

Is it permitted to use starbucks VIA coffee on Shabbos using a kli shelishi?

The entirety of this article is based on conversations with Rav Netanel Weiderblank Shlit"aa.

VIA coffee is made with a majority of instant coffee that is pre-cooked and a minority of roasted kernels that weren't cooked. The part that was pre-cooked certainly can be cooked again on Shabbos since there's no issue of cooking an already cooked food. However, since the part that isn't cooked is only roasted there is an issue to cook it.

Bishul Achar Tzeli

In truth Shulchan Aruch 318:5 permits cooking something on Shabbat as long as it was already roasted but the Rama is strict. Therefore, the question is whether it is permitted to make via coffee on Shabbos.

Did the Tzeli make it edible?

Additionally, even according to Shulchan Aruch it is questionable to permit cooking coffee kernels that were previously roasted since they aren't edible in their roasted form. Rav Ovadia Yosef in Yabia Omer O.C. 8:35 says that some people do eat roasted coffee kernels but it seems uncommon today. Also, Yalkut Yosef Shabbat v. 3 318:75 writes that even though today it is uncommon but still some people would eat coffee kernels mixed with sugar. Halacha Brurah 318:120 comes to the same conclusion. Even if that is questionable perhaps today since it is common to drink cold brewed coffee that with coffee beans soaked in water it is possible that again it is possible to deem the coffee kernels roasted and edible (see Halacha Brurah 318:174 who raises this point with respect to makeh bpatish). Yet, for Ashkenazim it is a problem either way.

Kli Shelishi

In general if someone holds like the opinion that a kli shelishi doesn't cook (Igrot Moshe 4:74:15) then it is certainly permitted here to use a kli shelishi. However, if we're strict not to use a kli shelishi is it permitted since it was nullified in the majority of the roasted kernels?

Rav Shlomo Kulger's View of Bitul for Bishul

A factor that might permit this would be that the roasted kernels are nullified by the cooked ones and should be considered as though they don't exist. Does bitul apply to our case? The Shibolei Haleket ch. 86 writes that if a person wrongly put raw salt into a pot that was cooking on Shabbos as long as there was salt in there from before Shabbos the food is permitted after the fact. He reasons that the salt is nullified in the mixture and is permitted. On the one hand, there's a concept of *dvar sheyesh lo matirin* isn't nullified and since food cooked on Shabbos can be eaten after Shabbos it would seem that this too wouldn't be nullified, nonetheless, it is nullified since it was nullified before it was cooked in the first place. Additionally, since spices are *avida ltaama*, meant to give a flavor to the food, they aren't nullified and in our case the salt that cooked on Shabbos is forbidden and shouldn't be nullified. Yet, says the Shibolei Haleket it is nullified since it only gives a flavor of salt in the food when in combination with the permitted salt that was added before Shabbos. The Rama 318:9 codifies

this Shibolei Haleket as the halacha as well as the Magen Avraham and Mishna Brurah. The Taz is troubled by the answer of the Shibolei Haleket to the second question since the salt is tasted in the end of the day. The Eliyah Rabba 318:24 addresses this question. But why didn't the Shibolei Haleket allow putting in the raw salt initially since it would be nullified before it would be cooked?

Rav Shlomo Kluger in Sefer Hachaim 318:9 writes that really bitul should have made it permitted. Then he asks why in fact the Shibolei Haleket didn't permit initially adding the salt into the pot. First he suggests that it is forbidden as a local rabbinic restriction lest one put in so much salt that it wouldn't be nullified. Then he suggests that in fact it isn't nullified at all with respect to cooking on Shabbos. Nullification only temporarily removes the prohibited status of the food but it doesn't convert it into the other type of food. Therefore, in the Gemara Bechorot 23a with respect to tumah nullification removes the status of tumah with respect to touching one piece but not with respect to carrying the entire mixture since certainly one will be carrying the tameh piece as well. In the terminology of the gemara the tameh piece continues to exist even after nullification. According to this approach he is bothered why it is permitted to cook a pot of meat where less than one sixtieth of milk fell in because even though it is nullified but cooking such a pot would definitely incur cooking that minute amount of milk. He answers that milk and meat mixed in a proportion that it is nullified isn't considered a combination milk and meat, instead it is like cooking each one separately.

Ein Mevatlin Isur Lechatchila

Rav Shlomo Kluger rejects another possible reason to why the Shibolei Haleket did not allow adding the salt initially. He says that it can't be because *ein mevatlin isur lechatchila* since at the moment the bitul happens everything is permitted and the cooking didn't yet happen. It is similar to the Taz 447:5 regarding chametz before Pesach and Taz 626:2 with respect to invalid s'chach of a Sukkah. He gives other reasons why this can't be the case including the fact that if it was nullified intentionally that would make it forbidden for the one who did that and then *dvar sheyesh lo matirin* wouldn't be relevant (Rama YD 102:4). Rav Netanel Weiderblank argued that it is very possible that this is a reason to forbid the nullification initially. For example, the Pri Megadim and most achronim hold that it is forbidden to intentionally nullify milk into water that will be added to a pot of meat even though when the milk was added to the meat it was something permitted.

Avnei Nezer's Position of No Bitul for Hilchot Shabbos

However, Rav Avrohom Bornsztain both in Iglei Tal 31:14 and in Teshuvat Avnei Nezer 1:129 argues that there's no such thing as nullification of non-cooked food into cooked food. He explains that the concept that there's no prohibition of cooking already cooked food is because one isn't doing anything of significance since the food is cooked already. But really there's nothing fundamentally halachically different between something cooked and something uncooked and as such nullification is irrelevant. Additionally, the prohibition of cooking is relevant to the person and not the food and as such there's no nullification. Minchat Yitzchak 9:30 and Kaneh Bosesem 3:18 agree. Rav Shlomo Zalman Auerbach in Minchat Shlomo 1:5 similarly agrees that there's no way that nullification would make the non-cooked food be considered as though it was already cooked and rather the explanation within the Shibolei

Haleket is that it isn't a *dvar sheyesh lo matirin* since the prohibition of benefiting from something cooked on Shabbos was created within a mixture, which doesn't have the status of a *dvar sheyesh lo matirin*.

Majority or Sixty

Additionally, it isn't clear that a simple majority is sufficient to permit this. Rav Shlomo Zalman points out that it could be connected to the dispute of whether benefiting from food cooked on Shabbos is nullified in a majority or only in sixty if it is a liquid mixture. He does suggest that everyone would hold that a majority is sufficient since it was nullified before it was forbidden. However, he seems to return back to his original thought and assume sixty is necessary. Halacha Brurah (318:4, v. 14 p. 15) holds like the opinion that a majority is sufficient.

Ikar and Tofel

A completely different approach that could be relevant to permit this is that of the Har Tzvi. He is discussing Rabbenu Yerucham cited by the Bet Yosef 253 who permits reheating food which is a majority solid. Seemingly that opinion is very strange considering that reheating an already cooked solid is permitted but reheating an already cooked liquid is forbidden. Even though the liquid is in the minority it should still be forbidden. The Pri Megadim explains that the reason for the Rabbenu Yerucham is that reheating the liquid only makes it worse in which case he is lenient to reheat it. Alternatively, the Eglei Tal (Ofeh n. 26:55) explains that since one's intent was to cook the majority solid the liquid was only considered a *pesik reisha*; either that *pesik reisha* is permitted since we primarily hold reheating liquids is permitted or that a *pesik reisha* is only rabbinic. Whatever the explanation this won't be applicable to our case.

However, the Har Tzvi (Tel Harim Bishul n. 1) explains that with respect to carrying we have a concept that if there is a primary item and a secondary one the secondary one is nullified to the secondary one. For example, if someone carries a person they're exempt. Even if they carry a person in a bed they are exempt since the bed is secondary to the person (Shabbos 93b). Rav Frank extends this to other *melachot* as well. One further example of this principle is that if a person was fishing and caught fish and also saved a baby drowning in the water he is exempt for trapping the fish. He explains that saving the baby is primary and trapping the fish is only secondary. Another application is the Rashba Shabbos 107b who permits trapping a deer in one's house if one's primary intent is to protect one's house. See further in Shevet Halevi 3:97 and Minchat Shlomo 1:6 who discuss this Rashba and its implications. With respect to our discussion, Rav Frank uses his approach to explain the Rabbenu Yerucham. Even though one also intends to reheat the liquid that is only my secondary intent and as such it is only rabbinic and since reheating liquids is permitted according to some it is permitted as a secondary intent. Seemingly this is applicable to making VIA coffee since the primary intent is for the majority and the secondary intent is insignificant. Even though generally a secondary intent would be rabbinic it is permitted here since some completely permit re-cooking liquid. Rav Sheinburg in Sefer Zikaron for Rav Jolty p. 657 and Yalkut Yosef Bishul Achar Bishul fnt. 66 accept this idea. However, Rav Shlomo Zalman in Sefer Zikaron disputes Rav Sheinburg and Rav Frank's approach.

See there further about the topic of *ribuy bshurim*.

Conclusion

When originally asked Rav Schachter held that it is permitted to make the VIA coffee in a kli sheni because of nullification in a majority in line with R' Shlomo Kluger's logic, however in another discussion he left the question of whether there is bitul for bishul unresolved. Rabbi Yona Reiss and Rav Mordechai Willig are strict in line with the Avnei Nezer and R' Shlomo Zalman's approach. Yet, they too agree that it is permitted if one is careful to make it in a kli shelishi since the kernels were already roasted and also many opinions allow cooking in a kli shelishi. In fact, the Mishna Brurah 318:48 cites the Pri Megadim who is lenient to use a kli shelishi for re-cooking something that was already roasted which is our case.