



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"ף*, 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,

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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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