83791fa5ce4c70>

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- Less explicitly, the sixth movement of Beethoven's String Quartet (Opus 131 in C sharp minor<sup>57</sup>), composed in 1826, is VERY similar to the Jewish nigun and may have been based upon it<sup>58</sup>.



- Paul Dessau's opening bars to *Sinfonie in einem Satz* (1926) are said to draw on themes from Kol Nidrei<sup>59</sup>.
- The very first talking picture in 1927 - *The Jazz Singer*, featured Al Johnson singing Kol Nidrei<sup>60</sup>. The 1980 remake with Neil Diamond may not have been quite as convincing<sup>61</sup>.
- Following an invitation from reform rabbi Jacob Sonderling, Arnold Schoenberg wrote a version of Kol Nidrei<sup>62</sup> in August 1938, shortly after the Nazi annexation of Austria and just before Kristallnacht. His mind was on his close friends and family still trapped in Europe.
- John Zorn wrote a string quartet arrangement of Kol Nidrei in 1996<sup>63</sup>.

38. Music has extraordinary power to evoke emotion. The *Kol Nidrei* prayer with which Yom Kippur begins is not really a prayer at all. It is a dry legal formula for the annulment of vows. There can be little doubt that it is its ancient, haunting melody that has given it its hold over the Jewish imagination. It is hard to hear those notes and not feel that you are in the presence of God on the Day of Judgment, standing in the company of Jews of all places and times as they plead with heaven for forgiveness. It is the holy of holies of the Jewish soul.

Rabbi Jonathan Sacks - *The Spirituality of Song*

57. <https://open.spotify.com/track/6xgDaSQSmNmp0JLQikD7PN?si=6605771ae491407f>

58. Beethoven was apparently approached by leaders of the Jewish community in Vienna to compose music for the inauguration of a new synagogue. Since they were looking for music of a "Jewish character," they supplied the composer with what they considered important examples of Jewish music, among them Kol Nidrei. The commission was never completed, but since this is the only formal connection that can be established between Beethoven and the Jewish community, this brief contact is the likely source of the composer's inspiration.

59. <https://www.youtube.com/watch?v=uHJBf29SFbE>. I could not identify the themes but am happy to hear other people's views!

60. <https://www.youtube.com/watch?v=mTufuWn3jv8>

61. <https://www.youtube.com/watch?v=XA7zJOK2kkg>. Note that Diamond's classic hit 'America' begins with the chords from Kol Nidrei!

62. <https://www.youtube.com/watch?v=3HMSTagLxuw> Schoenberg's avant-garde rendition of Kol Nidrei was partly a product of his own reclamation of a Jewish identity from which he had been estranged, having converted to Christianity and then returned to Judaism. For more on the background to the Schoenberg arrangement and his Jewish journey see <https://www.milkenarchive.org/music/volumes/view/masterworks-of-prayer/work/kol-nidrei/>

63. <https://www.youtube.com/watch?v=BRaeEwptbAM>. For more musical arrangements of Kol Nidrei see <https://www.associationforjewishstudies.org/podcasts/kol-nidrei-yom-kippur's-most-famous-melody-transcript>