

## TOWARDS A JUDICIAL BIOGRAPHY OF RABBI SHNEUR ZALMAN OF LIADY

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### ABSTRACT

This study seeks to forge a new avenue of legal scholarship on the modern religious movement known as Hasidism. The paper focuses on Rabbi Shneur Zalman of Liady (ca. 1745–1812)—Hasidic master, religious thinker, and jurist. Much has been written on Shneur Zalman, his formidable leadership in the face of strident opposition and his groundbreaking religious philosophy. His legacy continues to animate contemporary Judaism, primarily through his spiritual heirs—the Lubavitch Hasidic community—and through his Hasidic thought known as Chabad. The present study maps out an aspect which has been widely neglected, but is nonetheless crucial to understanding this religious leader: Rabbi Shneur Zalman’s legal activity. The first part of the study surveys existing research, assessing what has been achieved thus far, and what tools are available for further research. The second part of the essay highlights salient questions to be considered as part of a judicial biography, offering preliminary answers to these questions. The article concludes with the contention that without serious analysis of Rabbi Shneur Zalman’s legal writings—or for that matter, legal writings of Hasidic masters in general—any intellectual history of this religious movement will be incomplete.

**KEYWORDS:** *Admor-Posek*, Chabad, codification, Hasidism, Jewish law, Lubavitch, *Shulḥan ‘arukh ha-rav*

*Rabbi Avraham of Sochaczew, author of Avnei neizer, was once hosted by one of his disciples in Warsaw, who was a very wealthy man. [The wealthy man] showed him a lovely drawing of the Rabbi, author of the Tanya [Shneur Zalman of Liady]. The Avnei Neizer said: The best impression of the Rabbi is obtained by studying his books.*

—Yehuda Grinshpan<sup>1</sup>

In the second half of the eighteenth century in Eastern European, a Jewish religious revival began to coalesce. This awakening became known as “Hasidism,” from the Hebrew word *ḥasid*, commonly

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1 Yehuda Grinshpan, *Hiyukha shel torah* (Jerusalem, 1993), 78. Regarding a portrait of Shneur Zalman’s grandson, the writer Alexander Ziskind Rabinowitz (1854–1945; known by the acronym of his name, “Azar”) commented, “It is better for us to honor the words of our sages rather than their pictures.” Alexander Ziskind Rabinowitz, “*Toledot mishpachat Shne’urzoḥn*,” *He-’asif* 5 (1889), 167. Cf. *Hazofe*, November 23, 2007, 11 (translated partial transcript of a 1969 talk by Rabbi Joseph B. Soloveitchik, regarding the image of Shneur Zalman). While Azar and Grinshpan emphasized written legacy over portraiture, Soloveitchik waxed on the value of the (alleged) portrait of Shneur Zalman.

translated as “pietist.” As a movement, Hasidism prospered throughout the nineteenth century. It endured the tribulations of the first decades of the twentieth century, in particular the displacement caused by the First World War. During the Second World War, Hasidism was decimated: its leaders were targeted, its institutions destroyed, and its rank and file murdered. Despite the tragedy, Hasidism has experienced a rebirth, and today it thrives in various centers around the world, particularly in America and Israel.

The Hasidic movement was not characterized by central leadership and uniform practice. Rather, a plethora of Hasidic masters each ministered to a group of disciples or adherents, known as *Hasidim*. As might be expected from a decentralized movement whose history spans more than two hundred and fifty years, the leaders who headed Hasidic communities have varied greatly. But in broad strokes, these Hasidic masters could be described as spiritual guides, religious thinkers, and communal leaders. Notwithstanding notable exceptions, Jewish law has not been the primary vocation of Hasidic masters.

It is therefore unsurprising that the contribution of Rabbi Shneur Zalman of Liady (ca. 1745–1812) is plotted along two axes, Hasidic leadership and Hasidic thought, whereas the legal writing and juridical activity of this famed Hasidic master have sadly been given insufficient attention. As a leading figure in Hasidism’s formative stage, Shneur Zalman played a central role in confronting the *Mitnaggedim*, the Jewish opponents of Hasidism who felt that the movement was misguided in its religious thought, spiritual priorities, and innovative practices.<sup>2</sup> Shneur Zalman also developed a unique path of religious thought within Hasidism, which was subsequently espoused by students and descendants, and spawned a number of Hasidic groups. Shneur Zalman’s particular strand of Hasidic philosophy was dubbed “Chabad”—an acronym for three faculties of the mind: wisdom (*hokhma*), understanding (*bina*), and knowledge (*da’at*). Shneur Zalman’s life, his role as a Hasidic leader, and his religious philosophy have been plumbed, yet consideration of the third significant vector of Shneur Zalman’s activity—his role as a jurist—has too often been neglected.<sup>3</sup>

The importance of Shneur Zalman’s contribution to the field of Jewish law cannot be overstated. In authoring legal treatises, Shneur Zalman was an exception among early Hasidic masters.<sup>4</sup> He penned a code of Jewish law, widely known as *Shulchan ‘arukh ha-rav*, “The Set Table”—meaning the code—“of the Rabbi,” as well as three legal monographs and responsa.<sup>5</sup> He also printed a prayer book, known in Hebrew as a *Siddur*—editing the text of the prayers, adding succinct instruc-

2 Most recently, see Immanuel Etkes, *Ba’al ha-tanya* (Jerusalem: Shazar, 2011), 225–316.

3 See, inter alia, Morris M. Faiersstein, “The Literary Legacy of Shneur Zalman of Lyadi,” *Jewish Book Annual* 52 (1994–1995): 148–62; Nehemia Polen, “Charismatic Leader, Charismatic Book: Rabbi Shneur Zalman’s *Tanya* and His Leadership,” in *Rabbinic and Lay Communal Authority*, ed. Suzanne Last Stone (New York: Yeshiva University Press, 2006), 53–64; Etkes, *Ba’al ha-tanya*, 23–224, 317–413; Menahem Mendel Bronfman, Eliyahu Kirshenbaum, and Moshe Shilat, eds., *Ha-rishon: Admor ha-zaken, rabbi Shneur Zalman mi-Liady* (Jerusalem: Sifriyat Ma’ayanotekha, 2013). On the neglect of Shneur Zalman’s legal activity, see Levi Cooper, “On Etkes’ *Ba’al Ha-Tanya*,” *Diné Israel* 29 (2013): 177–89.

4 Gershom Scholem, *Major Trends in Jewish Mysticism* (Jerusalem: Schocken, 1941), 345.

5 For English editions of *Shulchan ‘arukh ha-rav* and the treatise on Torah study, see *The Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Eliyahu Touger and Uri Kaploun, 8 vols. (Brooklyn: Kehot, 2002–2014) (bilingual edition); *Hilchos Talmud Torah: The Laws of Torah Study from the Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Eliyahu Touger and Uri Kaploun (Brooklyn: Kehot, 2004) (bilingual edition). In citing these works, I have left their spelling and transliterations unchanged; I have, however, replaced their brackets with parentheses (brackets indicate my additions). Other citations from Hebrew and Yiddish sources are in my translation.

tions, and appending short legal treatises.<sup>6</sup> Yet, none of these influential writings, nor Shneur Zalman's juridical authority, have merited full assessment.

This neglect is unexpected given that Shneur Zalman's spiritual descendants—members of the Lubavitch Hasidic community—remain a visible presence in the contemporary Jewish world. Lubavitch, the surviving branch of the Chabad School, and named for the town where many Chabad leaders resided, proudly boasts representatives around the globe, many institutions of higher learning, and unparalleled influence in contemporary Judaism.

To be sure, biographies of Shneur Zalman abound.<sup>7</sup> Yet there has been no judicial biography that places this religious leader's legal oeuvre in its context. This context must be considered from a number of vantages. First, from within Hasidism: What is the relationship between Shneur Zalman's legal activity and his religious milieu, and do his legal opinions reflect a particularly Hasidic bent of Jewish law? Was he really such an exceptional figure or were other contemporary Hasidic masters also jurists of note?<sup>8</sup>

Second, from the perspective of the history of *halakhab* (Jewish law): How does Shneur Zalman's code compare to other codes of Jewish law? What were the faults he was trying to remedy and how successful was he in his endeavor? What has been the long-range impact of this Hasidic master's activity in the realm of law?

Third, from a broader legal perspective: Shneur Zalman's legal activity was contemporaneous with the codification movement that grew out of the Age of Enlightenment. The first volume of Blackstone's *Commentaries on the Laws of England* was published in 1766, and thereafter the four-volume work was repeatedly republished in the eighteenth century. In the same period, Jeremy Bentham coined the verb "to codify," as he actively advocated codification of the entire Common Law. Concurrently in continental Europe, legal codes were being established in different locales. These local codes were crowned by Napoleon's 1804 *Code civil des Français*—later renamed and better known as *Code Napoléon*, a treatise that would heavily influence law in many countries.<sup>9</sup> How does Shneur Zalman's code of Jewish law fit into the contemporary codification movement?

6 On Shneur Zalman's prayer book generally, see Gedalia Oberlander, ed., *Ha-siddur* (Monsey: Heichal Menachem, 2003); Levi Yizhak Raskin, ed., *Siddur rabbeinu ha-zaken* (Brooklyn: Kehot, 2004); Nochum Grunwald, "Ha-siddur ha-rishon ba-'olam ha-ḥasidut," in *Ha-rishon*, 293–98.

7 The many descriptions of Shneur Zalman's life possess varying degrees of historical accuracy, e.g., Michael Levi Frumkin-Rodkinson, *Shivhei ha-rav* (Lemberg: Kugel, 1864); Michael Levi Frumkin-Rodkinson, *Toledot 'amudei ha-ḥabad* (Königsberg: Pezel, 1876); Aharon Walden, *Kehal ḥasidim* (Warsaw, 1866), 41a–45a; Aharon Walden, *Kehal ḥasidim* (Lemberg: Madfes, 1875), 57b–59a; Yaakov Kodonir, *Sippurim nora'im* (Lemberg: Süss, 1875); Pesah Rudermann, "Hashkafah kelalit 'al ha-zaddikim ve-'al ha-ḥasidim," *Ha-shaḥar* 6 (1875): 96–101; Hayim Meir Heilman, *Beit rabbi* (Berdyczów: Sheftl, 1902); Mordekhai Teitelbaum, *Ha-rav mi-L'ady u-miflegat ḥabad* (Warsaw: Tushiyah, 1910–1913); Judaeus [Naftoli Hertz Ehrmann], *Der Rav: Kulturhistorische Erzählung* (Frankfurt: Hermon, 1914). More recent works include: Avraham Hanokh Glitzenstein, *Sefer ha-toladot: Rabbi Shneur Zalman mi-L'ady* (Brooklyn: Kehot, 1967); Nissan Mindel, *Rabbi Shneur Zalman of Liadi: A Biography* (Brooklyn: Kehot, 1969); Yizhak Alfasi, *Ha-me'irim la-'arez* (Kefar Chabad: Masharki, 2009), 99–125; Etkes, *Ba'al ha-tanya*; Eli Rubin, "The Life and Times of Rabbi Shneur Zalman of Liadi," Chabad.org, accessed November 23, 2014, [http://www.chabad.org/library/article\\_cdo/aid/2077851/jewish/Timeline.htm](http://www.chabad.org/library/article_cdo/aid/2077851/jewish/Timeline.htm).

8 For now, see Levi Cooper, "Rabbanut, halakha, ve-lamdanut: Hebeitim 'alumim be-toledot r. Levi Yizhak mi-Berditchov," in *Rabbi Levi Yizhak mi-Berditchov: Kovez ma'amarim*, ed. Z. Mark (Ramat-Gan: Bar-Ilan University Press, forthcoming).

9 *The Oxford English Dictionary*, ed. James A. H. Murray, et al. (Oxford: Clarendon Press, 1933), 2:582–83; Helmut Coing, "An Intellectual History of European Codification in the Eighteenth and Nineteenth Centuries," in *Problems of Codification*, ed. S. J. Stoljar (Canberra: Australian National University, 1977), 16–24; Peter

This programmatic essay provides the necessary academic scaffolding before these questions can be addressed. This scaffolding includes an assessment of the state of the research, an outline of salient questions raised by Shneur Zalman's legal works, and initial answers to those questions. The goal of this essay, therefore, is to lay the groundwork for construction of a judicial biography of Shneur Zalman that will define the contours of his contribution to Jewish law and contextualize his legal writing and juridical activity. It seeks both to highlight an area where legal history and the history of religion overlap and to demonstrate that this area is deserving of scholarly attention.

As a cross between between biography and legal scholarship, judicial biography seeks to link the subject's life story to the subject's activity and legacy in the realm of law. Although some scholars question the enterprise of judicial biography; others argue that consideration of a jurist's life can enhance our understanding of his legal opinions.<sup>10</sup> In the case of Shneur Zalman much biographical research has been conducted, both in Chabad scholarly circles and in academia.<sup>11</sup> Thus considering Shneur Zalman's legal activity will expand our understanding of the impact of his religious path on his legal writing, and more generally our understanding of the legal history of Hasidism. As Haym Soloveitchik has noted, there is "a growing recognition that Jewish intellectual history without halakhah is partial history only."<sup>12</sup>

## STATE OF THE RESEARCH

Any attempt to write Shneur Zalman's judicial biography is complicated by the incomplete record of his legal works, some of which were destroyed in fires in 1810 and 1812.<sup>13</sup> Nonetheless, the surviving material suffices to lay the infrastructure for a judicial biography of this highly influential religious figure.

Bibliographic works from the late nineteenth century onwards listed Shneur Zalman's contribution to law; alas, because the scholarly focus lay elsewhere and because these were virgin efforts, the information they recorded was incomplete.<sup>14</sup> Indeed, the various genres that have referenced

A. J. van den Berg, *The Politics of European Codification: A History of the Unification of Law in France, Prussia, the Austrian Monarchy and the Netherlands* (Groningen: Europa Law Publishing, 2007), 204–11.

- 10 For an overview and critique of the genre, see Richard A. Posner, "Judicial Biography," *New York University Law Review* 70, no. 3 (1995): 502–23. Earlier studies also highlighted the challenges of the genre; see papers presented at the symposium "Writing of Judicial Biography" held by the American Political Science Association in Chicago, December 28–30, 1948, published in *Indiana Law Journal* 24, no. 3 (1949): 363–400. Posner suggested alternatives under the rubric of what he termed "judicial studies"—namely, "studies of a person's works with only incidental reference to his life" and "studying [the judge's] opinions, philosophy, style, legacy, and influence." It seems that the sum total of judicial studies of a jurist, together with more than incidental references to his life, might add up to a worthy judicial biography. See Posner, "Judicial Biography," 510, 520, 523. For an opposing view, see Melvin I. Urofsky, "Beyond the Bottom Line: The Value of Judicial Biography," *Journal of Supreme Court History* 23, no. 2 (1998): 143–56.
- 11 Methodologically, I consider both academic and internal Chabad scholarship, without prejudicing either but without losing sight of the difference between the two genres.
- 12 Haym Soloveitchik, "History of Halakhah—Methodological Issues: A Review Essay of I. Twersky's *Rabad of Posquières*," *Jewish History* 5, no. 1 (1991): 75.
- 13 *Iggerot kodesh . . . admor ha-zaken . . . admor ha-'emza'i . . . zemaḥ zedek* (Brooklyn: Kehot, 1987), 224–25, 234; "Preface by the Rabbis, Sons of the Learned Author," in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:42.
- 14 To cite a few examples: I. A. Benjacob listed *Shulḥan 'arukh ha-rav* and Shneur Zalman's other writings, omitting the role of Shneur Zalman's sons in the posthumous publication of their father's work. I. A. Benjacob, *Ozar ha-sefarim* (Vilna: Rom, 1880) 139, 586, 587, 588. Samuel Joseph Fün̄n noted how unique it was that Shneur

Shneur Zalman's legacy evidences awareness of his legal writings. Yet scholarship on Shneur Zalman—whether from the legal, biographical, historical, or philosophical genres—has made only cursory reference to his legal activity.<sup>15</sup>

Notwithstanding Shneur Zalman's prominence in histories of Hasidism, historians have neglected his legal writings. Samuel Abba Horodezky, for instance, addressed aspects of Shneur Zalman's biography and thought. His description contrasted the uniqueness of Shneur Zalman as compared to his Hasidic peers from two perspectives: Chabad philosophy and Shneur Zalman's proclivity for traditional Talmud study.<sup>16</sup> Horodezky underscored that Shneur Zalman was unmatched in nascent Hasidism because he did not abandon his "Rabbinism"—meaning traditional Judaism as widely practiced before the advent of Hasidism:

Hassidism, which was hostile to Rabbinism, gave Rabbinism through one of its leaders a new fortification. Rabbi Shneur Salomon [*sic*] renewed the "Shulchan Aruch" [code of Jewish law]. Rabbi Shneur Salomon, who brought rationalism into Hassidism, was the only man who could compile a new book of laws. And in him we see these two extremes, Rabbinism and Hassidism[,] touch one another.<sup>17</sup>

Horodezky's analysis was based on the then accepted axiom that Hasidism opposed traditional rabbinic authority, hence the singularity of Shneur Zalman. Horodezky's categorical assumption has since been called into question.<sup>18</sup> Although Horodezky correctly recognized Shneur Zalman's status as a jurist of note, he did not delve into the legal writings. Similarly, other writers on Hasidism also chose to focus on history and philosophy, but not on Shneur Zalman's legal legacy.<sup>19</sup>

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Zalman authored a code, though he mistakenly wrote that Shneur Zalman "published a number of sections of it." Samuel Joseph Fünf, *Kenesset yisra'el* (Warsaw: Zaks and Zukermans, 1886–1890), 331–33. In Fünf's entry for Shneur Zalman's son, Shneur Zalman's name appears as "Shne'ur Shlomo Zalman" and no mention is made of the son's role in the publication of the code. *Ibid.*, 187. J. D. Eisenstein's encyclopedia lists only the 1854 edition of *Shulhan 'arukh ha-rav*, with no mention of Shneur Zalman's other legal works. J. D. Eisenstein, ed., *Ozar yisra'el* (New York: Eisenstein, 1906–1913), 10:194–95. Shimon Moshe Chones added bibliographic details for *Shulhan 'arukh ha-rav* in his lexicon of halakhists. He did not list the first edition, though he noted that *Shulhan 'arukh ha-rav* was published by Shneur Zalman's sons. Shimon Moshe Chones, *Toledot ha-posekim*, 2nd ed. (Warsaw: Zeilingold, 1922), 576–78. The 1930 endeavor by Boaz Cohen to record the responsa literature mostly listed Shneur Zalman's responsa that were appended to *Shulhan 'arukh ha-rav*. Boaz Cohen, ed., *Kuntras ha-teshuvot* (Budapest, 1930; repr., Jerusalem: Makor, 1970), nos. 248, 1249, 1746, 1403a. See also Shmuel Glick, *Kuntras ha-teshuvot he-hadash* (Jerusalem and Ramat-Gan: Bar-Ilan University, 2006–2010), nos. 3669, 3910, 3911, 3912, 4399.

- 15 Because of his focus on civil law, Elon's major study of Jewish law only gives Shneur Zalman's legal works passing mention. See Menachem Elon, *Jewish Law: History, Sources, Principles*, trans. Bernard Auerbach and Melvin J. Sykes (Philadelphia and Jerusalem: Jewish Publication Society, 1994), 3:1447; cf. Yehoshua Mondshine, *Sifrei ha-halakhah shel admor ha-zaken* (Kefar Chabad: Kehot, 1984), 49–50 (Hebrew numbers). Elon noted that Shneur Zalman did not bequeath responsa on civil law; Mondshine demonstrated that at least one responsum on civil law was excised and postulated that there may have been other civil law responsa.
- 16 Samuel Abba Horodezky, *Ha-ḥasidut ve-ha-ḥasidim* (Jerusalem: Dvir, 1923), 3:165–211, 4:97–102; Horodezky, *Ḥasidizm*, trans. Y. Zeligman (Berlin: Klal, 1924), 104–06; Horodezky, *Leaders of Hassidism*, trans. Maria Horodezky-Magasanik (London: Hasefer Agency for Literature, 1928), 57–63; Horodezky, *Der ḥasidizm un zayne firer* (Vilna: Tomor, 1937), 155–75; Horodezky, *Yahadut ha-seikkhel ve-yahadut ha-regesh* (Tel Aviv: Twersky, 1947), 181–83.
- 17 Horodezky, *Leaders of Hassidism*, 61.
- 18 Moshe Rosman, *Founder of Hasidism: A Quest for the Historical Ba'al Shem Tov* (Berkeley: University of California Press, 1996; repr., with new introduction, Portland, OR: Littman Library, 2013).
- 19 E.g., Ahron Marcus (Verus), *Der Chassidismus* (Pleschen: Jeschurun, 1901), 137–40; Ahron Marcus, *Ha-ḥasidut*, trans. M. Shenfeld (Tel Aviv: Nezah, 1954), 87–91; Simon Dubnow, *Toledot ha-ḥasidut* (Tel Aviv: Dvir,

Biographies of Shneur Zalman were hardly more informative. The earliest biographies of Shneur Zalman were written in the second half of the nineteenth century, and the enterprise continues to the present.<sup>20</sup> These biographies mention Shneur Zalman's legal writings, but do not engage in serious analysis of the corpus. Contemporary academic scholarship on Shneur Zalman has largely avoided consideration of his legal writings.<sup>21</sup> This includes Immanuel Etkes' recent, well-received biography that placed Shneur Zalman's legal writings outside the bounds of the discussion.<sup>22</sup>

#### CHARACTERIZATIONS OF THE LEGAL WORKS

There were exceptions to what can be portrayed as a general lack of interest in Shneur Zalman's legal legacy, but these efforts did not answer the need for judicial biography because they were methodologically flawed, and generally incomplete. These efforts are surveyed in chronological order.

First to present a preliminary discussion of Shneur Zalman's legal writings was Mordekhai Teitelbaum in his biography of the Hasidic master, published in 1910 to 1913. Although insightful, Teitelbaum's comments on the responsa are but initial observations. Regarding *Shulḥan 'arukh ha-rav*, Teitelbaum noted the clear arrangement of the code, also pointing out that in general, Shneur Zalman ruled stringently. He also commented on the code's Hasidic context and, in a supplement to the biography, considered the question of when the code was written.<sup>23</sup>

The 1940s saw three scholars attempt to characterize *Shulḥan 'arukh ha-rav*: Yoel Diskin, Shlomo Yosef Zevin, and Chaim Tchernowitz (nom de plume, Rav Tzair). These attempts were not comprehensive, but any effort to construct a judicial biography of Shneur Zalman should take stock of their efforts and their shortcomings.

Diskin offered an analysis of select legal opinions, though he did not describe the treatises, nor did he typify Shneur Zalman's jurisprudence.<sup>24</sup> In a 1945 article, Zevin referred to Shneur Zalman as a "first-rate jurist," noting that his lucid style endowed the code with unparalleled status. Zevin, quick to observe that style in itself is insufficient to grant eternal worth to a work, detailed three

1930–1932), 232–41; Yekutiel Aryeh Kamelhar, *Dor dei'ah* (New York: Broynfeld, 1953), 160–65; Yehoshua Mondshine, *Ha-zofeh le-doro* (Jerusalem: Rubin Mass, 1987), 285–86; Eliezer Steinman, *Be'er ha-ḥasidut* (Tel Aviv: Keneset, 1951–1962), 430–78; Eliezer Steinman, *Gan ha-ḥasidut* (Jerusalem: Ha-histadrut Ha-ziyonit Ha-'olamit, 1957), 83–85, 142–44.

20 See note 7 above.

21 Faienstein's survey of Shneur Zalman's literary legacy and contemporary academic scholarship provides only a brief account of his legal writings. Faienstein, "The Literary Legacy of Shneur Zalman of Lyadi," 148–62. See also Polen, "Charismatic Leader, Charismatic Book: Rabbi Shneur Zalman's *Tanya* and His Leadership," which, as the title indicates, focuses on these two vectors. This lacuna has been noted by scholars. See Zeev Gries, *Sifrut ha-hanbagot* (Jerusalem: Mossad Bialik, 1989), 125n82; Avinoam Rosenak, "Theory and Praxis in Rabbi Shneur Zalman of Liady: The *Tanya* and *Shulḥan 'Arukh HaRav*," *Jewish Law Association Studies* 22 (2012): 252nn102–03.

22 Etkes, *Ba'al ha-tanya*, 20–21; cf. Cooper, "On Etkes' *Ba'al Ha-Tanya*"; Naftali Loewenthal, review of *Ba'al ha-tanya*, by Immanuel Etkes, *Zion* 79, no. 2 (2014): 256. Etkes declared that Shneur Zalman's legal works were beyond the scope of his study. I have argued that these works should be considered. For a similar observation regarding "the discipline of history as practised in Australia, which pays insufficient attention to the law," see Stuart Macintyre, "What Makes a Good Biography?" *Adelaide Law Review* 32, no. 1 (2011): 15.

23 Teitelbaum, *Ha-rav mi-L'ady*, 1:10–15, 252–53.

24 Yoel Diskin, *Mishnat yo'el*, ed. Yizhak Avigdor Orenstein (Jerusalem: Zuckerman, 1941), 24–32 (changing prayer rites), 40–46 (ritual slaughter knives). On *Mishnat yo'el*, see Shlomo Yosef Zevin, *Soferim u-sefarim* (Tel Aviv: Ziyoni, 1959), 3:277–81.

outstanding features of Shneur Zalman's code, terming them *siddur* (arrangement), *nimukim* (explanations), and *hakhra'a* or *pesak* (decision making). Zevin's article has been reprinted numerous times, and his characterization has become a staple of scholarship on *Shulḥan 'arukh ha-rav*.<sup>25</sup> Despite its ubiquity, Zevin's characterization has yet to be assessed. I therefore consider his effort at some length.

Under the rubric *siddur*, Zevin contrasted Shneur Zalman's code and the classic code of Jewish law penned by Rabbi Joseph Karo (1488–1575) and titled *Shulḥan 'arukh*. Zevin underscored five facets of Shneur Zalman's organization, presentation, and language. First, Karo focused on issuing directives and therefore omitted background information, whereas Shneur Zalman detailed the sources and legal arguments that fashioned the law.<sup>26</sup> Second, Karo's code was designed as a practical handbook; Shneur Zalman's code had an additional objective: to teach its readers about the development of the law.<sup>27</sup> Third, thanks to Shneur Zalman's writing style the reader learns legal principles in addition to practical law.<sup>28</sup> Fourth, Shneur Zalman included definitions

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- 25 Zevin's article first appeared in 1945 in the Hebrew daily *Hazofe*, to commemorate 200 years since Shneur Zalman's birth. Zevin's piece was subsequently reprinted numerous times: *Hazofe*, August 24, 1945, 5; *Soferim u-sefarim*, 2:9–20; *Maḥanayim*, no. 97 (1965): 47–50; 'Al ha-sifrut ha-ḥabadit: *Leket sekirot 'al sifrei ḥabad* (Kefar Chabad: Kehot, 1969), 9–22; Members of the Kollel in Melbourne Australia, *He'arot u-vei'urim be-kuntras aḥaron le-shulḥan 'arukh rabbeinu ha-zaken* (Melbourne: Kollel Avreikhim, 1981), 213–23. In honor of the 200-year anniversary of Shneur Zalman's death, Zevin's article was translated into English: Zevin, "Systematization, Explanation and Arbitration: Rabbi Schneur Zalman of Liadi's Unique Legislative Style," trans. Eli Rubin, Chabad.org, accessed November 23, 2014, [www.chabad.org/library/article\\_cdo/aid/2087395/jewish/Systematization-Explanation-and-Arbitration-Rabbi-Schneur-Zalman-of-Liadi-Unique-Legislative-Style.htm](http://www.chabad.org/library/article_cdo/aid/2087395/jewish/Systematization-Explanation-and-Arbitration-Rabbi-Schneur-Zalman-of-Liadi-Unique-Legislative-Style.htm), reprinted in *Ve-samti kadkod* (Melbourne: Yeshivah Gedolah, 2013), 53–71. Other articles by Zevin surveyed Shneur Zalman's biography and writings, and reiterated the striking features of *Shulḥan 'arukh ha-rav*: Zevin, "Demuto shel r. Shne'ur Zalman ba'al ha-tanya," *Maḥanayim*, no. 46 (1960): 36–43; Zevin, "Rabbi Shne'ur Zalman mi-L'ady," *Panim el panim*, January 18, 1963, 14–15; Zevin, "Demut ha-pela'im shel ba'al ha-tanya," *Shanah be-shanah*, 1964, 189–99, reprinted in *Ma'ayanotekha*, no. 35 (2013): 8–12. See also Zevin's 1960 paper on the contribution of Hasidic masters to Jewish law, in which he also considered Shneur Zalman's legal writings along similar lines. Zevin, "Gedolei ha-ḥasidut be-halakhah," in *Sefer ha-besht*, ed. Y. L. Maimon (Jerusalem: Mossad Harav Kook, 1960), 28–30. This paper also appeared numerous times: *Sinai* 47 (1960): 142–52; *Le'or ha-halakhah*, 4th ed. (Jerusalem: Kol Mevasser, 2004), 444–56. Zevin's analysis was also recounted in Shmuel Elazar Heilprin, *Sefer ha-ze'eza'im* (Jerusalem, 1980), 16–17. For others who similarly lauded Shneur Zalman's writing, see Steinman, *Be'er ha-ḥasidut*, 4:35; Avinoam Rosenak, "Theory and Praxis," 272–77.
- 26 *Shulḥan 'arukh* begins Passover laws with *bedikat ḥamez*, the pre-Passover ritual where householders check that there is no forgotten leavened bread in the house. *Shulḥan 'arukh, orah ḥayim* 431:1. In contrast, Shneur Zalman opens with the biblical commandment and its rabbinical development that gave rise to the *bedikat ḥamez* ritual. *Shulḥan 'arukh ha-rav, orah ḥayim* 431:1–5. On the naming conventions of these two works, see note 36 below and accompanying text.
- 27 This distinction is reflected in the arrangement of laws: *Shulḥan 'arukh* begins with the ideal course of action (*lekhathila*) and then considers post factum situations (*bedi'avad*); *Shulḥan 'arukh ha-rav*, with its educational goal, opens with the core elements of the requirement before considering later rabbinic embellishments or cautionary fences. Zevin's example is the time for morning prayers. Compare *Shulḥan 'arukh, orah ḥayim* 89:1 with *Shulḥan 'arukh ha-rav, orah ḥayim* 89:1.
- 28 In the section dealing with tort, Shneur Zalman ruled that one may not cause bodily harm to another, even where the would-be claimant expresses consent, explaining, "For a person does not have any ownership over his body to injure it." The rule against harming one's own body appears in earlier sources; Shneur Zalman's articulation teaches a principle—a person's relationship to his or her body—in addition to the law. *Shulḥan 'arukh ha-rav, ḥoshen mishpat, hilkhot nizkei guf ve-nefesh ve-dineihem*, 4.

of legal terms, where his predecessors did not.<sup>29</sup> Fifth, Shneur Zalman's language was more precise.<sup>30</sup>

Under the rubric *nimukim*, Zevin distinguished between two codification styles prevalent in the history of Jewish codification: codes that comprehensively detail how the codifier reached a conclusion; and codes that present the law as apodicta. Zevin viewed both approaches as flawed: comprehensive presentations are flawed because they are too detailed for the reader who simply seeks the rule; the apodictic approach is flawed because it is dry and often incomplete. Also, terse formulations of law gave rise to commentaries and super-commentaries that result in an incoherent multitude of opinions. Zevin declared that Shneur Zalman's code struck the ideal balance in this respect.

Zevin identified two further types of explanatory material that appear in *Shulḥan 'arukh ha-rav*: rationales and legal sources. The rationales were either drawn from earlier sources and rephrased,<sup>31</sup> or were proposed by Shneur Zalman with no apparent source.<sup>32</sup> Shneur Zalman also indicated whether particular laws were part of the received legal tradition from time immemorial, or derived from biblical verses using hermeneutical principles.<sup>33</sup> Offering the legal source of a particular law was in harmony with what Shneur Zalman wrote in his first published legal treatise, where he urged his readers not to limit their study to practical law, but also to delve into its sources.<sup>34</sup>

Finally, regarding the third feature of the code, termed *hakbra'a* or *pesak* (decision making)—Zevin highlighted Shneur Zalman's ability to rule on disputed matters, such that his ruling was accepted beyond the circle of his disciples and adherents.<sup>35</sup>

In assessing Zevin's contribution, it is apparent that he described Shneur Zalman's response to salient issues confronted by any codifier. Alas, Zevin's examples are more anecdotal than comprehensive. Regarding the third feature: Shneur Zalman's ability to rule—Zevin did not demonstrate his assertion by objective parameters. Moreover, the claim that Shneur Zalman's rulings were widely accepted is ironic because Lubavitch Hasidim—the contemporary bearers of Shneur

29 In discussing the prohibition against erecting a tent on Sabbath, Karo did not include definitions for the pertinent legal categories "tent" and "temporary tent"; such definitions are offered by Shneur Zalman. Compare *Shulḥan 'arukh, orah ḥayim* 315:1, with *Shulḥan 'arukh ha-rav, orah ḥayim* 315:1.

30 Regarding preparations for the Passover *seder*, *Shulḥan 'arukh* directs a person to set the table before the onset of the festival "in order to eat as soon as it gets dark . . . because it is a religious ideal to hasten and to eat so that the children will not fall asleep." *Shulḥan 'arukh, orah ḥayim* 472:1. Shneur Zalman changed the wording: "in order to begin the *seder* as soon as it gets dark . . . because it is a religious ideal to hasten to begin the *seder* so that the children will not fall asleep." *Shulḥan 'arukh ha-rav, orah ḥayim* 472:1. All agree that *seder* rituals and recounting the Exodus story precede the meal; Shneur Zalman's language is more precise.

31 E.g., explanations for disqualification of *hamez* (leavened bread that is forbidden on Passover) that was not disposed of before the onset of the festival, *Shulḥan 'arukh, orah ḥayim* 448:3; *Shulḥan 'arukh ha-rav, orah ḥayim* 448; for celebrating two days of Rosh Hashana, *Rashi* to Babylonian Talmud, Rosh Hashana 30b; *Rosh* to Rosh Hashana 4:14; Yaakov b. Asher, *Arba'ah turim, orah ḥayim* 600; *Shulḥan 'arukh ha-rav, orah ḥayim* 600:4; for rules for Gentile agency on Sabbath, Meir b. Yekutiel, *Hagahot maymoniyot, hilkhos shabbat* 6:2; *Shulḥan 'arukh ha-rav, orah ḥayim* 243:1.

32 E.g., the Sabbath prohibition against moving a plant potted in a container without holes, *Shulḥan 'arukh ha-rav, orah ḥayim* 336:12; the status of the day after Shavuot, *ibid.*, 494:19.

33 E.g., the requirement to extend Yom Kippur beyond its official end. *Ibid.*, 608:1. Shneur Zalman's innovative approach on this point has been discussed in Lubavitch literature before and after Zevin: *Ha-tamim*, no. 6 (1937): 620–21; Mondshine, *Sifrei ha-halakhah*, 31–33 (Hebrew numbers); Avraham Alashvili, "Derashot ḥazal 'al ha-pesukim be-shulḥan 'arukh admor ha-zaken," *Pardes Chabad*, no. 9 (2003): 93–95.

34 *Hilkhos talmud torah* 1:4.

35 See Mondshine, *Sifrei ha-halakhah*, 70–83 (Hebrew numbers); Eliyahu Touger, Uri Kaploun, and Yonah Avtzon, "Overview," *The Shulchan Aruch of Rabbi Shneur Zalman of Liadi* (Brooklyn: Kehot, 2002), 1:12–14.



Zalman's legacy—do not see the code as Shneur Zalman's final word: How laudable is a code that cannot command the fidelity of the spiritual descendants of the author?

A close reading of any code might allow us to distill the features that distinguish one work from its predecessors. Yet merely describing prominent features often raises further questions regarding the codifier's choices. For example, which codes influenced Shneur Zalman's style? Some of the features highlighted by Zevin can be found in other codes; Maimonides' *Mishneh torah* comes to mind, for instance. What faults in previous codes was Shneur Zalman attempting to remedy?

Even the title of the code should be considered. The commonly used title "*Shulḥan 'arukh ha-rav*" does not appear anywhere in the work; it is conventionally used to differentiate between Shneur Zalman's composition and Karo's earlier *Shulḥan 'arukh*. What does the audacious re-use of the title "*Shulḥan 'arukh*" indicate?<sup>36</sup>

Although a good starting point, Zevin's observations call for comparative analysis. Furthermore, Zevin did not address one of the most important questions necessary for a judicial biography of Shneur Zalman: to what extent—if any—does *Shulḥan 'arukh ha-rav* reflect Hasidism?

Around the same time as Zevin's article appeared, Chaim Tchernowitz related to *Shulḥan 'arukh ha-rav* in his monumental work on jurists of Jewish law.<sup>37</sup> His account was divided into three parts: The first section focused on Shneur Zalman's motivation for composing legal works, and though Tchernowitz's assessment was historically flawed (and given the scope of Tchernowitz's project—necessarily incomplete), it is an important contribution in that he related to the Hasidic context of *Shulḥan 'arukh ha-rav*.

In his second section, Tchernowitz described Shneur Zalman's approach to Jewish law, but limited his examination to Shneur Zalman's first published work—*Hilkhot talmud torah*, "The Laws of Torah Study." Despite Tchernowitz's claim that this work exemplifies Shneur Zalman's legal writings, *Hilkhot talmud torah* differs substantially in style from his other legal works. Furthermore, an attempt to extrapolate from one work to the other must take into account the fact that Shneur Zalman anonymously published *Hilkhot talmud torah* in 1794, whereas he never published *Shulḥan 'arukh ha-rav*; the code was published posthumously by his sons from 1814 to 1816. In truth, *Hilkhot talmud torah* merits separate analysis.<sup>38</sup>

In his third section, Tchernowitz related to the structure of *Shulḥan 'arukh ha-rav* and made two interesting—though questionable—observations: (1) that Shneur Zalman replaced obsolete terms

36 See Levi Cooper, "Mysteries of the Paratext: Why Did Rabbi Shneur Zalman of Liady Never Publish His Code of Law?" *Diné Israel* 31 (forthcoming): sec. 2.1.

37 Chaim Tchernowitz (Rav Tzair), *Toledot ha-posekim* (New York: Jubilee Committee, 1946–1947), 3:261–73.

38 For now, see Mordekhai Shmuel Ashkenazi, introduction to *Hilkhot talmud torah mi-shulḥan 'arukh shel admor ha-zaken* (Brooklyn: Kehot, 2000), 1:xx–lxx; Mondshine, *Sifrei ha-halakhah*, 47–49 (Hebrew numbers). The kabbalistic elements should be examined for originality, e.g., *Hilkhot talmud torah* 1:4, 2:2, 2:9, 4:3–6. Apart from Ashkenazi's volume, see Shraga Faitel Ha-levi Levin, "Be-hilkhot t[almud] t[orah] le-'ad[mor] ha-z[aken]," *Or Hadorom* 1, no. 2 (1984): 11–30; Hayim Moskovits, "Keizad 'hokrim' ḥasidut be-yameinu," *Heichal Habesht*, no. 29 (2010): 179–84; Wojciech Tworek, "Setting Times for Torah Study in R. Shneur Zalman of Liady's Thought," *Association for Jewish Studies Review* 38, no. 1 (2014): 29–57. In an analysis reminiscent of Zevin's work, Levin highlighted five unique aspects of Shneur Zalman's *Hilkhot talmud torah*: practical instruction, novelty, explanation, precision, and compilation.

and (2) that he corrected grammatical errors that appear in earlier works. Both assertions are dubious: Shneur Zalman is not consistent either in his grammatical choices<sup>39</sup> or in replacing terms.<sup>40</sup>

Additional contributions to the discussion of Shneur Zalman's legal works came in the 1960s in commemorative volumes marking the 150th anniversary of Shneur Zalman's death. Yisrael Porat—like Zevin before him—highlighted three aspects of Shneur Zalman's code: the ordering of the laws, Shneur Zalman's decision-making ability, and his precise language.<sup>41</sup> Drawing examples from the laws of fringes to be placed on four-cornered garments (*zizit*) and from the laws of Passover, Porat asserted that they were representative of the entire work. Porat's assertion warrants careful examination because, according to Shneur Zalman's sons, these were the first two sections that their father penned. Porat's analysis—to the extent that it is methodologically sound—may at least be considered to describe Shneur Zalman's early efforts.

In the same publication, Aaron Wertheim—whose 1940 doctoral dissertation focused on the attitude of the Hasidic movement to Jewish law—acknowledged Zevin's work but nonetheless lamented that no one had dared to undertake a complete assessment of Shneur Zalman's non-Hasidic writings.<sup>42</sup>

More recently, intense efforts to plumb Shneur Zalman's legal writing have emerged from Lubavitch circles. Avraham Alashvili published a summary of the Sabbath laws as codified in *Shulḥan 'arukh ha-rav* (1990) and a three-volume compilation, titled *Shulḥan ha-melekh* (1991–1994), which contains explanations of the code based on the public discourses of Rabbi Menachem Mendel Schneerson of Lubavitch (1902–1994; hereafter referred to by the Hebrew acronym “Ramash”).<sup>43</sup> From 2002 to 2003, Alashvili produced a series of articles in a Lubavitch journal, focusing on the language of *Shulḥan 'arukh ha-rav* and mining it for insights into Shneur Zalman's legal positions.<sup>44</sup> Alashvili's approach is based on the assumption that Shneur Zalman's choice of language was unwaveringly precise. Chabad tradition maintains that Shneur Zalman was meticulous in his choice of language when authoring his seminal work in Hasidic thought, *Tanya*, and Ramash applied this tradition to his analysis of *Shulḥan 'arukh ha-rav*.<sup>45</sup>

39 For Tchernowitz's example, compare *Shulḥan 'arukh, orah ḥayim* 25:1; *Shulḥan 'arukh ha-rav, orah ḥayim* 25:1–2. Alas, Shneur Zalman is not consistent in his grammatical choices; e.g., his treatment of the word *makom* in *Shulḥan 'arukh ha-rav, orah ḥayim* (masculine—*mahadura tinyana* 1:7, 2:2, 3:6, 3:7, 3:11, 4:1, *mahadura kama* 3:20, 4:3, 8:16, 10:13, 92:7, 164:2, 178:6, *kuntras aḥaron* 75:2; feminine—*mahadura tinyana* 2:1, *kuntras aḥaron* 75:1). See, however, Yehoshua Mondshine, “Tevila be-mei ha-da'at,” *He'arot u-vei'urim*, no. 753 (1998): 38; *ibid.*, no. 755 (1998): 102–03. Shneur Zalman's insistence on correct grammar is highlighted in connection to his *Siddur*. For example, see his brother's approbation to the 1822 edition of the *Siddur*. Zevin, *Soferim u-sefarim*, 3:333–35.

40 Tchernowitz's example is that instead of the traditional but anachronistic term for the supplicatory prayers—*nefilat appayim*, literally meaning “falling on the face”—Shneur Zalman used the term *tahanun*, meaning “supplication.” *Shulḥan 'arukh, orah ḥayim* 429:2; *Shulḥan 'arukh ha-rav, orah ḥayim* 429:8. Unfortunately, Tchernowitz overlooked numerous instances where *nefilat appayim* or its derivatives are used. *Shulḥan 'arukh ha-rav, orah ḥayim* 108:5, 111:3, 131, 292:7.

41 Yisrael Porat, “Shulḥan 'arukh shel ha-rav,” *Or Hamizrach* 11, no. 3–4 (1963): 8–13.

42 Aaron Wertheim, “He'arot ve-ha'arot le-darko shel 'ha-rav' ba-torah,” *Or Hamizrach* 11, no. 3–4 (1963): 23.

43 For earlier efforts, see *Sippura shel shenat ha-ken* (n.p.: 2012), 20; Shmuel Laufer, “Bi'urei ha-rebbi shlita le-shulḥan 'arukh admor ha-zaken,” in *Sefer ha-yovel karnot zaddik*, ed. Mordekhai Menashe Laufer (Brooklyn: Ma'arekhet Ozar Ha-ḥasidim, 1992), 612–19.

44 Alashvili's articles, all in Hebrew, appeared in *Pardes Chabad*, nos. 7–11. See also Avraham Alashvili, “‘Lashon zaruf be'alil': Li-me'afyanav shel shulḥan 'arukh ha-rav,” in *Ha-rishon*, 265–77.

45 See, e.g., Menachem Mendel Schneerson, *Likkutei siḥot* (Brooklyn: Kehot, 2006), 4:1124, 1127; 9:14ff; 24:67ff; 31:199. See also Tuvya Blau, “Libbun halakhah—be-'shulḥan 'arukh ha-rav,” *Shema'atin*, no. 29 (1971): 19–23.

Alashvili's articles, therefore, can be viewed as an extension of Ramash's explanations (the very explanations compiled by Alashvili in *Shulḥan ha-melekh*).

Like Zevin, Alashvili compared *Shulḥan 'arukh ha-rav* to earlier sources, but tended to add conclusions based on casuistic readings unbacked by comparative analysis.<sup>46</sup> Three of Alashvili's articles dealt with single cases, though he asserted that their theses could be applied to other cases. Two of his articles were based on a series of examples, and consequently present stronger arguments. Unfortunately, a closer look at Alashvili's conclusions reveals them to be conjecture phrased as definitive readings. Alashvili's contribution must be classified alongside other efforts to explore select passages of *Shulḥan 'arukh ha-rav* (or for that matter, any code): Even to the extent that any particular reading might be plausible, it will not describe the entire code, nor will it distinguish the code from other legal works.

Alashvili's work is not entirely new. Rather, Alashvili is representative of a trend in contemporary Lubavitch scholarship. In 1973, *Kollel Zemaḥ Zedek*—a Chabad-affiliated, Jerusalem-based institute for higher learning—published its first volume exploring a chosen topic in Shneur Zalman's code.<sup>47</sup> Printed soon after the institute's establishment, the volume was produced in response to Ramash's urging that institutes of higher Torah study publish novellae. Over the years, this institute has consistently produced works focusing on Shneur Zalman's legal writings, and similar institutes around the world have followed this trend. A further push in this direction came in 1976, when Ramash's exhortations precipitated the publication of two journals dedicated to Lubavitch research in Talmud and Jewish law, including *Shulḥan 'arukh ha-rav*.<sup>48</sup> Thus, over the past half-century, Lubavitch writers have analyzed, annotated, elucidated, and extrapolated Shneur Zalman's legal positions, producing numerous publications that plumb aspects of *Shulḥan 'arukh ha-rav*. The results range from short articles to full-length books by renowned Lubavitch scholars. Although these achievements should not be discounted, none of the efforts has succeeded in characterizing Shneur Zalman's legal writings or offering a judicial biography.

## RESEARCH TOOLS

Fortunately for the judicial biographer, study of Shneur Zalman's legal writings can benefit from the invaluable research tools developed by the Lubavitch scholarly community, specifically glosses on particularly difficult passages, annotated editions that identify the sources of *Shulḥan 'arukh ha-rav*, indexes, and bibliographies.<sup>49</sup> The current official Lubavitch librarian, Sholom Dovber

46 E.g., Zevin observed that *Shulḥan 'arukh ha-rav* notes the legal sources of laws, a feature that does not necessarily appear in other codes. Alashvili dedicated his third essay to this feature. Rather than comparing the feature to other codes, Alashvili examined Shneur Zalman's language in presenting those legal sources and identified where Shneur Zalman departed from earlier sources. Alashvili then boldly presented the legal implication of the alterations.

47 *Kovez he'arot u-vei'urim be-shulḥan 'arukh admor ha-zaken: Hilkhot birkhot ha-nehenin* (Jerusalem: Kollel Avreikhim Zemaḥ Zedek, 1973).

48 Titled *Yagdil torah*, these journals appeared in New York (68 issues, 1976–1986, including a section dedicated to research on *Shulḥan 'arukh ha-rav*) and in Jerusalem (28 issues and an index, 1977–1986). See Ramash's letter in Sholom Dovber Levin, *Dover shalom* (Brooklyn: Kehot, 2003), 1:4–5; see also Levin, *'Avodat ha-kodesh ezel ha-rebbi mi-Lyubavitch* (Brooklyn: printed by author, 1995), 7–20; Sholem Dovber Friedland, *Shulḥan ha-zahav* (Kefar Chabad: Hish, 2010), xiii.

49 E.g., deciphering *Kuntras aḥaron*, Shneur Zalman's in-depth excursuses that supplement the code. The endeavor to identify the sources of the code resulted in the series entitled *Mar'ei mekomot ve-ziyunim* by Nissan Mangel (three volumes, 1969, 1973, 1974), Mordekhai Shmuel Ashkenazi (1971), and Levi Bistritsky (1974, 1975,

Levin, has been at the forefront of these efforts, including the 1985 reprinting of the code with additions.<sup>50</sup> Levin, together with Alashvili and Yitzchok Wilhelm, headed the effort to publish an annotated edition of *Shulḥan 'arukh ha-rav*, which appeared from 2001 to 2007.<sup>51</sup> Recent years have also seen the publication of annotated editions of the responsa.<sup>52</sup> In 2006, Levin published another important research tool: an index of *Shulḥan 'arukh ha-rav*.<sup>53</sup> More recently, Levin recounted the history of the writing of *Shulḥan 'arukh ha-rav*.<sup>54</sup>

Bibliographies of Shneur Zalman's writings are another valuable research tool. Such a bibliography, published in 1969, was compiled by Abraham Meir Habermann.<sup>55</sup> Habermann's effort has since been superseded by Yehoshua Mondshine's 1984 bibliography of Shneur Zalman's legal writings. Mondshine's volume describes the structure of the writings, their dating, matters relating to censorship, and the favorable reception awarded *Shulḥan 'arukh ha-rav*. The volume contains a comprehensive bibliography, listing editions of and commentaries on each work. While there is room to update Mondshine's volume, since much has been written in the last thirty years, it remains an indispensable resource.<sup>56</sup> Another volume worthy of mention is Yekutiel Farkash's collection of rules of arbitration garnered from *Shulḥan 'arukh ha-rav* and Shneur Zalman's responsa.<sup>57</sup>

Having assessed the state of research and detailed available research tools, I turn to the task of identifying key questions for a judicial biography of Shneur Zalman, and offer initial understandings.

1977). In 1976 these publications (except for Bistritsky's 1977 volume) were reprinted in a single volume, together with an index of *Shulḥan 'arukh ha-rav* prepared by Aharon Chitrik in 1965. Bistritsky also published two volumes under the title *Leket ziyunim ve-be'arot le-shulḥan 'arukh admor ha-zaken* (1982, 1986). This project culminated in a new edition of *Shulḥan 'arukh ha-rav* (see below). Regarding Ashkenazi's first volume, see Yisrael Alfenbein and Moshe Marinovsky, "'Akshav efshar lada'at ma be-'emet pasak admor ha-zaken," *Aspaklarya*, no. 1231, April 20, 2007, 24.

- 50 Levin was also editor of and a regular contributor to the New York *Yagdil torab*; in 2003 he published a volume on Shneur Zalman's laws for Passover, and in 2006 he published a volume about how to instruct a Gentile to do work for a Jew on Sabbath according to Shneur Zalman. Levin's two-volume *Dover shalom* contains comments on specific rulings in *Shulḥan 'arukh ha-rav*. Video and audio recordings of Levin's lectures on *Shulḥan 'arukh ha-rav*, mostly in Yiddish but also in Hebrew and in English, together with source sheets, and multiple-choice exams are available at <http://video.chasidut.net/videos/load/levin>, [www.chabadlibrary.org/shiurim](http://www.chabadlibrary.org/shiurim), [www.chabadlibrary.org/mivchanim](http://www.chabadlibrary.org/mivchanim), accessed December 11, 2014.
- 51 Levin, *Dover shalom*, 1:248–58; Alfenbein and Marinovsky, "'Akshav," 20–27. For a critique, see Nochum Grunwald, "He'arot ve-hagahot 'al 'Hoveret le-dugma 3,'" *He'arot u-vei'urim*, no. 780 (1999): 51–58; Grunwald, "Be-darkei 'arikhat shulḥan 'arukh ha-rav," *He'arot u-vei'urim*, no. 783 (2000): 91–93; Grunwald, "He'arot ve-ziyunim 'al shulḥan 'arukh rabbeinu va-'arikhato," *He'arot u-vei'urim*, no. 794 (2000): 59–65.
- 52 Shneur Zalman of Liady, *She'elot u-teshuvot admor ha-zaken*, ed. Levi Bistritsky (Brooklyn: Kehot, 1988); Shneur Zalman of Liady, *She'elot u-teshuvot ha-rav*, ed. Shlomo Ha-levi Segal (Kefar Chabad: Sifriyat Eshel, 2005); Shneur Zalman of Liady, *She'elot u-teshuvot . . . Shne'ur Zalman . . .*, ed. Sholom Dovber Levin (Brooklyn: Kehot, 2007) (hereafter *Responsa Rabbi Shneur Zalman*).
- 53 Sholom Dovber Levin, *Maftetiah 'inyanim le-shulḥan 'arukh admor ha-zaken* (Brooklyn: Kehot, 2006).
- 54 Sholom Dovber Levin, *Toledot ḥabad be-Rusya ha-z'arit* (Brooklyn: Kehot, 2010), 41–52. See also Levin's earlier works: *Dover shalom*, 1:9–12; *Perakim be-toledot ḥabad* (Brooklyn: printed by author, 2005), 11–14.
- 55 A. M. Habermann, "Torat ha-rav," in *Sefer ha-ken* (Jerusalem: Kiryat Sefer, 1969), 133–71. Habermann published a bibliography of Chabad literature in 1952, though this effort did not include legal writings: "Sha'arei ḥabad," in *'Ale'i 'ayin* (Jerusalem, 1952), 293–370.
- 56 Mondshine, *Sifrei ha-halakhah*; see also Yehoshua Mondshine, "Ha-shulḥan 'arukh, ha-she'elot u-teshuvot, ve-ha-siddur: ha-reka, ha-matara ve-ha-mivne" in *Ha-rishon*, 239–64.
- 57 Yekutiel Farkash, *Kelalei ha-posekim ve-ha-hora'ah* (Kefar Chabad: Machon Oholei Shem Lubavitch, 1991).

## HASIDIC CONTEXT OF THE CODE

*Shulhan 'arukh ha-rav* must be considered a product of the Hasidic milieu, firstly because it was authored by a leader who was central to the development of Hasidism in the late eighteenth century. This leads to consideration of the impetus for, and the objectives of, Shneur Zalman's code. More broadly, considering the Hasidic context of Shneur Zalman's code may shed light on how nascent Hasidism related to Jewish law.

Alas, the exact Hasidic context of Shneur Zalman's code is far from clear, though several possibilities have been suggested. One possibility is that the code was a project that evolved within the nascent movement. In their introduction to the code, Shneur Zalman's sons relate that the work was written at the behest of one of the central personalities of nascent Hasidism—the *Maggid* (Preacher) of Mezritch, Rabbi Dov Ber (d. 1772), who felt a need for a code, given economic pressures that led to lack of time for talmudic and halakhic studies. According to the testimony of Shneur Zalman's sons, not only was *Shulhan 'arukh ha-rav* written at the *Maggid*'s request, but it was he who set the format—a format that mimicked Karo's *Shulhan 'arukh*. Moreover, Shneur Zalman began writing while under the *Maggid*'s auspices.<sup>58</sup> Rabbi Yeruham Lainer of Radzyn (1888–1964), a Hasidic master unaffiliated with Lubavitch, claimed not only that the code was the *Maggid*'s brainchild but that Shneur Zalman consulted the *Maggid* whenever he was uncertain as to how to rule.<sup>59</sup> This claim is based on a responsum in which Shneur Zalman writes that he consulted the *Maggid* regarding a particular legal matter in the summer of 1772.<sup>60</sup> But this is the only such statement. Moreover, as the majority of the code was written after the *Maggid*'s death, Lainer's claim is unconvincing.

Admittedly, the sons' account is of questionable historicity, for this is the sole report of what precipitated the code, and, unfortunately, the report was not penned by Shneur Zalman. The sons—who were not eyewitnesses to the events<sup>61</sup>—published the account in the first volume of *Shulhan 'arukh ha-rav*, which appeared in 1814, two years after their father's demise.<sup>62</sup> This account has been accepted by scholars,<sup>63</sup> but considering the lack of corroborating evidence, the introduction may be more indicative of the sons' perception than the father's experiences.

Another suggestion highlights the clash between Hasidim and Mitnaggedim as the context for *Shulhan 'arukh ha-rav*. Scholars who took this line argued that the code allowed the Hasidic faithful

to have no need to join those who were studying, in their studies. And in this way the Hasidim separated from the general population, and they became their own distinct community. Likewise, in this way [Shneur Zalman and his school] separated from their brothers the Hasidim in the regions of Volhynia,

58 "Preface by the Rabbis, Sons of the Learned Author," in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:28–33; see Alfasi, *Ha-me'irim la'arez*, 102–03.

59 Jeruchim Lainer, "Ha-gra z[ikhrono] l[i-vrakha] ish ha-nigleh ve-ha-nistar," *Talpioth* 4, no. 1–2 (1949): 188.

60 *Responsa Rabbi Shneur Zalman*, no. 14.

61 The preface was signed by Shneur Zalman's sons: Dov Ber, born in 1773 and named after the *Maggid*; Hayim Avraham, born ca. 1779; and Moshe, born ca. 1784. The sons' account includes exact citations of what the *Maggid* said. As Macintyre noted, a biographer "can't contrive dialogue to dramatise interactions." Macintyre, "What Makes a Good Biography?," 8.

62 Mondshine, *Sifrei ha-halakhah*, 20–39; Rosman, *Founder of Hasidism*, 199–202.

63 Immanuel Etkes, "Shneur Zalman of Liady," *YIVO Encyclopedia of Jews in Eastern Europe* (October 27, 2010), [www.yivoencyclopedia.org/article.aspx/Shneur\\_Zalman\\_of\\_Liady](http://www.yivoencyclopedia.org/article.aspx/Shneur_Zalman_of_Liady); Rachel Elior, "Shneur Zalman of Lyady," in *The Oxford Dictionary of the Jewish Religion*, ed. Adele Berlin, 2nd ed. (New York: Oxford University Press, 2011), 683.

for Rabbi Shneur Zalman also departed from his colleagues, the students of the Maggid of Mezritch, in the foundations of his approach to Hasidism.<sup>64</sup>

The extrapolation from the uniqueness of Shneur Zalman's Hasidic philosophy to his legal writings is shaky. If anything, the form and content of the code belie the notion of a separatist treatise. As Zevin's analysis implies, the uniqueness of *Shulḥan 'arukh ha-rav* lies in finer points, and these innovations pale in comparison to the singularity of Shneur Zalman's Hasidic thought.

Tchernowitz offered a different account of what sparked the *Shulḥan 'arukh ha-rav* project, based on his understanding of legal-historical processes. Tchernowitz highlighted two factors: First, he sought to place Shneur Zalman's undertaking in the broader context of Jewish codes, explaining that codes were written at historical junctures when people were inspired to pursue in-depth study of disciplines other than law. Thus, Maimonides' code was written when the study of philosophy reigned, and Karo's code was a product of a community that lauded the study of Kabbalah. Philosophy and Kabbalah are both gnostic pursuits; a code of law is a psychological counterpart to these endeavors, since authoring a code is a quest to resolve legal uncertainties. Shneur Zalman's code sprouted from the Hasidic awakening, and hence fits this model.<sup>65</sup>

Second, Tchernowitz sought to place *Shulḥan 'arukh ha-rav* in its specific historical context: the nascent Hasidic movement. Intent on warding off accusations of Hasidic antinomianism, the Maggid—according to Tchernowitz—designed the code to prove that Hasidism was not bent on uprooting law. Others took a similar approach, but ascribed this intention to Shneur Zalman.<sup>66</sup> Echoing other scholars, Tchernowitz added that an internal publication by one of their own would encourage Hasidic adherents to study Torah without entering the mitnaggedic playing field of the standard *Shulḥan 'arukh*.<sup>67</sup>

Tchernowitz's account of authorial motives suggests a startling conclusion: If Shneur Zalman embarked on this project in the early 1770s, and the Maggid was coaxing his student beforehand, then according to Tchernowitz the Maggid sought to counter his opponents even before the first ban against the Hasidim was proclaimed in 1772. Levin went further in connecting *Shulḥan 'arukh ha-rav* to the conflict by raising the possibility that Shneur Zalman wrote part of the code while in Vilna in 1772 on a mission to confront the Mitnageddim.<sup>68</sup> Such claims lack supporting evidence. Indeed, given the time lag between writing and eventual publication, I find it difficult to accept any claim that the composition of *Shulḥan 'arukh ha-rav* is directly related to the clash between Hasidim and Mitnageddim. This gap confutes any polemic motive in the authorship of *Shulḥan 'arukh ha-rav*.<sup>69</sup>

64 Fün̄n, *Kenesset yisra'el*, 332; Chones, *Toledot ha-posekim*, 578; Eisenstein, *Ozar yisra'el*, 10:194–95 (Chones copied Fün̄n; Eisenstein did not go into as much detail). See also Joseph Sat's comment: "Just as he saw fit to innovate . . . a special approach in the paths of Hasidism, so he chose to rewrite old rulings." Joseph Sat, "Ha-hevdeilim bein mahadura kama le-vein mahadura batra be-shulḥan 'arukh shel ba'al ha-tanya" (Master's thesis, Bar-Ilan University, 2010), 247.

65 Tchernowitz, *Toledot ha-posekim*, 3:262.

66 Boruch Epszteyn, *Mekor barukh* (Vilna: Rom, 1928), 3:1232; Wertheim, "He'arot," 26; Heilprin, *Sefer ha-ze'eva'im*, 14, 15; Dovid Kaminetsky, "Hityaḥasut ha-g[a'on] r[ebbi] Sh[ne'ur] Z[alman] li-relunot ha-mitnaggedim," *Yeshurun* 20 (2008): 785. In Epszteyn's hagiographic memoir, this explanation is recounted as the words of Shneur Zalman's grandson, Rabbi Menahem Mendel Schneersohn of Lubavitch (1789–1866), a Hasidic master and jurist in his own right.

67 Tchernowitz, *Toledot ha-posekim*, 3:262, 264, 265, 273.

68 Levin, *Toledot ḥabad be-Rusya ha-z'arot*, 17–19, 43; cf. Dovid Kaminetsky, "Sefer 'Ma'aseh rav," *Yeshurun* 21 (2009): 778–79n10.

69 Teitelbaum, *Ha-rav mi-L'ady*, 1:253; see also Moskovits, "Keizad 'hokrim' ḥasidut be-yameinu," 184–86.

Moshe Rosman suggested an entirely different Hasidic context for *Shulḥan ‘arukh ha-rav*. Rosman noted that Shneur Zalman “obviously did not rush to publish” the code, leaving his sons to posthumously publish a work “that had the declared purpose of making the law accessible to every person without intermediation of halakhic experts.” According to Rosman, this was part of the leadership gambit by Shneur Zalman’s son Dov Ber, who sought to promote equality among group members and democratization of knowledge of Hasidic doctrines. According to Rosman,

Presenting the everyday obligations of a Jew in an accessible form was a good way to promote these goals. If everyone could read the law for himself and know it, then each individual might feel that he understood what the rebbe [Hasidic master] demanded of him, even without a personal interview or listening to the rebbe’s sermons.

Rosman viewed this decision as part of Dov Ber’s efforts to consolidate the disciples of his deceased father under his own leadership, using uniform law to provide identity and group unity as “an important step in the institutionalization of a group that had been based on the charisma of a single leader.”<sup>70</sup>

The notion that, by promoting a uniform praxis, *Shulḥan ‘arukh ha-rav* would bind the Hasidim holds true only if the code advocates a distinctive practice. Yet *Shulḥan ‘arukh ha-rav* is generally unremarkable in this respect. Indeed, in their introduction, the sons underscored that the work was a summary of extant halakhic literature, rather than a break with existing tradition. Shneur Zalman seldom discussed laws that had not appeared in earlier legal writing and *Shulḥan ‘arukh ha-rav* is a conservative work that did not promote a distinctive praxis.<sup>71</sup>

Nevertheless, I accept Rosman’s point about *Shulḥan ‘arukh ha-rav* being the glue for Dov Ber’s inherited Hasidim since the work provided a new canonical legal text for the nascent group. Evidence in support of this assertion can be seen in Dov Ber’s introduction to the fourth volume of *Shulḥan ‘arukh ha-rav*, first published in 1816:

I decree that [members of the Hasidic brotherhood] institute as a fixed practice in every shul [synagogue] that they study and delve into the laws that appear throughout this text—the part of the *Shulchan Aruch* entitled *Orach Chayim* [the first section of the code, dealing with daily ritual law]—which has been published almost from beginning to end.<sup>72</sup>

Dov Ber also suggested graded study programs of classic Jewish texts. Notably, each program included studying Shneur Zalman’s recently published code. Dov Ber went further, calling for a communal undertaking to study *Shulḥan ‘arukh ha-rav*. This enterprise involved dividing the section of the code that deals with daily rituals among members of the community in such a way that the community would collectively study the entire work once or twice a year.<sup>73</sup>

70 Rosman, *Founder of Hasidism*, 198–99.

71 “Preface by the Rabbis, Sons of the Learned Author,” in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:30; Schneerson, *Likkutei siḥot*, 4:1126–27; *Iggerot kodesh . . . admor Menachem Mendel Schneerson mi-Lyubavitch* (Brooklyn: Kehot, 2006), 3:137, 149 (hereafter *Iggerot Ramash*).

72 “Preface and Approbation by . . . R. DovBer, Son of the Author . . .” in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:48.

73 Levi Cooper, “Divide and Learn,” *Jewish Educational Leadership* 12, no. 1 (2013): 59–63.

## HASIDIC CONTENT IN THE CODE

Apart from determining Hasidic *context*, another aspect of Shneur Zalman's legal oeuvre concerns *content*: do Shneur Zalman's legal writings reflect Hasidic thought? Wertheim denoted Shneur Zalman's code "one of the central pillars of the *halakbic* literature in Hasidism"<sup>74</sup>—but the meaning of this declaration is unclear. It has yet to be shown that *Shullḥan 'arukh ha-rav* is Hasidic in substance, and arguments for specifically Hasidic content in the code are unconvincing.

Tchernowitz (who claimed that Shneur Zalman was responding to Mitnaggedim) correctly noted the absence of Hasidic footprints in the code, arguing that Shneur Zalman "authored the *Shullḥan 'arukh* precisely according to the method of the Mitnaggedim," and concluding that "we cannot find any trace of a Hasidic departure from the letter of the law, as it is accepted in the rulings of the *Shullḥan 'arukh* and its commentaries—even in matters where Hasidim differed from the Mitnaggedim."<sup>75</sup>

Tchernowitz, however, distinguished between the first edition of *Shullḥan 'arukh ha-rav* and its second edition, of which we have precious few sections: "Indeed in the 'second edition'. . . he altered his method and his style entirely . . . in that there he introduced some laws according to Kabbalah and Hasidism."<sup>76</sup> Tchernowitz's assertion is curious: the second edition has a Hasidic imprint, whereas the edition that was reportedly written at the Maggid's behest does not reflect Hasidism. But the problems with this assertion go beyond irony. In a footnote, Tchernowitz cited three examples, noting that changes between the editions "prove extra piety (*ḥasidut*) in the second edition as opposed to the first."<sup>77</sup> To the extent that the second edition calls for "extra piety," it still says nothing about Hasidism; unless "extra piety" in general can be shown to be a particularly Hasidic value, or the particular expression of "extra piety" is patently Hasidic. Neither possibility has been proven.

Tchernowitz's distinction between the two editions was the focus of Joseph Sat's 2010 master's thesis, which analyzed the two editions of the first four sections of the code. Sat argued that the second edition reflects Hasidism in its additional content, in its reorganized form, and in the catalyst that led to its composition. Sat identified Shneur Zalman's growing stature as a Hasidic master as the backdrop to this second edition:

As his power in the realm of Hasidic leadership grew, he felt a growing sense of obligation to guide the learners in their service [of God]. This [was true] even regarding the composition of a legal code [*shullḥan 'arukh*], whose primary concern is practical Jewish law.<sup>78</sup>

Sat's analysis is unconvincing. First, his attempt to link juridical confidence and time served at the helm of a Hasidic community demands more compelling evidence. To be sure, a jurist must enjoy his constituency's confidence, particularly in legal systems that lack effective enforcement

74 Aaron Wertheim, *Law and Custom in Hasidism*, trans. Shmuel Himelstein (Hoboken: Ktav, 1992), 325. For similar assessments, see Yizḥak Alfasi, *Torat ha-ḥasidut* (Jerusalem: Mossad Harav Kook, 2006–2012), 1:419; Michael J. Broyde and Ira Bedzow, "The Codification of Jewish Law and an Introduction to the Jurisprudence of the Mishna Berura," *Hamline Law Review* 35, no. 3 (2012): 632; Michael J. Broyde and Ira Bedzow, *The Codification of Jewish Law and an Introduction to the Jurisprudence of the Mishna Berura* (Boston: Academic Studies Press, 2014), 12.

75 Tchernowitz, *Toledot ha-posekim*, 3:262–63; see also Wertheim, "He'arot," 26.

76 Tchernowitz, *Toledot ha-posekim*, 3:265.

77 Tchernowitz's examples: *Shullḥan 'arukh ha-rav, orah ḥayim* 1:7 (both editions); *mahadura kama* 2:7 and 46:2 as opposed to *mahadura tinyana* 2:6; *mahadura kama* 4:4 as opposed to *mahadura tinyana* 4:1.

78 Sat, "Ha-hevdeilim," 247; see also *ibid.*, 79–80, 128–29, 148–49, 245–47.



mechanisms, as was the case for Jewish law in Shneur Zalman's milieu. Alas, it remains to be demonstrated that juridical self-assurance is born of time served as a Hasidic master, rather than time served as a jurist. Second, Sat did not distill Hasidic values from the second edition; rather, he based his conclusions on general features. Third, Sat did not set out to analyze the legal writings in toto, so his conclusions must be tested on Shneur Zalman's other works, particularly those written later in his life once he was an established figure.

Avinoam Rosenak argued that *Shulḥan 'arukh ha-rav* is "suffused with the spirit of the Maggid" and "is indeed a project cast in the image of Shneur Zalman's teacher, the Maggid; and one can sense within it echoes (even if distant ones) of the spiritualist inclination." Rosenak grounded this conclusion on Shneur Zalman's emphasis on theory in *Shulḥan 'arukh ha-rav*, linking this feature to the Maggid's Hasidism. The "echoes" are subtle, for Rosenak also noted that "even if *Shulḥan 'arukh ha-rav* is more expansive at some points than its predecessors, it does not depart from them in any way that would fundamentally distinguish it."<sup>79</sup> Thus Rosenak identified Hasidism in the presentation of law, though not in the norms themselves.

Methodologically, the work of Sat, Rosenak, and other scholars, invites rigorous research on a further trajectory: a comparison of Shneur Zalman's legal writings and those of other jurists of Jewish law—both Hasidic jurists and jurists unconnected to Hasidism. Soloveitchik illustrated the importance of this comparative angle in another context:

No jurist, certainly no religious jurist, dreams of interpreting the law according to his personal inclination; he seeks simply to discover what the sources say on the matter. And if he is of any stature, his words will read as a series of objective and ineluctable conclusions. Only by comparing his solution with those of others does subjectivity become [*sic*] apparent. Law leans towards continuity and has an antipathy to radical change; thus the revolutionary jurist must disguise his innovations—at times, even from himself. Only by aligning a man's interpretation with those of his predecessors can its innovative character be discerned, and only by studying its impact upon his successors can its significance be evaluated.<sup>80</sup>

Such an examination would reveal whether *Shulḥan 'arukh ha-rav* is "Hasidic" in content. To date, no research has convincingly demonstrated that *Shulḥan 'arukh ha-rav* exhibits Hasidic values. This possibility itself is noteworthy: a leader of the nascent Hasidic movement, who writes a code of law devoid of Hasidic influence.

Though traces of Hasidism are not attested in *Shulḥan 'arukh ha-rav*, Shneur Zalman's other legal writings require separate consideration. The legal material found in Shneur Zalman's *Siddur* (Prayer Book) gives greater prominence to kabbalistic sources, though it remains to be shown whether kabbalistic influences are particularly Hasidic expressions of the esoteric tradition. Similarly, Shneur Zalman's responsa require separate consideration, since that genre of legal writing often reflects current events and is likely to give voice to vicissitudes of nascent Hasidism. Indeed, certain issues that were flashpoints between Hasidim and Mitnaggedim—such as the question of ritual slaughter knives and the matter of changing prayer rites—are discussed in Shneur Zalman's responsa.<sup>81</sup> Quantitatively a relatively minor

79 Rosenak, "Theory and Praxis," 263–64, 274.

80 Haym Soloveitchik, "Rabad of Posquières: A Programmatic Essay," in *Studies in the History of Jewish Society in the Middle Ages and in the Modern Period Presented to Professor Jacob Katz*, ed. I. Etkes and Y. Salmon (Jerusalem: Magnes, 1980), 30–31.

81 Regarding ritual slaughter knives, see *Iggerot kodesh*, 143–48, 188, 391–92, 397, 453, 465; *Responsa Rabbi Shneur Zalman*, nos. 7, 10, 47; Yehuda Leib of Yanovichi, *She'eirit yehudah*, 3rd ed. (Brooklyn: Kehot, 2008), *yoreh de'ah*, nos. 19–20; Diskin, *Mishnat yo'el*, 40–46; Sholom Dovber Levin, *Mi-beit ha-genazim* (Brooklyn:

contribution to the genre, the content of Shneur Zalman's responsa has yet to be fully explored.<sup>82</sup>

### CONTRADICTIONS IN THE LEGAL WRITINGS

Portions of Shneur Zalman's rulings have reached us in more than one edition, and the different renditions are not always consistent. There are two types of contradictions: (1) different rulings in different legal treatises, such as Shneur Zalman's *Siddur* as compared to overlapping topics in *Shulḥan 'arukh ha-rav*,<sup>83</sup> and (2) contradictory rulings within *Shulḥan 'arukh ha-rav*, presumably indicating sections written at different junctures or for different purposes.<sup>84</sup>

These contradictions have captured the attention of Chabad devotees. Rabbi Avraham David Lavot (1815–1890) was the first to detail some of these changes.<sup>85</sup> Rabbi Abraham Haim Noe (1890–1954) offered a more comprehensive list of 192 differences between the code and the legal material in the prayer book.<sup>86</sup> Other Lubavitch scholars identified additional cases.<sup>87</sup> Two master's theses written in Bar-Ilan University's Talmud department, by the aforementioned Joseph Sat and by Zipporah Maidanchik, also tackled this issue.<sup>88</sup> Sat's thesis shifted the focus from the *Siddur* to the two editions of the code. To Sat's credit, even where the law remains unchanged, he identified differences between the editions.

Identifying the differences between works and editions is only the first step. For the judicial biographer the real issue is why Shneur Zalman changed his rulings. As yet, no definitive answers have been provided. Noe bemoaned the fact that scholars of Shneur Zalman's generation had not embarked upon comparative research "for then, we certainly would have merited great and wonderful things, and knowledge of the real reasons [for the changes]."<sup>89</sup> Nonetheless, a number of directions have been proposed by bearers of Shneur Zalman's legacy and by other scholars.

Kehot, 2009), 156–59. Regarding changing prayer rites, see *Responsa Rabbi Shneur Zalman*, no. 44 and *sha'ar hashmu'ah*, no. 5; Diskin, *Mishnat yo'el*, 24–32; Zevin, *Soferim u-sefarim*, 3:280; Louis Jacobs, "Honour Thy Father: A Study in Hasidic Psychology," in *Cambridge Opinion*, vol. 39: *On the Jews*, ed. Malcolm Griffiths (Cambridge: Cambridge Opinion, 1965), 4–8; Etkes, *Ba'al ha-tanya*, 237–38.

82 At present, see Teitelbaum, *Ha-rav mi-L'ady*, 1:14–15; Diskin, *Mishnat yo'el*; Tchernowitz, *Toledot ha-posekim*, 3:273n4; Mondshine, *Sifrei ha-halakhah*, 49–54 (Hebrew numbers).

83 E.g., the latest permissible time for reciting the morning *shema* is earlier in *Shulḥan 'arukh ha-rav* than it is in the *Siddur*. *Shulḥan 'arukh ha-rav, orah hayim* 58:3 (per Magen Avraham); Raskin, *Siddur*, 91–92. In an unrelated issue, nightfall is calculated as later in *Shulḥan 'arukh ha-rav* than it is in the *Siddur*. *Shulḥan 'arukh ha-rav, orah hayim* 261:5 (per Rabbeinu Tam); Raskin, *Siddur*, 235–38 (per Geonim).

84 E.g., *Shulḥan 'arukh ha-rav, orah hayim* 321:7 as opposed to 511:7 and *kuntras aḥaron*.

85 Avraham David Lavot, *Sha'ar ha-kollel* (Vilna: Rom, 1896), followed Lavot's earlier 1886 effort entitled *Sha'arei tefillah* and appended to *Siddur torah or*.

86 A. H. Noe, *Piskei ha-siddur* (Jerusalem: Zukerman, 1937). Noe's later work, *Kuntras ha-siddur* (Jerusalem, 1942), lists eighty-nine corrections to the *Siddur*. See Zevin, *Soferim u-sefarim*, 3:333–35.

87 Yizḥak Zirkind, "He'arot be-hilkhot hashkamat ha-boker le-'admor ha-zaken," *Kovez divrei torah*, no. 13 (1980): 51–55; Friedland, *Shulḥan ha-zahav*.

88 Zipporah Maidanchik, "Shinuyim be-fiskei ha-rav mi-L'adi" (Master's thesis, Bar-Ilan University, 1998); Sat, "Ha-hevdeilim." Both writers are affiliated with Lubavitch: Maidanchik refers to Ramash using the Hebrew abbreviation M.H.M. denoting *melekh ha-mashiah* (King Messiah); Sat's Lubavitch affiliation is apparent from his two books, *Yosef hayim* (Kiryat Gat: printed by author, 2006) and *Dover emet* (Kiryat Gat: printed by author, 2011), and articles in Lubavitch journals, including a relevant piece that preceded his thesis, "Bi'ur ha-hevdeilim she-bein mahadura kama le-mahadura tinyana be-shulḥan 'arukh admor ha-zaken siman 3," *Li-khvodo shel melekh* 3 (1997): 423–35.

89 Noe, introduction to *Piskei ha-siddur*.

Shneur Zalman's brother, Rabbi Yehudah Leib of Yanovichi (fl. 1800); his grandson-in-law, Rabbi Nehemiah Ha-levi Ginsburg of Dubrovna (1788–1852); and his grandson, Rabbi Menaḥem Mendel Schneersohn of Lubavitch (1789–1866; known by the title of his multi-volume legal work *Zemah Zedek*) all reported that Shneur Zalman had revised certain rulings. They attributed the revisions to Shneur Zalman's own sense that in his first attempt he had overly relied on *Magen Avraham*, the seminal commentary on Karo's code written by Rabbi Avraham Abele Gombiner (1635–1682).<sup>90</sup> Drawn from contemporary, firsthand evidence, this plausible report accounts for some revisions but does not explain all the changes.

Lavot suggested that Shneur Zalman originally ruled according to accepted principles of Jewish law; hence he did not grant decisive legal weight to Jewish esoteric tradition. Subsequently Shneur Zalman gave preference to opinions of kabbalists, even if this meant going against established legal rules.<sup>91</sup> Indeed, a cursory look at *Shulḥan 'arukh ha-rav* reveals that Shneur Zalman adopted opinions of kabbalists only when their positions did not conflict with those of jurists of Jewish law; a principle he stated unequivocally.<sup>92</sup> In his later works, however, Shneur Zalman preferred the positions of kabbalists, even when they conflicted with opinions of jurists.<sup>93</sup> What precipitated this change? Lavot did not address this question.

To recall, Tchernowitz understood *Shulḥan 'arukh ha-rav* as a work designed to prove the fidelity of Hasidism to Jewish law. Consequently, he suggested that Shneur Zalman adopted the positions of the kabbalists only after despairing of obtaining approval from the opponents of nascent Hasidism. According to Tchernowitz, therefore, later editions should be considered revisions of earlier positions.<sup>94</sup> Tchernowitz, however, provided no supporting data for his sequential account. Moreover, not all the differences between the additions can be accounted for by reference to Kabbalah.

Noe noted four differences between *Shulḥan 'arukh ha-rav* and Shneur Zalman's *Siddur* (in addition to a willingness to rule against *Magen Avraham*):

- (1) *Shulḥan 'arukh ha-rav* was written according to the Ashkenazi prayer rite (the accepted prayer rite in Europe), whereas the *Siddur* followed the rite of the great Safed kabbalist Isaac Luria (1534?–1572).
- (2) The code prefers the opinions of jurists of Jewish law, whereas the legal writing in the prayer book gives preference to Luria's opinions.

90 *She'eir'it yehudah, orah hayim*, no. 5; Nehemiah Ha-levi Ginsburg of Dubrovna, *Divrei nehemiah* (Vilna and Warsaw, 1866–1877), *orah hayim*, no. 21; Menaḥem Mendel Schneersohn, *Zemah zedek* (Brooklyn: Kehot, 1992–1999), *orah hayim*, no. 18:4. Shneur Zalman's initial reliance on *Magen Avraham* is noted in his sons' introduction to *Shulḥan 'arukh ha-rav*.

91 Avraham David Lavot, *Sha'ar ha-kollel*, 2nd ed. (Brooklyn: Kehot, 2005), 1:1; Schneerson, *Likkutei sihot*, 16:363; Heilprin, *Sefer ha-ze'eza'im*, 18. Lavot's example concerns one who lives in the Land of Israel and visits the Diaspora for a festival: how should this person act on the festival's second day, a day which is celebrated only in the Diaspora? Lavot, *Sha'ar ha-kollel*, 1:2; compare *Shulḥan 'arukh ha-rav, orah hayim* 496:8, with *mahadura tinyana* 1:8.

92 *Shulḥan 'arukh ha-rav, orah hayim* 25:28.

93 Heilman, *Beit rabbi*, 32, 162–63, 167; Lavot, *Sha'ar ha-kollel*, 1:1–4, 2:7; Noe, introduction to *Piskei ha-siddur*; Schneerson, *Likkutei sihot*, 11:246–47, 33:98.

94 Tchernowitz, *Toledot ha-posekim*, 3:265. Lavot opposed the notion of Shneur Zalman revising his opinions, yet it is unclear how he understood the relationship between the texts. Noe responded that it is not disrespectful to suggest that Shneur Zalman revised his positions: the Talmud has many such cases, and it is clear that Shneur Zalman did just that. See also Sat, "Ha-hevdeilim," 147–50. For a defense of Lavot, see Yehoshua Mondshine, "Sidduro shel rabbeinu ha-zaken: pirkei 'iyun, birur u-sekirah," in Oberlander, *Ha-siddur*, 153–55.

- (3) Where it is unclear whether a blessing should be recited over a particular food, Shneur Zalman originally ruled that no blessing should be recited, but later ruled that the particular food should not be consumed.
- (4) In his later writings, Shneur Zalman preferred the stringent opinion in an attempt to satisfy the greatest number of opinions possible; that is, maximum position compliance.<sup>95</sup>

It is not certain that Noe's outline furthers our understanding.<sup>96</sup> His first two points echo Lavot's explanation; the very approach Noe criticized for not being comprehensive. Noe's third point is based on nine examples, but appears to be a specific application rather than a category.<sup>97</sup> Regarding the fourth difference—the tendency toward stringency and maximum position compliance in later works—Noe acknowledged that, on occasion, Shneur Zalman ruled leniently in later works. The issue of calculating nightfall—a matter with consequences for the end of Sabbath observance—is an illustrative example: Shneur Zalman initially adopted the stringent position, but subsequently preferred the lenient ruling. Such exceptions call into question whether what truly drove Shneur Zalman was a tendency towards maximum position compliance; it is likely that his stringent rulings were a byproduct of other stimuli. Beyond acknowledging the jurisprudential possibility that a decisor may revise his earlier opinions, Noe offered no explanation for what precipitated the changes made by Shneur Zalman.

According to an exchange reported by Lavot, Rabbi Hillel Paritcher, one of Shneur Zalman's followers, once asked Shneur Zalman how one should act when there is a conflict between kabbalists and halakhists; that is, between purveyors of Jewish mystical tradition and purveyors of Jewish legal tradition. Shneur Zalman responded that primacy should be given to the kabbalists. The disciple challenged his teacher by pointing out that in his code Shneur Zalman stated a preference for the opinion of the halakhists. Shneur Zalman gave the following cryptic reply: "Thus write the halakhists, but the kabbalists write that we should follow the kabbalists as opposed to the halakhists."<sup>98</sup> While writing his code, Shneur Zalman identified as a halakhist and therefore preferred the rulings of halakhists over kabbalists; later on when wearing a different hat he identified as a kabbalist and hence preferred the opinions of kabbalists over halakhists. This suggests a shifting self-image of the jurist rather than an evolving understanding of law.

Noe cited—and rejected—a different explanation for the textual variants, one that focused on the intended audience of each work: the code was written for the general public, whereas the prayer book was intended for Shneur Zalman's followers. Non-Chabad writers adopted this distinction, including Hasidic masters who were also jurists: Rabbi Avraham Bornsztain of Sochaczew (1838–1910), Rabbi Hayim Elazar Shapira of Munkács (1871–1937), and Rabbi Honeh Halbershtam of Kołaczyce (1884–1942).<sup>99</sup> This approach is reminiscent of Tchernowitz's account

95 E.g., *Shulhan 'arukh ha-rav, orah hayim* 318:11; Raskin, *Siddur*, 243. This is also an example of Shneur Zalman's initial reliance on *Magen Avraham* and later revision.

96 Maidanchik argued that Noe's reasons can be subsumed under Lavot's explanation. She claimed that both scholars acknowledged that Shneur Zalman's attitude towards Kabbalah as a legal source constitutes the prime difference between his early and later works. "Shinuyim be-fiskei ha-rav mi-L'adi," 124. Note that from Noe's language it is apparent that he thought he was rejecting, not explicating, Lavot's approach.

97 Noe, *Piskei ha-siddur*, nos. 16–18, 26, 38, 42, 46, 80, 119; see also Raskin, *Siddur*, 603–04n4.

98 Lavot, *Sha'ar ha-kollel*, 1:1. Lavot wrote that he heard this report from Hillel Paritcher. Shneur Zalman's words are interspersed with explanatory glosses that I have not transcribed; it is unclear whether those explanations were Lavot's or Hillel Paritcher's.

99 Avraham Bornsztain, *Avnei neizer* (Piotrkow and Warsaw: Fullman, 1912–1934), *orah hayim* 447:2; Hayim Elazar Shapira, *Minhat el'azar* (Munkács: Kahana and Fried; Bratislava: Neufeld and Sons, 1902–1930),

in which he asserted that *Shulḥan 'arukh ha-rav* was written with an eye toward Mitnaggedim, whereas the *Siddur* was designed for the Hasidic faithful. Noe dismissed this explanation, declaring: “Are Hasidim different from the rest of the world, to instruct them a different law, regarding the laws of *zizit*, and *tefillin*, and Sabbath, and the like?”<sup>100</sup> Noe’s definitive rejection of this possibility is ironic, given that Shneur Zalman’s grandson-in-law acknowledged that it may be incumbent upon disciples to act in accord with their teacher’s rulings, even in cases where the majority of decisors rule otherwise.<sup>101</sup> Noe cited this passage in the introduction to his own code of Jewish law, where he accorded a priori primacy to Shneur Zalman and his school.<sup>102</sup> Indeed, it is common fare today for a practitioner of Jewish law to rule differently for two individuals in consideration, for instance, of their ethnic origin. Thus, a different law for a defined group is at least a jurisprudential possibility and should not be dismissed out of hand.

Sat’s study yielded five features characterizing the four extant sections of the second edition of *Shulḥan 'arukh ha-rav* as compared to the first edition:

- (1) influence of Kabbalah: preference for kabbalists over halakhists, citations from kabbalistic literature, explanations grounded in kabbalistic ideas, use of kabbalistic terminology;
- (2) opening expositions and formulations of principles that group together a number of detailed instructions;
- (3) introduction of the notion that fulfilling legal requirements is a form of *imitatio dei*;
- (4) addition of rationales from other disciplines, such as ethics and philosophy, leading to a tendency toward stringency;
- (5) restating the law, rather than copying passages or phrases from earlier works.<sup>103</sup>

Based on this description, Sat suggested that the changes resulted from “the strengthening of [Shneur Zalman] during his lifetime, and the liberty that he sometimes took to disagree with his predecessors.”<sup>104</sup> In other words, in his later works, Shneur Zalman felt free to forge his own jurisprudential path. This may be the thrust of Lavor’s explanation regarding Shneur Zalman’s move to incorporate Kabbalah. Similarly, the familial reports regarding the lessened weight of *Magen Avraham* in Shneur Zalman’s later decisions bespeak a break from shackles. The later works also exhibit a willingness to adopt the rulings of medieval jurists, without the mediation of later authorities; a point indicated by Shneur Zalman himself.<sup>105</sup> Shneur Zalman’s evolving self-confidence may also be what his sons intended when they wrote:

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1:35a; Honeh Halbershtam, *Divrei honeh ba-shalem* (Antwerp: Wagschal, 1990), 2:64. See Wertheim’s similar opinion regarding the issue of wearing *tefillin* on the intermediate days of festivals. *Law and Custom in Hasidism*, 125. For a Lubavitch writer who seemed to accept this distinction, see Yosef Yehuda Lifsh, “Mahadura batra de-shulḥan 'arukh admor ha-zaken ve-ha-siddur bi-netiv ha-ḥayim,” *He'arot ha-temimim ve-'anash: Rishon le-zion* 11, no. 1 (1993): 75–76.

100 Noe, introduction to *Piskei ha-siddur*; see also Mondshine, “Sidduro shel rabbeinu ha-zaken,” 155.

101 *Divrei nehemiah, yoreh de'ah*, no. 1.

102 A. H. Noe, introduction to *Keẓot ha-shulḥan*, vol. 1 (Jerusalem: Zukerman, 1926–1954).

103 Friedland, *Shulḥan ha-zahav*, xiii–xv. Friedland offered similar categories to Sat. Friedland’s volume appeared in 2010—the year that Sat submitted his thesis—but his work had different goals and, unlike Sat, he did not attempt to explain the rationale for the changes.

104 Sat, “Ha-hevdeilim,” English abstract, p. e; Hebrew abstract, 4; see also *ibid.*, 125–31, 247.

105 E.g., Raskin, *Siddur*, 238, 433; *Hilkhot mekhirat ḥamez* in *Shulḥan 'arukh ha-rav*, following the laws of Passover; *Shulḥan 'arukh ha-rav, yoreh de'ah* 189:43; see also Mondshine, *Sifrei ba-halakhah*, 16–17, 67 (Hebrew numbers); Farkash, *Kelalei ha-posekim ve-ha-bora'ah*, 88–91; Friedland, *Shulḥan ha-zahav*, xiv–xv.

In the course of years, his scholarship grew in depth and in breadth. . . . When he composed the part entitled *Yoreh Deah* [that deals with ritual law], and in particular, the laws of *Niddah* [menstruation] which he composed in his later years: as he grew older, he added strength and courage to his halachic acuity.<sup>106</sup>

This plausible explanation for the changes points to the qualities of confidence, independence, and courage that a decisor may acquire with time. It suggests an evolution in Shneur Zalman's life that has yet to be described. For a judicial biographer, this possibility invites comparisons between Shneur Zalman and veteran jurists whose approaches developed over time.

## NORMATIVE LEGACY

From a juridical perspective, the question is not simply *why* Shneur Zalman changed his approach, but also how the variant norms should be appraised. Normative legacy could be measured by various parameters; primarily, how rulings were treated by subsequent jurists.<sup>107</sup> A particular permutation of this parameter would involve an examination of cases where Chabad legal tradition rules against Shneur Zalman, often favoring the opinion of his grandson Zemaḥ Zedek.<sup>108</sup> The impact of a jurist may also go beyond the question of binding law: Shneur Zalman's code spawned legal writing among his descendants and disciples, especially commentaries, efforts to complete missing portions of the code, and an attempt to write an abridged version of *Shulḥan 'arukh ha-rav*.<sup>109</sup> These

106 "Preface by the Rabbis, Sons of the Learned Author," in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:34, 36; see also *Zemaḥ zedek, yoreh de'ah*, no. 130; Nochum Grunwald, "'Al mahadurot shonot she-shuk'u be-shulḥan 'arukh ha-rav,'" *Ohr Yisroel* 5, no. 4 (2000): 164–65; Heilprin, *Sefer ha-ze'eva'im*, 18.

107 Mondshine, *Sifrei ha-halakhah*, 70–83 (Hebrew numbers); see also Yehoshua Mondshine, "Ha-rav: divrei zaddikei ha-dorot odot ha-rav ve-shulḥano ha-tahor," *Ma'ayanot ha-hasidut*, no. 4 (1992): 40–42; Touger, Kaploun, and Avtzon, "Overview," 1:12–14; cf. Grunwald, "'Al mahadurot shonot," 183–84. Scholars have commented on how later jurists related to Shneur Zalman's rulings. Grunwald, however, cited a particular case where Shneur Zalman's ruling has been ignored by subsequent jurists. For initial comments on the use of *Shulḥan 'arukh ha-rav* in *Mishna Berura*, see the text accompanying notes 13 and 14 in Marc B. Shapiro, "Plagiarism, Halakhic Paradox, and the Malbim on Kohelet," *The Seforim Blog*, July 10, 2013, <http://seforim.blogspot.co.il/2013/07/plagiarism-halakhic-paradox-and-malbim.html>.

108 For Lubavitch customs that diverge from *Shulḥan 'arukh ha-rav*, see Yochanan Morozov, "Reshimat hashva't at shulḥan 'arukh admor ha-zaken 'im minhagei ḥabad," in *Be-'ohola shel torah* (Detroit: Oholei Yosef Yitzchok Lubavitch, 1990), 196–220. For Lubavitch customs that differ from directives in the *Siddur*, see Mordekhai Menashe Laufer, ed., *Ha-melekh bi-mesibo* (Kefar Chabad: Kehot, 1993), 1:126–27, 130–31, 199. For a discussion of the phenomenon of disputes between Shneur Zalman and Zemaḥ Zedek, see Ephraim Prus, "Ha-maḥloket bein admor ha-zaken le-vein admor ha-zemaḥ zedek u-fiskei ha-halakhah beineihem," in *Kovez torat zedek*, ed. H. S. Deutsch and B. B. Friedman (Jerusalem: Kehot, 1986), 172–81. See also Farkash's responsum in Yekutiel Farkash, "Piskei rabbeinu ha-zaken u-fiskei ha-zemaḥ zedek," *Hitkashrut*, no. 467 (2003): 16–18. Wolpo saw such departures from Shneur Zalman's rulings as a legitimate completion of Shneur Zalman's unfinished work. See Shalom Dovber Ha-levi Wolpo, *Pardes shalom* (Kiryat Gat: printed by author, 1998), 2:127–28.

109 Regarding commentary, Rabbi Shneur Zalman Mordekhai Schneersohn of Zhitomir (d. 1866) annotated Shneur Zalman's *Seder netilat yadayim li-se'uda* and *Seder birkat ha-nehenin*, and added the title *Kuntras shem ha-gedolim*. In 1946 Ramash began to prepare the manuscript for publication, adding his own notes. Ramash did not complete the project, but the unfinished work was published in 1999. *Iggerot Ramash*, 2:149; Mordekhai Menashe Laufer, "Le-mizvat netilat yadayim," *Hitkashrut*, no. 691 (2007): 7–8.

Regarding efforts to complete, see *Divrei neheniah, orah ḥayim*, 145–56 (addressing *Shulḥan 'arukh ha-rav, orah ḥayim*, nos. 131, 573, 581, 651, 670); see also Mondshine, *Sifrei ha-halakhah*, 30–31 (Hebrew numbers).

Regarding an abridged version, the information on this attempt is sparse. According to Lubavitch tradition,

endeavors reflect Shneur Zalman's legal legacy. Such questions address the impact of the jurist over time, though they reveal little of his biography.

Examining the normative treatment of contradictory positions in Shneur Zalman's own writings not only relates to the jurist's legacy, it also prompts us to consider how Shneur Zalman saw his own evolving work—a key question for judicial biography.<sup>110</sup>

Chabad tradition is clear on the contradictions in Shneur Zalman's legal writings: *Shulḥan 'arukh ha-rav* does not necessarily reflect the rule. Rather, Shneur Zalman's later work—primarily the legal material in his prayer book—is considered the normative text.<sup>111</sup>

Chronology may appear to be an easily applied parameter; in the case of Shneur Zalman's writings it is, however, a complex yardstick. First, non-Chabad traditions raise the question: which text is in fact the final version? Rabbi Yizḥak Eizek Yehudah Yehiel Safrin of Komarno (1806–1874) indicated that the *Siddur* reflects Shneur Zalman's earlier opinion, whereas *Shulḥan 'arukh ha-rav* gives voice to his final position.<sup>112</sup> In 1944, Rabbi Aharon Rokeaḥ of Belz (1880–1957) reported a tradition that when Shneur Zalman showed the first four sections of the code to the Maggid, he was praised for his diligent work. The Maggid, however, added that the world needed a “garment”; presumably meaning that the code was too lofty and pure for public consumption. From then on, Shneur Zalman changed his style, the result being the extant *Shulḥan 'arukh ha-rav*. According to this report, the alleged “second edition” may be the early attempt that was shelved.<sup>113</sup> Rabbi Yoel Teitelbaum of Satmar (1887–1979) also reportedly did not accept the assertion that the *Siddur* reflected Shneur Zalman's final word.<sup>114</sup> Despite unequivocal Chabad tradition to the contrary, these accounts may find support in the fact that the *Siddur* was published before *Shulḥan 'arukh ha-rav*.

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one of the Hasidic masters instructed Moshe Rosenblum (1850–1928) to write such a work. Once the project was completed, a fire broke out in Rosenblum's home on Sabbath. Exercising self-control, Rosenblum did not transgress Sabbath in order to save the manuscript from the flames. Yehoshua Mondshine, “Ha-rav he-hasid r. Moshe Rosenblum,” *Kerem ḥabad*, no. 3 (1987): 4; Yehoshua Mondshine, *Kovez Rostov 'al nehar Don* (Rostov: Agudat Hasidei Ḥabad Be-ḥever Ha-'amim, 2000), 16.

110 Mark Fenster, “The Folklore of Legal Biography,” *Michigan Law Review* 105, no. 6 (2007): 1272–73, 1276.

111 *Divrei nehemiah, orah hayim*, no. 9; *Zemaḥ zedek, ḥiddushim*, 92; Lavot, *Sha'ar ha-kollel*, 1:1; Noe, introduction to *Kezot ha-shulḥan*, vol. 1; Noe, introduction to *Piskei ha-siddur*; Schneerson, *Likkutei siḥot*, 11:246, 16:522; *Iggerot Ramash*, 3:149, 4:147, 12:167, 22:476–77; B. Ma'ayan, “Siddur ha-tefillah shel admor ha-zaken,” *Bitaeon Chabad*, no. 26 (1965): 20; Prus, “Ha-maḥloket,” 176; Baruch Oberlander, “Sidduro shel admor ha-zaken,” *He'arot u-vei'urim*, no. 43 (1990): 36–37; Farkash, *Kelalei ha-posekim ve-ha-bora'ah*, 40–41; Shimon Dovid Cowen, trans., *Seder Bircas Hanehenin; Seder N'tilas Yodoyim l'S'uda: The Laws of B'rochos Said on Foods, Fragrance, and in Thanksgiving and Praise and also Washing of the Hands for a Meal* (Melbourne: Yeshivah Gedolah, 1995), xi; Alfenbein and Marinovsky, “‘Akhshav,” 26; Levin, *Toledot ḥabad be-Rusya ha-z'arit*, 51. Levin demonstrated that the *Siddur* postdates the second edition of *Shulḥan 'arukh ha-rav*. Sholom Dovber Levin, “Negi'a bi-levushim kodem netilat yadayim shaḥarit,” *He'arot u-vei'urim*, no. 777 (1999): 95–97. For a non-Lubavitch source that accepted this position, see Shapira, *Mimhat el'azar*, 4:32b. For the application of this principle to differences between Shneur Zalman's *Luah birkat ha-nehenin* and his later *Seder birkat ha-nehenin* that was included in his *Siddur*, see Mondshine, *Sifrei ha-balakhah*, 67 (Hebrew numbers).

112 Yizḥak Eizek Yehuda Yehiel Safrin, *Shulḥan ha-tahor* (Tel Aviv, 1963–1965), no. 8, *zer zahav* 2.

113 Mondshine, *Sifrei ha-balakhah*, 14n2 (Hebrew numbers). Aharon, son of Rabbi Yissakhar Dov Rokeaḥ of Belz, reported the tradition in his father's name. Mondshine suggested that the account may be referring to a no longer extant version, as opposed to the four extant sections of *mahadura tinyana*. Cf. Heilprin, *Sefer ha-ze'eva'im*, 19n. Heilprin cites an alternative testimony regarding the Belz tradition. For sections of *Shulḥan 'arukh ha-rav* that may have been written after the *Siddur*, see Oberlander, “Sidduro shel admor ha-zaken,” 37; Sat, “Ha-hevdeilim,” 1–2.

114 Y. D. Harfenes, *Yisra'el ve-ha-zemanim*, 2nd ed. (Brooklyn: printed by author, 2002), 2:850–51n18.

A second point regarding the definitive Chabad tradition that the *Siddur*, as the later work, is the normative text: Lubavitch scholarship acknowledges that it is inaccurate to speak about one volume preceding another en bloc, for even within a particular volume we can identify earlier and later texts and, more importantly, changes in Shneur Zalman's rulings.<sup>115</sup> One example that has come to light is the case of *Shulḥan 'arukh ha-rav, orah ḥayim*, nos. 155 and 156.

In 1997 Nochum Grunwald noted a contradiction between *Shulḥan 'arukh ha-rav, orah ḥayim* 156:7 and 608:6 regarding the extent of the obligation to rebuke a sinner based on the biblical injunction to "Reprove your kinsman" (Leviticus 19:17). In one text, the person offering a rebuke is instructed to persist, "even one hundred times, until the wrongdoer strikes him or curses him" (156:7). In the other text, the person offering rebuke may desist from further chastisement as soon as the sinner retorts with a reprimand of his own (608:6). Grunwald's observation generated attempts to harmonize the sources that culminated in the conclusion—set forth by Grunwald, but then accepted by others—that nos. 155 and 156 were a later addition to *Shulḥan 'arukh ha-rav*. As Grunwald acknowledged, scholars had noted that nos. 155 and 156 were different from the rest of the code: in style, in that there were citations from later works written by Shneur Zalman and other jurists, and because these sections were first printed in the 1856 Zhitomir edition of *Shulḥan 'arukh ha-rav*.<sup>116</sup> The extant code, therefore, contains snapshots of Shneur Zalman's legal thinking at different stages of its evolution. The case of nos. 155 and 156 warns against generalizations about chronology of Shneur Zalman's legal writings, and indicates a potential pitfall in identifying normative legacy on this basis.<sup>117</sup>

Maidanchik suggested a further implication of the different—though incomplete—later editions, in light of the Chabad approach that recognizes the latest version as authoritative. According to Maidanchik, if we can faithfully explain the variations between earlier and later editions, we may be able to extrapolate Shneur Zalman's later opinions in areas of law where only his initial writings have survived. After making this suggestion, Maidanchik retreated from this proposition.<sup>118</sup> Prominent Lubavitch author and activist Shalom Dovber Ha-levi Wolpo took a similar line; however, he recognized only a limited cadre of Shneur Zalman's descendants who were authorized to undertake this task.<sup>119</sup> Levin toned down this idea: in some cases, Shneur Zalman began

115 Levin, *Toledot ḥabad be-Rusya ha-z'arit*, 43.

116 Ramash noted the uniqueness of these sections: see *Sihot kodesh* . . . 5729 (Brooklyn, 1985), 1:353; *Sihot kodesh* . . . 5731 (Brooklyn, 1986), 1:33; *Sihot kodesh* . . . 5736 (Brooklyn, 1986), 1:325. See also Mondshine, *Sifrei ha-halakhah*, 10, 26 (Hebrew numbers), 262–65. For the exchange, see Nochum Grunwald, "Mizvat tokheiḥa le-ha-rambam ve-'admor ha-zaken," *He'arot u-vei'urim*, no. 735 (1997): 37; Baruch Oberlander, "Le-hokhiaḥ 'ad kedei haka'ah," *He'arot u-vei'urim*, no. 737 (1997): 63–66; Yosef Yizḥak Kalmansohn, "Be-'inyan shi'ur miḥvat hokhaḥa," *He'arot u-vei'urim*, no. 744 (1998): 77–82; Yisroel Noah Shneur Vichnin, "Be-'inyan shi'ur miḥvat hokhaḥa," *He'arot u-vei'urim*, no. 746 (1998): 96–98; Nochum Grunwald, "Be-'inyan hanal," *He'arot u-vei'urim*, no. 746 (1998): 98–99; Nochum Grunwald, "Din tokheiḥa be-mishnat rabbeinu ha-zaken," *He'arot u-vei'urim*, no. 748 (1998): 74–87; Baruch Oberlander, "Din tokheiḥa u-meḥa'ah be-shulḥan 'arukh admor ha-zaken," *He'arot u-vei'urim*, no. 759 (1998): 40–47. Nos. 155 and 156 have been dated to sometime between 1784 and 1790. Nochum Grunwald, "'Al mahadurot shonot," 164–67; Raskin, *Siddur*, 705n5; Levin, *Toledot ḥabad be-Rusya ha-z'arit*, 47–48. In the specific case that precipitated the discussion, the earlier text (608:6) followed *Magen Avraham*, while the later text (156:7) rejected this position: a further example of Shneur Zalman's initial reliance on *Magen Avraham*, and later reversal. In addition, the later ruling could be sourced to *Zohar*: a further example of greater weight given to kabbalistic sources in Shneur Zalman's later writings.

117 Grunwald, "'Al mahadurot shonot," 163. For other examples, see Raskin, *Siddur*, 221, 693–98; Pinḥas Avraham Meyers, *Divrei pinḥas* (Jerusalem, 2009), 1:34; Levin, *Toledot ḥabad be-Rusya ha-z'arit*, 49.

118 Maidanchik, "Shinuyim be-fiskei ha-rav mi-L'adi," 127–28.

119 Wolpo, *Pardes shalom*, 2:121–24, 127–28.



working on a later edition but did not revise the actual code. In two areas of law such preliminary revision has survived, prompting Levin to extrapolate Shneur Zalman's revised—but not openly stated—rulings.<sup>120</sup> The unorthodox jurisprudential implication of this line is that a presumed legal opinion could trump Shneur Zalman's written and published ruling.

Is the Chabad approach that gives exclusive normative authority to Shneur Zalman's later positions—assuming they can be identified—necessarily correct? Juristic dynamism, as manifested in a decisor's ability to renounce an earlier ruling, is an important feature of active legal systems. But even if the author meant to replace his earlier work, perhaps the earlier work can still be considered a source of law? Also, not every change is necessarily a repudiation of previous rulings. What weight—if any—should be given to the reason for the change? For instance, is there a difference between evolution in the jurist's understanding of the law, on one hand, and outside pressure or a changed audience, on the other? According to Tchernowitz, the stimulus for Shneur Zalman's revision was his evolving attitude towards the opponents of Hasidism, not his evolving understanding of law. The notion that Shneur Zalman aimed to present different versions to different publics raises the possibility that the earlier renditions could still be considered *bona fide* sources of law.

An alternative approach was suggested by a jurist unaffiliated with Chabad, Rabbi Hanokh Henikh Pack (ca. 1880–1944). Commenting on contradictions in Shneur Zalman's legal writings, Pack candidly admitted, "I do not know which is the later composition—the *Siddur* or the *Shulhan 'arukh [ha-rav]*." He therefore suggested a different normative gauge: "It would appear that we should rely more on the *Shulhan 'arukh [ha-rav]* for it was prepared for practical law [*halakhah le-ma'aseh*]." <sup>121</sup> In determining normative valence, Pack's approach looked to the literary source of the law, rather than to the date of composition. Thus a legal opinion cited in a genuine legal code like *Shulhan 'arukh ha-rav* would carry greater weight than a legal opinion cited in an ostensibly non-legal work such as the *Siddur*.

#### AUTHORIAL DECISIONS

An understanding of the format of presentation is essential in assessing authorial goals, intended audience, and the work's place within the legal system.<sup>122</sup> How did Shneur Zalman perceive his legal writing: a commentary on earlier works, a shorthand summary, a digest of other writings, or a new code? Who was the intended audience: laypeople; rabbis who dispense rulings to constituents; or learners intent on delving into law and its sources, developments, and permutations?

In the case of *Shulhan 'arukh ha-rav* these are complex questions because various sections of the code were written in different styles. The majority of the work, dealing with daily rituals, follows Karo's code; the laws dealing with ritual slaughter and menstruation mimic commentators on Karo's code; the Laws of Torah Study appear to be styled after Maimonides' code;<sup>123</sup> and sections on Jewish civil law are written as digests of laws. In addition, there are individual instances of exceptional formats in *Shulhan 'arukh ha-rav* (like the aforementioned nos. 155 and 156).<sup>124</sup> Shneur

120 Levin, *Dover shalom*, 2:111–33; Levin, *Hilkhot amira le-nokhri mi-shulhan 'arukh admor ha-zaken* (Brooklyn: Kehot, 2006).

121 Hanokh Henikh Pack, *Zikbron yosef* (Bardiov: M. Ch. Horovitz, 1929), 48.

122 E.g., Wolpo, *Pardes shalom*, 2:129–35.

123 Ashkenazi, *Hilkhot talmud torah*, 1:xxxvi–xxxviii; Mondshine, *Sifrei ha-halakhah*, 48 (Hebrew numbers); Nochum Grunwald, "Zeman ketivat hilkhot talmud torah bi-dei admor ha-zaken," *He'arot u-vei'urim*, no. 834 (2002): 83; Grunwald, "'Al mahadurot shonot," 168–70.

124 Mondshine, *Sifrei ha-halakhah*, 13 (Hebrew numbers).

Zalman's other legal works also contain a variety of formats. For instance, the *Siddur's* laws of Counting the 'Omer—the seven-week period between the festivals of Passover and Shavuot—is the only treatise in this volume that includes a discussion of variant opinions.<sup>125</sup> In some cases, a set of laws was written in more than one format: sometimes the different formats have survived, such as the three renditions of the laws of blessings; in other cases we only know of their composition.<sup>126</sup> In their preface, Shneur Zalman's sons acknowledged one significant change, attributing it to the projected audience: "In the part entitled *Yoreh Deah* [that deals with ritual law], he changed his approach and his language, since it would be consulted by experts who need to hand down halachic rulings on questions of ritual permissibility."<sup>127</sup>

In constructing a judicial biography another aspect to be considered is an author's choice to publish or to sequester manuscripts. During his lifetime, Shneur Zalman printed his *Siddur* (1803), the prayer book that included legal material, as well as three legal treatises: *Hilkhot talmud torah* (1794), on Torah study; *Luah birkat ha-nehenin* (1800), on blessings to be recited over foods and fragrances; and *Seder netilat yadayim* (1801), on ritual washing of the hands before a meal. The bulk of Shneur Zalman's legal writings—*Shulchan 'arukh ha-rav*, in particular—was published posthumously. What is the significance of these choices? What factors influenced this decision? The translators of *Shulchan 'arukh ha-rav* acknowledged that "[t]here are many possible explanations" for why Shneur Zalman tarried. They then propose three:

Firstly, the conflict between the chassidim and their opponents sapped considerable time, energy, and financial resources. Secondly . . . [Shneur Zalman] continually revised his text, and it is possible that he had not arrived at a version which he desired to publish. In addition, the czarist regime often restricted the printing of Jewish texts.<sup>128</sup>

From a legal perspective, the second explanation—that the author "continually revised his text" and therefore the extant manuscript should be considered a draft—might have an impact on our view of the normative legacy of the author. Wolpo maintained that Shneur Zalman did not print his code because the work was never completed, though he held that this did not detract from the binding nature of *Shulchan 'arukh ha-rav*.<sup>129</sup> Should Shneur Zalman's opinion of his own legal writings be taken into consideration in determining their normative weight?

Shneur Zalman's publication decisions may contribute to our understanding of the social dynamics of nascent Hasidism. Above, I argued that the fact that Shneur Zalman did not publish his code indicates that he had no polemic objectives in mind. In a similar, but opposite, vein, Wertheim suggested that Shneur Zalman chose to first publish his Laws of Torah Study in a bid to allay the concerns of Mitnageddim.<sup>130</sup> It seems significant that Shneur Zalman published this

125 Lavot, *Sha'ar ha-kollel*, 49:2; *Iggerot Ramash*, 2:344.

126 Schneerson, *Likkutei sihot*, 24:67–72; Levi Bistritsky, "Luah ve-seder birkat ha-nehenin shel rabbeinu ha-zaken," *Yagdil torah* (Jerusalem) 2, no. 4 (1978): 647–63; Levin, *Toledot habad be-Rusya ha-z'arit*, 53–58; Alfenbein and Marinovsky, "Akshav," 25.

127 "Preface by the Rabbis, Sons of the Learned Author," in *Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Touger and Kaploun, 1:34. See also Heilprin, *Sefer ha-ze'ez'a'im*, 18n14; Wolpo, *Pardes shalom*, 2:143–45; Levi Yizhak Raskin, "Mitzvat ha-tokheifa be-mi she'eino shomer torah u-mitzvot," *Tiferet Eirova* 1 (2002): 193.

128 Touger, Kaploun, and Avtzon, "Overview," 1:15. For a full discussion, see Cooper, "Mysteries of the Paratext."

129 Wolpo, *Pardes shalom*, 2:116–18, 121–24.

130 Wertheim, "He'arot," 26; cf. Mondshine, *Sifrei ha-halakhah*, 47n1 (Hebrew numbers). Mondshine references Wertheim and summarily dismisses his explanation.

treatise while the Hasidic-Mitnaggedic debate raged, and shortly before he published his seminal Hasidic work. One Lubavitch scholar has argued that the two publications—*Hilkhot talmud torah* (1794) and *Tanya* (1796)—should be regarded as one work.<sup>131</sup>

Another avenue of exploration concerns the decision by Shneur Zalman's sons to publish their father's legal manuscripts. Assumptions regarding Shneur Zalman's intentions may need to be reassessed, with greater weight awarded to the role of the sons, Dov Ber in particular. As Soloveitchik pointed out in another context, we may be "scrutinizing the vagaries of scribes or printers."<sup>132</sup> Although we may not be speaking of "vagaries," it is nevertheless problematic to ascribe the sons' intentions to the father.

### KABBALISTIC WORKS IN THE LEGAL LIBRARY

Hasidism drew heavily on kabbalistic tradition. How did Shneur Zalman mediate kabbalistic influences on Jewish law?<sup>133</sup> This issue must be approached from a number of angles. First, we must determine which kabbalistic sources were part of Shneur Zalman's legal world. Most of the kabbalistic material included in *Shulḥan 'arukh ha-rav*, certainly in the first edition, can be found in writings of earlier codifiers. This observation implies that Shneur Zalman included only those kabbalistic sources that had already been accepted as part of the legal canon. Yet, there are cases where Shneur Zalman introduced kabbalistic material that did not appear in classic codes and commentaries.<sup>134</sup> Lavot, who noted that Shneur Zalman gave primacy to kabbalists in his later works, wrote that not only did Shneur Zalman use *Zohar* and Luria—as we might expect given their prominence in Jewish mystical tradition—but he also included the writings of the "early kabbalists such as Rav Hai Gaon and Nahmanides, etc."<sup>135</sup> This leads us to ponder what the contents of Shneur Zalman's legal library might have been and which works of Kabbalah he read. As Justice Felix Frankfurter wrote, "Reading maketh a man only in part—yet how illuminating it would be to have a list of the books read by the justices."<sup>136</sup> This question is significant not just for broadening our understanding of Shneur Zalman, but may shed light on the attitude towards Kabbalah in nascent Hasidism.

Whether kabbalistic influences on Shneur Zalman's legal writing are a particularly Hasidic expression of the esoteric tradition also remains to be examined.<sup>137</sup> A comparative analysis is needed in order to determine whether Shneur Zalman's approach differs from that of other authors who also introduced kabbalistic considerations into Jewish law. To illustrate the point: Sat's

131 Ashkenazi, *Hilkhot talmud torah*, 1:xxix–xxxiii. See also *Hilkhot talmud torah*, 4:6, which echoes passages in *Tanya*.

132 Soloveitchik, "History of Halakhah," 84.

133 E.g., *Hilkhot talmud torah*, 1:4, 2:2; *Shulḥan 'arukh ha-rav, orah hayim* 1:8. See also Tchernowitz, *Toledot ha-posekim*, 3:263, and Moshe Hallamish's studies of the interaction between Jewish law and Kabbalah.

134 E.g., *Shulḥan 'arukh ha-rav, orah hayim* 56:1. See also Nochum Grunwald, "Mekorot kabbalah le-shulḥan 'arukh admor ha-zaken," *He'arot u-vei'urim*, no. 830 (2002): 79–82.

135 Lavot, introduction to *Sha'ar ha-kollel*, no. 6.

136 Charles Fairman, "The Writing of Judicial Biography—A Symposium," *Indiana Law Journal* 24, no. 3 (1949): 368 (citing a 1948 letter by Frankfurter). On Shneur Zalman's library, see Sholom Dovber Levin, *Sifriyat ḥabad* (Brooklyn: Kehot, 1993), 1–17; Nochum Grunwald, "Haḥaza el tokh sifriyat rabbeinu ha-zaken u-mashma'uto," *Pardes Chabad*, no. 6 (2001): 67–85; Amram Blau, "Haḥaza nosefet le-tokh sifriyat shel admor ha-zaken," *Pardes Chabad*, no. 7 (2002): 109–14; Levin, *Toledot ḥabad be-Rusya ha-z'arit*, 74–79.

137 See, e.g., Wolpo, *Pardes shalom*, 2:130; Friedland, *Shulḥan ha-zahav*, 4.

identification of the use of kabbalistic terminology and sources in the second edition of *Shulḥan 'arukh ha-rav* may indicate that Shneur Zalman was a decisor sensitive to Kabbalah—a not uncommon phenomenon in the annals of Jewish law. If this is the case, then the use of Kabbalah might not indicate that Shneur Zalman was a particularly “Hasidic” decisor.

While kabbalistic influences are the most discussed facet of the different editions, the various editions also differ in ways that are not connected to Kabbalah. Thus, for instance, in the later works Shneur Zalman appears to take stock of ethical literature, expanding his legal library in a further direction.<sup>138</sup>

## CONCLUSION

Lytton Strachey described the biography enterprise as “the exclusion of everything that is redundant and nothing that is significant.”<sup>139</sup> Writing on the state of judicial biographies in Australia, Stuart Macintyre commented in a similar vein: “Biography presents in a particularly marked form the limits imposed by the rules of historical interpretation. Put simply, the rules lay down that you must report the evidence faithfully: you can’t go beyond the evidence, and you can’t withhold evidence of significance.”<sup>140</sup> Although Shneur Zalman has attracted study by Lubavitch scholars and from academic circles, the legal aspect of his career has yet to merit sufficient attention, and this is tantamount to withholding evidence of significance.

Shneur Zalman’s role in the nascent Hasidic movement has been explored, his philosophy analyzed, his writings have been bibliographically recorded, as well as plumbed and annotated. In recent years, his legal works have been reprinted with scholarly glosses. Concurrently these volumes have generously been made available to the public on databases and via the Internet. Initial analysis indicates no Hasidic content in *Shulḥan 'arukh ha-rav*. The responsa, however, do reflect the travails of the nascent movement and may be considered primary historical sources. Shneur Zalman’s legal opinions have survived in a variety of renditions, and the relationship between them points to the jurist’s evolving independence and confidence over time. As a result, Shneur Zalman’s legal writings do not lend themselves to sweeping statements regarding normative legacy. Rather, each work—indeed, each section of a work—must be examined independently. Shneur Zalman adopted a variety of formats for presenting law, perhaps for different purposes or for different audiences. These authorial choices, and the fact that most of his legal writings were published posthumously, are not without normative implications. While scholars have highlighted aspects of Shneur Zalman’s legal writings, there is still room for jurisprudential analysis and judicial biography.

Alongside the need for a judicial biography of Shneur Zalman, we should acknowledge that legal writings of Hasidic masters have not been totally ignored. As part of recent interest in judicial biographies, the spotlight has also been cast onto the *Admor-Posek*—that is, the Hasidic master who served in a dual capacity as a spiritual guide and as a legal decisor, of which Shneur Zalman is an early example.<sup>141</sup> Study of this model of Hasidic leadership has raised questions as to the extent and nature of the interplay between the normative realm of Jewish law, and the

138 Schneerson, *Likkutei siḥot*, 3:763; Nochum Grunwald, “Mahadura tinyana shel shulḥan 'arukh admor ha-zaken,” *He'arot u-vei'urim*, no. 775 (1999): 91–100.

139 Quoted in Barbara W. Tuchman, *Practicing History* (New York: Alfred A. Knopf, 1981), 89.

140 Macintyre, “What Makes a Good Biography?,” 8.

141 Iris Brown (Hoizman), “R. Ḥayim mi-Zanz” (PhD dissertation, Bar-Ilan University, 2004); Tamir Granot, “Tekumat ha-ḥasidut be-'Erez Yisra'el aḥarei ha-sho'ah” (PhD dissertation, Bar-Ilan University, 2008); Levi

mystical and religious realms, communal structures, and the social networks of Hasidism. Scholars have begun to ask questions: Does the Admor-Posek's legal awareness and sensitivity affect his Hasidism? Does his Hasidism find expression in his legal opinions? Or are the two spheres entirely separate? In other words, can we identify a distinctly "Hasidic" law?

This direction also leads to questions in the social sciences: What are the implications in law of socio-religious aspects of the Hasidic community, such as the leadership position of the Hasidic master? How do unique Hasidic social networks affect legal decisions and the development of new legal institutions? Has the urbanization of Hasidic groups affected Hasidic customs?<sup>142</sup> Scholars of Hasidism have discussed the geographic networks of Hasidic groups in the context of Hasidic history and thought; these findings should be refracted through the lens of legal writings from the Hasidic milieu. Finally, to the extent that we can identify a "Hasidic" law, what is the relationship between the different genres of writing and of communication: the Hasidic discourse or public sermon, the Hasidic tale, and the responsum or code of law? While the starting point for such studies should be the Admor-Posek, these questions should also be asked regarding jurists who were not Hasidic masters, but were members of the Hasidic faithful. Thus, the creation of a judicial biography of Rabbi Shneur Zalman of Liady is but a step to a better understanding of the relationship of Hasidism—its leaders and constituents—to Jewish law.

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Cooper, "Ha-'admor mi-Munkatch ha-rav Hayim El'azar Shapira" (PhD dissertation, Bar-Ilan University, 2011); Cooper, "Rabbanut, halakha, ve-lamdanut."

<sup>142</sup> For a case study that considers this question, see Levi Cooper, "Bitter Herbs in Hasidic Galicia," *Jewish Studies, an Internet Journal* 12 (2013): 1–40.