

Selecting with a spoon or fork – the definition of “by hand”

Now that it has been established that selecting is permitted only by hand, how is it that people typically eat with a fork or a spoon?

The **Gemara** (74a) distinguishes between the use of different utensils in Selecting:

Selecting with various types of implements

Rav Yosef said: One selects and eats by hand, selects and puts aside by hand. With a tray (*kanon*) or with a plate, one may not select. If he did select, he is exempt by Torah law but it is prohibited by rabbinic law. And one may not select with a sieve or with a sifter. If he did select, he incurs liability to [bring] a sin offering.

According to the Gemara, selecting with a sieve or a sifter (since they are the utensils one usually uses to perform this activity) is prohibited by Torah law, while selecting by hand is permitted, provided that one selects food from waste for immediate consumption, as explained above. In contrast, selecting with a tray or with a plate (which are not ordinarily used to select – see the next two notes for more detail) has the intermediate status of “exempt but prohibited” (*patur aval asur*) by rabbinic law.³² **Rashi** (s.v. *patur aval asur*) explains the rationale for this *halakha*:

32. It would appear at first glance that selection with a tray or with a plate is prohibited by rabbinic law in a case where selecting by hand is permitted, but in a situation where selecting by hand is prohibited by Torah law, e.g., when selecting waste from food or for later use, selecting with a tray or with a plate would also be prohibited by Torah law. The *Mishna Berura* indeed rules accordingly (319:9–10; *Beur Halakha* 510:2, s.v. *im rotzeh*). However, one could contend that since a tray or plate is not typically used for selecting, any kind of selecting with these is considered atypical selecting, which is prohibited only by rabbinic law, even in a situation where selecting by hand is prohibited by Torah law. The *Eglei Tal* infers likewise (*Borer* 1:2; *Meraked* 5:6, second note) from statements of the *Rambam* (8:12) and the *Shulhan Arukh* (319:1); see also *Or LeTziyon* (vol. 1, *Orah Hayim* 27:4).

“Exempt, but prohibited” – it is not permitted, as it is similar to Selecting; but one does not incur liability to bring a sin offering because it is performed in an atypical manner, as Selecting is typically performed with a sieve or a sifter. However, selecting by hand is not at all similar to Selecting.

Selecting by hand is permitted because it is not at all similar to Selecting

In other words, selection with a tray or with a plate is not prohibited by Torah law because these utensils are not typically used for selecting. Nevertheless, selecting in this manner is prohibited by rabbinic law, as it is **similar to standard Selecting**. This is not the case with manual selecting, which is not at all similar to Selecting, and therefore it is permitted.

Ostensibly, eating with a spoon or fork is also not similar to Selecting

In light of the above, it stands to reason that eating with a spoon or fork is permitted, as it is not at all comparable to a tray or plate, whose use is “similar to Selecting.” On the contrary, **it is not the typical manner of selecting, but part of the process of eating.**

The *Beur Halakha* reaches a similar conclusion. The *Rema* (321:12) rules, on the basis of the ruling of the *Rashba*, that it is permitted to chop food with a knife to eat it immediately, and there is no violation of the prohibition of Grinding, just as it is permitted to select to eat immediately (see pp. 977–978). The *Beur Halakha* (ad loc., s.v. *midei*) asks: “Isn’t selecting permitted only by hand, not with a utensil?” The *Beur Halakha* explains that cutting with a knife is **part of the process of eating**, and is therefore permitted:

From the statements of all the authorities, it emerges in this regard that it is permitted to cut even with a knife. The reason, writes the *Peri Megadim*, is that just as in Selecting, when one selects by hand to eat immediately it is part of the process of eating; here too, it is **part of the process of eating** even when cutting with a knife to eat right away, as the typical manner of eating is with a knife, although not with a utensil designated for Grinding.

Similarly, it should be permitted to select food from waste with a spoon or fork, since this is part of the process of eating. The *Hayei Adam* (82:7) also permits removing cream from the top of milk, and

he explains in his *Nishmat Adam* (2) that it is permitted do so with a spoon because “it is not a utensil with which one selects” (see also note 34).

There is an apparent contradiction in the *Mishna Berura* regarding the nature of the utensil with which it is permitted to select. In one place (319:62), it appears that it is prohibited to select with a spoon:

And likewise skimming the cream on top of milk... is included in Selecting, and therefore one must make certain when approaching the milk to leave some cream with the milk, and then it is permitted... The same is true in the opposite manner, removing some milk with the cream. However, to take only the cream is prohibited, even if one intends to eat it immediately, **as the person is removing it with a spoon.**

The *Mishna Berura* prohibits removing cream from milk with a spoon, even if one wants to eat it immediately, as this is Selecting with a utensil. In *Shaar HaTziyun* (58), he explains that this is the typical manner of selecting, and notes that in this regard he disagrees with *Nishmat Adam*. However, elsewhere, the *Mishna Berura* (ad loc., 66) writes:

Know that in the *Tosefta* it states: “But one may churn a cooked dish and eat it,” which means that it is permitted to separate food with a thick consistency from sauce with a spoon, because it is part of the process of eating.

Iggerot Moshe (*Orah Hayim* 1:124) writes that at times it is permitted to select with a spoon or a fork, while at times it is prohibited:

With regard to using a fork or a spoon to select food from waste on Shabbat for immediate consumption, is it considered selecting with a utensil, which is prohibited? It is obvious, in my humble opinion, that if the fork or spoon enables the person to select more easily than by hand, in which case they facilitate the act of Selecting, this should be considered selecting with a utensil, and it

Selecting with a spoon: A contradiction in the *Mishna Berura*

Iggerot Moshe: One may not select with a spoon or fork when they facilitate Selecting

should be prohibited just like it is with a tray and a plate. However, if they contribute nothing to the selecting beyond what could be done by hand, but one uses them merely to prevent dirtying the hands, or because the food is far and cannot be reached by hand, or if the food is moist and cannot be taken by hand etc., using silverware is no different from selecting by hand, which is permitted for immediate use when removing food from waste.

In other words, **if the implement facilitates the act of selecting**, meaning, the precise separation of the food from the waste, then it is considered Selecting with a utensil and it is prohibited. However, if there is no advantage to using a utensil over using one's hand in terms of selecting, and the utensil is used because **it assists the person selecting** in other ways, e.g., to prevent dirtying one's hand or to reach food that is far, hot, or moist, it is considered selecting by hand, not Selecting with a utensil.³³

33. The ruling of the *Iggerot Moshe* is based on the explanation of **Rashi** (74a) regarding a *kanon*, translated here as a tray. Rashi explains that a *kanon* is a round funnel, into whose broad side legumes are placed. One then shakes the legumes which, since they are round, roll through the narrow opening, while the waste remains above. *Iggerot Moshe* assumes that selecting legumes with a *tamhui*, translated here as a plate, which is a large bowl according to **Rashi** (Beitzah 12b), is performed in a similar fashion. Accordingly, the shapes of a *kanon* and a *tamhui* facilitate separation of the legumes from the waste in a quick, efficient manner, and therefore it can be inferred that the decree of the Sages against selection with a *kanon* and with a *tamhui* applies specifically to those utensils that facilitate separation of food from waste.

Iggerot Moshe cites additional support for his opinion from the fact that the **Magen Avraham** and the **Mishna Berura** permit **peeling apples** for immediate use (see pp. 841–842): Since it is impossible to peel apples without a knife, why isn't this prohibited as Selecting with a utensil? *Iggerot Moshe* answers on the basis of his general opinion: Fundamentally, separating the fruit of an apple from its peel with a knife is not more advantageous than doing so by hand; it is simply that it is impossible to remove the peel by hand; therefore, one uses a knife. Since the knife does not facilitate selecting, but only slicing, it is not considered Selecting with a utensil. Obviously, based on the same reasoning, **peeling with a peeler is considered selecting with a utensil**, as it is designed to facilitate removal of the thin outer layer from

In light of the above distinction, the contradiction in the *Mishna Berura* can be resolved. On the one hand, it is permitted to remove a **food with a thick consistency** with a spoon, as this food could be separated by hand, and there is no advantage to the spoon relative to the hand in terms of selecting. On the other hand, it is prohibited to remove **cream from milk** with a spoon, because it is difficult to remove the watery cream by hand; therefore, the spoon facilitates Selecting. This resolution is suggested by several *Aḥaronim* (*Az Nidberu*, vol. 1, 17:2; *Shemirat Shabbat KeHilkhata* 3, note 126; see *Minhat Yitzḥak* 1:76).³⁴ In addition, the *Hazon Ish* (54:5) writes that

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the fruit, and facilitate selecting itself. With regard to the use of a peeler in practice in peeling various kinds of produce, see above, pp. 845–847).

34. As stated, the *Hayei Adam* is even more lenient, and permits removing cream from milk with a spoon. Perhaps he maintains that the decree against selecting with a tray or plate applies only to those utensils with which one performs the primary act of selecting, i.e., a utensil whose unique shape causes separation of food and waste, as explained in the previous note regarding a *kanon* and a *tamhui*. When selecting with a spoon, the shape of the spoon does not at all cause separation between the two substances; rather, one who is adept is able to utilize the spoon to achieve precise separation. Consequently, even if selecting with a spoon is more precise and effective than selecting by hand, as in the case of removing cream from milk, it is not considered selecting with a utensil. In contrast, the *Mishna Berura* maintains that whenever a utensil aids in the act of selecting, it is included in the decree against selecting with a tray or with a plate (Rav Matan Glidai).

In terms of the *halakha*, although this is uncertainty regarding a rabbinic prohibition, we ruled in accordance with the stringent ruling of the *Mishna Berura*, as that is the conclusion drawn from the rulings of Rav Moshe Feinstein and other *Aḥaronim*. However, there is certainly room for leniency to allow use of silverware in selecting the food from the waste while eating, even if the selecting is more precise due to the use of the silverware, on the basis of the ruling of the *Hayei Adam*. In practice, it is possible that the *Mishna Berura* himself would accept this leniency, and the apparent contradiction between his statements can be resolved in other ways (see e.g., *Orehot Shabbat* 3, note 98). In addition, this is uncertainty regarding a rabbinic law, and one could also contend that this is part of the process of eating and the silverware is considered an **extension of the person's hand**, not like a utensil.

it is permitted to remove meat from a bone with a fork, and there is no trace of Selecting in doing so.

Removing vegetables from soup

According to this reasoning, it is permitted to remove vegetables from soup with a spoon or a fork, but it is prohibited to use them to extract minuscule pieces that one could not remove by hand, and require a spoon or fork to extract them.

It is worth noting that the prohibition in this case is rabbinic, as the status of a spoon and fork is no more stringent than a tray or plate, as they are not designated for Selecting (*Iggerot Moshe* ad loc. concurs). Consequently, there is even more room for leniency in cases of uncertainty.

