

## **OU KASHRUT**

**PAGE** 

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# The Laws of Chadash – Chutz La'aretz

According to the Torah, any of the five grains—barley, oats, rye, spelt, and wheat—that are *Yashan* (i.e., they were planted and harvested before the third day of Pesach in the upcoming year) are permitted for consumption. However, grains that are planted, cultivated, and harvested after the third day of Pesach are considered *Chadash* and are prohibited for consumption until the following Pesach. A key issue regarding the prohibition of *Chadash* is whether it applies to grains grown outside the Land of Israel.

#### THE SOURCE

The Mishnah in Masechet Kiddushin (1:9) presents a Tannaitic dispute regarding the parameters of Chadash. The Mishnah states that all mitzvot related to produce grown in the ground, such as Terumot and Ma'asrot (tithes) and Shemittah (the sabbatical year), apply solely in Eretz Yisrael. It further clarifies that mitzvot not connected to produce, such as Tefillin and Shabbat, apply universally. The Mishnah then records a dispute between Chachamim and Rebi Eliezer. Rebi Eliezer holds that the prohibition of Chadash applies to grains grown everywhere in the world, while the Chachamim disagree, ruling

that *Chadash* is similar to *Shemittah* and only applies to grains grown in *Eretz Yisrael*.

A general rule in the Talmud is that in cases of dispute, the halacha follows the majority opinion. In the case of Chadash, it would appear that the halacha should align with the Chachamim, as they represent the majority. However, another Mishnah in Masechet Orlah clearly follows Rabbi Eliezer's opinion. Consequently, nearly all early authorities, including the Rambam, Ri"f, and Tosafot, rule in accordance with Rabbi Eliezer, stating that the prohibition of Chadash applies to Chutz La'aretz as well. The Shulchan Aruch (YD 293:2), based on these authorities, rules explicitly that the prohibition of Chadash applies to grains grown both in Israel and around the world.

#### IS IT A BIBLICAL PROHIBITION?

Chadash is undoubtedly a biblical prohibition, although there is some dispute among authorities regarding whether this prohibition applies solely in Israel. Rabbeinu Baruch and Rabbeinu Avigdor assert that while there is a clear prohibition of Chadash in Chutz La'aretz, it is only a rabbinic prohibition outside of Israel, and one may be lenient in certain dire circumstances. However, Rosh, in his responsa, presents numerous proofs from other Talmudic sources that the prohibition of Chadash is biblical, regardless of where the grains are grown. This view is also supported by other authorities, such as Rambam. The Shulchan Aruch similarly rules that Chadash is a biblical prohibition, The OU Israel Gustave & Carol Jacobs Center for Kashrut Education was created to raise awareness and educate the public in all areas of kashrut. Rabbi Ezra Friedman, Deputy Rabbinic Administrator for OU Kosher Israel is the Center's director.



whether the grains are grown in Israel or overseas.

#### **NON-JEWISH GRAIN**

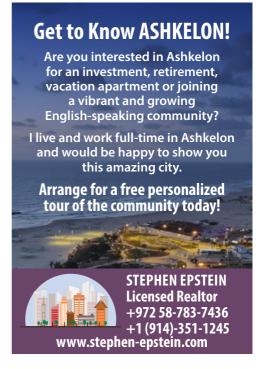
Another important issue concerning grains grown outside Israel is whether the prohibition also applies to grains grown by non-Jews. There is no dispute that the prohibition of *Chadash* applies to any grain grown in Israel, whether by Jews or non-Jews. However, Mahari"l Mei"l Tzedek ruled that while *Chadash* applies in *Chutz* La'aretz, it only applies to fields owned by Jews. This opinion has been refuted by early authorities. Based on the understanding that Chadash is akin to any non-kosher product or Chametz on Pesach, the ownership of the field is irrelevant to the prohibition. As such, Chadash is prohibited regardless of whether the field is owned by Jews or non-Jews.

In summary, it is accepted that *Chadash* is a biblical prohibition, whether the grains are from *Chutz La'aretz* or *Eretz Yisrael*, and regardless of whether they were owned by Jews or non-Jews. The validity of the *Chadash* prohibition in *Chutz La'aretz* became a subject of significant dispute among later authorities. This dispute has practical implications for contemporary rulings. In future articles, we will explore this dispute and its practical applications.

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