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## Amirah LeNochri

1. A non-Jewish day-worker may not do any melacha on Shabbat on a Jew's behalf.<sup>1</sup>
2. Some say that a live-in maid who has time off each week and doesn't have to work on Shabbat is considered like a contractor and may do melacha for a Jew on Shabbat.<sup>2</sup> However, if she works in the Jewish employer's house, she may not do melacha except in her room. Some say that she may do activities that are part of her regular routine.<sup>3</sup>
3. Additionally, Jews may not benefit from the non-Jew's work on Shabbat and the non-Jew may not do activities that degrade the sanctity of Shabbat.<sup>4</sup>

1. The Mishnah (Shabbat 17b) writes that Beit Hillel permitted leaving clothes at a non-Jewish cleaner before Shabbat. Tosfot 19a s.v. Ela adds that it is permitted only if one stipulated a price with the non-Jew. The Rashba (Shabbat 19a s.v. Ha) explains that if a price is fixed, the non-Jewish worker is considered a contractor, hired for a specific job. If the non-Jew is a contractor, he is working at his own convenience, whereas a non-Jewish day-worker is considered like the agent of the Jew.

The Rambam (Shabbat 6:12) writes that if one hires a non-Jewish worker to perform a particular task for an extended period of time, it as if one stipulated a price for a particular job as long as the Jew isn't particular about which days the non-Jew works. The Raavad, however, considers such a worker to be a day-worker.

While the Beit Yosef 244:5 and Rama 244:5 rule like the Rambam, they clarify that the it is permitted only if the worker is told to do one particular task, but not if he is hired to do every task that the employer wants. The Magen Avraham 244:16 explains that if the non-Jew is hired for every task, it is almost certain that the Jew benefits from the non-Jew working on Shabbat as it is likely he will be needed for another task after Shabbat. Thus, Mishna Brurah 244:30 writes that one should protest against those who have maids that do work on Shabbat, because the maid is hired to do all the tasks that the employer chooses. See, however, the Mor Uketziah 244:5 who dismisses the Beit Yosef's distinction, insisting that as long as the Jew isn't particular when the non-Jew works, it should be permitted.

2. Rabbi Simcha Bunim Cohen (The Sanctity of Shabbos p. 91, n. 12) quotes Rav Moshe Feinstein, Rav Shlomo Zalman Auerbach, and Rav Chaim Pinchas Sheinberg as saying that maids were considered day-workers in the Mishna Brurah's day because they could be called upon to work at any time. Nowadays, maids work regular hours and take off some days each week. These Poskim explain that if they do some work on Shabbat, it is simply for their convenience - in order to have free time another day of the week. Thus, today's live-in maids are considered like contractors and not day-workers. Rav Cohen clarifies (p.

98-9) that this does not apply to a cleaning lady or a part-time help who is hired for a fixed number of hours on Shabbat. In such a case, the maid is like a day-worker and may be hired only to do activities that a Jew could do himself on Shabbat. The 39 Melachos (v. 1, p. 82) agrees. 3. The Yerushalmi (Shabbat 1:8) states that it is permitted to hire non-Jewish contractors as long as they don't do the work in the Jew's house. Based on the Yerushalmi, the Rashba (*ibid.*) limits Beit Hillel's permission to leave clothes at a non-Jewish cleaner to a case where the work is not done in the Jewish employer's home. Mishna Brurah 252:17 explains that if it is done in the employer's home, it appears as though the Jew commanded the non-Jew to work on Shabbat. S" A 252:2 codifies the Rashba as halacha. Shemirat Shabbat Kehilchata 30:35 writes that work that a non-Jewish maid does in her own room is considered as though it was not done in the house of the Jew.

Rabbi Simcha Bunim Cohen (*ibid.*) quotes Rav Moshe Feinstein as ruling that the issue of having a non-Jewish contractor work in the Jew's home applies only to irregular activities, since it appears as if one commanded the non-Jew to do those activities on Shabbat. There is no concern, however, that a Jew instructed the non-Jew to do activities that are part of his daily routine. Rav Hershel Schachter (oral communication) finds this leniency difficult to accept.

The Rosh (Shabbat 16:12) writes that one need not protest if on his own volition, a non-Jew infrequently does melacha for a Jew. However, it is forbidden to let the non-Jew consistently do melacha for a Jew without being instructed, because this constitutes a deceit (Haaramah). S" A 325:13 agrees. Thus, Rabbi Mordechai Willig ("Amira L'Nachri" min 10-12) rules that it is incorrect for shuls to have custodians to turn lights on and off every Shabbat, even if this is done without any explicit command.

4. Rabbi Simcha Bunim Cohen (*ibid.* p. 87-93) writes that even if a live-in maid is a contractor, the Jew may not benefit from melacha that is done on Shabbat, and the maid may not do anything that degrades the sanctity of Shabbat, such as vacuuming (See Rama 252:5).