HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

207 - CHADASH IN CHUTZ L'ARETZ

OU ISRAEL CENTER - WINTER 2020/21

All observant Jews are familiar with the mitzva of 'Counting the Omer' between Pesach and Shavuot. Far less have studied one of the most important consequences of the Omer - the Torah mitzva of Chadash. According to this mitzva, the new grain crop cannot be eaten before the Korban Omer is brought on 16 Nissan. Until that moment, all the new grain is considered Chadash - 'new', and after that moment it transforms into 'Yashan' - old, which can be eaten.

In recent decades there has been a resurgence of kashrut awareness of Chadash, with some people looking for hechsherim which do not allow the use of Chadash grain in food products. Why has this only started recently? If Chadash is a halachic problem, why were so fewer people talking about it in the past.

A] CHADASH - THE TORAH MITZVA

1. (ט) וַיְדַבֵּר יְהוָה אֶל־מֹשֶׁה לֵאמֹר׃ (י) דַּבֵּר אֶל־בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם **כִּי־תָבֹאוּ אֶל־הָאָרֶץ** אֲשֶׁר אֲנִי נֹתֵן לָכֶם וּקְצַרְתֶּם אֶת־קְצִירָהּ וַהֲבֵאתֶם אֶת־עֹמֶר רֵאשִׁית **קְצִירְכֶם** אֶל־הַכֹּהֵן׃ (יא) וְהֵנִיף אֶת־הָעֹמֶר לִפְנֵי יְהוָה לְרֹצֹנְכֶם מִמָּחֳרַת הַשַּׁבָּת יְנִיפֶנּוּ הַכֹּהֵן׃ (יב) וַעֲשִׂיתֶם בְּיוֹם הֲנִיפְכֶם אֶת־הָעֹמֶר כֶּבֶשׂ תָּמִים בֶּן־שְׁנָתוֹ לְעֹלָה לַיהוָה׃ (יג) וּמִנְחָתוֹ שְׁנֵי עֶשְׂרֹנִים סֹלֶת בְּלוּלָה בַשֶּׁמֶן אִשֶּׁה לַיהוָה רֵיחַ נִיחֹחַ וְנִסְכֹּה יַיִן רְבִיעִת הַהִין׃ (יד) **וְלֶחֶם** וְקָלִי וְכַרְמֶל לֹא תֹאכְלוּ עַד־עֶצֶם הַיּוֹם הַזֶּה עַד הֲבִיאֲכֶם אֶת־קָרְבַּן אֱלֹהֵיכֶם חֻקַּת עוֹלָם לְדֹרֹתֵיכֶם בְּכֹל מֹשְׁבֹתֵיכֶם׃ ס

ויקרא פרק כג

The Torah legislates for the bringing of the Korban Omer[1] - a special mincha flour offering made from the first barley crop mixed with oil and brought on 16 Nissan. It was offered together with a sheep as an olah and a wine libation. The Torah then includes a mitzva which prohibits eating bread and grains until that Korban Omer has been brought. This is recorded as an eternal law 'in all your dwelling places' - 'bechol moshvoteichem'.

- Note also the phrase כִּי־תָבֹאוּ אֶל־הָאָרֶץ at the start of the passage, which could indicate that it applies in Eretz Yisrael only.
- Also קְצִירְכֶם - YOUR harvest, perhaps also excluding that of non-Jews?

2. **(יד) וקלי** - קמח עשוי מכרמל רך שמייבשין אותו בתנור: **וכרמל** - הן קליות שקורין גרניד"ש (graneis[2]) [שבולים].

רש"י ויקרא כג:יד

Rashi explains that 'karmel' refers to the moist grains picked from the early spring crop. These would be roasted to make 'kali' which would be ground into flour.

3. חמשה דברים חייבים בחלה - **החטים והשעורים והכוסמין ושבולת שועל ושיפון**. הרי אלו חייבין בחלה ומצטרפין זה עם זה, ואסורין בחדש מלפני הפסח ומלקצור מלפני העומר. ואם השרישו קודם לעומר העומר מתירן. ואם לאו אסורין עד שיבא העומר הבא.

משנה מסכת חלה פרק א משנה א

The Mishna delineates 5 species which require challa to be taken. 'Chita' is wheat and 'seora' is barley. The others are less clear. 'Kusmin' is usually understood to be spelt, 'shifon' to be rye, and 'shibolet shual' to be oats[3].

1. See the Appendix for a translation of the Rambam's halachot describing the unique ceremony of harvesting and processing the grain for the Korban Omer.
2. From the Latin *granum* meaning grain. Possibly related to the Hebrew 'garin'.
3. There is a significant debate as to whether 'shibolet shual' is actually the species we call oats. Rashi (Pesachim 53a s.v. shibolet shual) defines *shibolet shual* as 'aveine' which is the French for oats (Latin genus - avena; modern French - avoine). He also notes that they are called 'shibolet shual' because the ear of the grain looks like the tail of a fox. Rabbeinu Gershom (Menachot 70b) also defines shibolet shual as 'avina' - oats. The Aruch (an early Talmudic dictionary produced in 11C Rome by R' Natan ben Yechiel) defines *shibolet shual* in two ways. One of these is oats - 'viena', but the other is 'sikala'. This is segala - which is rye (genus in Latin - secale, in modern Italian - segala, in French - seigle), a sub-species of barley. The Rambam (Mishna Kilayim 1:1) also defines *shibolet shual* as a strain of barley, as does Rabbeinu Natan Av HaYeshiva - 11C Eretz Yisrael commentary on the Mishna. The Leket Yosher (R. Yisrael Isserlin - 15C Europe and author of the Terumat Hadeshen) OC 1:74 agrees with the Rambam. However, R' Ovadia MiBartenura quotes the Rambam and translates this as 'avina' - oats! This is also the understanding of the Tosafot Yom Tov and the Tiferet Yisrael. Professor Yehuda Felix (noted professor in Bar Ilan and author of many works on the flora and fauna of Eretz Yisrael - died in 2005) took the strong view that *shibolet shual* is **NOT** oats. He also concluded from academic research that

4. משרשי המצוה - לפי שעיקר מחייתן של בריות היא בתבואות. ועל כן ראוי להקריב מהן קרבן לה' אשר נתנם טרם יהנו מהן בריותיו. וכעין מה שאמרו זכרונם לברכה [ברכות לה.] בדומה לזה 'כל הנהנה מן העולם הזה בלא ברכה מעל'. וכל זה להכשיר עצמינו שנהיה ראויין לקבל מטובו, וכמו שכתבתי בספר פעמים רבות. וביום י"ו בניסן היינו מקריבין בזמן הבית קרבן העומר מתבואה חדשה מן השעורים, כי היא התבואה המבכרת יותר מן החטים, והיא מתרת כל התבואות.

ספר החינוך פרשת אמור מצוה שג

Sefer HaChinuch explains that the mitzva not to eat Chadash impresses on us the need to acknowledge that the basic staples that we eat come from God. Only after demonstrating (through the Korban Omer) that we have really internalized this truth can we eat from the new crop[4].

• There is no question therefore that Chadash applies to grain from the 5 species in Eretz Yisrael. Any grain that took root before the bringing of the Korban Omer on 16 Nissan becomes permitted immediately after that Korban is brought.

5. .... משקרב העומר הותר החדש מיד. והרחוקים מותרים מחצות היום ולהלן. משחרב בית המקדש התקין רבן יוחנן בן זכאי שיהא יום הנף כולו אסור. ...

משנה מסכת מנחות פרק י משנה ה

The Mishna records that, once the Beit Mikdash was destroyed and korbanot were no longer brought, R. Yochanan ben Zakkai made a takana that Chadash grain would only become permitted at the end of the day of 16th Nissan.[5]

• As such, grains from the new crop become permitted in Israel at nightfall on 17 Nissan and in chu'l at nightfall on 18 Nissan[6].
• Based on the above, any grain which took root after 16 Nissan, even if it were planted before then[7], will be prohibited as Chadash until 17 Nissan the following year.
• Any grain which had taken root before 16 Nissan will permitted as Yashan from 17 Nissan. This applied even if it is still growing and will only be harvested some months later (Yashan does NOT necessarily mean that the grain is physically 'old'). It certainly applies to all grain which has already been harvested, even it is has already been processed as a food product. As such, a loaf of bread can be prohibited as Chadash on 16 Nissan but permitted as Yashan the next day.
• Chadash also applies[8] to drinks (eg beer or whisky[9]) or oils made from grain.
• There is a dispute as to whether the prohibition of Chadash also prohibits food utensils which have had Chadash in them.[10]
• Although Chadash is prohibited to eat, it is permitted to benefit from, eg to harvest[11] and use as animal fodder before 16 Nissan.[12]

B] WHERE AND WHEN DOES GRAIN GROW?

• As indicated above, for this mitzva we are only interested in wheat, barley, spelt, rye and oats.
• In most regions, these grains are grown either as a winter crop or a spring/summer crop.

B1] ISRAEL

• 92-94% of grain used in Israel is actually imported from chu'l. In 2016 this was approx 1.8 million tons of grain and grain products. Almost half of this was used for animal feed.
• In Israel all grain is planted as a winter crop and becomes permitted on 17 Nissan. The grain used for human consumption is usually harvested after this date and is permitted immediately on harvest.

---

oats were not grown in Eretz Yisrael at the time of the Mishna. This is disputed by other academics - see Mishnat Eretz Yisrael Kilayim 1:1. In practice, most poskim reject Rabbi Felix and rule that the halachic mesorah identifying oats with shibolet shual must be upheld.

4. Rav Yoel bin Nun points out that the prohibition of Chadash meant that most people were very low on food by Pesach. All that was left were the dregs of the store from the harvest last summer and from these remnants the people had to make matza - *lechem oni*. Some people were totally out of food - hence the need for Kimcha dePischa. Meanwhile, everyone had to look at the fresh new crop - all ready to harvest, but off limits until after Pesach! It is not surprising that the Torah does not explicitly mention 'simcha' for the Chag of Pesach, but mentions it once for Shavuot (when the harvest was complete but not dried) and twice for Succot (when the grain was all dried and stored for the winter).
5. There are two understandings of R. Yochanan ben Zakai's takana. The first is that he 'darshened' that the bringing of the Korban Omer triggered the permissibility of the grain only when the korban could be brought. After the Beit Mikdash was destroyed, the Torah itself prohibits Chadash until the end of 16 Nissan. The second understanding is that, according to Torah law, when the Korban Omer cannot be brought, the grain becomes permitted at dawn on the day of 16 Nissan. R. Yochanan ben Zakkai made a rabbinic takana that it would be prohibited until the end of the day. This was so that, when the Mikdash is rebuilt, people would not remember their previous practice and eat from the new grain at dawn, instead of waiting for the korban.
6. This is due to the 'sfeka deyoma' - the built-in doubt as the calendar day outside Eretz Yisrael such that, in this case, 17 Nissan is 'safek 16 Nissan'. Since chadash is a Torah prohibition, the 'safek day' is also prohibited.
7. There is a debate as to how long a plant takes to halachically be considered to have taken root. Some opinions rule 3 days after planting (Terumat Hadeshen 19 and Aruch Hashulchan YD 293:7-9) and others rule 14 days after planting (Shach Nekudat HaKesef, R. Akiva Eiger and the Vilna Gaon.) In practice, most poskim today rule that 14 days is the relevant rooting period. This means that any grain planted on the third of Nisan or later will not be permitted until the following year, but grain planted on the second of Nissan or before becomes permitted that year . We count the 2nd Nissan as the first day, so 15th Nissan is the fourteenth day and 16th Nissan permits it
8. We will see below if there any lenient approaches on this point.
9. Clearly, in practice, whisky which is matured will always reach market long after it becomes permitted as Yashan. Beer can however come to market within the year and may need to be stored before release after 16 Nissan.
10. See Shu't HaRama 132(15) who writes that one may be lenient regarding vessels which were used to cook Chadash. This is quoted by the Magen Avraham 489:17. The Mishna Berura 489:48 adds that one should only rely on this if it has been 24 hours since the vessels were used. This is also the ruling of Yalkut Yosef (Shaatnez UChaddash pg 439). However, the Gra and the Chayei Adam ruled that utensils which had absorbed Chadash taste required kashering (although will automatically become kosher once the Chadash taste becomes permitted in 17 Nissan (18 in chu'l).
11. In Eretz Yisrael it is forbidden to harvest chadash grain, even for animal feed, once the grain has reached a third of its growth.
12. See https://www.halachipedia.com/index.php?title=Yashan for more detailed sources.

B2] AMERICA

• In America, as in many other locales, crops are either winter or spring/summer. Winter crops are almost never a problem of Chadash since they are rooted well before 16 Nissan and harvested after then. They certainly come to market much later and are always Yashan.
• Spring/summer crops are often rooted after 16 Nissan, harvested later in the year and come to market towards the winter, when they are still prohibited for many months as Chadash!
• By way of examples, crops are planted in the US in roughly the following manner[13]:

	Planting	Harvesting	Halachic Status
Rye:[14]	Sept	July/Aug	Yashan
Barley:[15]	April/May	Aug/Sept	Usually[16] Chadash
Oats:	April/May	July/Aug	Usually Chadash
Spring Wheat:	April/May	Aug/Sept	Usually Chadash
Winter Wheat:[17]	Aug-Oct	June-Sept	Yashan

B3] SOUTHERN HEMISPHERE

• The seasons are reversed so winter crops often present the biggest concerns of Chadash

B4] COMPLICATING FACTORS

• The date of Pesach varies from year to year. It can be as early as March 27 and as late as April 25.
• An icy winter or wet spring can affect planting and harvesting seasons.
• Even if we know when a crop is harvested, grains are often blended prior to grinding so there is likely to be a mixture of Chadash and Yashan in the mix.[18] The proportions of blending can change due to both economic and practical factors. Also, bread, cakes and cookies all have different ideal blends.
• Grain is often stored for years in silos[19] (thus becoming Yashan), and different proportions of old[20] and new grains can be used in food products. Political and economical factors impact on how different countries and states rotate their reserve stocks[21].
• The 'safe period' for Chadash grains varies from product to product. For example, if spring wheat (which is Chadash) is harvested in the US in August, it will not be in the stores in products until some weeks later. From around Succot until the following Pesach, there will be a concern of Chadash.

• So if Chadash is so complicated and there is the risk that many food products - pasta, oatmeal, bread, cake[22] etc may be prohibited on a Torah level, why has 'Chadash-awareness' only grown in the last few decades. What were we all doing before then!?
• In fact, most communities outside Eretz Yisrael have traditionally been very lenient on the issue of Chadash. We will see below what that leniency was based on!

13. Originally, when Chadash awareness in the US began to increase (starting from around the 1950s) poskim (in particular Reb Yosef Herman) gathering information utilizing the halachic principal of *meisiach lefi tumo* (information casually discussed by a non-Jew, which can be relied upon in halacha). The companies would inform them about packing dates, best used dates and purchase dates and this information helped determine the Chadash or Yashan status of a product. A number of years ago, it was felt that *meisiach lefi tumo* would no longer be applicable since the companies became aware about the significance of the Yashan market. Therefore, poskim now determine Chadash information based on the USDA crop progress reports.
14. This is also the position with spelt. Note however, that most rye and spelt bread also contains significant proportions of wheat flour.
15. The OU writes that one of the main Chadash concerns of barley is malt, which is derived from barley. The chadash malt enters the market around December 15. Malt is added to wheat flour for many baking applications, although the amount added is usually less than 1% by volume. The malt enhances the chemical reaction between the flour, yeast and water and allows the dough to rise better. Barley malt is added to all barley and grocery flour. Flour made especially for baking cakes and cookies do not contain malt. Barley malt can also be added to some foods for coloring and flavoring. These products include pretzels, candies, cereals (such as Corn Flakes), beer, vodka, gin, cordials and prepared cocktails.
16. A very late Pesach (late April) could mean that the crop is Yashan.
17. Around 75% of the wheat planted in the US is winter wheat. Durum wheat, used for pasta production, is usually a spring crop and thus usually Chadash. The OU writes that flours can be divided into three groups: high gluten, low gluten, and medium gluten. High gluten flour is used for chewy products as opposed to crumbly ones. Examples of chewy products are bread, challa, and pizza. These are usually made from spring wheat and will be Chadash. In many cases, checking the dating code will ascertain if flour from the new Chadash crop was used or old Yashan flour. Low gluten flour is used for crumbly products, such as cookies, matza, pretzels and licorice. Low gluten flour is almost always from winter wheat. The third group, medium gluten flour, is made from both winter and spring wheats. They are used for pizza, challa, and also bread. The OU writes that the following flours are usually Chadash: high gluten, high strength, bread, patent, clear, pizza, all purpose and graham. See https://oukosher.org/blog/consumer-kosher/yoshon/.
18. This leads to complex question of *bitul* and whether the Chadash element is nullified, and whether in *rov* or in 60. If leaven from a Chadash grain is used, there may be no *bitul* because the yeast is considered to be a *ma'amid* which gives constant support to the food. There is also a discussion in the poskim as to whether Chadash should be considered a *davar sheyesh matirin* - a mixture which will become permitted with time, for which *bitul* will normally not be effective.
19. Total grain storage capacity in the US is currently around 25 billion bushels. 1 US bushel = 8 US dry gallons and around 35.25 liters. The weight of a bushel depends on the crop. 1 bushel of wheat at 13.5% moisture by weight is 60lb.
20. For instance, old barley (which is permitted) is often preferred for beer making.
21. R. Yehuda Spitz writes in the name of his father, kashrut expert R. Manish Spitz, that the modern problems of Chadash in the US started with the Russian Wheat Deal of 1972 when the US started shipping its grain reserves to the USSR and kept the recent crops for domestic use.
22. Kosher products such as bread, cakes and cookies are supervised during the manufacture. The kosher certification may not relate in any way to the origins of the grain. Only in the last few decades have more hechsherim been cognizant of the Chadash/Yashan element in the product.

C] WHERE DOES THE MITZVA OF CHADASH APPLY? - TALMUDIC SOURCES

• We saw that the Torah verse uses the phrase 'bechol moshvoteichem' - in all your dwelling places. Does this mean that the mitzva of Chadash applies across the world?
• As we will see, one of the complicating factors is the apparently conflicting sources in the Mishna on this question.

C1] THE MISHNA IN ORLA

6. .... החדש אסור מן התורה בכל מקום והערלה הלכה והכלאים מדברי סופרים.

משנה מסכת ערלה פרק ג משנה ט

A 'stam' Mishna (without debate or disagreement) at the very end of Orla rules that Chadash DOES apply in chu'l, presumably on a Torah level. Orla applies in Chu'l as a Halacha LeMoshe MiSinai[23] and Kilayim applies rabbinically[24].

C2] THE MISHNA IN KIDDUSHIN

7. כל מצוה שהיא תלויה בארץ אינה נוהגת אלא בארץ, ושאינה תלויה בארץ נוהגת בין בארץ בין בחוצה לארץ חוץ מן הערלה וכלאים. רבי אליעזר אומר אף מן החדש.

משנה מסכת קידושין פרק א משנה ט

The Mishna[25] in Kiddushin teaches a general rule that mitzvot which are dependant on the Land of Israel - such as shemita, terumot and ma'aserot ONLY apply inside the Eretz Yisrael. The two exceptions given by the Tana Kama (the first anonymous view in the Mishna) are Orla and Kilayim, which also apply (to some degree) in chu'l. However, according to this view, Chadash falls in the general rule and does NOT apply in chu'l. R. Eliezer disagrees and rules that Chadash DOES apply in chu'l.

8. ... וה"ק ת"ק: .... חדש - בארץ אין, בח"ל לא. מ"ט? 'מושב' - לאחר ירושה וישיבה משמע. ואתא ר"א למימר: אף חדש נוהג בין בארץ בין בח"ל. מ"ט? 'מושב' - בכל מקום שאתם יושבים. .... [ד]אמר אביי: מאן תנא דפליג עליה דר"א? ר' ישמעאל היא. דתניא: ללמדך, שכל מקום שנאמר בו מושב - אינו אלא לאחר ירושה וישיבה, דברי רבי ישמעאל.

קידושין לז.

The Gemara explains[26] that the Tana Kama is in fact NOT an anonymous majority position (as is often the case), but the specific opinion of R. Yishmael. He learns that the reference to 'moshav' in the verse is to teach that the mitzva of Chadash only became effective after the Jewish people had conquered and settled the Land of Israel in the time of Yehoshua[27]. By contrast, R. Eliezer learns that 'moshav' comes to teach that the mitzva of Chadash applies anywhere that Jews lie - even chu'l.

• We see from this Mishna in Kiddushin that the Stam Mishna in Orla is in fact the subject of a dispute. As such, even though the normal presumption would be to rule like a stam Mishna, where we are presented with a 'stam v'achar kach machloket[28]', this presumption is rebutted[29].

• We also see from the Gemara that the position of the Tana Kama is in fact that of R. Yishmael. Thus we have a dispute between two individual Tannaim, rather than a majority/minority position.

23. Halacha LeMoshe MiSinai is also binding on a Torah level, but there are some ways in which a Torah law learned from an actual verse is stronger than one learnt purely through the Oral Law as a Halacha LeMoshe MiSinai. One example is that a kal vechomer cannot normally be learnt from a Halacha LeMoshe MiSinai (see Pesachim 81a).
24. Divrei Sofrim is a complex expression which may indicate a status higher than a regular rabbinic law. In most cases, however, it connotes a rabbinic law.
25. Note that this mishna is in Kiddushin but the previous stam Mishna is in Orla, which is in Seder Zeraim. Since that is a more relevant place for an agricultural law than Kiddushin, this factor also give it more authority.
26. The Gemara also attempts to prove that, in fact, the positions may be reversed and in fact the Tana Kama rules that Chadash applies in all places and R. Eliezer restricts it to Eretz Yisrael. This suggestion is however rejected by the Gemara in favor of the more straightforward interpretation.
27. Chazal explain that this was 14 years after their entry to the Land - 7 years of conquest plus 7 years of settlement.
28. Kiddushin appears in the Mishna after Orla.
29. This principle is taught many times throughout the Gemara. The assumption is that Rabbi Yehuda haNasi (who edited the Mishna) left in the stam (as Mishna Rishona which was not amended) but later introduced a machloket to show that the stam is not necessarily followed. There is a debate in the Rishonim as to whether this means that we do NOT rule like the stam or simply rebuts the position that we DO. See the following page for a summary of the rules of stam and machloket in different combinations: https://he.wikipedia.org/wiki/%D7%94%D7%9C%D7%9B%D7%94_%D7%9B%D7%A1%D7%AA%D7%9D_%D7%9E%D7%A9%D7%A0%D7%94#:~:text=%D7%A7%D7%93%D7%95%D7%A9%D7%99%D7%9F%20%D7%A0%D7%93%20%D7%91).-,%D7%9E%D7%97%D7%9C%D7%95%D7%A7%D7%AA%20%D7%95%D7%90%D7%97%D7%A8%20%D7%9B%D7%9A%20%D7%A1%D7%AA%D7%9D,%D7%90%20%D7%93%22%D7%94%20%D7%9E%D7%97%D7%9C%D7%95%D7%A7%D7%AA).

C3] THE MISHNA IN MENACHOT

9. כל קרבנות הצבור והיחיד באים מן הארץ ומחוצה לארץ מן החדש ומן הישן חוץ מן העומר ושתי הלחם שאינן באים אלא מן החדש ומן הארץ.....

משנה מסכת מנחות פרק ח משנה א

The Mishna in Menachot rules that the grain for the Korban Omer may only come from the new crop in Eretz Yisrael.

10. .... בארץ לא פליגי דעומר ושתי הלחם מארץ אין, מחוצה לארץ לא. כמאן? דלא כי האי תנא - דתניא ר' יוסי בר רבי יהודה אומר: עומר בא מחוצה לארץ. ומה אני מקיים (ויקרא כג:י) *כִּי־תָבֹאוּ אֶל־הָאָרֶץ*? שלא נתחייבו בעומר קודם שנכנסו לארץ. וקסבר: חדש בחוצה לארץ דאורייתא היא, דכתיב: *ממושבותיכם* - כל מקום שאתם יושבין משמע. *וכי תבאו* - זמן ביאה היא. וכיון דאורייתא היא אקרובי נמי מקריבין.

מנחות פד.

The Gemara establishes that the view of our Mishna in Menachot - that the Korban Omer must come from Eretz Yisrael - must also hold that Chadash only applies (at least on a Torah level) in Eretz Yisrael. The view that permits the Korban Omer to be brought from grain from outside Eretz Yisrael must apply Chadash there too. In summary:

MISHNA IN ORLA	Stam Mishna stating explicitly that Chadash DOES apply in chu'l.
MISHNA IN KIDDUSHIN	Tana Kama/R. Yishmael - Chadash does NOT apply in chu'l. R. Eliezer - Chadash DOES apply in chu'l.
MISHNA IN MENACHOT	Stam Mishna which the Gemara understands to imply that Chadash does NOT apply in chu'l.

C4] TALMUD BAVLI

11. רב פפא ורב הונא בריה דרב יהושע אכלי חדש באורתא דשיתסר נגהי שבסר. קסברי: חדש בחוצה לארץ דרבנן, ולספיקא לא חיישינן. ורבנן דבי רב אשי אכלו בצפרא דשבסר. קסברי: חדש בחוצה לארץ דאורייתא, ורבן יוחנן בן זכאי מדרבנן קאמר. וכי תקין ליום הנף, לספיקא לא תקין. אמר רבינא, אמרה לי אם: אבוך לא הוה אכיל חדש אלא באורתא דשבסר נגהי תמניסר. דסבר לה כר' יהודה, וחייש לספיקא.

מנחות סח:

This source discusses Chadash in chu'l. Out of 3 views brought, 2 rule that Chadash clearly DOES apply in chu'l.

C5] TALMUD YERUSHALMI

12. החדש אסור מן התורה בכל מקום. מתניתא דרבי ליעזר .... מה טעמא דרבי ליעזר (ויקרא כג:יד) *בכל מושבותיכם* - בכל מקום בין בארץ בין בחוצה לארץ. מה מקיימין רבנין טעמא דרבי ליעזר - בכל מושבותיכם בחדש שכן יצא בחוץ. רבי יונה בעי קומי רבי יוסי ולמה לא תנינן אף החלה עמהן. אמר ליה לא אתינן מתני' אלא דבר שהוא נוהג בישראל ובגוים.

תלמוד ירושלמי מסכת ערלה פרק ג הלכה ז

The Yerushalmi in Orla has a slightly different understanding of the sugya in Kiddushin. In this reading, R. Eliezer prohibits Chadash even in chu'l and the lenient opinion of the Rabbis prohibits grain from Eretz Yisrael even if is exported. It is clear that in R. Eliezer's opinion, Chadash even applies to grain produced by non-Jews in chu'l.

D] CHADASH - RISHONIM & SHULCHAN ARUCH

- The majority of Rishonim rule like the strictest approach in the Talmud - that Chadash is prohibited on a Torah level in all places.
- These include the Rif[30], Rambam[31], Rosh[32] and Tur[33].

13. ... ואיסור זה נוהג בין בזמן הבית בין שלא בזמן הבית בין בארץ בין בחוצה לארץ בין בשל ישראל בין בשל נכרי..... והאידנא שאנו עושין ב' ימים אסור כל יום י"ז עד תחילת ליל י"ח.... ואין העומר מתיר אלא תבואה שנשרשה קודם העומר אבל אם לא נשרשה קודם העומר אינו מתירה.....

טור יורה דעה הלכות חדש סימן רצג - הלכות חדש

30. Kiddushin 15a Rif blat.
31. Hilchot Ma'achalot Asurot 10:2
32. Kiddushin 1:62 and Shu't 2:1
33. This is also the position of the Ramban (Vayikra 23:16). Rashba, Ritva, Meiri and Ri'd (Kiddushin 37a-38a), Mordechi (Kiddushin 1:501), Ittur (vol 2 p 137a), Ravyah (Pesachim 527), Smag (Lavin 142-14), Smak (217), Orchot Chaim (Sefirat HaOmer), Rokeach (294), R. Yerucham (Netiv 5 vol 4), Chinuch (303) and many Acharonim.

• In halachic terms, this is a 'royal flush' of poskim who all concur that Chadash applies fully in all places.

14. מ"ם דין בשל ישראל בין בשל עכו"ם. כך כתבו התוספות (עם סוד"ה כל) והמרדכי (סי' תקח) בסוף פרק קמח דקידושין. וכתבו דהכי משמע בירושלמי (ערלה פ"ג ה"ז) וכן כתב סמ"ג (לאוין קמ"ו). וז"ל הרא"ש בתשובות כלל שני (סי' ח) אשר נסתפק מורי אם הלכה כרבי אלעזר דאמר חדש אסור מן התורה בחוצה לארץ. דהא ליכא ספיקא דהלכה כסתם משנה דמסכת ערלה, ורבי ישמעאל ורבי עקיבא סברי כוותיה. ורב אלפס פסק הלכה כרבי אליעזר. וכן בספר המנות ובאבי העזרי (פסחים סי' תקכז). וכן פסקו בכל החיבורים דחדש נוהג בשל גויים. ודבר תימה הוא למה לא ינהוג בשל גויס!? .... ודברי רבי ברוך הן תמוהין שכתב ואפילו אם גדלה ברשות ישראל עתה בחוץ לארץ שאין אנו סמוכים לארץ ישראל גראה להחיר. ודבריו תמוהין ורחיותיו אין בהן ממש!

בית יוסף יורה דעה סימן רצג

The Beit Yosef brings wall to wall support for the stringent position that Chadash applies to all grain in chu'l.

15. אסור לאכול חדש אף בזמן הזה, בין לחם בין קלי בין כרמל עד תחלת ליל י"ח בניסן. ובארץ ישראל, עד תחלת ליל י"ז בניסן.

שולחן ערוך אורח חיים הלכות פסח סימן תפט סעיף י

16. **א** אסור לאכול חדש מתבואת חמשת המינים עד שיקרב העומר שהוא בט"ז בניסן, שנאמר: *ולחם וקלי וכרמל לא תאכלו עד עצם היום הזה* (ויקרא כג:יד). והאידנא, דליכא עומר אסור כל יום ט"ז. ובח"ל, שעושין ב' ימים, אסור כל יום י"ז עד תחלת ליל י"ח.

ב איסור החדש נוהג בין בארץ בין בח"ל, בין בשל ישראל בין בשל עובד כוכבים

שולחן ערוך יורה דעה הלכות חדש סימן רצג דיני חדש ומתי נוהג,

The Shulchan Aruch rules the halacha of Chadash both in Orach Chaim at the end of Hilchot Pesach, and also in Yoreh Deah. The psak is clear - Chadash applies to grain owned by Jews and non-Jews in all places on a Torah level.

• A minority of Rishonim rule that Chadash in chu'l is a rabbinic prohibition only. These include the Or Zarua[34], Sefer HaTeruma[35]. Raavan and Maharil. We will see that this begins the process of finding potential leniencies.

E] <u>LENIENCIES</u>

E1] <u>OR ZARUA - SAFEK DERABBANAN + SHA'AT HADECHAK</u>

17. ותו הואיל והמשניות והתנאים חלוקים בדבר וחזינן נמי אמוראים דאיכא דעבדי הכי ואיכא דעבדי הכי, <u>ולא אתמר הלכתא לא כמר ולא כמר</u>. <u>ואיכא שעת הדחק דאי אפשר לן שלא לקנות תבואה מן העכו"ם</u> אית לן לסמוך על סתם משנה והתנאים והאמוראים דסברי חדש ח"ל דרבנן ולא חיישי' לספיקא.

ספר אור זרוע חלק א - הלכות ערלה חדש ושביעית סימן שכח

The Ohr Zarua (R. Yitzchak b R. Moshe of Vienna - 13th century) explains that it was impossible to avoid buying grain from local non-Jews. Since he understands that the sugya was <u>deliberately</u> not decided in the Talmud, with views on both sides, one can rely on the opinion that Chadash in chu'l is rabbinic. Since the grain may or may not be Chadash, we can be lenient in the case of safek.

• Thus the leniency relies on three elements: (i) the time of need; (ii) the lack of clear psak in the Talmud; (iii) a doubt in a rabbinic law.

E2] <u>TAZ - RELIANCE ON LENIENT OPINIONS IN A TIME OF NEED (FOR BEER!)</u>

18. ומס כן יש לנו לדון ולומר דזמדינות אלו שכוח שעת הדחק דחייו של מדס תלוי בשתיית שכר שעורים ושבולת שועל, כדאי הוא התנא קמא לסמוך עליו בשעת הדחק כיון דלא מיפסקא הלכה בפירוש בגמרא כר"ת.

ט"ז יורה דעה רצג ס"ק ד

The Taz (17th Century Poland) mirrors the earlier perspective of the Or Zarua. Since the sugya was not clearly decided in the Talmud, and since it is impossible to live without malt beer[36], we can rely on the lenient opinions that Chadash only applies in Eretz Yisrael.

• The Taz was even prepared to rely on a doubt in a <u>Torah</u> law in times of extreme need.
• This lenient position of the Taz was vehemently opposed by the Shach[37] and the Vilna Gaon[38].

34. 328
35. Cited in Shu't Rosh 2:1
36. It must be remembered that the water in most places was unsafe to drink and almost all of the wine was non-kosher. Beer was one of the only options to remain hydrated!
37. Nekedot HaKesef 293:4.
38. Biur HaGra 293:2

19. וראיתי לכמה מהגדולים שמתירים שכר של שעורים של חדש אפילו להרי"ף והרמב"ם והרא"ש דסברי חדש בח"ל דאורייתא מטעם דמשקים היוצאים מהם אינם כמותם ואין בזה רק איסור דרבנן ובדרבנן יש להקל בח"ל ובשל אינו ישראל ולסמוך על המקילים .... ולענ"ד לא נראה כלל דבוודאי יש בזה איסור דאורייתא אלא שאין בו מלקות ....

ערוך השולחן יורה דעה סימן רצג סעיף כג

There were opinions that liquid derivatives of Chadash may not be included in the Torah prohibition, opening the path to greater leniency. However, these opinions were also rejected by many[39].

20. **(ג)** מיסור כו'. כ"פ כל המיבורים הרמשונים ודלא כסה"ת וכבר תמה הרמ"ם עליו, וכתב דסתם מתני' בסוף ערלה כוותיה דר"מ. .... ודברי בה"ג כמן טעות גדול הוא ומ"ל להשיב עליהן. וגם מ"ם בשם ב"ח הב"ח כשיטתו דס"ל מימו מוהג בשל עובדי כוכבים וכבר הכו על קדקדו כל המחרונים ושגגה ילמה מתחת ידו, וטובה ה"ל לבה"ג כמן השתיקה!

ביאור הגר"א יורה דעה סימן רצג

The wording of the Gra is uncharacteristically long and strong! He rules that those who are lenient have no real substance to rely upon and their position is unsustainable!

E3] SEFER HATERUMOT - CHADASH IS PROHIBITED (RABBINICALLY) ONLY CLOSE TO ISRAEL

21. וע"ל דהטולם סומכין על מ"ם ר"ב דחדש בח"ל מדרבנן (וכ"כ בליקוטי מהרי"ל) לא גזרו עתה בח"ל כיון שמין מאו סמוכין לא"י ... מסור חדש מדרבנן ודוק' במקומות הסמוכין לא"י דומיא דתרומה כמ"ם התוס' כנ"ל לדעת ר"ב ולייבב מנהג העולם .... מבל בעל נפש יחמיר במה שמפשר לו ליזבר.

מגן אברהם על שולחן ערוך אורח חיים הלכות פסח סימן תפט סעיף י

The Magen Avraham[40] understands that the main leniency relied on by most people is the position of Rabbeinu Baruch in the Sefer HaTerumot. He rules that Chadash applies in chu'l in the same way as teruma - only rabbinically and only in the countries immediately bordering Eretz Yisrael. In practice, the Magen Avraham recommends that a 'ba'al nefesh' should be strict and try not to rely on this.

E4] THE REMA - A MAJORITY AND AN ELUSIVE SFEIK SEFEIKA

22. הגה: ומ"מ כל סתם תבואה שרי לאחר הפסח, מבח ספק ספיקא. ספק היא משנה שעברה. ואם תמלא לומר משנה זו, מ"מ דלמא נשרשה קודם העומר. ובמיני תבואה שזורעים ודאי לאחר פסח, כגון במקום מדינות שזורעין שבולת שועל ושעורים לאחר פסח, אז יש לו להחמיר אחר הקציר, אם לא שאין דלתות המדינות נעולות, ורוב התבואה שם ממקום אחר שזורעין קודם הפסח. וכן בזמן שימות החורף נמשכים לאחר פסח ובכל הגליל הבוא זורעים לאחר פסח דבריס הנזכרים, יש להחמיר ולחוש מן הסתם. אבל אין להורות לאחריס במקום שרוב שתייתן וחכילתן ממינים אלו, כי מוטב שיהיו שוגגין ואל יהיו מזידין.

שולחן ערוך יורה דעה הלכות חדש סימן רצג

The Rema applies a double doubt - sfeik sfeika[41]. Maybe the grain was from the previous year, and even if is from this year, maybe it rooted before the Omer. This is strengthened in places where, in fact, most of the grain being used is Yashan[42]. However, in locales where this argument is impossible - such as where the cold winters mean that the crop is always planted in the spring[43] - one should in principle be strict. But he urges that this should not be taught in places where they cannot manage without grain from non-Jews. Better that the people there should be unintentional sinners than intentionally eat Chadash!

- Other poskim (most famously R. Akiva Eiger in his glosses on the Shulchan Aruch) question the validity of the sfeik sfeika[44] since it is ultimately comes down to one safek - is the grain from this year or last?
- Since this safek is, according to most poskim, in a Torah law, they will apply the principle *safek deoraita lechumra,* and be stringent.

39. The Vilna Gaon rules that one who buys someone else beer from Chadash grain is violating the mitzva of Lifnei Iver. Some poskim ruled that one can rely on this leniency only for people who are weak and sickly (Beit Hillel). R. Chaim Kanievsky rules that someone who is machmir in Chadash may not serve it to someone who is not.
40. This is also the position of the Aruch Hashulchan YD 293:20-21
41. This is based on Shu't Rosh 2:1.
42. This is in fact the argument used by the Rema in his responsa - Shu't Rema 132:15. He argues there that, on a Torah level, the Chadash grain will be *batel berov* in the Yashan. As we will see below, this reflects a reality that may have pertained to the locale and time of the Rema but did not necessarily apply in other times and places.
43. In his teshuva, the Rosh also writes about the reality that in some years there were pogroms (presumably in the lead up to Easter) which prevented the Jewish farmers from growing grain before Pesach, so only a minority of the grain was grown before Pesach. The Rosh writes that he was unable to forbid the grain in those years, but rather would answer questioners that they should ask the farmers whether the majority of the grain was grown before Pesach and, if so, it would be permitted. The Rosh also writes that the non-Jews did not plant crops during Lent, which begins on Ash Wednesday and runs for approximately 6 weeks until Easter. The start date for Lent varies from February 4 and March 10. As such, in some years the non-Jews planted well before Pesach, eliminating Chadash concerns since the new grain became permitted while it was still growing. However, there were years in which the non-Jews refrained from planting until much later and in those years the new grain was Chadash. Ultimately, the Rosh writes that it is better that the people should remain uninformed and not sin intentionally! This has been the approach of many poskim over the centuries. Even where they were personally strict, they did not publicize this in order not to cause intentional sinning by the masses. See *Chodosh in Chul* by Rabbi Yirmiyohu Kaganoff - http://www.jerusalemkoshernews.com/2010/11/chodosh-in-chul/
44. Some defend the minhag to be lenient with a different double doubt - (i) perhaps the grain is from last year; and (ii) perhaps the law of Chadash does not apply to grain that grew in the Diaspora or to grain that was grown by a non-Jew. See also Tiferet Yisrael Kiddushin 1:9 #74 who defends the lenient practice.

E5] THE BACH - THE MINHAG: CHADASH DOES NOT APPLY TO GRAIN PRODUCED BY NON-JEWS

23. ומ"ש בין בשל ישראל בין בשל גוי. זה אינו מפורש בתלמוד .... אמנם המנהג פשוט במלכותינו לנהוג היתר ואף גדולי התורה שהיו לפנינו – מהר"ר שכנא ז"ל ומהר"ר שלמה לוריא ז"ל ותלמידיהם – לא היו חוסרין, ושותין השכר שנעשה מתבואה שלא התירו הטומר, זולת מקצת חסידים מקרוב נזהרו בחיסור זה. ואני בימי חורפי בלמדי מסכת קידושין לפני שלשים שנה שמתי אל לבי לעיין בהוראה זו, ורציתי שאינה הלכה פסוקה. ושאלתי את המאור הגדול כמוהר"ר ליפא בר בצלאל ז"ל והצעתי לפניו מה שהעליתי במלודתי גם לפני שאר גדולי התורה ולא היה מי שסתר את דברי! .... לכן אין לשום גדול להורות הוראה לחיסור היפך המנהג שנהגו על פי גדולי ישראל להיתר ומי שרוצה להחמיר לעצמו מדת חסידות הוא ולא יורה לאחרים דלא ליתי לחינגויי ודוקא במי שהורגל בשאר פריסות ומפורסם לחסיד רשאי לנהוג לחיסור גם בזו ....

ב"ח יורה דעה סימן רצג

One of the most famous positions of leniency on this is that of the Bach (16/17th Century Poland). He brings multiple proofs[45] to show that Chadash does NOT apply to a field owned by a non-Jew. He also argues that the clear minhag of Eastern Europe in his time[46] was to be lenient, and he warns any posek against ruling against that minhag! Only a few pious individuals were strict on this, and the Bach insists that only those who are consistently stringent and pious in their halachic observant were even permitted to be strict on themselves in this area!

- **This position of the Bach was severely critiqued my many - including the Shach[47], the Taz[48], the Vilna Gaon (see above), the Chida, the Pnei Yehoshua and the Sha'agat Aryeh.**
- **It was however defended by some[49] and, fascinatingly, by many of the Chasidim of the 18/19th Century, some of whom claimed[50] that that the Ba'al Shem Tov had heard a heavenly voice that the halacha follows the Bach[51]!**

24. **יח** וכל דברים אלו הוא באשכנז ובפולין הסמוך לה דרוב השנים נזרעים קודם הפסח. אבל במדינתינו מדינת רוסיא אין כאן ספק כלל דלפני הפסח אין עדיין זמן זריעה כלל, אם לא במקרה רחוקה פעם לעשרים שנה. ואין לנו שום היתר על חדש. ובזה לא שייך לומר על כלל ישראל מוטב שיהיו שוגגין אם הוא איסור דאורייתא. וכנגד זה כמעט הוא מהנמנעות ליזהר בזה כי הקציר אצלינו בירח אב וצריכין להמתין שמנה חדשים ... וכמה קשה עלינו להמתין שמנה חדשים מאכילת חטים ושעורים ושבולת שועל שמזה עושים גרויפי"ן וזה כל אכילתינו ומשתיית שכר כל החורף. ורק יחידים הזהירים בזה וקשה עליהם כידוע. ולכן קמו גדולי חכמי ישראל למצא התירים ...

כ ..... דאיך יגזורו על המדינות הרחוקות כשלנו שנצטרך להמתין יותר מחצי שנה מזמן הקציר דבר שאין הציבור יכולין לעמוד בו. הא קיי"ל דאין גוזרין גזירה על הציבור בדבר שאין יכולין לעמוד בו... ולכן כל בית ישראל נקיים ולא נכשלו באיסור ח"ו

ערוך השולחן יורה דעה סימן רצג

The Aruch HaShulchan (l9th Century Lithuania) accepts that there is effectively no doubt in freezing northern locations that the grain crop is Chadash, since it is impossible to plant before spring. Nevertheless, he accepts that the community has no choice but to rely on the lenient views, difficult as they may be to justify, since otherwise they would have nothing to eat or drink through the winter!

25. .... ומ"מ רוב העולם אין נזהרין כלל בחיסור חדש ויש שלמדו עליהם זכות, לפי שהוא דבר קשה להיות זהיר בזה. ולכן סומכין מפני הדחק על מקצת הראשונים שסוברין שחדש בחו"ל אינה אלא מדיס ... ויש שלמדו עליהם זכות שסוברין שחדש אינו נוהג אלא בתבואה של ישראל אבל לא בשל עכו"ם. .... והנה אף שאין בידינו למחות ביד המקילין מ"מ כל בעל נפש לא יסמוך על התירים הללו ויחמיר לעצמו בכל מה שאפשר לו כי להרבה גדולי הראשונים הוא חיסור דאורייתא בכל גווני.

משנה ברורה סימן תפט ס"ק מה

The Mishna Berura also accepts that the custom is to be lenient on matters of Chadash, but he encourages individuals to be strict where possible[52] since most Rishonim understand this to be a clear Torah prohibition[53]!

45. The quoted source is just a fraction of the commentary of the Bach here. The original should be learnt in full to understand his position properly.
46. This was endorsed by the great poskim of 16th Century Poland - Rav Shalom Shachna, the Maharshal and the Maharal.
47. YD 293:6.
48. YD 293:2
49. See Shu't Mishkenot Yaakov 64.
50. See Baal Shem Tov on Parashat Emor 6. The Tzitz Eliezer (20:40) suggests that some Chasidim were prepared to rely on the Bach since he had been the Rav of both Medzhibuzh and Belz. The Chozeh of Lublin was a direct descendant of the Bach and publicly stated that the halacha followed him. However, many Chasidim were and are strict on Chadash. The Ba'al Shem Tov himself apparently retracted his opinion later in life and ruled strictly in Chadash. The Chazon Ish quotes the Chafetz Chaim as saying that when we go to Olam HaBa we will be asked why we were not strict on Chadash. If we answer that we ruled like the Bach, we will be asked why then did we not follow the Bach when he prohibits lashon hara!
51. The position of Chabad has however generally been strict on Chadash. See Shulchan Aruch HaRav 489:29-30 and responsa in addendum to vol. 5 of Shulchan Aruch HaRav p. 506. He notes that in generations prior to his the custom was to take the lenient approach in reliance on the Bach, but that in his generation many had taken a stricter approach to Chadash.
52. See Biur Halacha 489:10 s.v. *Af*, where he encourages people to be strict where it is possible and not simply to ignore the issue entirely. Even though it may not be possible to be strict in all situations, sometimes it is possible without too much difficulty to avoid certain foods at certain times of year. As such, he encourages awareness of the prohibition. For instance, he writes that someone may mistakenly think that if wish to be strict about Chadash, they must also be strict on every aspect of the the prohibition - all grains, drinks, pots used for Chadash etc. In fact, one should recognize that there are legitimate leniencies in many cases such as drinks and pots and one can still be stringent in other key areas. In this vein, it is said that R. Moshe Feinstein was strict to eat Yashan oats since that was feasible, even if it was not practicable to find Yashan wheat. See Igrot Moshe YD 4:46 (end).
53. The Mishna Berura also point out that, with the advent of the train in his time, it became possible to transport large qualities of grain from different locales, including places (like

F] CONTEMPORARY AUTHORITIES

• Most Ashkenazi authorities in the US through the 20th Century remained lenient on Chadash in practice[54]. This was also the position of Rav Yosef Ber Soloveitchik[55] and R. Moshe Feinstein.[56]
• Some Ashkenazim poskim were strict on Chadash - this was the position of R. Aharon Soloveitchik[57] and R. Aharon Lichtenstein.
• Over the last few decades it has become easier to tell from the packaging on products when they were produced[58] and thus to try and avoid Chadash. There are also many more food products available to us now, and the classic arguments of Eastern Europe - that people will simply starve if they don't eat Chadash - are no longer tenable[59].
• Most Sefardi authorities - include R. Ovadia Yosef[60] - are strict and do not allow Sefardim[61] to rely on the Ashkenazi heterim for Chadash[62].
• Most authorities today in Eretz Yisrael are strict on Chadash[63].

Kashrut Agencies in the US

OU - see https://oukosher.org/blog/consumer-kosher/yoshon/. Many OU products are certified as free of Chadash. In this link, the OU Kosher Staff explains what steps are taken to avoid Chadash in OU products.

OK - see https://www.ok.org/consumers/yoshon/?st=Yoshon

Star K - see https://www.star-k.org/articles/wp-content/uploads/YoshonQuick_2021.pdf[64]

Guide To Chodosh - A detailed guide to Yashan and Chadash products which is published anually in the US.[65]

• In practice, there are a number of hechsherim that are now strict on issues of Chadash, but the majority of hechsherim still rely on the heterim - especially that of the Bach[66].
• Finally, it is interesting to note that The Journal of Halacha and Contemporary Society covers this topic in two articles - the first by R. Alfred Cohen in 1982 and the second by R. Yehuda Spitz in 2017. Both are (as one would expect from the journal) balanced presentations which set out both sides of the debate. Rabbi Cohen ends his article by bemoaning the phenomenon of young people who, in the pursuit of chumra, are now unwilling to eat in their parents or parents-in-laws homes, causing machloket and offence. He stresses the need for *darchei noam* within Jewish practice. However, Rabbi Spitz ends quite differently. He writes, "Even with the many reasons and logic given to find excuses, it must be stressed that the majority of poskim disagreed with each and every one of them". He accepts that one may not object to someone who is lenient, but the clear tenor of the article is to encourage stringency and brush aside 'excuses'.
• It is interest to ponder - does the shift in tone in the same journal over 35 years reflect the greater availability of Yashan products over that period and ability to raise halachic standards. Or does it reflect a change in attitudes to chumra, whereby the zealous children who concerned Rabbi Cohen in 1980s are now the Rabbinic leaders who set halachic standards in the 2020s!

Russia) where almost all of the grain was Chadash.

54. Many poskim in the 19th and 20th Centuries wrote lengthy teshuvot justifying the prevailing and long-established Ashkenazi minhag to be lenient with Chadash, even though this went against almost all the key halachic decisors in the Rishonim. They considered it essential to be *melamed zechut* on the Jewish people. However, some individuals were particular to observe the laws of Chadash, even in very difficult situations. R. Yisrael Salanter was strict. R. Avraham Kook gave the hechsher for the Manischewitz matza factory in 1923 and certified that the flour used was Yashan. It is told that the Rogatchover Gaon (in Dvinsk) did not eat bread most of the year due to concerns of Chadash. R. Eliezer Silver of Cincinnati did not eat out, but carried a sandwich in his top hat! (See *Chodosh In Chutz La'aretz*, R. Yehuda Spitz, Journal Of Halacha LXXIV p121 fn 41.)
55. See https://www.koltorah.org/halachah/chadash-observance-today-by-rabbi-chaim-jachter-1 where Rabbi Jachter brings accounts of how these poskim ruled on Chadash.
56. In the 1970s, Reb Yosef Herman of Monsey began to research further the status of Chadash and, with the guidance of Rav Yaakov Kamenetzky, and advice of Rav Moshe Feinstein, began to compile information to help people who were interested in keeping this mitzva. He began to publish a Guide to Chadash as a confidential booklet with limited free distribution to those who wanted to keep the mitzva. This was in keeping with the advice of most poskim who remained conscious of the statement of the Rema in the name of the Rosh that - *mutav sheyihiyu shogigim vlo maizidim* - coupled with the fact that it was difficult to guarantee that Yashan flour would be available.
57. See https://oukosher.org/blog/consumer-kosher/yoshon/concerning the efforts made by R. Aharon Soloveitchik in the 1950s-70s to increase awareness and observance of Chadash in the US.
58. However, It is often not possible to tell from the packaging which blends of grains were used. A product made in the 'danger time zone' for Chadash may have been made from a large proportion of stored grain which was Yashan.
59. Even poskim at the time (such as a Aruch HaShulchan) pointed out the differences in locales such as Germany (where winter crops were possible) and Russia (where they were not). There was never one universal minhag and we should certainly take account of the change realities of food production when assessing the halacha. Rav Hirsch wrote (in a different context) that one should always check minhagim to ensure that do not become 'notar' - like a left-over korban which starts off highly kadosh but then turns toxically treif (karet). Rabbeinu Tam famously wrote that *minhag* when written backwards spells *gehinom*!
60. See Yalkut Yosef YD 293.
61. According to some Sefardi poskim, a Sefardi who is not careful to avoid Chadash in chu'l may not be called up for the aliyah of Levi on the Yom Tov of Succot (when we read about the prohibition of Chadash). However if it will cause a machloket, it is permissible to give him the Aliyah! (See Yalkut Yosef YD 293:34). It is reported that this was also the practice for that aliyah in the shul of the Chazon Ish.
62. Although earlier Sefardi poskim were open to reliance on these heterim in times of great need - see Kaf HaChaim OC 489:110. Rav Yosef (Yalkut Yosef YD 293:31) writes that Sefardim can rely on the lenient position in places where there is no bakery that offers Yashan. The Or Letzion YD 1:15 writes that one may only rely on this leniency on Shabbat and Yom Tov.
63. Products from Israel bearing a reliable kosher supervision are Yashan. Products imported into Israel are not necessarily Yashan. If an imported package has multiple hashgachot, one must ascertain which kashrut agency assumes responsibility for the Yashan status of the product. See also
64. See also https://www.star-k.org/articles/articles/seasonal/442/preparing-for-yoshon-practically-speaking-a-housewifes-perspective-on/
65. This was started by Reb Yosef Herman (who died in 2019 - see https://hamodia.com/2019/01/11/bde-reb-yosef-herman-zl/)
See https://www.crcweb.org/PreliminaryGuidetoChodosh2019.pdf for the 2019/20 Preliminary Guide and
http://www.clevelandkosher.org/common/uploads/pdf_pdf/1578262868-FinalGuidetoChodosh2019-2020.pdf for the 2019/20 Final Guide.
The up to date guide can be bought for $27 - see https://www.star-k.org/articles/yoshon/448/guide-to-chodosh-information/
66. For an excellent series of articles on this topic see *Chodosh in Chutz La'aretz*, R. Yehuda Spitz - https://ohr.edu/this_week/insights_into_halacha/4991, https://ohr.edu/4992, https://ohr.edu/5012

APPENDIX - THE CEREMONY OF THE KORBAN OMER

3. .... On the second day of Pesach, the sixteenth of Nisan, besides the additional offering brought each day [of the holiday], a lamb is offered as a burnt-offering together with the omer of barley that is waved. This is a communal meal-offering, as we explained.

4. There is a fixed time [when this offering is brought]. Hence it supersedes [the prohibitions against forbidden labor on] the Sabbath and the restrictions of ritual impurity.

5. This meal offering may be brought only from Eretz Yisrael, as [Leviticus 23:10] states: "And you shall bring the omer, the first of your harvest, to the priest." It is a mitzvah to bring the omer from [fields that are] close [to Jerusalem]. If it was not brought from a close place, it may be brought from any place in Eretz Yisrael.

6. It is a mitzvah that it be reaped at night, on the night of the sixteenth [Nisan]. [This applies] whether [that day falls] during the week or on the Sabbath.

7. The entire night is acceptable for reaping [the barley for] the omer. If it was reaped during the day, it is acceptable.

8. The mitzvah is to bring it from standing grain. If [appropriate standing grain] was not found, it should be brought from the sheaves.

9. The mitzvah is [to harvest grain] that is fresh. If [such grain] was not found, it may be brought from dried grain.

10. Their practice was to bring [the omer] from fields to the south [of Jerusalem]. They would leave one half of the field fallow and sow the other half one year. And the following year, they would leave fallow the half of the field that was previously sown and sow the other half and bring [the omer] from it.

11. This omer would come from barley. This is a halachah communicated by Moses our teacher. How was [the offering] brought? On the day before the festival of Pesach, the agents of the court would go out [to the field] and tie [the barley] into bundles while it was still attached to the ground so that it would be easy to reap. [On the evening after Pesach,] all [of the inhabitants] of all the neighboring villages would gather so that it would be reaped with much flourish. They would have three men reap three se'ah of barley in three baskets with three sickles.

    When it became dark, the reapers would ask those standing [in attendance]: "Has the sun set?" They would answer: "Yes." "Has the sun set?" They would answer: "Yes." "Has the sun set?" They would answer: "Yes." "Is this a sickle?" They would answer: "Yes." "Is this a sickle?" They would answer: "Yes." "Is this a sickle?" They would answer: "Yes." "Is this a basket?" They would answer: "Yes." "Is this a basket?" They would answer: "Yes." "Is this a basket?" They would answer: "Yes." If it was the Sabbath, they would ask: "Is it the Sabbath?" They would answer: "Yes." "Is it the Sabbath?" They would answer: "Yes." "Is it the Sabbath?" They would answer: "Yes." Afterwards, they would ask: "Should I reap?" They would answer: "Yes." "Should I reap?" They would answer: "Yes." "Should I reap?" They would answer: "Yes."

    Three [questions and answers] were given regarding each matter. Why was all this necessary? Because of those who erred who departed from the community of Israel in the Second Temple [era]. They maintained that the Torah's expression [Leviticus 23:11]: "From the day following the Sabbath" [should be understood literally, as referring to] the Sabbath of the week. Nevertheless, according to the Oral Tradition, [our Sages] derived that the intent is not the Sabbath, but the festival. And so, was understood at all times by the prophets and the Sanhedrin in every generation. They would have the omer waved on the sixteenth of Nisan whether it fell during the week or on the Sabbath.

    [This interpretation is also reflected in the Written Torah itself], for it is written in the Torah [ibid.:14]: "You shall not eat bread, roasted grain, or kernels of grain until this self-same day." And [Joshua 4:11] states: "And they ate from the produce of the land on the day after Pesach, matzot and roasted grain. "And if one would presume that in that year Pesach fell on the Sabbath as these fools have supposed, why would Scripture make the license for them to eat new grain dependent on a factor that is not fundamental, nor the true cause, but mere coincidence. Instead, since [Scripture] made the matter dependent on "the day after Pesach," it is clear that the day after Pesach is the cause that permits new grain [to be eaten] and no attention is paid to the day of the week [on which it falls].

12. They reaped [the barley]; [then] they placed it in the baskets, and brought it to the Temple Courtyard. [There] they beat it, winnowed it, and selected [the kernels]. The barley [kernels] were taken and roasted over the fire in a cylinder with holes so that the fire would reach it in its entirety, as [Leviticus 2:14] states: "From ripe ears, roasted over fire, ground from fresh kernels." According to the Oral Tradition, we learned that the verse is speaking only about the omer meal-offering. After it is roasted, it is spread out in the Temple Courtyard and the wind wafts through it. It is then taken to a mill for kernels and ground [to produce] three se'ah. From that quantity, an isaron is taken out after it has been sifted with thirteen sifters. The remainder is redeemed and [afterwards] may be eaten by any person. Challa must be separated from [that grain], but it is exempt from the tithes, as we explained.

    This isaron of fine barley flour is taken and mixed with a log of oil on the sixteenth of Nisan and a handful of frankincense is placed upon it like on the other meal offerings. It is waved in the eastern portion of the Temple Courtyard, being passed to [all four directions], lifted up and brought down. It is then brought close to the tip of the southwest corner of the altar like the other meal-offerings. A handful of the meal is taken and offered on the altar's pyre. The remainder is eaten by the priests like the remainder of all other meal-offerings.

    When is this handful taken? After the additional offering of the day is offered. The lamb brought as a burnt-offering is offered before the continuous offering of the afternoon.

Rambam Mishne Torah Hilchot Temidim U'Musafim Chapter 7[67]

67. Translation from https://www.chabad.org/library/article_cdo/aid/1013259/jewish/Temidin-uMusafim-Chapter-7.htm