

Selecting in the case of items of a single kind

Is there a prohibition of Selecting in the case of items of a single kind?

Is it permitted to separate two items of the same kind, e.g., several pieces of cake, some large and some small? Is it permitted to select a large piece from among the smaller pieces?

Terumat HaDeshen and the Rema: Selecting does not apply in items of a single kind

Terumat HaDeshen (57) writes that Selecting does not apply in items of a single kind:



The prohibition of Selecting does not apply in the case of large and small pieces.

QUESTION: Suppose there are pieces of fish on a plate or in a bowl, each separate from the others, arranged in the typical manner. On Shabbat, when coming to eat from them, one seeks to eat some and leave some for another meal. How should one select one from the others without violating the prohibition of Selecting?

ANSWER: It appears that in this case one need not be so careful, as I will explain below. Although one of the prominent rabbis was careful to select only what he desired to eat at the moment, leaving what he sought to keep for the next meal on the plate... it would, however, appear that... Selecting applies only to two kinds and not to items of a single kind, as the *tanna* and all the authorities certainly referred specifically to “two kinds of food.”

Terumat HaDeshen bases his ruling on the **Gemara** (74a), which states, according to the version accepted by *Tosafot*, that the prohibition of Selecting applies to two kinds of food, from which it may be inferred that **Selecting does not apply to items of a single kind.**

The **Rema** (319:3) rules in accordance with the opinion of *Terumat HaDeshen*:

In the case of anything of a single kind, even if one selects the large from the small, it is not characterized as Selecting. Moreover, even if they were of two kinds, if one selects the large pieces of both kinds from the small, or vice versa, it is permitted, since the person is not selecting one kind from the other.

The **Taz** (319:2) disagrees with the ruling of *Terumat HaDeshen* and the Rema and holds that the prohibition of Selecting applies even to items of a single kind. If, for example, one is currently interested in the large pieces, the *Taz* maintains that the large pieces are considered food and the small pieces waste, and separating them violates the prohibition of Selecting.

The *Taz*: The prohibition of Selecting is in effect even in items of a single kind:

Why, then, does the Gemara refer to “two kinds of food”? The *Taz* explains:

It appears that the Gemara refers to two kinds of food because it is less obvious. In a case where they are of a single kind it is obvious that the prohibition of Selecting applies to the kind that one seeks to leave. The Gemara emphasizes that even in the case of two kinds of food, where **each is already distinct and separate from the other** and it is not a mixture, one may not select.

According to the *Taz*, the novelty of the ruling is greater in the case of two kinds. Since each item is distinct, one could say that the items are not in fact a mixture and the prohibition of Selecting does not apply. The Gemara teaches that even in that case selecting is prohibited, and it is all the more so prohibited where the items are of a single kind. The *Taz* rules accordingly:

Since this could involve a Torah prohibition, one should be stringent even with regard to a single kind: One may not select even in the case of a single kind, not even large from small. The only leniency is to select what one desires to eat at the moment. Alternatively, one may take whatever happens to come into one's

hand and leave it for another meal, not in the manner of Selecting. So it appears in my humble opinion.

The root of the dispute: The essence of the prohibition of Selecting

This dispute stems from the central question discussed above. If the essence of Selecting is the **preparation of food**, it is conceivable that separation of one item from another is considered preparation only when two kinds of food are mixed together. However, when it is several pieces of the same kind of food, separating them is not significant preparation. The fact that the pieces are similar means that proximity to one piece is not detrimental to the other, and consequently removal of one piece is not considered significant preparation of the other. This is the opinion of *Terumat HaDeshen* and the **Rema**, who permit it.

If, though, the essence of Selecting is the **very act of removing waste or of separating the food and the waste**, perhaps, the greater the similarity between the food and the waste, the more significant is the act of separating them. This is the opinion of the *Taz*, who holds that if it is prohibited to separate items of two kinds, it is all the more so prohibited to separate items of a single kind.⁷

Practical *halakha*: There is no prohibition of Selecting with separating items of a single kind

The *Mishna Berura* (319:15) rules that **the prohibition of Selecting is not in effect on items of a single kind**:

The *Taz* rules that one should be stringent even with items of a single kind: A person should select only what he desires to eat at that moment. Alternatively, one may take whatever comes into hand and leave it for another meal, not in the manner of Selecting. However, many *Aharonim* disagreed, and agreed with the Rema, who ruled in accordance with the ruling of *Terumat HaDeshen*.

7. In other words, if the essence of the prohibition is **preparation of the food**, the **mixture** must be considered **in its entirety**, the question being whether it is lacking in any way and requires fixing. When the mixture is composed of a single kind, it is not considered lacking. Conversely, if the essence of the prohibition is the **removal of waste**, the only consideration is whether the **piece that one removes** is perceived as food or waste, and this depends on the perspective of the individual. For example, if one desires a large piece, removal of a small piece is considered removal of waste.

This is also the ruling of the *Eglei Tal* (Borer 8), the *Birkei Yosef* (319:4), and the *Arukh HaShulhan* (319:6).

This conclusion is clear from the *Gemara* (134a), which states that it is prohibited to strain mustard from its pod as “it resembles Selecting.” Since this involves selecting with an implement, it is unclear why it merely resembles Selecting and is not considered actual Selecting. It may be inferred that mustard and mustard bran are considered a single kind, and therefore, the prohibition of Selecting by Torah law is not in effect. However, since the quality of the mustard bran is inferior relative to the mustard, selecting is, nevertheless, prohibited by rabbinic law (*Tehilla LeDavid* 319:7; *Zera Yaakov*, *Shabbat* 74b; *Ayil Meshulash* 3, note 1). This ruling may also be inferred from the explanation of the *Maggid Mishne* of the opinion of the **Rambam** (*Shevitat Asor* 1:3), that in the case of vegetable leaves, some of which are moldy, even if the moldy leaves are barely edible, it is prohibited by rabbinic law to separate them from the good leaves. This implies that the Torah prohibition of Selecting does not apply in this case because the leaves are of a single kind. However, removing the moldy leaves is prohibited by rabbinic law as, to a certain extent, they are considered waste (*Eglei Tal*, Borer 17, on the opinion of the *Maggid Mishne*).⁸

In practice, therefore, there is room for leniency, and one may assert that the prohibition of Selecting does not apply to items that are of a single kind, and it is permitted to separate different pieces of the same kind anyway one chooses. However, it is prohibited by rabbinic law to remove barely edible foods from food fit for consumption (*Mishna Berura* 319:15, in accordance with the *Maggid Mishne*).

There are significant ramifications to this ruling. However, it is first necessary to define what is considered a single kind.

8. Alternatively, it is possible to explain that the prohibition mentioned in the *Gemara* and *Maggid Mishne* pertains to any case of Selecting in a mixture of a single kind, not only to selecting inferior items from superior ones. However, even if this is so, it is prohibited only by rabbinic law, and since this is uncertainty in a case of rabbinic law there is room for leniency. However, the *Taz* himself holds that even in the case of a mixture consisting of a single kind Selecting is prohibited by Torah law.

Removal of an item that is only barely edible is prohibited by rabbinic law