

Chodosh: Is It Applicable in America?

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The spectacle of hundreds of disgruntled farmers driving their tractors down the avenues of Washington, D.C., one spring morning, focused national attention suddenly on the agricultural problems of this country. Having viewed the farmers' protest on TV, millions of Americans began to hear and read about their complaints — grain reserves, surplus crops, wheat exports, and other unfamiliar terms were aired for public scrutiny.

The average citizen observing the tumult had a purely pragmatic interest in it — how much will all this raise our bread prices, can we expect shortages, etc. After a brief flurry of news media interest and a number of Congressional meetings, the farmers were temporarily placated, and their concerns ceased to capture any attention. Americans once again forgot the farmer.

The Jew, however, has always had to have an intimate understanding of the agricultural lifestyle and a sympathy for and interest in its problems and their solutions. Numerous mitzvot in the Torah derive from the agricultural cycles of various crops, and our religious Festivals also have an agricultural significance. It probably strikes one as incongruous to learn that medieval Rabbis living in the mercantile atmosphere of the European Diaspora

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concerned themselves with the study of agricultural mitzvot, or that even modern Talmudic scholars in America's highly industrialized cities are equally involved in such studies. Nevertheless, this has always been the case.

At this particular moment in American Jewish development, there is one agriculturally-related mitzva in particular — Chodosh — which is experiencing a dramatic revival. The mitzva of Chodosh is the subject of this paper, and it is our intent to clarify first of all what the mitzva is; furthermore, we will seek to determine whether this commandment, which has been virtually forgotten and neglected for millenia, ought to become part of the daily lifestyle of the observant Jew once again.

In the Torah, we find the directives for Chodosh in Leviticus 23:14, whereby it is forbidden to eat bread or grain derivatives "until this very selfsame day, until you bring the offering to your G-d; this is an eternal statute for all your generations in all your dwelling places." The Torah prohibits using grain prior to the bringing of the Omer offering in the Beit Hamikdash, which took place on the second day of Passover. Applying to wheat, barley, rye, oats, and spelt,¹ this rule meant that any grain of these species which had grown at any time during the past year (since the previous Passover) was "Chodosh" — "new" — and could not be used until the Omer sacrifice was brought. After the Beit Hamikdash was destroyed, our Rabbis ruled that since it was no longer possible to bring the Omer sacrifice, the *day* when it was supposed to be offered [the second day of Passover] would hereafter have the same effect of permitting the use of new grain as the offering had previously had.²

Almost two thousand years have passed since that time and since the period when most Jews were involved in agricultural pursuits. Thus, the mitzva of Chodosh has for very long ceased to have the immediacy or the wide practical application which it once had. Nevertheless, Chodosh has had a surprisingly controversial

1. חלה, פרק א:א.

2. מנחות סח.

history. Some mitzvot or customs come down through the ages with virtually not a murmur being raised against them — how many serious attacks have there been on the practice of Shiva, for example? Yet, both before and even after the destruction of the Temple in 70 C.E., Chodosh has aroused strongly partisan clashes and sharp invective, even between scholars.

In the bitter animosity which divided the Sadducee and Pharisee parties in the later centuries of the Second Temple, Chodosh was one of the areas of strong disagreement. Challenging the supremacy of the traditional Rabbis in determining the mitzvot, the Sadducees argued with them about the Omer offering. This led the Rabbis (the Pharisees) to rule that even on the Sabbath, three people might go out to the fields to cut the grain for the Omer. Although one person could have cut the grain by himself, and it was not necessary to allow more people to transgress the Sabbath by cutting grain, yet in order to underscore the major importance of the Omer sacrifice and the subsequent proper observance of Chodosh, the Rabbis sent three men out to the fields.³

That was two thousands years ago, but the controversy over Chodosh has continued unabated over all those centuries. Only two hundred years ago, the gentle and saintly Rabbi Eliyahu, Gaon of Vilna, wrote a very strong criticism of those who took the mitzva of Chodosh lightly. In an uncharacteristically personal attack, the Gaon wrote about the Behag's leniency on this issue: "His words are simply a total error and not even worthy of comment ... he would have been wiser had he remained silent!" Similarly, the Gaon characterised another Rabbi's lenient ruling on Chodosh as "this folly."⁴

The Vilna Gaon notwithstanding, the mitzva of Chodosh has for centuries remained in the realm of scholarly controversy, and even if there were individuals who took care not to eat Chodosh, they were but a handful; the overwhelming majority of religious

3. משנה מנחות: פרק י, משנה ג.

4. תורה תמימה ויקרא כג אות מ"ח.
גר"א יורה דעה רצ"ג ס"ק ב.

Jews not only did not observe, they did not even know about the concept of Chodosh. The great Rabbinic guide, Rabbi Moshe Isserles (Ramo), termed observance of Chodosh as a "*chumro be'almo*,"⁵ an uncalled-for strictness, and taught that even those people who wished to be careful with Chodosh should not teach others to do likewise.

In the past few years, however, that situation of "benign neglect" has altered dramatically. Currently, there are "Chodosh Clubs" being formed in high schools, printed guides in English are available to those who are interested, and bakeries in Brooklyn, Monsey, Chicago, Los Angeles, and Detroit now advertise that they carry baked goods in accordance with the laws of Chodosh. Housewives who once checked box labels for ingredients or price have now learned to decipher manufacturers' product codes, to determine if the box of cookies or cereal contains flour that might be Chodosh!*

We cannot lightly dismiss all this activity as a passing fad, nor as a fringe movement attracting religious fanatics, for some of the most illustrious names in Jewish law and learning in America today are involved in the new movement to re-awaken Jews to an almost forgotten mitzva. As more and more yeshiva-educated young people and other observant Jews undertake the new lifestyle, it is the responsibility of all thinking Jews to become familiar, at the very least, with the background, demands, and halachic status of this controversial command.

It is our purpose herein to explore the concept of Chodosh and to trace its history in Rabbinic lore over the centuries so that we may appreciate what the arguments are all about. In order to resolve the question of whether the requirements of Chodosh must be observed in America today, one must first determine if the

*For the curious, here is one code, as explained in a Chodosh Guide: On General Mills' products, for example, D81541 can be read as follows: the first letter represents the month, with "A" for June, "B" — July, etc.: 8 — for 1978; 15 — day of the month; 41 — the particular plant where this container was packed.

5. באר היטב אורח חיים ת"צ אות כ"ד and שו"ת רמ"א קל"ב.

רמ"א יורה דעה רצ"ג.

mitzva of Chodosh was ever intended for grains grown outside the Land of Israel; furthermore, it is necessary to inquire if the laws of Chodosh apply to the grain of a non-Jew. In addition to these two *halachic* facets of the question, there is a starkly *practical* feature that we must also probe — what are the realities of grain production in America today? Are there any grain or cereal products available to the consumer which would fall into the category of “Chodosh”? If there is no possibility of “Chodosh” grains being sold on the market, then we need probe no further. Variations in climate and agricultural patterns in different countries may make “Chodosh” a moot question in America.

The prohibition of Chodosh, as we have seen, applies only to the “new” grain each year; i.e., that grain which grew after the Omer offering had been brought. Now that it is no longer possible to bring the Omer sacrifice in the Temple, our Rabbis have ruled that the *day* on which it would have been brought to the Temple (the 16th day of Nissan, second day of Passover, and outside the Land of Israel, the 17th day of Nissan) has the same efficacy as the sacrifice used to have. That means that any grain which grew during the year or which has become rooted to the ground at least three days⁶ before the Omer day, will be permissible for use as soon as the Omer day has passed. But any grain which grew at any time thereafter, cannot be eaten until the next Omer-offering day (the next Passover).

In order to determine the actual practical implications of this halacha in America today, one would have to find out when each kind of grain is planted, when it is harvested, and far more to the point — when it is brought to market for commercial use. With food production having become “agribusiness”, a multi-million dollar undertaking interlaced with many government programs aimed at manipulating the grain price in a variety of ways, it is not

6. According to the Trumat Hadeshen א"קצ. However, many later Rabbis seriously questioned this ruling, contending that two-weeks' rooting is needed. רע"א גר"א. Aruch HaShulchan ט,זח, ס"ק followed the 3-day rule, as did the ש"ך. For those grains planted in early spring, this ruling would have great significance.

always a simple matter to trace the crops from the farm to the marketplace. Grain production is such a huge undertaking in this country that it is spread over millions of acres of farmland in many states. However, the Department of Agriculture publishes a wealth of information about its national grain policies which makes it theoretically possible, with a measure of diligence, to trace the "career" of a variety of grain species and discover whether indeed the flour or cereals produced for sale contain "Chodosh".

The U.S. Dept. of Agriculture charts which follow are intended to illustrate how one could determine if there is a possibility of Chodosh in a consumer product. The charts indicate the major planting and harvesting seasons of the five grain species in America in those states where the majority of the crops are raised, which are typical of planting and harvesting patterns throughout the country. The value of this data is that if we can be reasonably certain that a crop was planted in February, for example, but does not come to harvest until May, then we know that there is no possibility of its every being Chodosh — for it was rooted before Passover, and as soon as Passover passed, it became permitted (i.e., "old") grain.

However, we must note that the Jewish calendar does not always coincide with the secular one, and the date of Passover will fluctuate relative to the planting or harvesting season (Passover can start as early as March 27 or as late as April 25). This means that in some years there will be more of a problem about Chodosh than in others. For example, spring wheat is planted in South Dakota starting April 1st. If Passover is very late that year, there is a good chance that the wheat will have become rooted by the time the crucial Omer day (second day of Passover) arrives. However, if Passover was very early that year, then without doubt all the spring wheat of that year would be Chodosh until the following Passover.

Further complicating the picture are the vagaries of weather: an exceptionally icy winter or wet spring obviously affect the planting and harvesting of crops.

RYE

Rye is usually planted in the fall and harvested during the late spring and early summer months. Most of the rye is produced in the Northern and Central Plains, with four states having 54 percent of the harvested acreage.

State	Usual Planting Dates	Usual Harvesting Dates
North Dakota	Sept. 1 — Oct. 1	July 25 — Aug. 20
South Dakota	Sept. 1 — Oct. 1	July 15 — Aug. 10
Nebraska	Aug. 15 — Sept. 25	July 1 — Aug. 1

The above information shows that rye flour in America will always be "yoshon", "old", and never fall within the Chodosh class. However, in order to give a loaf of rye bread better consistency in the baking, there is an admixture of 25 - 30% of spring wheat. Since the blending of grains is done prior to grinding the kernels into flour, and the majority of the flour is of rye derivation, the addition of other grains would have no significance (*batail berov*).⁷ This same principle would apply whenever the majority of the mixture is known to come from grains rooted prior to Passover.

BARLEY

Nearly 10 million acres of barley were harvested in 1969, and yields have been increasing steadily. The major barley-producing states are North Dakota, California and Montana, which account for 50% of the national acreage. Only minor acreages are grown in the East and South.

7. טור יורה דעה בשם אביו.

ערוך השלחן ס"ק כ"ח.

חכמת אדם כלל נ"ג סי' כח.

מגן אברהם אורח חיים תפ"ט ס"ק י"ז.

For discussion of why the crops are not considered *matirin* and *dabr shis lo* *matirin* see *דבר שיש לו מחירין* and are not *batel* at all, see *באר היטב יורה דעה רצ"ג אות ד*. Furthermore, since all kernels are soaked in water and many show signs of fermenting, it would not be considered *יש לו מחירין*.

State	Usual Planting Dates	Usual Harvesting Dates
North Dakota	April 20 — June 1	August 10 — Sept. 5
Montana	April 10 — May 30	Aug. 5 — Sept. 15

Although most barley is fed to livestock, one-fourth of the crop is used for malting. Barley is used in soups and other foods, but most barley which is consumed in this country by humans is first processed into malt, and it is used in the production of beer. Old barley seems to produce better malt than new barley, and therefore it predominates in the malt mixture.

Nevertheless, a perusal of the above chart shows clearly that virtually all the barley *grown* in this country falls into the category of Chodosh. That does not mean that all of the barley *used* is in that category, but the question needs clarification, especially for the consumption of beer.⁸

OATS

Oats, the second major small grain produced in the United States, is an important feed for livestock. Minnesota and North Dakota are the leading producing states, but it is also grown extensively throughout the Corn Belt, Great Lakes States, and the Northern Plains. As is evident from the information below, most oats grown in the country would usually be considered Chodosh.

State	Usual Planting Dates	Usual Harvesting Dates
Wisconsin	April 15 — May 5	July 25 — Aug. 25
Minnesota	April 10 — May 25	July 25 — Sept. 10
Iowa	April 5 — May 1	July 15 — Aug. 15
North Dakota	April 15 — June 1	Aug. 5 — Sept. 5
South Dakota	April 5 — May 15	July 15 — Aug. 15

SPRING WHEAT

Spring wheat accounts for about 23 percent of total U.S.

8. Whether Chodosh would apply at all to beer is in itself a subject of controversy. To see whether the laws of Chodosh apply to grain extracts, see ש"ך סי' ק' and ערוך השולחן סי' כ"ג.

wheat acreage. Durum wheat, used in making macaroni and spaghetti, represents nearly one-third of the spring wheat crop. Spring wheat, as indicated below, is planted in the late spring and harvested in the summer. Therefore, virtually all spring wheat is "Chodosh" until the following Passover.

State	Usual Planting Dates	Usual Harvesting Dates
DURUM		
North Dakota	April 15 — June 1	August 10 — Sept. 15
OTHER SPRING WHEAT		
North Dakota	April 15 — May 25	Aug. 5 — Sept. 10
South Dakota	April 1 — May 5	July 20 — Aug. 20
Montana	April 10 — May 25	Aug. 5 — Sept. 15

WINTER WHEAT

Winter wheat is widely grown throughout the United States, with the heaviest concentration in the central and southern parts of the Great Plains. Winter wheat is planted in the fall of the year, and harvested in late spring and summer.

State	Usual Planting Dates	Usual Harvesting Dates
Nebraska	Aug. 15 — Oct. 5	July 1 — July 30
Kansas	Sept. 10 — Oct. 25	June 15 — July 15
Oklahoma	Sept. 5 — Oct. 25	June 5 — June 30
Texas	Sept. 1 — Oct. 30	May 20 — July 5
Montana	Aug. 25 — Oct. 15	July 25 — Sept. 5
Colorado	Aug. 20 — Aug. 10	June 25 — Sept. 5

The above information shows clearly that winter wheat is never "new", since it is always well rooted before Passover but not harvested until after the Omer day has passed.

However, wheat still presents practical problems in the observance of the laws of Chodosh, for the various varieties of wheat are not used separately. Rather, spring wheat flour and winter wheat flours are blended prior to use. The proportion of winter to spring wheat in the blend is dependent on a number of factors — economic as well as practical. A different blend is used

for baking breads than is desirable for cakes and cookies, and every bakery has its own preferred combination. Thus, wheat products cannot be separated into disparate spring wheat or winter wheat derivatives.

Perusal of the above charts indicates that agricultural schedules in this country do indeed result in "Chodosh" grains each year. However, for each specie there is a "safe" period, when the grain product cannot possibly be considered "Chodosh". For example, since durum wheat is harvested in the middle and late summer, and it does take a few weeks, at the least, for the wheat to be translated into macaroni on the grocery shelves, then a person who wants to be careful about consuming Chodosh products would still not have to worry about what macaroni he should use until around September. From September until Passover, the noodle products on the supermarket shelves could presumably contain "new" grain.

However, there are other factors complicating the picture. As the charts show, many states are involved in the huge grain crops which are produced yearly in this country. Consequently, the political influence of the grain-producing states is extremely powerful and has won for the farmers many benefits, some of which are most relevant for our study. Since the end of World War II, the United States Government has been building up a huge reserve of grain. The Farm Storage Facilities program has been in existence since 1949, and has a capacity now of over 2.9 billion bushels. There is also a Grain Reserve Program, whose objective is to insulate millions of bushels of grain from the marketplace, in order to maintain a certain price level. The producers (farmers) hold their crops in reserve, but they may rotate their reserve stocks so as to maintain quality.⁹

In consequence of these national agricultural policies, many of the grains products sold in this country are not necessarily from the current crop. However, whether new or old grain is used is a

9. Data issued by the United States Department of Agriculture.

variable for each manufacturer, and has to be checked by the Chodosh-conscious consumer.

Let us now return to our consideration of the halachic status of Chodosh. In questioning whether Jews have indeed been remiss over the centuries in their virtual disregard of the strictures of Chodosh, we will first have to determine whether the law of Chodosh applies everywhere in the world, or only in the Holy Land. For the answer to this fundamental question, we start with the Torah, wherein it is written "...this statute [of Chodosh] is forever, for your generations in all your dwelling places." Accepting the literal dictates of Scripture, the Mishna (in Orla, 3:9) rules that the law of Chodosh applies even outside Israel. However, another Mishna (in Kiddushin 1:) records disagreement between the majority of the Rabbis, who said that Chodosh does not apply outside the Land, and Rabbi Elazar, who said that it does. In the Talmudic debate following the Mishna, (Kiddushin 37a) the rationale is expounded. Albeit the verse says "in all your dwelling places", this is taken to mean that the mitzva of Chodosh becomes operative only after the conquest and division of the entire territory of Israel from the Canaanites.

Other reasons have also been offered for the position that Chodosh does not apply outside Israel. "In all your dwelling places" is explained as teaching that it is forbidden to eat the new grain which was grown in Israel, even if one takes it outside the land of Israel. New grain of Israel is forbidden in whatever places in the world a Jew may live.¹⁰

Yet another Rabbinic view is that the Torah's command regarding Chodosh never was intended to apply to the grain of lands other than the Holy Land; however, the Rabbis of later generations extended that ban to other lands. Consequently, if there is any prohibition at all concerning the eating of "new" grains, it is of rabbinic and not biblical origin, and this would have important ramifications as far as the practical observance of the mitzva, as we shall discuss later on.

10. קידושין ל"ח.

However, to return for the moment to the question of whether the laws of Chodosh are in effect today, the resolution of this question would not seem at first to constitute a major problem. In Jewish law, there are traditional determinants regarding Talmudic debates. Specifically, the rule is "when an individual expresses an opinion [in the Talmud] and a majority opinion is expressed, the halacha is according to the majority." Thus, when Rabbi Elazar disagreed with the Mishnaic teaching, his opinion that Chodosh does indeed apply outside Israel would not be the accepted view, for the majority dissented. However, we are left with the dictum of the Mishna in Orla, wherein it is stated that Chodosh *does* apply.¹¹ Obviously, the contradiction is a great puzzle. How do we reconcile the two opposing teachings? And what was the purpose of the Mishnaic editors in recording the two opposing views without indicating which of the equally authoritative dicta we should accept?

Predictably, the split between scholars concerning Chodosh has continued unabated through the centuries of classical Jewish jurisprudence. On the one hand, the 11th-century Torah giant, Rabbi Yitzhak Al-Fasi (Rif),¹² Rambam in the 12th century,¹³ and Rabbenu Asher (Rosh)¹⁴ in the 14th, ruled that Chodosh applies even outside Israel, and the author of the Code of Jewish Law, Rabbi Yosef Karo, did so rule in the Shulchan Aruch.¹⁵ However, in the writings of the Tosafists¹⁶ and in Sefer Hatrumot,¹⁷ we find the other opinion dominating. In his critique of the Shulchan Aruch, Rabbi Moshe Isserles (Ramo) also disagreed with Rabbi Karo.¹⁸

11. Although the general rule is that we accept the ruling of an "anonymous" Mishna (where the ruling is not attributed to a specific person) (*stam Mishna*), here the "anonymous" Mishna is followed by a Mishna which records a controversy on that issue – סתם ואחר כך מחלוקת.

12. קידושין ל"ח.

13. הלכות מאכלות אסורות, פרק י.

14. תשובות הראש כלל ב'.

15. ש"ע יורה דעה רצ"ג ס' ב.

16. קידושין שם.

17. שם.

18. יורה דעה שם.

Since the Ramo is one of the major Rabbis whom Ashkenazic Jewry follows, it is proper to note his reasoning: The Shulchan Aruch has it that "one is forbidden to eat the new crops even today, until the 18th day of Nissan, and in Israel, until the beginning of the 17th". On that ruling, Ramo adds, "However, actually all grains are permitted [to be eaten, although they may be "new"], by virtue of the fact that there exists about this a "double doubt"¹⁹ [*sfek sfeka*] — perhaps the grain is from last year's crop, and perhaps it took root in the ground prior to Passover. However, if one is certain that the grains are imported [into that place], one should be careful not to eat." Nevertheless, concludes Ramo, even if one is sure that most of the flour used is definitely from the current crop, "do not tell the people about this, for since it is not possible for the public to live [in accordance with this law], it is preferable for them to err unwittingly rather than to err intentionally."²⁰

Although Jewish law is characteristically very precise and exacting, there exists within our tradition an underlying understanding of human nature. Sometimes a law has become so difficult in its demands that the majority of observant Jews find that, even with the best intentions, they are unable to meet the requirements of halacha. In that case, there is no point in insisting that they follow rules which they find overwhelmingly difficult. In such cases our Rabbis often ruled as did the Ramo in this instance, that it is better to follow the lenient opinion that Chodosh does not apply, even if that lenient opinion is the minority one.²¹ As long as there are *some* outstanding halachic authorities who rule leniently, let us rely on them, reasoned the Ramo, so as not to put the majority of sincerely pious Jews into the position of having to flout

19. But Rabbi Akiva Eger (Ibid.) is puzzled how this is a "double doubt." He contends that there exists only one doubt — were the crops rooted prior to Passover — or not?

20. רמ"א ש"ע יורה דעה רצג.

21. נדה טז ס"ק ד'. The Taz concludes that wherever the Talmud has given no clearcut guideline for a decision, then if the need arises, one may rely on the minority view. In Gittin 19 we find the same idea. However, the Vilna Gaon (שם, ס"ק ב') disagrees with Taz.

the law, which they would have to do since they cannot meet its demands.

Furthermore, we may also rely on the Rabbinic view that the ancient Sages only legislated Chodosh outside Israel, to apply to *neighboring* countries. According to this view, since actually Chodosh applies only to Israel but our Rabbis were afraid that some "new" Israeli grain might be taken to nearby countries, they instituted the ban there as well. However, since there was no fear that one would bring Israeli grain to America, the ban does not apply here at all.^{21a}

This leads us to an especially relevant feature of the Chodosh controversy which has to be resolved next: Did the Torah forbid only "new" grain of a Jew, or "new" grain anywhere in the world? If the Torah intended only to prohibit Jews from eating from their crops prior to offering the Omer, then the entire question outside Israel today would be merely a Talmudic polemic, with only the slightest relevance to us in America. Thus, it is crucial to determine the halachic requirements in this regard.

Surprisingly, the Babylonian Talmud is silent on that question. After the Talmudic period, Rabbinic opinions have been sharply divided. A major medieval scholar, the Meiri,²² cites the Palestinian Talmud to support his contention that the prohibition of Chodosh does apply to any grain, even that of a non-Jew. Reasoning along the same lines, the Tosafists and the Mordechai,^{23a} as well as many other illustrious scholars, have ruled that Chodosh applies to all grains, and as a matter of fact, it is the approach accepted by Rabbi Yosef Karo in the Shulchan Aruch: "It is applicable both to crops owned by a Jew and a non-Jew alike."²³

However, the opposite point of view — that Chodosh does not

21a. ערוך השולחן רצג ס"ק כ'.

22. סוף פסחים.

22a. קדושין לח.

23. יורה דעה רצג.

refer to the crops of Gentiles - has a compelling rationale, and the Meiri felt obliged to engage in an elaborate refutation of that view. Among those great scholars who held the lenient view was Rabbi Joel Sirkes (Bach),²⁴ who lived in Poland during the 17th century, and his lenient ruling has become the basis for later Rabbinic writers who exempted grains of Gentiles from the limitations of Chodosh. Rabbi Sirkes based his response on a text in the Babylonian Talmud, and his logic is that the law differentiates between crops raised in the Land of Israel and those outside. In Israel, any grain grown, whether by a Jew or non-Jew, would fall under the prohibition of Chodosh; however he presumes that outside the Land the prohibition applies only to grains of a Jew.

In reviewing the various aspects of Chodosh, we are struck by the wide range of halachic opinion regarding its religious requirements. Since ancient times, the law has been surrounded by controversy, and adherence to its dictates has been difficult and surrounded by conjecture and disagreement. It is not easy to know what is right to do; persons of good will may find themselves sincerely divided as to which path to follow.

Notwithstanding the impressive halachic authorities who are lenient on the question of Chodosh, it is an undeniable fact that a greater number of halachic authorities ruled that Chodosh does apply, in all times and in all places. Moreover, this latter group includes those whose opinions are generally decisive in fixing normative Jewish law. It is therefore a stunning reality to realize that through all the centuries of our Diaspora, despite the weight of halachic opinion, the majority of observant Jews have not adhered to the strict requirements of the law.

This footnote to the Chodosh polemic — the fact that the masses of pious Jews have neglected the mitzva — can afford us a fascinating insight into the workings of Jewish law, as well as illustrate the high regard in which our Torah always held the Jewish people. In the Gemara, we often find the expression “let us

24. טור, יורה דעה רצג ס"ק ג'.

go and see what the people are doing",²⁵ because in addition to fine points of logic and precedent, Jewish leaders also have to take into account the customs and needs of the Jewish people.

Furthermore, even if at times individuals did stray from the Torah path, even then the Rabbis tried to find some justification, however so minor, to excuse their behavior. Sixty years ago in Europe, the Chafetz Chaim, who opposed Eruvim on halachic grounds, nevertheless did not berate those who erected them, but found excuses for them.²⁶

A similar trend is evident in the Rabbinic writings on Chodosh; the Turei Zahav (Taz) writes, "We do see that the great majority of our sages are not careful about it [Chodosh] ... and therefore it seems to me that we must find merit in those who are lenient ..."²⁷ In the Aruch HaShulchan we find a similar approach: The author expresses his delight at the recent discovery of a famous medieval manuscript, the "Ohr Zarua", wherein that sage showed that the prohibition of Chodosh no longer applied. The Aruch HaShulchan was most gratified that by virtue of this leniency, "Therefore all of the Jewish homes are pure and their actions are in accordance with the law, and no violation is incurred."²⁸ In summary, we cite the writings of Rabbi Sirkes, the Bach:

It is clearly the custom in our countries to be lenient, and even the Torah greats of the past, Rabbi Shachna and Rabbi Shlomo Luria (Maharshal) and their students did not prohibit [it], and used to drink the whiskey which was made from "new" grain. Only a few very pious individuals lately were careful about this prohibition. I myself, in my youth, when I learned Tractate Kiddushin some thirty years ago, took it upon myself to delve into this question, and I saw that it is not a clearcut halacha. I asked that Great

25. ברכות מ"ה.

26. The proper halachic term is "צורת הפתח".

27. יורה דעה רצג.

28. שם.

Light, the Maharal of Prague about it, and I showed him what I had gleaned on this matter, and neither he nor the other sages to whom I showed [my conclusions that the law is lenient] could contradict my proofs ...

Within the past generation, American Jewry has witnessed a dramatic resurgence of Orthodoxy, and the trend shows no sign of waning. On the contrary, more and more young people choose to be more strict in their observance of Jewish law than their parents were, and the phenomenon of Chodosh-observance is growing primarily among the young. While the willingness to take on more and more religious burdens is most laudable, it must be tempered with mature judgment. Those giving serious consideration to the prospect of accepting upon themselves and their families the strictures of Chodosh should take to heart the following caution of the Bach:

No Torah leader ought to teach that it is forbidden [to eat Chodosh] in contradiction of the customs which Jews have adopted according to the teachings of great leaders of Israel to be lenient. Whoever wishes to be strict upon himself, that is an attribute of the extremely pious (*midat chasidut*), and he should not teach others that they ought to do this, for there is no such command. And only such a person who is accustomed to other ascetic practices and is well-known as an exceptionally pious individual (Chasid) is permitted to practice this prohibition of Chodosh as well."²⁹

I append this caution for it is an unhappy fact that extremism does have the potential for causing serious divisiveness. It would be tragic if young men and women, motivated by a desire to follow the Torah strictly, found that they could not eat in their parents' or in-laws' homes.³⁰ Or it might lead to parents becoming defensively

29. טור, יורה דעה שם.

30. T'shuvot HaRamo קל"ב and Mishna Brura אורח חיים תפט אות מ"ח. Even if one

angry at young people who are "trying to show off." We certainly do not need any more sources of friction within the Jewish community; let us hope that this will not become one.

Rabbi Chaim Shmuelewitz, z'l, of the Mirrer Yeshiva gave a beautiful lecture once on "*m'sirat nefesh*", the willingness to dedicate oneself wholly to a cause. Total dedication to a cause, while an admirable attribute, can easily be misguided. We find in the Gemara³¹ stories about Sadducees, who were as rabidly fanatic in support of their beliefs (which were heretical) as were the Pharisees, whose beliefs were true to the Torah. Despite his "*m'sirat nefesh*", the Sadducee was surely punished for his heresy. Why? Did he not believe truly in his cause? And how is one supposed to know whether his "*m'sirat nefesh*" is misdirected? Rabbi Chaim Shmuelewitz answered that the solution is simple. The verse says "Her ways (the Torah's) are pleasant, and all her paths are peace." A person can know if his cause is good and within the Torah way if it is an approach which increases peace and good fellowship between Jews. But if his beliefs lead to argument and enmity, to divisiveness and contempt, then he has gone wrong somewhere.³² Let us take this lesson into our hearts.

is careful not to eat Chodosh, he need not be concerned about using the utensils or eating other foods cooked in homes where Chodosh is not observed.

31. יומא י"ט.

32. קובץ שיחות, תשל"א, פ' נצבים.