

YOSHON & CHODOSH

What's it all about?
What does it mean?
How is it applied?

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Much confusion surrounds the laws of Chodosh and Yoshon. With this article I hope to explain what Yoshon is, where and how it applies, and how the laws of Yoshon manifest themselves practically in the United States.

I. Introduction

The Torah states¹:

וְלֶחֶם וְקָלִי וְכַרְמֶל לֹא תֹאכְלוּ עַד עֵצֶם הַיּוֹם הַזֶּה עַד הִבִּיאֲכֶם אֶת קִרְבַּן אֱלֹקֵיכֶם

“You shall not eat bread or roasted kernels or plump kernels until this very day until you bring the offering of your G-d”

From this pasuk we learn that one may not eat all grain crops of any given year until the Korban Omer is brought on the second day of Pesach. Until the Korban Omer is brought the crop is considered “Chodosh” or new, and after it is brought it is considered “Yoshon” or old.

Today, in the absence of an Omer sacrifice we must wait until the full second day of Pesach has passed, and then we consider all grains Yoshon.

Which grain is considered Chodosh and prohibited?

Any of the five grains – Wheat, barley, oat, rye and spelt are required to be yoshon. It is considered Yoshon if the grain had rooted by the time the second day of Pesach arrived. This is either 3 days or two weeks after the seed is planted.

Corn, rice, buckwheat or any other grain items are not subject to the restrictions of Yoshon.

Where does it apply?

To fully understand this question some background is necessary. There are several Talmudic sources that discuss the application of the prohibition of Chadash.

Times when there is no Beis Hamikdash

The Gemara in Menachos² states clearly that the prohibition applies even in times that there is no Beis Hamikdash.

Israel & Diaspora

The opinion of R’ Eliezer in the Gemara in Kidushin³ is that the Torah prohibition of Chadash applies both in Eretz Yisrael and outside of Israel. This is also the conclusion of several other Gemaras⁴, and is the opinion of the Rif, Rosh, Rambam and other Rishonim. The Rosh writes⁵ that this is the conclusion of all the ‘chiburim’.

¹ Vayikra 23:14

² 68a

³ 37a

⁴ see Ba’er Hagolah YD 293:6

⁵ Shut HaRosh klal 2 at end

Jews and Non-Jews

The opinion of Tosfos⁶, the Rosh, Mordechai and Tur is that the prohibition applies to the grain of Jew and non-Jew alike at a Torah level. This is the Halacha quoted in the Shulchan Aruch⁷. The Bach is of the opinion that it doesn't apply to the grain of non-Jews at all, the Taz refutes his proofs and concludes that the Halacha is clearly like all the Poskim who apply the prohibition of Chadash to the grain of a non-Jew as well.

What's the cutoff date?

As we said earlier, in order for grain to be considered Yoshon it has to have rooted by the time the Omer sacrifice was brought on the 16th of Nissan. As noted, in the absence of an Omer sacrifice we must wait until the full 16th day of Nissan (the second day of Pesach) has passed, and then we consider all grains Yoshon. In the Diaspora this would be till the end of the 17th day of Nissan.

How long does it take to root? There is a dispute in the Gemara whether it's 3 days or 2 weeks. The Shach quotes the Terumas HaDeshen who is of the opinion that it has to be planted at least three days earlier⁸ which is the day before Erev Pesach⁹. This is also the opinion of the Aruch Hashulchan¹⁰.

Rav Akiva Eiger argues and says that according to normative Halachic procedure¹¹ the Halacha would be two weeks. This is also the opinion of the Dagol Mervava. Indeed, the Shach himself in the Nekudos Hakesef questions the Terumas Hadeshen, and asserts that the Halacha would indeed be two weeks.

So what happened? How come 'keeping Yoshon' seems to be an optional chumra?

From all that we've explored until now it would seem that there is a Torah prohibition to eat Chodosh. Indeed this is the opinion of the Rif, Rosh and Rambam – the three major Halachic arbiters among the early Rishonim.

Indeed, since the times of the Rishonim, much Halachic literature has been written to explain why the general populace is lenient with regard to the prohibition of Chodosh. It is apparent that this was a long standing leniency applied in religious communities for at least a thousand years.

We will discuss some of the premises for leniency found in the various Poskim:

- 1) The basis of the Rif, Rosh and Rambam is seemingly contradicted from various Mishnayos and Gemaras¹².

⁶ Kidushin Ibid

⁷ OC 489, YD 293:2

⁸ Shach YD 293:2

⁹ Pischei Teshuva YD 293:4

¹⁰ YD 293:9

¹¹ based on the format in which the Gemara records the Halacha, and the opinions of the majority of the early Halachic arbiters

¹² The Rishonim above base themselves on the opinion of Rav Elazar in Kidushin and they note that there is a 'stam' mishnah in Orlah that clearly states that Chodosh is a Torah prohibition everywhere.

- 2) There are several Rishonim¹³, who in an attempt to address the widespread leniency, say that outside of Israel the prohibition is only Rabbinic (Not like Rav Elazar in Kidushin). Therefore whenever there is a doubt as to the status of the grain we can be more lenient. Their opinion is questioned by many of the later seforim as being contrary to the usual Halachic process¹⁴.
- 3) The Ohr Zarua¹⁵ (quoted by the Aruch Hashulchan) presents a novel idea: Since there are several Amoraic opinions in the Gemara¹⁶ and no clear resolution in a time of need we can rely on the opinions that it is Rabbinic and therefore if there is a doubt we can be lenient.
- 4) As mentioned the Bach is of the opinion that if the grain comes from non Jews there is no prohibition at all. The Aruch Hashulchan posits that even according to Tosfos who holds it to be forbidden it would only be Rabbinic¹⁷.
- 5) Perhaps the most well known and widely relied upon leniency is that quoted from the Rosh by the Rema¹⁸. The Rema writes that one can generally assume that all grain is permitted with a 'sfeik sefaika' or doubt within a doubt. 1) Maybe it is from a previous year, and 2) even if from this year perhaps it had rooted before Pesach.

There are several important caveats to this rule:

- A grain that is strictly planted in the summer would not be permitted
- In a year that Pesach is early often much of the planting is done after Pesach and one would have to assume its chodosh.
- If the grain is imported from elsewhere where the sefaik sefaika would apply then one may rely upon that.

The Rema concludes that in a place where much of the food and drink¹⁹ is made with problematic grains then one should be personally stringent but not publicly protest.

- 6) The Taz²⁰ writes that the prohibition of Chodosh applies to preservatives as well, even though it is a miniscule amount in relation to the product for two reasons. a) It is put in to add significant taste and is therefore not nullified in the mixture and b) it will eventually be permitted (after the

Many of the commentators ask: true there is a stam mishnah in Orlah like Rav Elazar, but there is an Amoraic dispute in Menachos debating exactly this point without a clear resolution. Furthermore, there is another stam mishnah in Menachos that would indicate the Halacha is not like Rav Elazar that the Rishonim seem to ignore. The Aruch Hashulchan answers that the above Rishonim felt that since there is no clear resolution in the Gemara in Menachos, and the Mishnah is not written in the form of a clear Halachic ruling, the Rishonim went with the Mishnah in Orlah which is written as a ruling and thus has more Halachic import.

¹³ Baal Haterumos, Ohr Zarua, Rivah, Rabeinu Avigdor, Maharam Meil Tzedek, Raavan. C.f. Aruch Hashulchan YD 293:5

¹⁴ See footnote 11

¹⁵ Whom the Aruch Hashulchan points out was the Rebbe of the Rebbe of the Rosh and a student of the Baalei Tosfos

¹⁶ Menachos 68b

¹⁷ The Aruch Hashulchan himself admits that the Rosh clearly held it was a Torah prohibition, even when belonging to a non Jew

¹⁸ YD 293:2

¹⁹ Apparently beer was considered a staple drink (particularly where ordinary water was unsafe for drinking) and a very integral part of the regular diet

²⁰ YD 293:1

following Pesach) and therefore cannot become nullified, as we discussed previously. However, the Pischei Teshuva²¹ brings opinions that there are valid grounds for leniency.

Regarding the Rema's heter, the Shelah²² points out that in Poland it wouldn't apply because the barley, oats and spelt are all planted after Pesach.

7) The Shach²³ quotes another reason to permit beer - because it is only a liquid derivation of grain²⁴. He concedes that this is difficult to rely on; when it comes to using the same dishes as those that were used for Chodosh there is room to be lenient.

The Magen Avrohom²⁵ clarifies that this can only be relied upon if one is unsure that the vessel was used for Chodosh. If the vessel was definitely used for new grain there is no room for leniency. The Magen Avrohom concludes that the reason for widespread leniency is because we rely on the opinions that it's a Rabbinic injunction that may only be applicable in the lands near Eretz Yisrael. He concludes that one who is a Baal Nefesh should be careful as much as possible.

The Vilna Gaon²⁶ vehemently disagrees with many of the above heterim and concludes that there is a very clear Torah prohibition of Chodosh even nowadays, even in the Diaspora.

The Halachic Bottom Line

The clear psak of most Rishonim²⁷ and the Shulchon Aruch²⁸ is that Chodosh is forbidden. The Rema has a heter in a place where much of the grain can be assumed to be planted before Pesach. The Mishna Berura²⁹ writes that there is really no room to be lenient if the Rema's leniency is not applicable, but whereas the general population is not careful about this, and it's not possible to enforce this prohibition, however individuals should definitely not rely on any of the discussed leniencies.

In the Biur Halacha the Chofetz Chaim takes this a step further and explains: many are lenient because they feel that it is impossible to be fully stringent on Yoshon and therefore follow the general minhag to totally ignore it. He recommends that even one who is not able to adopt yoshon with all the stringencies of the poskim, should at least attempt to avoid the prohibition according to the more lenient opinions, and thus be more lenient with beer, preservatives and the other leniencies discussed above.

The Baal Shem Tov reportedly was very lenient with the prohibition of Chodosh as well, Although later in life he did become stringent after meeting Reb Yechiel of Horodna who was stringent³⁰.

Indeed the custom has been, and is very well documented as such, to be lenient with the prohibition of Chodosh. This is definitely true among the masses, and even among many great Torah Sages. This is one

²¹ Ibid 3

²² Brought in Magen Avraham OC 489:17

²³ YD 293:6

²⁴ The Noda Beyehuda uses a similar rationale to not consider beer and spirits chametz sheaver alav hapesach

²⁵ OC 489:17

²⁶ YD 293:2

²⁷ Rif, Rosh, Rambam, Smag, Itur, Ravyah, Hagahos Maimonis, Ritva

²⁸ YD 293:1 OC 489:10

²⁹ OC 489:45

³⁰ As reported by Medrash Pinchas

of the occasions where the established, longtime custom runs contrary to the normative Halacha. Indeed, there are reports of the Bach and other poskim who found leniencies being accorded great honor in Heaven. The Zichron Tov reports that the Baal Shem Tov asked in a 'Shailos Chalom' what the status of Chodosh is and he was told that the fires of Gehennom were cooled for 40 days after the Bach's arrival in Heaven in honor of his leniency on chodosh. (Presumably the source of the Baal Shem Tov's leniency noted above)³¹.

All of the above leniencies only apply outside of Israel. However inside Israel all agree that one must be stringent. Products that are imported to Israel are a matter of dispute, somewhat dependent on what stage of production they are imported in.

The Recent Resurgence of Yoshon in the United States

Due to several factors it has become much easier to keep Yoshon in the United States. It can become clear to the consumer, with little research, when any particular product was packed and whether or not there are Yoshon concerns.

Therefore, even though the custom has always been to not be concerned with the prohibition of Chodosh, many feel that whereas the usual Halacha prohibits it, and according to many it is a Torah prohibition, therefore if with relative ease one can be stringent it is worthwhile.

Indeed, Rav Moshe Feinstein in a responsa on the subject³² writes that although one can rely on the Rema and other leniencies when there is a significant amount of Yoshon flour on the market, if it is possible to be stringent one should do so.

The Grain Market

I will attempt to explain how the grain distribution works in the United States, and it will be obvious what one can do to be more stringent, or what they would have to be concerned about when having Yoshon eating guests.

There are different times that wheat is grown in the United States, and the genetic makeup of the wheat is affected by the season in which it's grown:

Winter Wheat- generally planted in September – November and harvested in March or April. Winter wheat has a lower protein and gluten level, making it less 'stretchy' and is used for pretzels, crackers, cakes and pastry.

Spring Wheat –is planted in April or May and harvested in June. It has a very high protein and gluten level and is very 'stretchy'. It is best used in bread and pizza.

Durum Wheat – Durum wheat, generally used in pasta products, is very high gluten and is generally a Spring crop.

³¹ See Minhag Yisrael Torah OC 489 who discusses the various customs to be lenient throughout the generations

³² Igros Moshe YD 4:41

All purpose flour (also known as medium gluten flour) is a mixture of high and low gluten flour and is used in many households for all purposes.

In terms of Yoshon, Spring wheat creates the greatest problem being as it is often planted after Pesach and remains chodosh until the following Pesach. The same applies to Durum wheat.

The Spring and Durum wheat does not generally hit the market until the middle of July or beginning of August. This depends on the year; Rabbi Yoseph Herman has done the Yoshon observant community an invaluable service by keeping in touch with the USDA and tracking the grain harvests throughout the summer. This information is available by calling 718 305 5133.

So, from Pesach through the end of July everything is automatically Yoshon. The crops from before Pesach have been through a Pesach and become Yoshon, and the crops from after Pesach have not yet hit the market.

The first spring crops to hit the market are generally oats, followed by barley, wheat and then durum wheat. It is important to note that some of the mills use flour from the previous harvest, which is Yoshon, and some will use the new flour, while others will use a mixture – all depending on the quality and protein levels they are trying to achieve.

California and other western states are unique in that even their (genetically) spring wheat is grown in the winter (outside of the intermountain region of N California).³³ It would seem that if one could ascertain that the flour is coming from a Californian mill this would be an almost certain assertion of its Yoshon status.

Practical Actions

Where does all this leave us? What many people who try to be careful about Chodosh do is toward the end of July they'll stock up on wheat, oat and barley products. On the Star-k website they have tips for storage of these items (bottom line – freeze as much as you can). Generally there are kosher brands of pasta, flour, cookies etc. that are available as Yoshon year round, as well as pizza shops and bakeries in metropolitan areas.

This is the practice of many who try to be stringent without making their lives very difficult. If your stock runs out, then there are the yoshon brands noted above, and at that point many will rely on the other heterim.

The next level is to learn how to read the packing dates on the package. Rabbi Herman publishes a guide to Chodosh which explains in great detail how to read the dates for every product and what products do or do not have issues.

It is important to note that this is the absolute machmir position. For example, if the wheat leaves the mill on August 1st, and your Cheerios were packed on August 2nd, although there may be a very slim chance of it being Chodosh, it isn't probable. If one does follow this method, they will be sure to not eat any Chodosh at all.

³³ Based on my correspondence with Professor Jorge Dubcovsky of UC Davis