



Having a Non-Jew Build a Sukka and Assemble Arba'a Minim

לעילוי נשמת
 יואל אפרים בן אברהם עוזיאל זלצמן ז"ל

Question: My neighbor has muscle atrophy and can no longer put up his *sukka* or assemble his *arba'a minim*. I offered to do them for him, but he does not like receiving favors and prefers teaching his non-Jewish worker to do them for him. May a non-Jew do these things? Should I take “no” as an answer?

Answer: Regarding *sukka*, it seems to be an explicit *gemara* (Sukka 8b; see Shulchan Aruch, Orach Chayim 635:1) that a non-Jew can make a kosher *sukka* as long as he did so to provide shade. The Rama (OC 649:1) confirms that the same is true for tying up the *hadasim* and *aravot* with the *lulav*. However, it is somewhat more complicated. The Magen Avraham (649:3) infers from the Rama's wording that such a *sukka* or *lulav* is only kosher after the fact, but that, *l'chatchila*, a non-Jew should not do it.

The Magen Avraham traces stringency to the *halacha* for *tefillin* and *tzitzit*. The *gemara* (Gittin 45b) derives from the proximity of “you shall tie” and “you shall write” (Devarim 6, regarding *tefillin* and *mezuzah*,

respectively) that only those who are connected to the *mitzva* of *tefillin* can write sacred scrolls. Tosafot (ad loc.) cites Rabbeinu Tam as using this source to disallow a woman tying on *tzitzit* or assembling *arba'a minim* because they are exempt from these *mitzvot*. The Magen Avraham accepts Rabbeinu Tam, but only partially. Rabbeinu Tam seems to disqualify people even *b'dieved*, whereas the Magen Avraham, working within the Rama, who fundamentally accepts non-Jews for *sukka* and *lulav*, recommends avoiding them *l'chatchila*.

Tosafot, for their part, reject Rabbeinu Tam's extension of the disqualification to women, as even non-Jews are disqualified even for *tzitzit* only due to a *pasuk*, as well as his extension to other *mitzvot*, based on the *gemara* that allows a *sukka* made by a non-Jew. Almost all *poskim* (see Be'ur Halacha to 14:1; Chochmat Shlomo (Kluger) ad loc.) fundamentally reject Rabbeinu Tam/Magen Avraham. However, due to the weight of these great authorities, many *poskim* recommend avoiding using a non-Jew for *sukka/arba'a minim* (ibid.; Mishna Berura 649:14).

If the disqualification from writing holy

texts does not extend to other *mitzvot*, then why does the Rama (14:1; the Shulchan Aruch ad loc. is lenient) cite two opinions regarding women's ability to tie *tzitzit* and prefer avoiding it? *Acharonim* distinguish between the *mitzvot*. The Be'ur Halacha (to 14:1) mentions those who disqualify women from *tzitzit* based on a *pasuk*. The Chatam Sofer (Shut, Yoreh Deah 271) distinguishes that the fact the Torah describes tying *tzitzit* as its own positive *mitzva* explains requiring someone to whom the *mitzva* of *tzitzit* is incumbent. In contrast, building a *sukka* is just a *hechsher* (preparation for a) *mitzva*, and thus anyone can do it. Chochmat Shlomo's (ibid.) distinction is that *tzitzit* must be tied on *lishma* (for the purpose of the *mitzva*), but since *sukka* does not require it (just that it be done for shade), it does not need to be done by one who is obligated in the *mitzva*.

The indications regarding *lulav* are similar to those for *sukka* (see Rama OC 649:1 and Mishna Berura 649:14), with two notable differences. On one hand, there is no *gemara* saying *arba'a minim* assembled by a non-Jew is kosher. On the other hand, the whole need for the binding together of the *lulav*, *hadasim*, and *aravot* is of a low or possibly technical level (see Sukka 33a; Shulchan Aruch, OC 651:1; development of this point is beyond our scope).

Now for our recommendations. If your neighbor would ask us, we might tell him that since the only part of the *sukka* that there

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is a question about is the *s'chach*, he could have his worker build the frame and walls and let you happily put up the *s'chach* (or even just lift it up – see Shulchan Aruch, OC 626:2). Similarly, he could let you assemble the *arba'a minim* without needing to teach you. However, since it **sounds** (it **may** be worth checking better) like he does not want you to do it and the case for *chumra* is quite tenuous and only *l'hatchila*, we recommend to leave things as they are. ■

Having a dispute?

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