

By Rabbi David Gorelik

Understanding the Concept of *Yashan*

The source for the laws pertaining to *chadash* (new produce) and *yashan* (old) is found in *Vayikra*¹. These laws are applicable to the *chameishes haminin* – barley, oats, rye, spelt and wheat. The laws of *chadash* do not apply to other grains such as rice, corn and buckwheat.

The grains of *chameishes haminin* are *yashan* if they took root prior to Pesach. If the grains did not take root before Pesach, they are *chadash* until the following Pesach. There is a halachic discussion whether the grain must take root three days or two weeks before Pesach.

There is a dispute amongst the Tanaaim in the *Mishna*² whether the Torah prohibits *chadash* outside Eretz Yisrael. The Rif, Rambam and Tur adopt the stringent opinion of Rabi Eliezer that it does. This is the ruling of the Shulchan Aruch and the Rema³. Therefore, one must be sure that *yashan* grains are consumed. However, the *Poskim* note that the prevalent custom in Europe was to be lenient on this matter. Various reasons are given to justify this approach.

Some suggest that in some countries we can rely on the fact that most grains take root before Pesach⁴. This is especially true in the United States, where 75 percent of the wheat planted is winter wheat, which is by definition *yashan*.

Some utilize a *safek sefeika* (double doubt); maybe the crop is from the previous year and even if it is from this year's crop, then perhaps it took root before Pesach⁵.

Some argue that there are a number of cumulative factors to consider. Since obtaining *yashan* was extremely difficult in Europe and the grains that presented a problem were a staple to their diet, the situation could be viewed as a *shaas hadechak* (an emergency situation). Furthermore, there are rabbinic opinions that *chadash* is forbidden *midrabanan*. Therefore, one can apply the rule that *safek derabanan lekula*, in a case of doubt, one can be lenient in a rabbinical prohibition⁶. In addition, flour is difficult to store because of potential infestation.



The *Aruch Hashulchan*⁷, cites the *Ohr Zarua*, who argues that the nature of the prohibition of *chadash* in *chutz la'aretz* lacks a conclusive resolution since the *Gemara* does not offer a definitive *psak*. He maintains that in such situations one may rely on the lenient opinion for *chadash* in the Diaspora.

The *Aruch Hashulchan*⁸ further suggests that according to this opinion the prohibition of *chadash* outside of Eretz Yisrael would only be applicable to lands in close proximity to Eretz Yisrael as opposed to more distant countries. He compares it to *terumah* and *maaser*, which the *Chachamim* applied only to lands adjacent to Eretz Yisrael.

Others discuss whether the prohibition applies only to Jewish-owned land, or whether it includes non-Jewish ownership as well⁸.

In the United States most barley and oats are *chadash* since they do not take root before Pesach. Canadian oats are also *chadash*, and the U.S. imports a significant amount. Domestic rye is always *yashan*; however, rye bread can be *chadash* since it is primarily composed of spring wheat. Spelt grown in the United States is *yashan*, but Canadian spelt is *chadash*, and it is used domestically.

Wheat has both a winter and a spring crop.

Winter wheat is *yashan* since it takes root before Pesach. Spring wheat is usually *chadash* since it does not always take root before Pesach. The different wheats yield different types of flour. For example, low-gluten flour is used for crumbly products such as cookies, matzah and pretzels, and the flour comes from winter wheat. High-gluten flour is used for chewy products such as bread, challah, pizza and bagels, and it is produced from spring wheat. Medium-gluten flour is made from a mixture of spring and winter wheat and is also used for bread, challah and pizza. Durum wheat is used for pasta products, and it is usually a spring crop.

The following flours are usually *chadash*: high-gluten, high-strength, bread, patent, clear, pizza, all-purpose, and graham.

Malt is derived from barley, which can be *chadash*. The malt is added to wheat flour for baking applications. The amount added is usually less than one percent by volume. The malt enhances the chemical reaction of the flour, yeast and water, allowing the dough to rise better. Barley malt is added to all barley and grocery flour.

Flour made especially for baking cakes and cookies does not contain malt. Barley malt can 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. There is a halachic discussion whether the malt added to these products can be considered *batel* (nullified). The *chadash* malt enters the market around December 15.

There is no concern of *chadash* in white vinegar since it does not contain barley malt. However, specialty vinegars such as malt vinegar, tarragon vinegar, and salad vinegar are exceptions.

Matzah meal is ground matzah and is therefore *yashan*, since matzah is produced from winter wheat. Rye crackers are *yashan* provided that the wheat, oats, and malt listed in the ingredient panel are also *yashan*. One must be careful about oatmeal cookies since both the oats and the wheat flour must be *yashan*. Pizza stores sometimes line the oven walls with semolina flour; one has to be certain that the semolina flour is *yashan*.

Products from Eretz Yisrael bearing a reliable *hechsher* are *yashan*. Products imported into Israel are not necessarily *yashan*. If a package has several *hashgachos* and also states that the product is *yashan*, one must find out which kashrus agency assumes responsibility for its *yashan* status.

As far back as the 1930s, domestic wheat was stored and was therefore *yashan*. During the 1950s, Harav Aharon Soloveitchik, *zt"l*, became the *Rav hamachshir* of Streit's products. Before accepting the position, Rav Aharon investigated the milling process and flour sources. The latter inquiry was important to Rav Aharon since he was particular to eat only *yashan*. He found that domestic wheat was not always stored, and consequently one could no longer assume that the flour in the marketplace was *yashan*.

Rav Aharon informed Streit's that he would provide *hashgachah* only if all their products were *yashan*, and the company agreed to this provision. Rav Aharon ate matzah instead of bread until he purchased a freezer to store the various products needed to produce *yashan* home-baked goods.

When Rav Aharon later moved to Chicago, he convinced a bakery to become *yashan*, and eventually other bakeries in Chicago followed suit. Rav Yitzchak Giffin, *z"l*, a *talmid* of Rav Aharon, guided these bakeries in observing *yashan*.

In the 1970s, other individuals became

concerned when the United States began selling its surplus wheat to Russia. The domestic storage was depleted, and one could no longer assume that the flour was *yashan*. Due to this situation, Rabbi Yosef Herman of Monsey, New York, began compiling information about the *yashan* status of domestic grains. Because of his diligence, more people have access to *yashan* information and it is easier to observe this *mitzvah*.

When Rabbi Herman first began gathering information, he used the halachic principle of *mesiach l'fi tumo*, relying on information from a non-Jew unaware of the halachic importance of the issue.

The companies would inform him about packing dates, best-used-by dates, and purchase dates. This information helped determine the *chadash* or *yashan* status of a product.

Recently, Rabbi Herman decided that *mesiach l'fi tumo* would no longer be applicable since the companies are now aware of the significance of the *yashan* market. Therefore, Rabbi Herman determines the *chadash* status based on the USDA crop progress reports, unless he has information from a *mashgiach* or kashrus agency. He calculates the earliest possible date that the products can be considered *chadash*. As a result, he has earlier cutoff dates than in the past. However, there are Rabbanim who have ruled that if different companies provide the same information, then we may assume that they are all telling the truth. Therefore, if they state that the new crop is entering the food chain at a later date, then we may rely on that information.

In order to observe *yashan*, one must store the products. If flour is not stored in a refrigerator, infestation can occur. The eggs of the flour beetle enter the mill attached to the wheat. Flour mill companies have a cleaning system to remove virtually all the eggs. The remaining eggs are able to hatch live beetles, which have a life cycle of twenty-one days. The probability of the eggs hatching is increased as the storage time and storage temperature increase. In addition, worms can enter the flour bags even if the opening is extremely minute. Therefore, it is imperative to refrigerate the flour, to be certain the bags have no openings, and to maintain cleanliness.

There are flour companies that have worked closely with the OU to provide *yashan* flour. This is done for 50- and 100-pound bags.

Since companies mill both spring and winter wheat, Rabbi Yisroel Belsky, *shlita*, a halachic consultant for the OU, established that *yashan* wheat must be sealed in its own bins before the arrival of the *chadash* wheat to prevent the potential mixture of flours. When the company wants to make a *yashan* production, the *mashgiach* releases the *yashan* wheat for the run. The next key step is cleaning the equipment from the previous *chadash* productions. The best method to clean the equipment is with a wet wash. The problem is that the flour milling companies rarely wet-wash the equipment. Therefore, the equipment is cleaned by flushing it with *yashan* flour and labeling the first pallet *chadash*; the subsequent pallets are labeled *yashan*. The *mashgiach* is on site to confirm that the flush is labeled *chadash*.

Rabbi Belsky felt this method would be sufficient to remove the *chadash* and overcome the halachic principle of *davar sheyesh lo matirin*, something whose prohibition is permitted at a later date is *assur bemashehu*, forbidden even if present in a minute amount. Rabbi Herschel Schachter, *shlita*, a halachic consultant for the OU, also maintains that there is a limit to an *issur mashehu*. He argues that if a drop of *chametz* fell into a reservoir, the water may still be used on Pesach. Similarly, the minuscule amount of *chadash* that might be left would not prohibit the use of the *yashan* flour.

The OU policy is that equipment that was used to make *chadash* products using heat must be *eino ben yomo* (not used within a twenty-four-hour period) in order to make *yashan* products. This policy is based on the Shaagas Aryeh's opinion that *chadash* is a Torah prohibition even in the Diaspora, and therefore, the standard rules of *taam k'ikar* apply¹⁰. Rav Aharon Soloveitchik also required that the utensils be *eino ben yomo*. M

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1. 23:9-14
2. *Kiddushin* 36b
3. *Yoreh De'ah* 293:2-3
4. *Rama Yoreh Deah* 293:3, *Ohr Zarua*, Vol. 1, section 328
5. *Mordechai*, *Kiddushin* #501
6. *Rama Yoreh Deah* 293:3, *Ohr Zarua*, Vol. 1, section 328
7. *Yoreh Deah* 293:6
8. *Yoreh Deah* 293:19-20
9. *Taz Yoreh Deah* 293:2, *Ohr Zarua*, Vol. 1, section 238, *Bach*, *Yoreh Deah* 293, see *Shach* #6 who disagrees
10. *Shaagas Aryeh Chadashos Dinei Chadash*, Chapters 1-2