

Selecting Sabbatical Year (*shemita*) produce

In the Sabbatical Year, Jews in Israel separate residue with Sabbatical Year sanctity from the residue of other foods, and place it in a separate receptacle. Is it permitted to do so on Shabbat?

Ostensibly, this is separating waste from waste

In light of the principle cited above, it appears that this would be permitted, as **both residues are not designated for eating**; but are merely placed in different receptacles. If so, this is **separation of waste from waste**, which does not violate the prohibition of Selecting.

However, this matter is not entirely clear, as these are not two kinds of trash, but rather trash, and produce with **Sabbatical Year sanctity**. The two kinds are, therefore, fundamentally different, and consequently, their separation may violate the prohibition of Selecting, despite the fact that neither is designated for eating.

Selecting between two items whose halakhic status is different

Filtering insects from water



Residue with Sabbatical Year sanctity: Is it permitted to separate it from the residue of other food?

This distinction between the two types of residue does not stem from a **practical** difference between the two, but rather, from a **halakhic** difference. This raises the question: Is the **halakhic** status of components of a mixture relevant in terms of the prohibition of Selecting?

This question depends on a dispute between the authorities. The *Hayei Adam* (16:8) is uncertain as to whether one may filter **water in which there are small worms**:

It is permitted to filter wine and drinks which do not contain sediments... however, if there are insects in the drink, in my opinion, it is prohibited to filter them, but this requires analysis.

In *Nishmat Adam* (note 5), he explains the uncertainty:

One could say that although it is impossible to drink the water because of the insects, were it not for the prohibition to eat insects

that is incumbent upon him, he could drink it... However, from the Responsa of the Rosh... see there, that it is clear that filtering not at the time of drinking is prohibited. Perhaps there is room to distinguish between insects like flies, which, even were there no prohibition, they are repulsive and characterized as outright waste, and the small insects that grow in beer and other drinks, which, were it not for the prohibition, one would drink them. Indeed, the proof is that gentiles drink it in this manner; therefore, it is possible that the small insects are comparable to slivers of wood...

In other words, the reference is to water fit for drinking, as gentiles drink it in that state, and even Jews avoid it due only to the fact that it is prohibited to consume insects. Therefore, it is uncertain whether this liquid is considered **clear water**, as from a **practical** perspective there is nothing preventing one from drinking it, or if it is classified as **murky water**, since from a **halakhic** perspective it is prohibited to drink it in its current state. The *Hayei Adam* cites the opinion of the *Kol Bo* (31, s.v. *hamotzi*), who permits filtering gnats from water on Shabbat, but ultimately the *Hayei Adam* leaves this uncertainty unresolved.³⁷

According to the *Eglei Tal* (*Borer* 11; 20), the existence of a halakhic prohibition is not relevant for the issue of Selecting. The *Shulhan Arukh* (500:6) rules in accordance with the opinion of the *Ravya* (chap. 730) that it is permitted on a Festival to remove the prohibited fat and sciatic nerve from meat, and this does not constitute Selecting. The *Eglei Tal* explains that since these parts are fit for consumption, and it is only the divine command that prevents one from eating them, they are **not considered waste**, but

Separating
between kosher
and non-kosher
meat

37. *Tehilla LeDavid* (319:16) rejects the proof from the *Kol Bo*, arguing that it is permitted to drink water with gnats, but the *Minhat Yitzhak* (Responsa, 7:23) disputes this and supports the uncertainty of the *Hayei Adam*. In his opinion, the uncertainty is whether the *Kol Bo* permits filtering even when drinking the water involves a bona-fide prohibition. Perhaps he permits it only when it is fundamentally permitted to drink the water “and it is only caution that leads those who fear sin to filter the water.”

the **same type** as the rest of the meat. Consequently, their removal is not prohibited due to the prohibition of Selecting.

The *Minhat Hinukh* (*Mosakh HaShabbat, Borer 6*) raises a similar question:

According to those who maintain that Selecting does not apply to items of the same type, one must analyze whether... if several of the same type of fruit are placed together, but some are prohibited e.g., *orla*, is it like waste and therefore one is liable for Selecting, or it is possible that since they are the same type but for the “lion crouching” over it, i.e., the Torah prohibition of *orla* – it is not Selecting.

The uncertainty is whether permitted and prohibited produce of the same kind are classified as a single type with regard to the prohibition of Selecting, as there is no **actual** difference between them, or whether the **halakhic** distinction, one is prohibited and one permitted, confers upon them the status of two different kinds.

The *Minhat Hinukh* notes that a similar question was already raised by the **Ran** (*Rif 60a, s.v. amar*). The Ran addresses the question of whether it is permitted to milk a goat directly into a pot of food on Shabbat. It is permitted to do so on a Festival because the milk and the goat are both considered food. In contrast, on Shabbat, since it is prohibited to **slaughter** the goat, can it be considered food? The Ran cites a dispute in this regard:

A person milks a goat directly into a pot... and the *Rif* wrote in his *halakhot* that this is specifically on a Festival, but on Shabbat milking is prohibited even [when milking] into a pot. This is the reason: Although it is permitted to squeeze a cluster of grapes into a pot on Shabbat, that is because the cluster itself is edible, unlike a goat, which is not fit for use on Shabbat... it is like selecting food from waste...

Others say that just as we permit squeezing a cluster of grapes even into a pot on Shabbat, so too, we permit milking a goat into a pot, even on Shabbat... Since the goat itself is fit for consumption but for the prohibition that applies to it, it is not called waste.

Milking an animal
into food

It appears that the dispute depends on the question raised above: The goat itself is edible, and therefore considered food, but in practice it is impossible to eat it on Shabbat due to the prohibition of Slaughtering. Does the prohibition itself classify the goat as an item of a different kind?³⁸

If so, perhaps the question of residue in the Sabbatical Year also depends on this dispute: Ultimately, the two kinds of remnants will both be discarded, as they are not designated for eating. The primary distinction between them is their halakhic status. Accordingly, the question of whether separating them is permitted depends on whether the **halakhic status** defines the remains of the Sabbatical Year produce as a **different kind**.

Notwithstanding the above, one can argue that even if the sanctity of Sabbatical Year produce residue does not render it a separate type, it should still be prohibited to separate them from other residue, as there is a difference between them with regard to **practical use**. Granted, both types of scraps will **ultimately** be discarded and will not be eaten, but **at the moment** the person is careful not to treat the Sabbatical Year residue as waste, but rather to place it in a secure place, in contrast to other residue that he discards. One could assert that this is not separating **waste from waste**, but removing **food from waste**. True, it is permitted to remove food from waste by hand, but in this case, ostensibly, the separation is not for immediate use.³⁹

In practice, contemporary *Aḥaronim* dispute this issue: **Rav Wosner** (*Kovetz MiBeit HaLevi* 4, p. 24) and **Rav Eliashiv** (*Ayil Meshulash* 9, note 78) rule stringently, while **Rav Nissim Karelitz**

Perhaps the remnants of Sabbatical Year produce are considered food

The ruling of contemporary authorities

38. For a broader analysis of this issue, see **Responsa BeTzel HaHokhma** 4, 99:1; **Responsa of the Maharshag** 1, *Orah Hayim* 47; *Yalkut Yosef* 3, pp. 294–295; *Shemirat Shabbat KeHilkhata* 3, note 100.

39. That is unless placement of Sabbatical Year remnants into a vessel with Sabbatical Year sanctity is considered their usage. If **placing them into the vessel is their usage**, and it is performed immediately after selecting, the use is immediate. However, it is far from clear that this is considered usage, as no benefit is derived from it; it is merely the way to leave the produce without actively ruining it.

(*Kovetz MiBeit HaLevi* 5, p. 163) is inclined to leniency (although he is less certain in *Hut Shani*, vol. 2, p. 84), and **Rav Asher Weiss** (*Minhat Asher, Shevi'it* 37) agrees.

Halakhic ruling:
Removing
remnants of
Sabbatical Year
produce

PRACTICAL HALAKHA: It is preferable not to separate residue of Sabbatical Year produce on Shabbat *lekhathila*, due to the prohibition of Selecting. However, one should distinguish between several circumstances:

When the remnants of Sabbatical Year produce are on a separate dish from the other remnants, it is not considered a mixture, and it is not prohibited to take the Sabbatical Year remnants and place them in their designated container.

If the remnants of the Sabbatical Year are actually mixed with the other food on the plate, e.g., a **vegetable salad**, there is no need to select the vegetables of the Sabbatical Year, and it is permitted to place the residue of the entire salad into the special container for produce with Sabbatical Year sanctity, since the remnants do not adversely affect each other immediately.

When the remnants cause each other to decay, e.g., when remnants of the Sabbatical Year salad are mixed with the remnants of non-Sabbatical Year cholent, one should not separate them, due to concern for the prohibition of Selecting. Likewise, one should not place all the food into the special Sabbatical Year receptacle, as that will adversely affect the produce already there. Therefore, in this case one should take the remnants mixed on the plate, put them in a separate plastic bag,⁴⁰ and place the bag to the side, or even in a trash can, until the remnants decay.⁴¹ This is not considered destroying Sabbatical Year produce, as the produce is already mixed, and it does not change its status.

40. One must make certain to tie the bag only with a knot permitted on Shabbat, that is, to tie the two sides of the bag together with a single knot, not to take the two sides together and tie a separate knot on top of them.

41. Another possibility is to remove the Sabbatical Year remnants with a few other remnants and place them in a vessel designed for products of the Sabbatical Year. In this manner, on the one hand, the prohibition of Selecting