

PARSHA ENCOUNTERS

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Parshas Emor / Rabbi Moshe Kaufman

The Lesson of the Omer

The days between Pesach and Shavuot, commonly referred to as the *yimei hasefirah*, are a time of preparation as we count “up” towards *kabbalas haTorah*. The *mitzvah* of *sefiras haomer* is found in this week’s *parsha* of *Emor* (23:15):

“u’sifartem lachem memacharas hashabbos, miyom haviachem es omer hatenufah; sheva shabbosos temimos tehiyena”

The *pasuk* does not correlate the timing of *sefiras haomer* with the Yom Tov of Pesach, but rather with the bringing of the *korban omer*. This *korban* of barley was brought on the sixteenth of Nissan, before the first harvest was to begin. All grain that had grown that year to date was forbidden to eat until this *korban* was brought. Connecting the *korban omer* with *sefiras haomer* is not a mere coincidence; most Rishonim are of the opinion that in our current *galus*, when bringing the *omer* is impossible, the obligation to count *sefiras haomer* is only Rabbinic. This means that *sefiras haomer* and the *korban omer* have a direct connection to each other. But how are we to understand this? If *sefiras haomer* is the way we anticipate and prepare for the accepting of the Torah, in what way is the *korban omer* an integral part of that preparation?

The *Sefer HaChinuch* (*mitzvah* 302) discusses the concept of *hakoras hatov* as it relates to the *mitzvah* of *korban omer*. He says that it is only fitting that at harvest time, when we are ready to literally reap the fruits of our labor, we remind ourselves of the *chesed* Hashem has done for us. By bringing a *korban* from our produce before enjoying it ourselves, we demonstrate our

gratitude to Hashem, and we are then worthy to receive that blessing of success.

Gratitude is not merely a positive character trait. It is absolutely fundamental to our service of Hashem. The *Chovos Halevavos* (*sha’ar avodas haElokim*) and many others instruct us that all the good that we receive from Hashem requires reciprocation. We, of course, have nothing to offer Hashem, because He is not lacking anything. Our only recourse is to follow His will. The idea of *hakoras hatov*, gratitude, is that it obligates the recipient to return the favor in kind. Given all the good that we have received from Hashem, including life itself, it is only fitting that we give to Hashem in proportion, which is to say, that we devote our whole lives to learning His Torah and keeping the *mitzvos*.

Therefore, in preparing for *matan Torah*, we must be ready to take on the tremendous opportunity and responsibility of being the keepers of the Torah. In order to do so, we must develop a feeling of gratitude to Hashem, which is derived from the bringing of the *korban omer*. This leads us into the 49 days of *sefirah*, and without it, our *sefirah* is lacking a crucial component.

May we use this time to properly reflect on all the goodness that Hashem has granted us, leading us to realize our obligation towards Him. *Hakoras Hatov* will be the banner that we carry with us as we celebrate the Yom Tov of Shavuot.

Rabbi Kaufman is a full-time member of the kollel.

HALACHA ENCOUNTERS

Yoshon

Rabbi Dovid Greenberg

Many bakeries, eateries, and products are displaying the label “*kemach* (flour) *yoshon*.” What exactly is the meaning of “*yoshon*,” and why has this law become more relevant in recent decades?

The Torah states in *Parshas Emor* (23:14): “Bread and grains you may not eat until that day (the 16th of Nissan), until the *korban* of Hashem (the *korban omer*) is brought; this is a law for all generations in their dwellings.”

From this verse we learn that all new grain from the five species of wheat, barely, spelt, oats, and rye, may not be eaten until the 16th of Nissan. When the *Bais HaMikdash* stood, a *korban* from the new barley harvest, called the *omer*, was brought on that day. Only afterwards was the new grain, termed *chodosh* (new), permitted to be eaten.

The Sefer HaChinuch discusses the concept of *chodosh*. Before enjoying the fruits of our labor, we must sacrifice a measure of our harvest to acknowledge that only through Hashem’s grace are we able to produce this food. After the *korban omer* is brought, the permitted grain is labeled “*yoshon*” (old). After the *Churban Bais HaMikdash*, the permissibility of the grain became dependent on the completion of the 16th day of Nissan. The *posuk* expresses this duality by stating: “... (the prohibition is) until that day, until the offering,” meaning if there is no offering available, then we have to wait for the end of the day. Outside of Eretz Yisroel, we keep two days of Yom Tov because of the dictum of “*Sfeika D’Yoma*.” Hence the prohibition of *chodosh* applies in the Diaspora until the end of the 17th of Nissan. (Menachos 68b, O.C. 489:10)

Any grain that had taken root before the 16th of Nissan could be included in the “*heter*” of the *omer*. Taking root is defined as being planted at least three days prior to the 16th of Nissan.

If one is in doubt whether a certain grain is *yoshon*, the Rema (Y.D. 293) writes that one may eat it. Normally the rule is “*Safek D’Oraysa L’Chumra*,” that a doubt regarding a Torah law requires one to be stringent. However, in our case the situation is classified as a “*Sfek Sfeka*,” a double doubt, where one may be lenient. Perhaps this grain is actually from last year’s crop; even if it is from this year’s harvest, maybe it took root before the 16th of Nissan (see *Aruch HaShulchan* 293:16, who explains why this is a double doubt even though apparently there is only one discerning point of whether the grain was permitted by the 16th of Nissan).

The prohibition of *chodosh* applies only to eating; one may benefit from *chodosh* in other ways, such as through business transactions involving *chodosh*.

Chodosh in Chutz La’Aretz

The *Mishna* in *Kiddushin* (36b) mentions a dispute over whether the prohibition of *chodosh* applies in *Chutz La’Aretz*. R’ Eliezer states that it does, citing as proof the *pasuk* which says “*B’chol Moshvoseichem*— in all— your dwellings.” The Sages disagree based on the general rule that land-based laws only apply in Eretz Yisroel. They explain the *pasuk* “*B’chol Moshvoseichem*” to mean that the prohibition of eating *chodosh* only started after the Jewish people settled in their dwellings, fourteen years after their arrival. However, even according to the Sages there is a Rabbinic prohibition against eating *chodosh* in *Chutz La’Aretz*. The Rif and the Rambam *pasken* like Rabbi Eliezer and the *Shulchan Aruch* codifies the law as such (Y.D. 293). On

the other hand a significant number of Rishonim conclude that we follow the view of the Sages.

CURRENT PRACTICE

Over the centuries the practice amongst European Jewry has been to have a lenient attitude towards the prohibition of *chodosh*, even when the grain was certainly *chodosh*. The eminent *poskim* have gone to great lengths to explain the source of this seemingly errant behavior. Their explanations can be summarized in the following two approaches:

The approach of the Bach: R’ Yoel Sirkes in his commentary *Bayis Chodosh* (Bach Y.D. 293) is of the opinion that only land owned by Jews is subject to the prohibition of *chodosh*. Consequently, as most of the fields that produced grain in Europe were under gentile ownership, the issue of *chodosh* was averted. The basis for this idea is that the Torah connects the prohibition of *chodosh* to the bringing of the *korban omer*. The *omer* may only be brought from grain owned by Jews, as it is written “*Kitzirchem*” (24:11) “*your harvest*.” The Bach opines that in the same vein, the *issur* of *chodosh* only applies to grain belonging to Jews.

The approach of the Magen Avraham: The Magen Avraham (O.C. 489:17) writes that the general leniency is based on the opinion of Rabbeinu Boruch who paskins like the Sages that the *issur chodosh* in *chutz la’aretz* is only of Rabbinic origin. Usually Rabbinic decrees regarding *mitzvos* that are connected to Eretz Yisroel were only enacted in the lands surrounding Eretz Yisroel as a safeguard to prevent confusion because of boundary concerns. For example, *terumos* and *ma’asros* are obligated *m’derabbanan* in Syria and Egypt. Countries that are quite distant from Eretz Yisroel were never included in the prohibition.

A third approach relates specifically to by-products of grain such as beer and malt. The Pnei Yehoshua (*Kiddushin-kuntras acharon*) is of the opinion that by-products of a food only have the forbidden status of the food through Rabbinic decree. Therefore, in *Chutz La’Aretz* where the *issur* of *chodosh* itself might be permitted, one may surely rely on those opinions regarding the by-products of grain. All of the above opinions are hotly disputed by the majority of *poskim*.

CONCLUSION

A few decades ago in America, almost all of the flour available was *yoshon*, due to the vast surplus of flour from previous years. More recently there has been a huge increase in the export of flour and therefore the market is flooded with *chodosh* products by the end of the fall. (Pretzels and the like that are always baked using winter wheat [low gluten] are always assumed to be *yoshon*.) We are no longer doubtful as to the status of food, as the status can be relatively easy to ascertain by checking the production codes and calling the company. One can also subscribe to the *Chodosh Guide* by R’ Herman. Although most of Klal Yisroel have relied on the above-mentioned *heterim* for generations, it should be noted that their situation was much more dire than ours today, when *yoshon* products can be readily purchased or at least stored in freezers. The *Bi’ur Halachah* (s 489) therefore concludes that while *klal yisroel* as a whole have a basis for leniency, it is proper for one to be stringent with himself at least regarding foods which are clearly *chodosh*, even if one is more lenient regarding by-products. One is advised to speak to his own *rav* before accepting any new stringencies.

Rabbi Greenberg is a full-time member of the kollel.