

In Hilchos YOM TOV

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Keeping Yoshon

A summary of the weekly Wednesday night shiur by Rabbi Shmuel Stein at the Miami Beach Community Kollel / To receive a copy send an email to InHilchosShabbos@gmail.com

The prohibition against eating *chadash* (grains of the new crop) is one of the six hundred and thirteen *mitzvos* of the Torah.¹ The Chasam Sofer² writes that when the *mitzvah* of *chadash* was read in the shul of his Rebbe, Rav Nosson Adler, only someone who was careful to keep the *mitzvah* of *chadash* would be called up to the Torah.³ Nevertheless, for hundreds of years the general custom among Klal Yisroel has been to eat *chadash* grains. The *poskim* have tried to explain the basis for why by and large the custom in most communities, including many *Gedolei Torah*, was not to be careful with this Torah prohibition, as we will soon discuss. However, in recent years, as it has become more feasible to keep the *mitzva* of *Yoshon*, it has become more popular for people to try to do so. In this chapter we will review the halachos of this forgotten *mitzvah*. We will discuss the following:

- 1) The Mitzvah of *Yoshon*
- 2) The *Halachos* of *Yoshon*
- 3) Why Doesn't Everyone keep *Yoshon*?

It must be stressed that the intention of this article is not to give a conclusive ruling on this controversial issue nor to persuade one's opinion on the matter, rather it is to present a discussion of the halachos of *chadash* and the different sides of this issue and thereby gain a greater appreciation for this *mitzvah*.

The Mitzvah of *Chadash* and *Yoshon*

The Torah⁴ states that "One may not eat grains or bread until that day, until the *korban ha'omer* is offered." This means as follows: In the times of the *Bais Hamikdash*, the *korban ha'omer* was offered on the second day of Pesach (the 16th day of Nissan). The *korban ha'omer* consisted of the barley that was ground into flour and offered in the *Bais HaMikdash*.⁵ The Torah teaches us that the offering of the *korban ha'omer* had an important *halachic* effect: it permitted all grains to be eaten. Meaning, that any grains which were planted after the *korban ha'omer* was offered were called "*Chadash*" – the new crop – and were not allowed to be eaten until the *korban ha'omer* was brought on the following Pesach. This Torah prohibition is called "*Chadash*", as the Torah⁶ states "One may not eat grains or bread until that day, until the *korban ha'omer* is brought." However, once the *korban ha'omer* is offered, all grains which have already been planted (or been made into bread products) become permissible to be eaten; these grains are now called "*Yoshon*" – the "old" crop.

How does *Chadash* Become Permitted Nowadays?

The Gemara⁷ asks, if it is prohibited to eat *chadash* grains until the *korban ha'omer* is brought, how is it permitted to eat these grains nowadays when we do not offer the *korban ha'omer*?

The Gemara explains that to answer this question one must look carefully at the verse as it states: "One may not eat the *chadash* grains until

- 1) **that day** [that the *korban ha'omer* is offered]
- 2) until **you offer the *korban ha'omer***"

The verse describes two ways to permit eating the *chadash* grains: 1) the *day* that the *korban ha'omer* is meant to be offered, and 2) the actual *offering* of the *korban ha'omer*. The verse is teaching us as follows: in the times of the *Bais HaMikdash* when the *korban ha'omer* is offered, then it is the *offering* of the *korban ha'omer* which permits eating these grains. But when there is no *Bais HaMikdash* and the *korban ha'omer* is not offered it is the *day* which the *korban ha'omer* is meant to be offered (the 16th of Nissan) which permits eating the *chadash* grains. Thus, nowadays, once the 16th of Nissan passes it is permitted to eat wheat and other grains; but it is prohibited to eat these grains before the 16th of Nissan passes as doing so violates the prohibition of *chadash*.

Two types of crops

To clarify this, let us give an example. There are two types of crops which are



planted each year: the winter crops, and the summer crops. In the United States winter crops are planted in the fall (before Pesach) and only harvested in the late spring (after Pesach). This means that these grains, have already passed Pesach after they have been planted, and are considered "*yoshon*" – the *old crop* (grown before Pesach), and may be eaten as soon as they reach the markets. On the other hand, the summer crops which are planted in the spring (after Pesach) and harvested in the summer (before the next Pesach arrives) are considered *chadash* – the *new crop* (grown after Pesach) as they did not pass a Pesach. The summer crops may therefore not be eaten until the following Pesach arrives; only then will they become *yoshon* and permitted to be eaten.

The age-old custom: Not to be careful to eat only *Yoshon*

As we mentioned, for hundreds of years most of Klal Yisroel, including many great Torah scholars,⁸ were never careful about keeping the *halachos* of *Chadash*. The question is obvious, how could most of Klal Yisroel neglect this Torah prohibition? Indeed, the *Pnei Yehoshua*⁹ writes that this question has been raised by many *poskim* and many explanations have been given. Before we discuss these explanations, we will first quickly review the basic *halachos* of *chadash*.

The *Halachos* of *Chadash*

1) When the grain takes root. The Shulchan Aruch¹⁰ writes that so long as a grain was planted *and took root* before the 16th of Nissan it may be eaten after Pesach arrives. The *Shach*¹¹ explains that it takes *three days* from the time when a grain is planted for it to take root, and therefore, any grain that was planted at least three days prior to the 16th of Nissan is considered *yoshon* and may be eaten as soon as it is harvested.

2) Only the five grains are included in the prohibition of *chadash*. The Shulchan Aruch¹² writes that only the five grains – wheat, barley, oat, spelt, and rye – are included in the prohibition of *chadash*. The Torah¹³ states: "[*Chadash*] *bread* may not be eaten" and the *Toras Kohanim*¹⁴ explains that only grains which are generally used to make bread are included in this prohibition (i.e., the five grains). Other grains, such as rice, corn, buckwheat, and millet, are not included in this prohibition.¹⁵

3) Benefiting from *chadash*. The Gemara¹⁶ writes that the prohibition of *chadash* applies only to *eating chadash* grains, it is permissible to derive benefit from *chadash* grains or bread. Accordingly,

- one may feed his animal *chadash* grains.¹⁷
- one may buy and sell *chadash* products.¹⁸

Why Doesn't Everyone Keep *Yoshon*?

Now, to explain why for hundreds of years the world has been lenient regarding the prohibition of *Chadash*, the *Mishnah Berurah*¹⁹ cites three answers which were given by the *poskim* to uphold this *minhag*:

1. The leniency of the Rema: *S'fek S'faika* (a double-doubt)

The Rema²⁰ proposes a reason to be lenient regarding *chadash*, as follows: Any time one picks up a bag of flour there is a *S'fek S'faika* whether the flour in the bag indeed consists of prohibited *chadash* wheat. Since there is a significant doubt as to whether this flour is indeed prohibited one may assume that it is permissible to use the flour. These are the two doubts:

1) The first doubt is that perhaps the flour was produced from grains that were grown before Pesach, making them *yoshon*, and they are therefore permitted.

1 Vayikra 23:14 2 Teshuvos Chasam Sofer O.C. end of siman 15 3 The Chasam Sofer writes that this happened on the second day of Sukkos when a Levi is called to read the Parsha of the prohibition of *Chadash* (in Parshas Emor), and his Rebbe would only call up a Levi who was careful not to eat *Chadash*. The Mishna Halachos (2:215) adds that this would seemingly apply to when the Parsha of the prohibition of *Chadash* is read (in Parshas Emor) as well. 4 Vayikra 23:14 5 Rambam, Temidim U'Mussafim 7:11,12. An *Omer* is a measurement containing the volume of 43.2 eggs. This barley-offering consisted of an *Omer* of flour and is therefore called the *korban ha'omer*. 6 Vayikra 23:14 7 Menachos 68a 8 See Be'er Hagolah (on Shulchan Aruch 293:3) where he writes that "the majority of past and present Rabbanim in many communities were lenient regarding *chadash* in *chutz la'aretz*." However, the Vilna Gaon (293:2) [who rules that *chadash* is prohibited nowadays] writes that the "it would have been preferable for the Be'er Hagolah not comment on this issue and remained silent." (see note 36). 9 Beginning of Kedushin, kuntris achron 10 Shulchan Aruch, Y.D. 293:3 11 Y.D. 293:2 12 Shulchan Aruch, Y.D. 293:1; Shach, 293:1 13 Vayikra 23:14 14 Toras kohanim, Emor 10:9 15 Beer that is made from the five grains. The Pri Megadim (mishpitzos zahav 84:7) rules that schnapps that is made from flour of five grains that is *chadash* is prohibited *mid'Oraisa*, and it is not merely considered *zeyah b'alma* (merely the 'sweat' of the wheat). [Although nowadays, by the time a bottle of schnapps reaches the consumer it has reached a Pesach and is considered *Yoshon*; this ruling is however relevant nowadays regarding beer that is made from the five grains.] The Chacham Tzvi (siman 20) and Keneses Yechezkel (Y.D. siman 41) rule this way as well and write that it is prohibited *mid'Oraisa* to drink beer made from *chadash* grains. However, the Mishkinos Yakov (siman 68) rules that beer made from *chadash* grains are prohibited only *mid'Rabban*, because it is merely considered *zeyah b'alma* [and therefore one may be lenient entirely in *chutz la'aretz* if the grains were owned by a non-Jew]. The Biur Halacha (489:10 d"ף af) cites a dispute about this as well. 16 Gemarah Kedushin 38a 17 Shevet haLevi, vol. 2:162; Rav Yisroel Belsky (cited in Halacha Berura, note 9). However, Rav Chaim Kanievsky (cited in *sefer gedulei chadash* 8:10) prohibits this. 18 ibid 19 489:45 20 Y.D. 293:3

2) Secondly, even if the flour is from the new crop that was grown after Pesach, perhaps these grains already took root before the 16th of Nissan and are therefore still considered *yoshon*. and they are therefore permitted.

Accordingly, the Rema rules, that since every bag of flour is a *S'fek S'faika* whether it contains *chadash* it is permissible to be eaten.

Rabbi Akvia Eiger²¹ questions the *heter* of the Rema by asking that this double-doubt is in essence only one doubt: is this flour from *yoshon* grain or *chadash* grain. He argues that since there is really only one doubt about the flour, we cannot consider it two separate doubts and therefore it is not a valid explanation to be lenient. (Other *poskim*²² however defend the *heter* of the Rema.)

Some *poskim*²³ further question whether the *heter* of the Rema applies nowadays. Since nowadays food products are carefully coded and it can be easily verified whether a product contains *chadash* grain or not, and therefore there is no longer a true doubt about these products. Nevertheless, other *poskim*²⁴ maintain that the leniency of the Rema applies even nowadays since one cannot entirely verify whether grains are *chadash* or *yoshon*, and therefore it remains a doubt as to whether these grains are *chadash*.

2. The leniency of the Magen Avraham: Chadash in chutz la'Aretz:

The second leniency is based on the question of whether the prohibition of *chadash* applies only in Eretz Yisroel or in *chutz la'Aretz* as well. There are differing opinions regarding this question:

1 – The majority of *poskim*²⁵ (including the Rif,²⁶ Rosh,²⁷ Rambam,²⁸ Shulchan Aruch,²⁹ and Vilna Gaon³⁰) rule that *chadash* is prohibited *mid'Oraisa* in *chutz la'aretz* just as it is in Eretz Yisroel. The Torah³¹ states "[Chadash] bread may not be eaten for all generations and in all your dwelling places," which implies that the prohibition of *chadash* applies even in *chutz la'Aretz*.

2 – The minority opinion³² rules that the prohibition of *chadash* applies only in Eretz Yisroel and does not extend to grains planted in *chutz la'Aretz*. (According to this view, when the verse states "in all your dwelling places" it intended to teach an entirely different *halacha*.)

The Magen Avraham³³ explains that the widespread custom to be lenient regarding eating *chadash* relies on the minority opinion that permits eating grains that were planted in *chutz la'aretz*.³⁴

However, the Vilna Gaon³⁵ disagrees and writes that "relying on this minority opinion is a big error, as it cannot be relied upon at all."³⁶ The Mishnah Berura³⁷ adds that this minority opinion was relied upon only because it was considered a *shas ha'dchak* (extenuating circumstances), as keeping *yoshon* meant going many months without eating bread and other basic food staples. Accordingly, some *poskim*³⁸ argue that although the custom for hundreds of years has been to rely on this lenient opinion, it was only due to the extenuating circumstances, but nowadays when it is much easier to obtain *yoshon* products it would be questionable whether one may still rely on this minority opinion.

3. The leniency of the Bach: Grains from a field of a non-Jew

The Bach³⁹ rules that the prohibition of *chadash* applies only to grains that are grown in a field owned by a Jew, and it does not apply to grains grown in the field of a non-Jew. He bases this *halacha* on the fact that the verse⁴⁰ states "your harvest," which implies only the grains of your harvest are prohibited, but not the grains of a non-Jew. Accordingly, this became the basis for the custom to eat *chadash* grains since non-Jews owned most of the grains.

However, many *poskim* (including the Shulchan Aruch,⁴¹ Shach,⁴² Taz⁴³ and Vilna Gaon⁴⁴) did not agree with this leniency of the Bach and ruled that the prohibition of *chadash* applies even to grains which are grown in a field of a non-Jew. The Vilna Gaon writes that "the ruling of the Bach is a mistake, and it would have been better had he not said it."⁴⁵

Nevertheless, the ruling issued by the Bach is one of the primary reasons that many were lenient with the prohibition of *chadash*, as other *poskim*, such as the Ba'al Shem Tov⁴⁶ followed the ruling of the Bach. There is a Chasidic tradition⁴⁷ that relates that the Ba'al Shem Tov once had a dream in which he inquired about the *halacha* of *chadash* nowadays. From the answer he was given the Ba'al Shem Tov understood that the *halacha* is in accordance with the Bach, and *chadash* of non-Jews is permitted. When the Ba'al Shem Tov awoke from his dream he immediately asked his attendant to bring him beer made from *chadash* grains (of a non-Jew). He drank the beer and exclaimed that "One may rely on the leniency of the Bach, as he is worthy to be relied upon."

Again, some *poskim*⁴⁸ argue that the ruling of the Bach has been relied upon for hundreds of years only because of the extenuating circumstances which prevailed in those days but may not be applicable nowadays when obtaining *yoshon* products is not as difficult.

May one rely on these leniencies?

The Bach⁴⁹ writes: "It has been the custom in our country to be lenient regarding the prohibition of eating *chadash*. Even Gedolei Torah and their students drank beer which was produced from *chadash* grains. And so, no Gadol should teach that *chadash* is forbidden, as this would contradict the prevalent custom which is in accordance with the Gedolei Torah to permit *chadash*. One who wishes to be strict with himself, it is an act of *p'rishus* (abstinence) and should not teach others to do the same, as this will lead to disputes. Only someone who is accustomed to keeping other stringent practices and is known as a very pious individual may practice this stringency as well."

On the other hand, the Vilna Gaon⁵⁰ criticizes those who are lenient with regarding the *halachos* of *chadash*.⁵¹ The Mishnah Berura⁵² writes, "Although we cannot protest against the ones who are lenient, still a *ba'al nefesh* (someone scrupulous about halacha) should be strict regarding the prohibition of *chadash* as much as he can, because according to many opinions *chadash* an *issur d'Oraisa* in all circumstances."⁵³

In Conclusion

For hundreds of years the communities in *chutz la'aretz* have generally been lenient regarding the *halachos* of *chadash* based on several leniencies given by the *poskim*.⁵⁴ Nevertheless, the Vilna Gaon and others were stringent and prohibited *chadash* even in *chutz la'aretz*; thus, a *ba'al nefesh* may be stringent regarding eating *chadash*.⁵⁵ Recently in America, keeping *yoshon* has become more popular, and stores now proudly advertise that they carry only *yoshon* products. This development is due in large part to the efforts of Rav Yosef Herman, who invested many years in researching the food industry and making a book available each year which makes keeping *yoshon* in America even more feasible. However, those who are lenient on *chadash* have a strong *minhag* to rely on even nowadays.⁵⁶

Someone contemplating keeping yoshon

Someone contemplating keeping *yoshon* must keep a few things in mind: Firstly, he should say that he is only accepting to keep the *halachos* of *chadash bli neder*.⁵⁷ Secondly, someone keeping *yoshon* will generally need to store away many products (e.g., flour, cereals, etc.) until later in the year when *chadash* products are available. When storing these products, one must be mindful that these stored products are susceptible to becoming infested with bugs and must be stored in a place where they are protected from becoming infested (e.g., a refrigerator or freezer). Additionally, one must also be careful to only purchase *yoshon* breads and *yoshon* products from stores that are careful to store their flour properly.

21 Y.D. 293:3 22 See Aruch haShulchan Y.D. 293:15 23 Rav Yisroel Belsky quoted in Halacha Berura, note 35 24 Heard from Rav Michael Yardley and Rav Shmuel Felder of Lakewood 25 Cited by the Pnei Yehoshua, beginning of Kedushin, kuntris achron 26 In Mishna, Kiddushin 36b 27 End of Pesachim siman 42 28 Hilchos Machalos Assuros 10:2 29 Y.D. 293:2 30 Y.D. 293:2 31 Yayikra 23:14 32 The opinion of Rabeinu Baruch brought in Tesuvah ha'Rosh klal 2. However, even this opinion agrees that Chazal imposed a rabbinical prohibition against eating *chadash* in *chutz la'Aretz*, but they rule that this rabbinical prohibition was only extended to countries that are bordering or near Eretz Yisroel. Countries located a far distance from Eretz Yisroel have no prohibition of *chadash* at all. There is also a third opinion (Riva in Tosfos Kedushin Ohr Zarua 328) that rule that the rabbinical prohibition of *chadash* extends to the entire *chutz la'Aretz* not only the bordering areas. 33 Magen Avraham 489:17 34 Nevertheless, the Magen Avraham (ibid) concludes that a *ba'al nefesh* should be stringent regarding *chadash* as much as he can. 35 Y.D. 293:2 36 The Vilna Gaon uses harsh words against those who ruled leniently regarding the prohibition of *chadash*. The Chumash Torah Temmima (Parshas Emor, 48) writes that "many have wondered about the strong languages that he used against those who were lenient – even using words that are a slight to their honor, as it is well known that this is against the holy character and refined manner of the Vilna Gaon. It seems that the Vilna Gaon learned this approach from the Gemara where in many places (e.g., Kiddushin 39a) uses harsh words to make people aware of the severity of the prohibition; perhaps because those prohibitions were being violated by many in Klal Yisroel. The Vilna Gaon saw that the majority of Klal Yisroel were not being careful in the prohibition of *chadash* which is always relevant and therefore he adopted this approach. 37 489:45 38 Rav Yisroel Belsky quoted in Halacha Berura, note 35 39 Y.D. 293 40 Yayikra 23:10. Although this verse is referring to the barley that must be brought for the *korban ha'omer* and not the grains in one's field, the Bach argues that since one may not bring the *korban ha'omer* (which permits *chadash*) from the field of a non-Jew, it must follow that the entire prohibition of *chadash* does not apply to the fields of a non-Jew. 41 Y.D. 293:2 42 Y.D. 293:6 43 Y.D. 293:2 44 Y.D. 293:2 45 See note 36 46 Ba'al Shem Tov on parshas Emor, 6 47 Ba'al Shem Tov on parshas Emor 48 Rav Yisroel Belsky quoted in Halacha Berura, note 35 49 Y.D. 293 50 Y.D. 293:2 51 See note 36 52 489:45 53 Keilim (vessels) of *chadash*. The Shagas Aryeh (end of siman 13) rules that the *halacha* of *taam k'kar* (that the taste of a prohibited item is forbidden) applies to the prohibition of *chadash* as well. (see Biur Halacha 489:10 d"n af.) The Mishna Berura (489:48) writes that one should only be lenient regarding *eino ben yomo* (a vessel that has not been used to cook *chadash* within twenty-four hours) but should be stringent regarding vessels that are a *ben yomo* (a vessel that has been used to cook *chadash* within twenty-four hours). See Mikadesh Yisroel Sefiras HaOmer, 136. 54 Chadash in Eretz Yisroel. In Eretz Yisroel the leniency of the Magen Avraham does not apply, and the custom is to be stringent with the *halachos* of *chadash* (and generally the ruling of the Bach also does not apply since the land is owned by a Jew) [Mikadesh Yisroel, Sefiras HaOmer, 135]. 55 Maharil (Likutim, 26); Magen Avraham 489:17; Mishna Berura 489:45; Shulchan Aruch HaRav 489:30 (end of 7); see Mikadesh Yisroel Sefiras HaOmer 134 56 In a conversation with Rav Dovid Cohen. Rav Cohen relates that he once asked his Rebbe, Rav Yisroel Gusman whether the custom to be lenient still applies nowadays in America. Rav Gusman answered that the custom that has been prevalent for hundreds of years indeed remains today, and one may still be lenient regarding eating *chadash* grains even nowadays. 57 Sharei Toras Habais pg. 164,15