

Mysteries of the Paratext: Why Did Rabbi Shneur Zalman of Liady Never Publish his Code of Law?

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[T]he paratext is ... 'the fringe of the printed text which, in reality, controls the whole reading.'¹

1. The Fame of Rabbi Shneur Zalman of Liady

The fame of Rabbi Shneur Zalman of Liady (ca. 1745 – 1812) rightly rests on a troika of achievements. First, at the dawn of the hasidic movement, Shneur Zalman was at the forefront of the battle against the opponents of Hasidism, the *Mitnaggedim*. He combined charisma with scholarship to provide formidable leadership for the nascent movement during turbulent years.² Second, in 1796 Shneur Zalman anonymously published his *Tanya* – a

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1 Gérard Genette, "Introduction to the Paratext," trans. Marie Maclean, *New Literary History* 22 (1991): 261, citing Philippe Lejeune; see also *ibid.*, 272 n. 4.

2 Most recently see Immanuel Etkes, *Ba'al Ha-Tanya: Rabbi Shneur Zalman of Liady and the Origins of Habad Hasidism* (Jerusalem: Shazar, 2011) (Hebrew); *idem*, *Rabbi*

seminal work in hasidic thought that rocked the hasidic world at the time and would come to define Hasidism associated with Shneur Zalman's disciples and descendants.³ Third, Shneur Zalman was an important figure in the Jewish legal world. He served as an arbitrator in civil disputes, though we do not know much about his activity in this field.⁴ Shneur Zalman's lasting legal legacy rests on writings in the field of Jewish law that he bequeathed to posterity. His most famous legal work is commonly referred to as *Shulḥan 'Arukh ha-Rav*, meaning "the set table" – that is, the code of law – "of the rabbi."⁵

Shneur Zalman of Liadi: The Origins of Chabad Hasidism, trans. Jeffrey M. Green (Waltham, MA: Brandeis University Press, 2015).

- 3 See, *inter alia*, 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.
 - 4 Levi Cooper, "On Etkes' Ba'al Ha-Tanya," *Diné Israel* 29 (2013): 177–89. Shneur Zalman's juridical activity as an arbitrator in business matters is repeatedly mentioned in documents connected to his arrests; see Etkes, *Ba'al Ha-Tanya*, 97–98, 265–66, 268, 271, 294, 302–3. See also Noah Green, "'Isuqo Shel Rabbenu be-Mishpaṭ u-vi-Pesharah be-Ma'aseh u-ve-Maḥshavah,'" in *ha-Rav*, ed. Nochum Grunwald ([Lakewood]: Mechon Harav, 2015), 685–98.
 - 5 I have followed other scholars in referring to this genre of legal writing as a "code," despite salient differences between state codes and "codes" in the history of Jewish law. See Chaim Tchernowitz (Rav Tzair), *Toledot ha-Poseqim* (New York: Jubilee Committee, 1946–1947), English title page ("The History of Hebrew Law in the period of its codification: the codifiers and the codes..."); Menachem Elon, *Jewish Law: History, Sources, Principles*, trans. Bernard Auerbach and Melvin J. Sykes (Philadelphia and Jerusalem: JPS, 1994), 1138–452 ("The Codificatory Literature..."); Eliav Shochetman, "Jewish Law in Spain and the Halakhic Activity of its Scholars Before 1300," in *An Introduction to the History and Sources of Jewish Law*, ed. Neil S. Hecht et al. (New York: Oxford University Press, 1996), 276–81.
- Shulḥan 'Arukh ha-Rav* and Shneur Zalman's monograph *Laws of Torah Study* are available in English: *The Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, bilingual edition, trans. Elyahu Touger and Uri Kaploun (Brooklyn: Kehot, 2002–2011); *Hilchos Talmud Torah: The Laws of Torah Study from the Shulchan Aruch of Rabbi Shneur Zalman of Liadi*, trans. Elyahu Touger and Uri Kaploun (Brooklyn: Kehot, 2004). References to these works (including the "Preface by the Rabbis, Sons of the Learned Author") are given according to these editions (volume: page number). Where possible, I have cited from these translations and retained their conventions. I have replaced brackets with parentheses and used brackets for my additions. Other translations are my own.

The virtues of this work have been sung, and the code continues to occupy a place of respect on the Jewish legal bookshelf alongside other codes.⁶

Despite the accolades that *Shulḥan 'Arukh ha-Rav* has received and the respect it continues to command, it must be said that the code is beset with inconsistencies, idiosyncrasies, and unusual features. Some of these features have been explained; many are yet to be addressed. Generally speaking, irregularities that have normative implications have been considered. The most well-known challenge is the contradictory rulings in Shneur Zalman's legal writings. These have been dealt with either by harmonizing the sources or by asserting which text is Shneur Zalman's final word and ruling on that basis.⁷ Most of the irregularities, particularly those found in the peritext – a term I will presently explain – have little or no bearing on practical law; hence, they have not been the focus of attention.

The French literary theorist, Gérard Genette (b. 1930), coined the term “paratext” to denote any part of a written or printed work, except for the main body of the composition.⁸ Genette distinguished between two types

- 6 Yehoshua Mondshine, *The Halachic Works by Rabbi Schneur Zalman of Liadi* (Kefar Chabad: Kehot, 1984), 70–83 (Hebrew numbers) (Hebrew); anonymous, “Ha-Rav: Divrei Şaddiqei ha-Dorot Odot ha-Rav ve-Shulḥano ha-Ṭahor,” *Ma'ayanot ha-Ḥasidut* 4 (1992): 40–42. Cf. Nochum Grunwald, “‘Al Mahadurot Shonot she-Shuq'u be-Shulḥan 'Arukh ha-Rav,” *Ohr Yisroel* 20 (2000): 183–84.
- 7 Levi Cooper, “Towards a Judicial Biography of Rabbi Shneur Zalman of Liady,” *Journal of Law and Religion* 30 (2015): 124–31.
- 8 On the paratext and its importance, see Genette, “Introduction to the Paratext,” 261–72; idem, *Paratexts: Thresholds of Interpretation*, trans. Jane E. Lewin (Cambridge: Cambridge University Press, 1997); Marie Maclean, “Pretexts and Paratexts: The Art of the Peripheral,” *New Literary History* 22 (1991): 273–79. The term is originally taken from the French, but Genette pointed out that it works in English as well; see J. Hillis Miller, “The Critic as Host,” in *Deconstruction and Criticism*, ed. Harold Bloom et al. (New York: Seabury, 1979), 219. For paratextual analysis of legal documents, see Iain Stewart, “*Mors Codicis*: End of the Age of Codification?” *Tulane European & Civil Law Forum* 27 (2012): 24–26. The term “paratext” has also been used in a legal context to denote modes of communication besides printed words and images, such as electronic media; see Ronald K. L. Collins and David M. Skover, “Paratexts,” *Stanford Law Review* 44 (1991–92): 509–10. In this paper, I have not used the term in this way; rather, the term remains within the Gutenberg mindset of the printed word. Ze'ev Gries has used the term “paratext” with a slightly different focus when discussing glosses; see Ze'ev Gries, “Masoret ve-Shinui be-Ma'avar mi-Kitvei Yad li-Defus,” *Alei Sefer* 24–25 (2015): 22–26.

of paratext – “peritext” and “epitext.” Peritext looks within the volume at information that is surrounding or near the text. The peritext includes the title, front matter, interstices, and even the name of the author.⁹ Epitext looks outside the volume at material that in some way is still linked to the work, such as conversations or communications regarding the volume.

This study mines the paratext of *Shulḥan ‘Arukh ha-Rav* in an attempt to reconstruct the formative history of the code. From a broader perspective, this study highlights the potency of the paratext by demonstrating how it may steer or even govern the reader’s experience, shaping raw materials and effectively creating new works. In the case under discussion, since no authorial epitext has survived – *Shulḥan ‘Arukh ha-Rav* is not mentioned anywhere in Shneur Zalman’s surviving writings – this study necessarily will examine the peritext of the code.¹⁰

I begin by focusing on the original – somewhat audacious, perhaps even pretentious – title of the work. I will then outline the peritextual irregularities in the first edition of *Shulḥan ‘Arukh ha-Rav* and highlight a primary question

- 9 Information on certain peritextual features of Jewish books has been collated: Leopold Löwenstein, *Index Approbationum* (Berlin: M. Marx, 1923); Abraham Yaari, *Hebrew Printers’ Marks: From the Beginning of Hebrew Printing to the End of the 19th Century* (Jerusalem: Ha-Hevrah le-Hoša’at Sefarim Leyad ha-Universita ha-Ivrit, 1943) (Hebrew); Menaḥem Mendel Slatkine, *Shemot ha-Sefarim ha-‘Ivriyim* (Neuchâtel and Tel-Aviv: Delachaux et Niestlé, 1950–54); Berl Kagan, *Hebrew Subscription Lists: With an Index to 8,767 Jewish Communities in Europe and North Africa* (New York: Shulsinger Bros., 1975) (Yiddish). Almost all the significant information in the peritext of *Shulḥan ‘Arukh ha-Rav* has been noted in Mondshine, *Halachic Works*. I am indebted to the work of Mondshine and others; this study builds on these efforts by “reading” the peritext. For case studies on peritexts of Jewish works, see Haym Soloveitchik, *The Use of Responsa as Historical Source: A Methodological Introduction* (Jerusalem: Shazar, 1990), 16–27 (Hebrew) and studies by Marvin J. Heller. While it may be obvious that the paratext includes pseudonyms and authorial preferences for anonymity, it should be noted that even using a real name is part of the paratext; see Laura A. Heymann, “The Birth of the Authoronym: Authorship, Pseudonymity, and Trademark Law,” *Notre Dame Law Review* 80 (2004–5): 1377–81.
- 10 There is, however, what might be termed “circumstantial epitext”—Shneur Zalman’s authorial practices or publishing activity that are not directly related to *Shulḥan ‘Arukh ha-Rav*. It is debatable whether authorial practices of non-legal writings may analogously shed light on the code (see, for example, below n. 37). From a different perspective, Shneur Zalman’s publishing preferences may indicate how he perceived his legal writings. The circumstantial epitext of *Shulḥan ‘Arukh ha-Rav* is deserving of its own study.

that goes beyond the peritext: why did Shneur Zalman never publish his code (section 2). This study will offer a viable explanation for these phenomena.

I will argue that such an explanation is to be found in the circumstances surrounding the publication of *Shulḥan 'Arukh ha-Rav*. To this end, I will recount the story of *Shulḥan 'Arukh ha-Rav* from its inception through the first stages of its publication history, and on to the first five editions of the code. This account will be divided into three parts, beginning with the tale of the birth of the *Shulḥan 'Arukh ha-Rav* project, as related by Shneur Zalman's sons (section 3). The sons were not present at the early stages and we have no corroborating evidence of their account. While this study does not analyze the historicity of the sons' account, I will not base conclusions on their unconfirmed report, since it must be considered hearsay. The story continues with events that the sons were able to witness (section 4). In the years following Shneur Zalman's demise the sons swiftly set about publishing their father's works. Mining their introductory remarks and considering the irregularities reveal that upon Shneur Zalman's untimely death, the available manuscripts were not ready for publication (section 5). In light of this understanding, I will reconsider the anomalies and reassess the publication history of *Shulḥan 'Arukh ha-Rav* (section 6).

It is my contention that credit for *Shulḥan 'Arukh ha-Rav* lies largely with the sons of the *rav*, who chose to publish the unfinished work and framed the tome with a paratext that affected how the writings were perceived and received. To date, biographies of the sons did not see the publication of *Shulḥan 'Arukh ha-Rav* as a central contribution or lasting achievement.¹¹ I suggest that this assumption needs to be reconsidered, since the sons – by dint of their publication efforts and their paratextual narrative – essentially created *Shulḥan 'Arukh ha-Rav* as we know it.

This paper concludes by raising new questions that should now be considered and by returning to the importance of the paratext in framing the text and shaping how it is read (section 7).

11 In particular Dov Ber who, as successor to Shneur Zalman, has received biographical attention; see, for instance, Yiṣḥaq Alfasi, *Me'irim la-'Araš* (Kefar Chabad: Masharqi, 2009), 126–43. Similarly some bibliographers omitted the role of the sons in the publication of the father's work; see Isaac Benjacob, *Oṣar ha-Sefarim* (Vilna: Rom, 1880) 139, 586, 587, 588; Samuel Joseph Fünin, *Kenesset Yisra'el* (Warsaw: Zaks and Tsukerman, 1886–90), 331–33.

2. A Riddled Code of Law

Shulḥan 'Arukh ha-Rav is a legal work riddled with strange phenomena. Beginning with the title and continuing with the content and style of the material included in the work, the code is replete with surprises.

2.1 The Title

The first strange feature that the reader of the code encounters is the title: “*Shulḥan 'Arukh*.” In two hundred years since the first printing, over fifty editions of Shneur Zalman’s code have been published, and almost every edition boasts the very same title as the sixteenth century seminal code penned by Rabbi Yosef Karo (1488–1575).¹² Of the six volumes printed in the first edition, only the second volume did not carry this title. That volume was entitled “*Hilkhot Niddah*” (laws of menstruation) presumably because it included the text of Karo’s *Shulḥan 'Arukh* surrounded by Shneur Zalman’s commentary.¹³

The title is followed by a few lines extolling the virtues of the author and mentioning his name. References to “*Shulḥan 'Arukh*” could cause confusion; hence the later convention that “*Shulḥan 'Arukh*” refers to the original work by that name, while Shneur Zalman’s code is called “*Shulḥan 'Arukh ha-Rav*.” Despite this convention, we may wonder: Is it not audacious, presumptuous, or pretentious to call the work by such a famous title?

12 Of more than fifty editions published through 1984 and recorded by Mondshine, only one used a different title: *Shulḥan 'Arukh ha-Tanya* ([Brooklyn: n.p., 1983]). This edition includes a short introduction and letters penned by Rabbi Sholom Dov Ber Schneersohn of Lubavitch (known by the acronym “Rashab”; 1860–1920) against Zionism and Agudat Yisrael. It is unclear who published this edition. Mondshine, *Halachic Works*, 143 noted that the place of publication is misleadingly given as Jerusalem. Besides the cover, the title page, and the additional material, this edition is essentially a reprint of previous editions (Vilna 1904; Vilna 1925; approbations reprinted from Zhitomir 1847). This edition was reprinted in 1988 (without the introduction and Rashab’s letters), though the title on the spine and front cover was changed to “*Shulḥan 'Arukh ha-Rav*.” I am aware of one more edition that used the title *Shulḥan 'Arukh ha-Rav*: the 1993 edition published by ‘Oz ve-Hadar in Jerusalem.

13 I will return to this below, section 2.5. From the second edition, [Sudyłków] 1826, “*Shulḥan 'Arukh*” appears on the title page of this volume too (below, section 5.2). See Mondshine, *Halachic Works*, 27, 53.

One possibility is that title reuse is an accepted practice in Jewish legal writing. Alas, this is not the case. Works of law written after Karo's ground-breaking code often adopted names that hinted at *Shulḥan 'Arukh*, either by using a play on the words ('*Erekh ha-Shulḥan*, *Shulḥan ha-Ṭahor*, '*Arukh ha-Shulḥan*, *Shulḥan Ash*, etc.) or by adding a qualifier (*Qiṣṣur Shulḥan 'Arukh*, *Shulḥan 'Arukh Qaṭan*, etc.).¹⁴ Even in cases where the title came precariously close to causing confusion, steps were taken to ensure that readers were aware that they were not reading the classic *Shulḥan 'Arukh*.

To illustrate the point: A 1697 work that bore the title *Shulḥan 'Arukh* carried a clear subtitle indicating that the author was not Karo ("'*Shel M[oreinu] h[a-]R[av] Reb Eli'ezer ha-Qaṭan*"). The running header of editions of this work retained the title and the subtitle in the same font – clearly differentiating the work from the classic *Shulḥan 'Arukh*.¹⁵ Moreover, it is unlikely that readers of this 1697 work would be misled, for this volume was not a code of law but belonged to a different literary genre: conduct literature.¹⁶

14 Plays on words: *Shulḥan Shelomo* (Frankfurt-an-der-Oder: Almanat Garila, 1771) by Rabbi Shelomo Zalman Mirkes (d. 1773); '*Erekh ha-Shulḥan* (Livorno and Tunis: E. Sa'adon, 1791–1891) by Rabbi Yiṣḥaq Ṭayeb (ca. 1750–1830); *Shulḥan ha-Ṭahor* (Zolkiew, 1792) by Rabbi Ṣevi Hirsh of Nikolsburg; *Shulḥan ha-Ṭahor* (Tel-Aviv: He-'asor, 1963–65) by Rabbi Yiṣḥaq Eizek Yehuda Yeḥiel Safrin of Komarno (1806–74); '*Arukh ha-Shulḥan* (Warsaw and Piotrkow: N. Shriptgisser, 1884–1909) by Rabbi Yeḥiel Mikhel ha-Levi Epstein (1829–1908); *Shulḥan Ash* (Érsekšjvár: B. Friedman, 1943) by Rabbi Avraham Stern (1884–1944). Another example is mentioned below, n. 20.

Qualifiers: *Qiṣṣur Shulḥan 'Arukh* (Ungvar: C. Jaeger, 1864) by Rabbi Shelomo Ganzfried (ca. 1802–86); *Shulḥan 'Arukh Qaṭan* (Djerba: B. Hadad, 1933) by Rabbi Avraham ha-Kohen (1897–1931); *Qiṣṣur Shulḥan 'Arukh Meqor Ḥayim* (Tel Aviv: Arzi, 1975) by Rabbi Ḥayim David ha-Levi (1924–98).

15 Eliezer Leizer Revitz, *Shulḥan 'Arukh: Shel M[oreinu] h[a-]R[av] Reb Eli'ezer ha-Qaṭan* (Fürth: Yosef ben Zalman Shne'ur, 1697; Munkács: Kohn & Fried, 1902; Lublin: M. Sznajdermesser, 1932).

16 Ze'ev Gries, *Conduct Literature (Regimen Vitae): Its History and Place in the Life of Beshtian Hasidism* (Jerusalem: Bialik Institute, 1989), 16 n. 67 (Hebrew). Cf. Ḥayim Dov Friedberg, *Bet Eked Sepharim: Bibliographical Lexicon*, 2nd ed. (Tel-Aviv: M.A. Bar-Yuda, 1951–56), III:1005 (Hebrew). For a similar work from this genre, see Ḥayim Lifshits of Ostróg, *Derekh Ḥayim* (Sulzbach: Lipman, 1702), where the title page explains the work as a *Shulḥan 'Arukh* for travellers.

Works from different genres that hint at Karo's title: (1) Eliyahu Ḥai Guedj, *Zeh ha-Shulḥan* (Algiers: Y. Guedj, 1888–1895)—a collection of customs of Algerian Jewry; on the title page of the second volume the author explains the title by stating that the work is like a *Shulḥan 'Arukh*.

Perhaps a more significant comparison could be made with the work known as *Shulḥan 'Arukh ha-'Ari*, a composition that details customs and rules associated with the legacy of Rabbi Yiṣḥaq Luria (1534–72).¹⁷ As in the case of the aforementioned 1697 work, readers are immediately aware that this is not a standard code of law, but a work infused with kabbalistic considerations. The work was first printed in the second half of the seventeenth century, but in the present context two editions are particularly interesting: the 1793 Slavita edition and the 1810 Kopust edition. Both these editions were published in Shneur Zalman's lifetime and both printing presses were associated with Shneur Zalman's circle and literary legacy.¹⁸ Both of these editions have potentially misleading title pages that announce the work as "*Shulḥan 'Arukh*" with Luria's name mentioned in a smaller font on the second line. But both of these editions retained a running header that clearly indicated that this is the so-called Luria's *Shulḥan 'Arukh*, as opposed to the classic work of that name. More than ten editions of this work have been printed and they all adopt this form, studiously avoiding any possible confusion.¹⁹ *Shulḥan 'Arukh ha-Rav* does not take similar precautions.²⁰

(2) Yosef Brill, *Shulḥan 'Arukh la-Melammedim ve-la-Morim* (Kraków: Yosef Fischer, 1890); *Iyov of Minsk* [Yosef Brill], *Qišṣur Shulḥan 'Arukh: Hilkhot 'Ashirut* (Vilna: Defus Shel Hoṣa'ah, 1912)—satires.

(3) Yosef Ṭayer, *Shulḥan ha-Ṭahor* (Frankfurt-am-Main: Elimelekh Slobotṣky, 1896) – a Hebrew-German compendium of sayings to be recited as a salve for income trouble or when traveling.

(4) Ari N. Enkin, *Ramat Hashulchan: Halachic Insights & Responsa* (Ramat Beit Shemesh: Dalet Amot Pub., 2011), 13; idem, *Shu"t Hashulchani: Halachic Insights & Responsa* (Ramat Beit Shemesh: Dalet Amot Pub., 2012), 16 – compendia of responsa in English; the author explains that the titles were chosen in deference to Karo's code.

17 Gries, *Conduct Literature*, 16 n. 66; 86–90.

18 Shneur Zalman printed *Tanya* in Slavita 1796. The Kopust printing press was at the forefront of the posthumous publication of Shneur Zalman's writings. The dispute between the two printing presses over the right to print the Talmud was arbitrated by Shneur Zalman's son and successor; see Sholom Dovber Levin, *Mi-Beit ha-Genazim* (Brooklyn: Kehot, 2009), 187–88.

19 I have seen the following editions: Prague? ca. 1660; Frankfurt-an-der-Oder 1691; Lvov 1788; Lvov 1790; Lemberg 1858; Lemberg 1850; Lemberg 1861; Jerusalem 1861; Vilna 1880; Warsaw 1881; Mukačevo 1930.

20 For a contemporary example of how a publisher might avoid confusion: Rabbi Shelomo of Chełm (1716–81) authored a code of Jewish law that he divided into ten sections and entitled *'Asarah Shulḥanot*. Each section is subtitled in the form

I am aware of another work of Jewish law that reused the title “*Shulḥan ‘Arukh*,” but confusion between this work and Karo’s code is implausible. At the beginning of the twentieth century, Yisrael Binyamin Levner (1862–1916) published a slender volume of Jewish law which he titled “*Shulḥan ‘Arukh*.” The booklet, which went through numerous editions, was designed for schoolchildren and was approved by the Russian government for use in Jewish schools. The Hebrew is partially pointed to make reading easier, and difficult words are translated into Hebrew or Russian in the footnotes. Some editions are printed with supplements: questions for self-testing and advice on worthy conduct and edifying tales from rabbinic literature.²¹ This booklet is so patently different from Karo’s code that a case of mistaken identity would be nigh impossible. In contrast, *Shulḥan ‘Arukh ha-Rav* does not seem concerned lest it commit identity theft.

Even more arresting is the preface to the fourth printed volume where Shneur Zalman’s oldest son called Karo’s code “*Shulḥan ‘Arukh ha-Qaṣar*,” the brief code, as opposed to his father’s “*Shulḥan ‘Arukh*.”²² To be sure, Karo’s *Shulḥan ‘Arukh* had been called “*sefer ha-qaṣar*,” the short volume, to contrast it with Karo’s earlier and lengthier legal compendium, *Beit Yosef*. Hence, referring to Karo’s work as “*Shulḥan ‘Arukh ha-Qaṣar*” was not preposterous.²³ However, the juxtaposition of that title with Shneur Zalman’s “*Shulḥan ‘Arukh*” is jarring.²⁴

of *Shulḥan “X.”* The fifth section is subtitled *Shulḥan ‘Arukh*. Most of the work has never been published. In 1988, part of this fifth section was printed for the first time. While the running header “*Shulḥan ‘Arukh*” might cause confusion, the publisher clearly indicated on the cover, spine, and title page that this is not Karo’s work. I have yet to have the opportunity to examine the manuscript.

- 21 I have seen the following editions: 2nd ed., Vilna 1905; 3rd ed., Vilna 1906; 4th ed., Vilna 1908; 5th ed., Vilna 1911; 8th ed., Warsaw 1913; Warsaw ca. 1940; Jerusalem [1967]. From the Warsaw ca. 1940 edition Yiddish replaced Russian. The Jerusalem edition indicatively has a different title on the front cover: *Qiṣṣur Shulḥan ‘Arukh Menuqad li-Yeladim*.
- 22 *Shulḥan ‘Arukh ha-Rav*, I:52. The translators of *Shulḥan ‘Arukh ha-Rav* explained that Karo’s work is called thus “because it does not include the motivating principles for the laws. The text proper, without its many accompanying glosses, is thus brief” (*ibid.*, 53 n. 130).
- 23 R.J. Zwi Werblowsky, *Joseph Karo: Lawyer and Mystic* (London: Oxford University Press, 1962), 2 n. 1.
- 24 The most recent chapter in the story of the audacious title is a work that added the definite article to the title of a section of Shneur Zalman’s code, calling it

2.2 The Classic Four Part Division

The title is also surprising when we consider that we have no evidence to suggest that Shneur Zalman's legal writing ever encompassed all that was included in the original *Shulḥan 'Arukh*. Moreover, it would appear that the project was never planned as a comprehensive replacement: according to Shneur Zalman's sons, the work was designed to cover only two of the four sections of *Shulḥan 'Arukh*.²⁵

The title is also unexpected when we consider that in its first edition *Shulḥan 'Arukh ha-Rav* did not strictly follow the contours of the four part division of Jewish law: *Orah Hayim*, dealing with daily rituals from morning to night on regular days, Sabbath, and festivals; *Yoreh De'ah*, dealing mainly with dietary laws and including laws of idolatry, usury, menstruation, charity, priestly gifts, firstborns, vows, respect for parents, mourning, etc.; *Even ha-'Ezer*, dealing with matters of personal status, marriage, and divorce; and *Hoshen Mishpat*, dealing with Jewish civil law in Diaspora conditions. The four part demarcation of Jewish law was first used by Rabbi Yaakov ben Asher (1270–1343) in his code *Arba'ah Turim* (commonly known as the *Tur*), and then adopted by Karo in his *Shulḥan 'Arukh* – a move that gave the division lasting popularity.

The second published volume of Shneur Zalman's code presents material from *Yoreh De'ah*, and while it used the same section numbers as

“The *Shulḥan 'Arukh*”; see Yeshaya David Malkiel, *Ha-Shulḥan 'Arukh ...: Hilkhot Yom Tov u-Mo'adei Ḥodesh Tishrei* (Beit Shemesh: Y. D. Malkiel, 2015).

Two further twists regarding title reuse amongst heirs of Shneur Zalman's legacy: (1) In the 1940s Nissan Mindel (1912–99) compiled a concise code of law in English for youth that was an abbreviated version of Ganzfried's *Qisṣur Shulḥan 'Arukh* (above, n. 14). The manuscript was annotated by Rabbi Menachem Mendel Schneerson (1902–94), who referred to the work as *Qisṣur Sh[ulḥan] 'Arukh Bishvil ha-No'ar*. Menachem Mendel Schneerson, *Iggerot Qodesh*, 3rd ed. (Brooklyn: Kehot, 1997), II:90. This work was recently published under the title *Junior Code of Law* (Brooklyn: Nissan Mindel Publications, 2008).

(2) An abbreviated version of sections of *Shulḥan 'Arukh ha-Rav* was published in 1990 under the title *Shulḥan 'Arukh ha-Qisṣur* by Daniel Shalom ha-Kohen Weiss. Both of these volumes are beyond the present scope, though it should be noted that Shneur Zalman derided ruling on the basis of abbreviated legal codes; see Shneur Zalman of Liady, *Iggerot Qodesh* (Brooklyn: Kehot, 2012), 101 (hereafter: “*Iggerot Shneur Zalman*”).

25 *Shulḥan 'Arukh ha-Rav*, I:30. I will return to the context and historicity of the report (below, text accompanying nn. 56–61).

Shulḥan 'Arukh, it was not printed in the same order: laws of menstruation (beginning at section 183) preceded the laws of ritual slaughter (beginning at section 1) and the laws of *tereifot* (kosher animals unfit to be eaten; beginning at section 31).²⁶

More significantly, the third volume broke with the conventional division. That volume was dedicated to civil law as normally included in *Hoshen Mishpat*, but the volume also contained laws traditionally included in *Yoreh De'ah*; namely, the proviso for circumventing the prohibition against loans with interest (*'isqa*), laws of Torah study, and laws of usury.²⁷ In addition, unlike the previous two volumes (and for that matter the following three volumes), this volume did not denote the section numbers as per the *Tur* and, in its wake, Karo's *Shulḥan 'Arukh*. The title page announced that the material included was "from necessary laws, collected from *Tur*, *Hoshen Mishpat*," yet one section – "Laws of Guarding the Body and the Soul, and the Prohibition Against Destroying"²⁸ – is not to be found in the *Tur*. To be sure, a precedent of sorts exists: while Karo generally followed the *Tur*, he tacked on one extra section at the end of *Hoshen Mishpat*. However, Shneur Zalman's addition is only a rough parallel to Karo's extra section. Indeed, Shneur Zalman used a different title for the section and the topics do not fully overlap.²⁹

2.3 Two Versions

Opening the first pages of the fourth volume reveals a further anomaly: the first four sections are printed in two versions. At the top of the page we find the following explanatory note:

26 From the second edition, [Sudyłków] 1826, this volume was re-ordered.

27 The subtitle reflects its eclectic contents, grouping the various sections together under the rubric "*Halakhot ha-Šerikhot*," necessary laws. The title page does not mention the inclusion of the laws of *'isqa*. The laws of *'isqa* appear on an unnumbered page after p. 66b, followed by Laws of Torah Study (until p. 94a), followed by laws of usury where the page numbering restarts (pp. 1a–20b). While this was the third volume printed, it became part 6 in subsequent printings (albeit without the *Yoreh De'ah* sections; below, near n. 89).

28 *Shulḥan 'Arukh [ha-Rav]* (Kopust: Israel Jafe, 1814), III:59a–61b.

29 *Shulḥan 'Arukh*, *HM* 427: "The positive commandment to remove any obstacle that presents a danger to life and to build a parapet on one's roof." Regarding this extra section, and more generally this phenomenon in the relationship of *Shulḥan 'Arukh* to the *Tur*, see Elon, *Jewish Law*, 1323–27.

This (manuscript) was found among the sacred writings of our late revered master, the Rebbe [hasidic master]. When, with the Divine inspiration that rested upon him, he began to compose a second edition of the *Shulchan Aruch*, he added many new laws. Though many matters had already been stated we felt that they should not be passed over, so that nothing would be lacking, and the (original) teaching should not be laid aside.³⁰

We would hardly expect to find multiple versions of a code of law. Why did Shneur Zalman write two versions of the first four sections?³¹ From a legal perspective, the question is more serious: Even if two versions were penned, why publish both of them? As a code of law, would it not make more sense to print the normative version alone?

Looking carefully at the first edition of *Shulchan 'Arukh ha-Rav* it becomes apparent that adding the second version (the so-called “second edition”) was not the original plan, as the pages of each version are numbered separately.³² Moreover, the beginning does not have the look of a first page, while the version printed second (that is, the sections presented as the first edition) has an incipit ornamentally boxed and centered as if it was supposed to be the first page.³³

The confusion is magnified when we compare the first edition of *Shulchan 'Arukh ha-Rav* to the second edition: in the first edition (Kopust, 1816) the later version of the first four sections was printed before the earlier version, while in the second printing of the code ([Sudyłków], 1826) the order is reversed and the pages are numbered sequentially. What are we to make of

- 30 *Shulchan 'Arukh ha-Rav*, I:64. In the first edition, this anomaly appeared in the fourth printed volume; in subsequent printings the two versions appeared at the beginning of the first volume.
- 31 Conflicting explanations for the multiple versions have been offered by Lubavitch scholars and scholars from other schools of Hasidism. These explanations are part of the non-authorial epitext and as such are beyond the current scope. For a summary, see Mondshine, *Halachic Works*, 14–15 (Hebrew numbers); Cooper, “Towards a Judicial Biography,” 124–28.
- 32 *Shulchan 'Arukh [ha-Rav]* (Kopust: Israel Jafe, 1816), IV, first series, pp. 3a–8b; second series, p. 1a.
- 33 On incipits as paratext, see George Stanitzek, “Texts and Paratexts in Media,” *Critical Inquiry* 32 (2005): 31. In this case, the incipit does not give the title of the work, but it does denote the beginning. Similarly in the second published volume, there is text that precedes the incipit (below, near n. 113).

the order of presentation of the two versions? The confusion continued in subsequent editions.³⁴

2.4 Missing Sections

As we go further in *Shulḥan 'Arukh ha-Rav*, we realize that the code is missing significant portions. Some missing sections were added in later editions, but to this day the code remains incomplete.³⁵ Bearers of Shneur Zalman's legacy account for these lacunae by referencing fires that ravaged Liady and destroyed Shneur Zalman's precious manuscripts.³⁶ This explanation, however, may not account for the entire situation. As we will see, *Shulḥan 'Arukh ha-Rav* was printed from copied manuscripts that were held by disciples. No autograph manuscripts were available. Why were the disciples only able to supply partial manuscripts? Would they not have expended tireless efforts to copy and disseminate every precious word that Shneur Zalman penned?³⁷

The provenance of these student transcripts is also a mystery. Were the transcripts authorized, or perhaps even sponsored? Or were the transcripts copied clandestinely against Shneur Zalman's wishes? Indeed, in the par-

- 34 *Shulḥan 'Arukh [ha-Rav]* ([Sudyłków]: Pinḥas Eli'ezer ben Mordekhai Biltsh, 1826), I:7b–13a. For another aspect of re-organization in this edition, see above n. 26. I will return to this edition, below near n. 88. The third edition, Sudyłków 1831, followed the second edition. In the fourth edition, Warsaw 1837–40, the order reverted to the first edition: the later version of the first four sections, followed by the earlier version. The most recent edition, Brooklyn 2001–7, also follows the order of the first edition.
- 35 See, for instance, *Shulḥan 'Arukh [ha-Rav]* (Kopust: Israel Jafe, 1816), IV:238b, where the missing *OḤ*, sections 175–76 is acknowledged and readers are directed to the parallel passage in Shneur Zalman's *Siddur*. Missing sections include: *OḤ*, sections 132–57, 169–73, 175–16, 208–11, 216–41, 304, 322, 409–581, 630, 632–35, 652–97. See also below, n. 109. There are also a number of treatises on specific topics that are referenced in *Shulḥan 'Arukh ha-Rav*, but have not reached us; see *Shulḥan Arukh [ha-Rav]* (Brooklyn: Kehot, 2001–7), VI, introduction, pp. 3–4.
- 36 Dov Ber of Lubavitch, *Iggerot Qodesh* (Brooklyn: Kehot, 2012), 6–7 (1810 fire), 23 (1812 fire) (hereafter: “*Iggerot Dov Ber*”); *Shulḥan 'Arukh ha-Rav*, I:42; Ḥayim Meir Heilman, *Beit Rebbi* (Berdyčzów: Sheftl, 1902), 52, 84 n. 1, 238 n. 2, 259; Yehoshua Mondshine, *Masa' Berditchev* (Qiryat Malakhi: Ḥazaq, 2010), 77–83.
- 37 Shneur Zalman's system for the dissemination of his hasidic writings is circumstantial epitext at best; it is possible that the mechanism for distribution of hasidic transcripts was not replicated for legal writings. Regarding extant non-autograph manuscripts of *Shulḥan 'Arukh ha-Rav*, see Sholom Dovber Levin, *Toledot Ḥabad be-Rusya ha-Šarit* (Brooklyn: Kehot, 2010), 80.

lance of Shneur Zalman's spiritual heirs, furtive copying of sequestered manuscripts is lauded by the tongue-in-cheek phrase "a *hasidische geneiva*," a hasidic theft.³⁸ Alas, information regarding the transmission of Shneur Zalman's legal writings is lacking.

2.5 Different Styles

Delving deeper into the code reveals another departure from what we might expect of a unified code of law. Different sections of the code were written in vastly different styles. The majority of the work, namely *Orah Hayim*, follows the format of the original *Shulḥan 'Arukh* and reads like a restatement of law. The sections dealing with ritual slaughter and menstruation are fashioned after commentators to *Shulḥan 'Arukh*: they are printed together with the text of the original *Shulḥan 'Arukh* and cannot be read on their own. *Laws of Torah Study* – the first work Shneur Zalman published that was later included in *Shulḥan 'Arukh ha-Rav* – appears to be styled after Maimonides' twelfth-century magnum opus.³⁹ The sections of *Ḥoshen Mishpat* that have reached us are written as a digest of laws. In addition there are individual instances of exceptional formats in *Shulḥan 'Arukh ha-Rav*.⁴⁰

Part of this phenomenon is explained by Shneur Zalman's sons in their introduction:

In the part entitled *Yoreh Deah* 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.⁴¹

Thus the sons acknowledged that in one area of law the intended professional readership dictated a different writing style. Who was the intended audience of the other sections?

38 For now, see Levi Cooper, "Hassidic Crimes and Misdemeanors," *The Jerusalem Post*, March 28, 2014, magazine, 43.

39 Mordechai Shmuel Ashkenazi, *Hilkhot Talmud Torah mi-Shulḥan 'Arukh Shel Admor ha-Zaqen* (Brooklyn: Kehot, 2000), I:xxxvi–xxxviii; Mondshine, *Halachic Works*, 48 (Hebrew numbers); Nochum Grunwald, "Zeman Ketivat Hilkhot Talmud Torah Bidei Admor ha-Zaqen," *He'arot u-Vei'urim* 834 (2002): 83. See also idem, "Al Mahadurot Shonot," 168–70.

40 Mondshine, *Halachic Works*, 13 (Hebrew numbers).

41 *Shulḥan 'Arukh ha-Rav*, I:34. See also Shmuel Elazar Heilprin, *Sefer ha-Şe'eş'im* (Jerusalem: n.p., 1980), 18 n. 14; cf. Sholom Dov Ber ha-Levi Wolpo, *Pardes Shalom* (Qiryat Gat: Wolpo, 1998), II:143–45.

Laying out the different sections of *Shulḥan 'Arukh ha-Rav* according to style and genre suggests that the code is truly a number of disparate works that have been glued together to create one tome. Certainly there are precedents in general legal history and in the history of the Jewish book for the creation of a work in this manner. I am thinking of the *Corpus Juris Civilis* and *Midrash Rabbah*. The *Corpus Juris Civilis* includes the complete edition of the sixth century Roman law legal writings, first printed together under this title in 1583.⁴² *Midrash Rabbah* is made up of different works from a variety of periods that were pasted together in thirteenth century manuscripts and then definitively by printers.⁴³

The different styles and possibly different audiences of Shneur Zalman's code raises questions of architextuality: How should *Shulḥan 'Arukh ha-Rav* be classified? Does the work belong to one genre of legal writing? Should the work truly be considered a code of law? What makes it into one work?

2.6 Responsa

Not only is the code written in different styles, but the second printed volume contains material of an entirely different legal genre: responsa.⁴⁴ To be sure, the responsa are relevant to the material included in that particular volume. Also, publishing responsa in volumes other than those dedicated solely to responsa is a recognized literary phenomenon in Jewish law.⁴⁵ Nevertheless, such a publishing choice is an exception, not the rule.

Furthermore, the way the responsa are presented is intriguing: sixteen of the eighteen responsa deal with matters associated with the laws of menstruation. These responsa are appended to the end of the volume. One responsum deals with a ritual slaughter issue and is printed in the middle

42 Wolfgang Kunkel, *An Introduction to Roman Legal and Constitutional History*, trans. J.M. Kelly, 2nd ed. (Oxford: Clarendon Press, 1973), 168 n. 2

43 Leopold Zunz, *Ha-derashot be-Yisra'el*, ed. Ḥanokh Albeck, trans. M.A. Zak, 2nd ed. (Tel Aviv: Bialik Institute, 1954), 80, 127.

44 Shneur Zalman's responsa do not have a unified style; but this is not a particularly strange feature for collections of responsa. See Mondshine, *Halachic Works*, 50 (Hebrew numbers).

45 Shmuel Glick, *Kuntress Ha-Teshuvot He-hadash: A Bibliographic Thesaurus of Responsa Literature Published From ca. 1470–2000* (Jerusalem and Ramat-Gan: Bar-Ilan University, 2006–10), I:51–53 (Hebrew numbers) (Hebrew); idem, *A Window to the Responsa Literature* (Jerusalem: JTS, 2012), 230–33 (Hebrew).

of the volume following the relevant law. And one responsum is printed on the back of the title page, though, as far as its subject matter, it should have been printed at the back of the volume together with the other sixteen responsa. The responsa have also been typeset with narrower margins than the rest of the volume.⁴⁶

2.7 Order of Publication

Looking at the printing history of the first edition of *Shulḥan 'Arukh ha-Rav*, we might be surprised to discover an unorthodox order of publication. The laws of Passover were published first, followed by the volume dealing with menstruation, ritual slaughter, and *tereifot*. Laws associated with morning daily rituals – the traditional beginning of the *Shulḥan 'Arukh* – appeared in the fourth published volume that was printed two years later.

Shulḥan 'Arukh ha-Rav, first edition

Title	Imprint	Contents
<i>Shulḥan 'Arukh</i>	Shklov 1814	Laws of Passover, <i>OḤ</i> , sections 429–94
<i>Hilkhot Niddah</i>	Kopust 1814	Laws of Menstruation, <i>YD</i> , sections 183–91 Laws of Ritual Slaughter, <i>YD</i> , sections 1–2, 18, 23–26 Laws of Kosher Animals Unfit to be Eaten, <i>YD</i> , sections 31–33 18 responsa
<i>Shulḥan 'Arukh</i>	Kopust 1814	“From necessary laws, collected from <i>Tur</i> , <i>Hoshen Mishpat</i> , and also from the laws of usury ... And we have also appended herein <i>Laws of Torah Study</i> that was published ...”
<i>Shulḥan 'Arukh</i>	Kopust 1816	<i>OḤ</i> , sections 1–4 “second edition”; sections 1–131, 158–68, 174, 177–207, 212–15
<i>Shulḥan 'Arukh</i>	Kopust 1816	Laws of Sabbath, <i>OḤ</i> , sections 242–303, 305–21, 323–44
<i>Shulḥan 'Arukh</i>	Kopust 1816	Laws of Eruvin, <i>OḤ</i> , sections 345–408 Laws of Festivals, <i>OḤ</i> , sections 495–529 Laws of Rosh Hashanah, <i>OḤ</i> , sections 582–603 Laws of Yom Kippur, <i>OḤ</i> , sections 604–24 Laws of Sukkot, <i>OḤ</i> , sections 625–29, 631, 636–44 Laws of Lulav, <i>OḤ</i> , sections 645–51

Kopust - Yiddish: קאָפּוסט; Russian/Belarusian: Копысь (Kopys).

Shklov - Yiddish: ;שקלעוו; Russian: Шклов (Shklov); Belarusian: Шклоў (Škloŭ).

46 17 x 11 cm for the code, 17 x 13 cm for the responsa. Mondshine, *Halachic Works*, 26.

2.8 Why Did Shneur Zalman Never Print his Code?

The crowning question, however, is not in the peritext: Why did Shneur Zalman never publish *Shulḥan 'Arukh ha-Rav*? While this question goes beyond the peritext, we will see that the peritext contains the key to solving the mystery.

According to Shneur Zalman's sons, their father undertook the project in the early 1770s at the urging of the second most famous person in hasidic collective memory: Rabbi Dov Ber (d. 1772), the *Maggid* (preacher) of Mezritch (Polish: Mi dzyrzec Korecki). According to the sons, within two years Shneur Zalman had "completed his exposition of *Orach Chayim*."⁴⁷ Yet when Shneur Zalman died some forty years later, only select, relatively short, sections had been printed.⁴⁸ In 1794 Shneur Zalman had anonymously published

47 *Shulḥan 'Arukh ha-Rav*, I:32.

48 Lubavitch writers have related to this conundrum. Wolpo argued: "[T]he reason for not publishing the *Shulḥan Arukh* is simple and clear, because [Shneur Zalman] wanted to print: a. all the sections of the *Shulḥan Arukh* together, b. once they are purified and completely proofread" (Wolpo, *Pardes Shalom*, II:116). As will become clear from my analysis, Wolpo's second point is plausible but I have found no justification for his first claim. At the very least, Shneur Zalman's choice to publish three short legal treatises during his lifetime would seem to belie Wolpo's first point. Wolpo suggested that *Laws of Torah Study* was published because it codifies hasidic ideals (ibid., 111–18, following Ashkenazi, *Hilkhot Talmud Torah*, I:xxix n. 3). Even if we accept this reason, the publication of the other two legal treatises remains unexplained. Moreover, if we accept Wolpo's analysis, then we must conclude that the sons acted *against* their father's wishes!

Citing from the sons' introduction, official Lubavitch librarian Sholom Dovber Levin offered two possible directions: Shneur Zalman's excessively keen editorial practices and his preoccupation with his hasidic ministry (Levin, *Toledot Ḥabad be-Rusya ha-Šarit*, 81). Shneur Zalman himself noted that he was besieged by hasidim and preoccupied with public matters, and hence did not have time to write. *She'elot u-Teshuvot ... Shne'ur Zalman ...* (Brooklyn: Kehot, 2007), 72 (no. 22), 159 (no. 32) (hereafter: "*She'elot u-Teshuvot Shneur Zalman*"). The translators of *Shulḥan 'Arukh ha-Rav* acknowledged that "[t]here are many possible explanations" for why Shneur Zalman tarried, and they proceeded to offer three directions: "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" (overview of Touger, Kaploun, and Avtzon in *Shulḥan 'Arukh ha-Rav*, I:15). There is no evidence linking Czarist policies and Shneur Zalman's publishing activity. While Shneur Zalman's schedule and responsibilities probably affected his output, they do not fully explain his decision not to publish his code. I accept

his *Laws of Torah Study*. Six years later in 1800, he published his second legal treatise – *Table of Blessings*.⁴⁹ A further edition of this treatise was printed a year later and included a third short work – *Laws of Ritual Washing of the Hands* before a meal.⁵⁰ In 1803, Shneur Zalman printed his *Siddur*, a prayer book that contained short presentations of law on certain subjects, as well as apodictic glosses of a legal nature.⁵¹ Shneur Zalman's published legal treatises were well-received and were reprinted in his lifetime. Why then did Shneur Zalman not publish more of his legal writing?

Any of the anomalies I have described could be explained and discarded. For each riddle we can identify a precedent in Jewish legal writing or suggest a viable explanation. It is the sum of the enigmata, however, that prods us to reconsider the history of the code's formation.

Unfortunately, we have no information from Shneur Zalman's pen regarding his code. Nor do we have anything from his colleagues, who – as we will presently see – reportedly saw the first sections that were written. Shneur Zalman's sons who posthumously published the code introduced their father's legal work. This introduction – a key part of the code's peritext – is important for at least three reasons. First, it presents the earliest account of what precipitated the project, though the account does not come from

the line that focuses on Shneur Zalman's editorial practices and argues that he had not arrived at a version that he desired to publish. As I will demonstrate, this approach has significant implications that have yet to be considered.

- 49 This edition has not survived. Levin suggested that this treatise may have been published as early as 1795. Mondshine, *Halachic Works*, 202; Levin, *Toledot Habad be-Rusya ha-Şarit*, 56–57.
- 50 Mondshine, *Halachic Works*, 202–5. Regarding the possibility that Shneur Zalman published a treatise on *ŞiŞit* and *Tefillin*, see Levin, *Toledot Habad be-Rusya ha-Şarit*, 48–49.
- 51 A copy of the *Siddur* – apparently the first edition Shklov 1803 – was discovered in the Russian State Library in 2013; see <http://chabadlibrary.org/books/pdf/sidur.pdf> (accessed June 18, 2015). The two subsequent printings in Kopust have not survived. Regarding the first edition and its recent discovery, see Avraham David Lavot, *Sha'ar ha-kollel*, 2nd ed. (Brooklyn: Kehot, 2005), introduction, para. 8; Hayim Brin, "NeŞsaf Siddur Admor ha-Zaqen me-Hadpasah ha-Rishonah," *COL*, March 11, 2014, <http://tinyurl.com/pspno2z> (accessed June 18, 2015). The *Siddur* includes treatment of the following laws: ritual washing the hands before a meal, blessings over food, Torah study, interest, sale of leavened bread and sale of an animal about to give birth to a firstling, beginning of Sabbath, counting the 'omer.

eyewitnesses. Second, the introduction provides the only firsthand information regarding the publication of the code. Third, the introduction frames the text, placing the project in a particular context and thereby influencing the reader's encounter with the text.

3. The Catalyst for the Project

In 1812, Shneur Zalman died while fleeing from Napoleon's advancing armies. Two years later, the first volume of *Shulchan 'Arukh ha-Rav* was printed in Shklov.⁵² This volume was adorned with a seven page introduction signed by Shneur Zalman's three sons in age order: Dov Ber (1773–1827), Ḥayim Avraham (ca. 1779–1848), and Moshe (1784?–before 1853).⁵³

The introduction begins with glowing praise for Shneur Zalman and contains an allusion to his hasidic mission to spread the wellsprings of the Besht (ca. 1700–60), the charismatic leader who inspired Hasidism. The sons then turned to the purpose of their introduction:

[T]o let the Jewish people know the true reason that aroused the holy spirit of our father, master, mentor and Rebbe, the Godly *Gaon*, to compose a text of the *Shulchan Aruch*.⁵⁴

With their goal stated, the sons then turned to the story:

From his youth, [Shneur Zalman's] stupendous scholarship was already a matter of public knowledge. By the age of 18 he

52 Mondshine, *Halachic Works*, 20–39; Moshe Rosman, *Founder of Hasidism: A Quest for the Historical Ba'al Shem Tov* (Berkeley: University of California Press, 1996; reprint, with new introduction, Portland: Littman Library, 2013), 199–202.

53 On Ḥayim Avraham, see *Iggerot Dov Ber*, 210–12; Heilman, *Beit Rebbe*, 112–13; Menaḥem S. Slonim, *Toledot Mishpaḥat ha-Rav mi-L'adi* (Tel Aviv: Zohar, 1946), 46; Mondshine, *Masa' Berditchev*, 42; Yiṣḥaq Alfasi, *Torat ha-Ḥasidut* (Jerusalem: Mossad Harav Kook, 2006–12), I:421–22; idem, *Me'irim la-'Ares*, 258–60. On Moshe, see Heilman, *Beit Rebbe*, 113–14; Slonim, *Toledot Mishpaḥat ha-Rav mi-L'adi*, 46; Alfasi, *Me'irim la-'Ares*, 260–61; David Assaf, *Untold Tales of the Hasidim: Crisis and Discontent in the History of Hasidism*, trans. Dena Ordan (Waltham, MA: Brandeis University Press, 2010), ch. 2. One of the copies of this volume held in the Library Of Agudas Chassidei Chabad, New York appears to have Moshe's name scratched out (see p. 8 of the scanned volume, available at <http://chabadlibrarybooks.com/24694>; <http://hebrewbooks.org/24694>).

54 *Shulchan 'Arukh ha-Rav*, I:26.

had mastered the entire Talmud with all the commentaries of the early and later halachic authorities ... When he reached the age of twenty ... he sought to pursue the knowledge of God ... Even his own exploration did not suffice to plumb the full depth of his quests, in particular with regard to the hidden and mystical dimensions of the Torah which illuminate the soul with the light of life; he could not satiate his soul nor satisfy his holy spirit.⁵⁵

Shneur Zalman is described as an accomplished scholar who sought to further his education in the esoteric tradition. He was unable to do so on his own, so he travelled to the Maggid of Mezritch. Under the Maggid's tutelage, Shneur Zalman "found tranquility for his soul" as he delved into the esoteric tradition.

Around the time of Shneur Zalman's arrival, the Maggid "was inspired, with the consent of heaven, to appoint (our father to make a contribution which) is solely good for the Jewish People with regard to the words of this covenant – the Torah which is revealed to us and our children." While Shneur Zalman came to the Maggid seeking guidance in "the hidden and mystical dimensions of the Torah," the Maggid had turned his focus to law and this "appointment" referred to writing a code of law. It was a perceived pressing need that precipitated the Maggid's decision, as the sons reported:

The needs of the Jewish people are great. Especially in these stressful times, the cost of living has spiraled and every individual is beset with difficulty in earning his livelihood... Hence people do not have the peace of mind needed for an extensive charting of the sea of the *Talmud* and the halachic authorities ... to thoroughly know the source for a particular law and comprehend its underlying principle. Even men of highly-reputed stature in Talmudic scholarship find it difficult to decide between the views of the various halachic authorities, to draw conclusions from a passage with the intent of arriving at a ruling ... For in most cases there are conflicting views ... so there is no way for a man to choose a straight path alone.⁵⁶

55 Ibid., 28.

56 Ibid., 30.

In response to this need, the Maggid “searched thoroughly among his disciples” for a suitable candidate who could remedy the situation. The candidate “would be able to comprehend and present deliberate and unequivocal halachic decisions together with their theoretical guidelines.” The Maggid also decided that the work should be written according to the contours of two sections of Karo’s *Shulchan ‘Arukh – Oraḥ Ḥayim* and *Yoreh De’ah*, “for they (include) laws needed (for day-to-day Torah observance) and hence their study is given precedence over all others.” The task at hand was described as “setting out all the rulings appearing in the *Shulchan Aruch* and in the works of the later authorities, with lucid wording and with rationales for the respective rulings.”

The plan was clear – explained the sons – so the Maggid “chose our renowned father, master, and teacher, who at that time was already overflowing (with knowledge) from the sea of the *Talmud* and the later authorities.”⁵⁷ Shneur Zalman apparently did not immediately accept the undertaking, so that the Maggid

implored him endlessly, as if to say, “There is no one as understanding and wise as you,” as capable of penetrating to the depths of the law to perform this task. This holy work entailed articulating the essential and innermost rationale of the laws ... each subject arranged according to its elements, without confusion and (unnecessary) associations, (presenting) the distilled halachic ruling that emerges from the works of all the halachic authorities until the sages of the present age.⁵⁸

The enterprise was not just one that required legal acumen; writing talent and organizational ability were also paramount. Shneur Zalman eventually acquiesced and he began the task in the early 1770s while under the Maggid’s auspices. As it would turn out, those were the final years of the Maggid’s life, as he died soon afterward in late 1772.

57 Ibid., 32. Alfasi, *Me’irim la-‘Araḥ*, 102–3 offered an additional reason for why the Maggid chose Shneur Zalman: he was not serving in a rabbinic position and was therefore free to undertake this task.

58 *Shulchan ‘Arukh ha-Rav*, I:32. Compare Eliezer Steinman, *Be’er ha-Ḥasidut* (Tel Aviv: Knesset, 1951–62), IV:35, where Shneur Zalman is described as acquiescing willingly.

The first sections that Shneur Zalman penned were the laws of *Şiřit* and the laws of Passover. Both of these sections were completed before the Maggid's demise at the end of 1772, and both were reviewed and praised by two of the Maggid's older disciples, Rabbi Shmelke Horowiř (1726–78) and his brother Rabbi Pinhas (1730–1805), before they took up rabbinic posts in Nikolsburg and Frankfurt-am-Main respectively. The two brothers encouraged Shneur Zalman "to persevere and bring the work to a blessed conclusion" and in two years Shneur Zalman had "completed his exposition of *Orach Chayim*."⁵⁹

Before continuing with the second part of the tale, it is important to qualify the value of this account from a historical perspective. The historicity of the sons' account might be queried, for this is the only report of what precipitated Shneur Zalman's writing and of the initial reception of the manuscript. Unfortunately the account does not come from the author's pen, and the sons describe events that they did not witness – Dov Ber, the oldest of the three sons, was born almost a year after the death of the Maggid and was named after him. The reaction of the Horowiř brothers also lacks corroborating evidence and the details of the encounter may be historically problematic.⁶⁰

59 The preface continues with jurisprudential notes on Shneur Zalman's work. The sons discuss Shneur Zalman's format for presenting law, his method of deciding between conflicting opinions, and the weighting that he accorded certain jurists. This is a description of the work that the sons were printing, and could largely be drawn from reading the text. These jurisprudential observations are important for understanding the code; they are, however, not necessary for the present account.

60 Levin, *Toledot Habad be-Rusya ha-řarit*, 41–42; Dovid Kaminetsky, "Bein Yerushalayim de-Liřa le-Yerushalayim de-Ashkenaz," *Yerushateinu* 4 (2010): 252–53 n. 5; Yiřhaq Yeshaya Weiss, "Heqer ha-'Emet o Mish'alot Lev," *Beit Aharon ve-Yisra'el* 157 (2011): 168. Levin suggested that a letter written by Shneur Zalman to Pinhas, ca. 1799, may be referring to the brothers' encouragement for the earliest written sections of *Shulhan 'Arukh ha-Rav*. I find this suggestion difficult to accept. Shneur Zalman wrote to Pinhas in the respectful third person: "I was content in his prayer quorum and I merited to receive his blessing, *selah*, each and every Sabbath" (*Iggerot Shneur Zalman*, 239), and appears to be reminding Pinhas of their interaction almost thirty years prior to the letter. There is no mention of legal writings and it is difficult to construe weekly Sabbath blessings as approval for legal writing. In general, this letter is problematic; see Heilman, *Beit Rabbi*, 53–54 n. 2; 72 n. 1. Kaminetsky analyzed this letter and concluded that it was a forgery; see Dovid Kaminetsky, "Hityahasut ha[-Gaon] R[abbi] Sh[ne'ur]

Moreover, Moshe Rosman has argued that the publication of *Shullhan 'Arukh ha-Rav* should be understood in the context of the leadership struggle that ensued after Shneur Zalman's death.⁶¹ Rosman did not discuss the historicity of the sons' account, though it is not beyond reason to wonder whether it was part of Dov Ber's bid to consolidate his leadership.

The account might also be questioned from a different angle. According to the sons, *Shullhan 'Arukh ha-Rav* was the Maggid's brainchild, designed as a response to a pressing need. Shneur Zalman was entrusted and charged with realizing the Maggid's vision. How would the sons explain that the urgent project that their father undertook in the early 1770s at the behest of his revered teacher was never executed and actually took a back seat to other endeavors?

It should be noted that scholars have not questioned the authenticity of the sons' account.⁶² Yet given the fact that we are dealing with hearsay, I will set aside the sons' account as a historical source describing the conception and the inception of the project. Rather, the sons' account may be read as part of their paratextual narrative that frames the text and shapes the reader's encounter. I will return to this paratextual vantage.

Z[alman] li-Tlunot ha-Mitnaggedim," *Yeshurun* 20 (2008): 788–89. Others have argued vociferously against Kaminetsky's position; see Hayim Moskovits, "Keiṣad 'Hoqrim' Hasidut be-Yameinu," *Heichal Habesht* 29 (2010): 194–201.

The only document that connects one of the brothers to *Shullhan 'Arukh ha-Rav* is a letter from the Kherson Geniza, ostensibly written in early 1770. The authenticity of this particular letter has been discussed; but irrespective of the specifics of this letter, letters from the Kherson Geniza cannot be considered proof of historical events. *Ha-Tamim* 6 (1937): 554, 567; Dovid Tzvi Hillman, *Iggerot Ba'al ha-Tanya u-Vnei Doro* (Jerusalem: Hamesorah, 1953), 247, 269 nn. 3, 4; *Iggerot Shneur Zalman*, 447.

61 Rosman, *Founder of Hasidism*, 197–203; see also Cooper, "Towards a Judicial Biography," 119–21.

62 For example: Immanuel Etkes, "Shneur Zalman of Liady," *YIVO Encyclopedia of Jews in Eastern Europe*, 27 October 2010, www.yivoencyclopedia.org/article.aspx/Shneur_Zalman_of_Liady; Rachel Elior, "Shneur Zalman of Liady," in *The Oxford Dictionary of the Jewish Religion*, ed. Adele Berlin, 2nd ed. (New York: Oxford University Press, 2011), 683; Avinoam Rosenak, "Theory and Praxis in Rabbi Shneur Zalman of Liady: The Tanya and Shullhan 'Arukh HaRav," *Jewish Law Association Studies* 22 (2012): 255, 272–73; Kaminetsky, "Hityaḥasut," 786; Moshe Hallamish, "Shullhan 'Arukh HaRav – Bein Kabbalah le-Halakha," in *Habad: Historiya, Hagut ve-Dimuy*, ed. Yonatan Meir and Gadi Sagiv (Jerusalem: Shazar, 2017), 75–96.

4. What the Sons Could Have Witnessed

The sons continued the backstory of *Shulhan 'Arukh ha-Rav*, acknowledging that once the work had been written, Shneur Zalman “began to edit and revise his work on *Orach Chayim*.”⁶³ This is a significant statement that explains the existence – though not necessarily the publication – of multiple versions of the first four sections.

The preface then continues to extol Shneur Zalman, reminiscing about his weekly hasidic discourses, recalling his final moments, and bemoaning his death. The only comfort for this great loss – explained the sons – was Shneur Zalman’s teachings, both in the discipline of law and in the realm of hasidic thought. Some of these works had already “been arranged and engraved with a stylus of iron,”⁶⁴ that is, published; others remained in manuscript. It was regarding these unpublished works that the sons declared:

We have now come, therefore, to uphold the words of our father and to publish and circulate his wisdom and his teachings throughout the world ... thereby fulfilling our father’s holy will regarding this work.⁶⁵

Undoubtedly the sons wanted to fulfill their father’s will, but Shneur Zalman did not specify what exactly he wanted published and circulated. The sons were not by their father’s bedside when he passed away, and in a letter written soon afterward, Dov Ber declared that they were unaware of “any will from him, neither oral nor in writing.”⁶⁶ Nonetheless, there were no doubts in the sons’ minds, as they recalled what their illustrious father had previously said:

We heard him say that he dearly desired to bring merit to every single Jew by providing him with the opportunity to satisfy his thirst and know the *Halachah* clearly, together with its theoretical underpinning. For this is the ultimate aim of the *mitzvah* of knowing the Torah, as is explained in *Hilchos Talmud*

63 *Shulhan 'Arukh ha-Rav*, I:36.

64 *Ibid.*, 40.

65 *Ibid.*, 40, 42.

66 *Iggerot Dov Ber*, 21.

Torah. For this purpose, for the benefit of the Jewish people, he created and composed this work.⁶⁷

Shneur Zalman had indeed stressed the importance of knowing more than practical instruction; not just in private conversations with his sons. In his 1794 *Laws of Torah Study*, Shneur Zalman wrote: "If one does not know the principles that underlie the laws, he will not understand the laws themselves fully and clearly."⁶⁸ Thus the sons concluded that their father's wish was that his legal writings should be published and circulated in order to present the very text that he had dreamed of offering.

Alas, the sons' task was not simple, for Shneur Zalman's manuscripts had been destroyed in the Liady fires. The first fire occurred in 1810, and Dov Ber bewailed the tragedy in a letter he penned that year, specifically lamenting lost legal writings.⁶⁹ The second fire was reportedly set by Napoleon's retreating armies and destroyed much of Liady in 1812. Shneur Zalman's wife, Shterna, wrote letters and petitions to the Russian authorities in 1814–15, where she related that the family's home in Liady had been burned down by the enemy.⁷⁰ At that time, Shneur Zalman had already fled, and the devastation was only discovered when the family returned to Liady after Shneur Zalman's death. Writing in late 1813, Dov Ber mentioned that when the family fled Liady they took "all the light objects," and scholars affiliated with Shneur Zalman's legacy have suggested that manuscripts may have been left behind.⁷¹

It is hard to imagine that Shneur Zalman – who had felt the pain of his writings going up in flames in 1810 – would leave behind any remaining

67 *Shulḥan 'Arukh ha-Rav*, I:42.

68 *Laws of Torah Study*, 2:1. See also *Qunṭras Aḥaron* (in the English edition the *Qunṭras Aḥaron* is not translated, but presented at the back of the volume in Hebrew and summarized in English in the notes to the text of *Laws of Torah Study*; see 153 n. 206, 178–79); 1:4; *Iggerot Shneur Zalman*, 101.

69 *Iggerot Dov Ber*, 6–8.

70 Etkes, *Ba'al Ha-Tanya*, 466; Yehoshua Mondshine, *Ha-Masa' ha-'Aḥaron* (Jerusalem: Knizhnik, 2012), 47–53. See also the sources listed above, n. 36.

In general, Napoleon's retreating armies did not deliberately set fire to villages; rather, they sucked each place dry of victuals and in the scramble to find shelter from the harsh winter, they often destroyed lodgings. See Adam Zamoyski, *Moscow 1812: Napoleon's Fatal March* (New York: HarperCollins, 2004); specifically regarding the Liady region, see *ibid.*, 406–30.

71 *Iggerot Dov Ber*, 40. Mondshine, *Masa' Berditchev*, 82; Levin, *Toledot Ḥabad be-Rusya ha-Ṣarit*, 77.

or new autograph manuscripts. Moreover, according to an account of one of his prominent descendants, Shneur Zalman himself demanded that his home and contents be razed before Napoleon's army arrived.⁷² Surely Shneur Zalman did not order the incineration of his own autograph manuscripts! It is reasonable to posit that Shneur Zalman would have taken his precious writings, and if he did they would have been in his sons' possession. It is possible, however, that copies that had been in the hands of disciples may have been destroyed during the 1812 war.

5. What the Sons Did

5.1 First edition

With no available autograph manuscripts, the sons had little choice but to publish what they could:

Our revered father's original manuscripts were completely destroyed and all that remained were partial copies scattered here and there among his students. We are publishing these as they enter our possession, and the purchaser will assemble them until, with God's help, they are collected together.⁷³

Thus the sons explained to their readership why the code was published in an unorthodox order. Sadly, even the manuscripts that the sons were able to procure were faulty. In the preface to the first volume, the sons admitted as much:

We entreat and appeal to anyone who peruses these texts (to appreciate that) they have been poured from vessel to vessel, each scholar's friend having copied a manuscript that was passed on to him by that friend's friend ... We have not yet reached a state of repose in which we can occupy ourselves with the text and correct it thoroughly. Heaven forbid, therefore,

72 Yosef Yitzchok Schneersohn, *Liqqutei Dibburim*, 6th ed. (Brooklyn: Kehot, 1984), 27; *Reshimat ... Yosef Yitzchok ... Schneersohn: Divrei Yemei Hayeri Admor ha-Zaqen* (Brooklyn: Kehot, 2010), 57; Menachem Mendel Schneerson, *Torat Menaḥem: Reshimat ha-Yoman* (Brooklyn: Kehot, 2006), 246. According to this account, Napoleon actually doused the flames!

73 *Shulḥan 'Arukh ha-Rav*, I:42.

that anyone should respond hastily and ascribe empty words to their author.⁷⁴

A few lines later the sons returned to the possibility of mistakes in the printed text and noted:

After close scrutiny, any apparent mistake in the text will prove to derive from a scribal slip, and the author's meaning will be as clear as flour well refined. Accordingly, we did not hesitate to print this volume before it was proofread meticulously, for we trusted that (any error) would be self-evident to a discerning scholar.⁷⁵

The section continues with the sons' wish to complete the task of publishing "the remaining works and holy manuscripts ... in the revealed dimensions of Torah law and in its mystical secrets." The preface ends with a statement of copyright, prohibiting reproduction of this volume or publication of any manuscripts associated with Shneur Zalman's legacy. The statement was accompanied by a ban against infringers of the sons' property rights. The sons further requested that anyone who had Shneur Zalman manuscripts in his possession should bring them to the sons and be fully remunerated.⁷⁶ The sons then added a line which once again referred to the state of the manuscripts that were circulating: "We have in our possession a later edition from our master, our father, our guide, and our teacher, of blessed memory. And perhaps [any circulating manuscript] is a draft composed before revision."⁷⁷ The preface was signed by Shneur Zalman's three sons, and in that year – 1814 – three volumes were printed: one in Shklov and two in Kopust.

74 Ibid.

75 Ibid., 44.

76 It is unclear whether the sons are referring to autograph manuscripts, authorized copies, or surreptitious copies. Presumably they would have been happy to receive any type of manuscript.

77 I have not followed Touger and Kaploun who translate: "We have in our possession a later version (of the writings) of our revered master and father, mentor and Rebbe, which is perhaps a draft composed before revision" (ibid., 46), indicating that the sons were unclear what they had in their possession: is it the later version, or perhaps an earlier draft? I propose that the sons were clear that they possessed a later edition. Before this line, the sons warn against printing legal or hasidic manuscripts. Those holding manuscripts are asked to bring them to the sons. In this context the sons continued that they had in their

An extant manuscript of one particular section of the first published volume may provide a window into the editorial work of the sons. The section deals with the laws of one of the biblical priestly gifts: kosher animal firstlings.⁷⁸ In the absence of a Temple in Jerusalem, firstlings are no longer given to priests. In order to circumvent the biblical requirement, the pregnant mother animal may be sold to a Gentile, and then after the birth both the mother and the firstling are repurchased. Shneur Zalman outlined the laws of this transaction, and this brief section was first published in the volume dealing with Passover. There is a historical link between firstlings and Passover – both commemorate aspects of the Exodus from Egypt. Yet from a legal perspective, festivals and firstborns are considered entirely different areas of law. Indeed in Karo's *Shulḥan 'Arukh*, laws concerning the celebration of festivals are included in *Orah Ḥayim*, while laws concerning firstborns are discussed extensively in *Yoreh De'ah*. The inclusion of the guidelines for the firstling transaction in Shneur Zalman's Passover volume is explained in the opening line as being linked to another, similar transaction:

Apropos the sale of leavened bread [before Passover] to a Gentile, I will now also mention the matter of sale to a Gentile of an animal about to give birth to a firstling, for there are not many who are wise enough to understand the words of insight of ...⁷⁹

The similarity between the transactions – two sales to a Gentile aimed at circumventing biblical directives, whereby both sales are later reversed – justified the inclusion of this section on firstlings in the Passover volume.

The extant manuscript presents the laws of the firstling transaction with minor differences. In the present context, the most interesting change is the omission from the opening line of any mention of unleavened bread. Thus the extant manuscript begins with the words: “The matter of sale to a Gentile of an animal about to give birth to a firstling, for there are not

possession later edition(s) and therefore circulating manuscripts were drafts of positions that Shneur Zalman had retracted or refined. Circulating manuscripts, therefore, were not accurate reflections of Shneur Zalman's positions. Only the sons who held the later edition could validate a manuscript.

78 Exod 13:11–15; Num 18:15–18; Deut 12:5–6, 17; 15:19–23.

79 *Shulḥan 'Arukh [ha-Rav]* (Shklov: Mordekhai ha-Levi, 1814), I:211a–212b; I have substituted “apropos” for the Hebrew phrase *בארתו עניין לעניין*, which is literally translated as “and from one matter to another matter in the same matter.”

many who are wise enough to understand the words of insight of ...⁸⁰ The manuscript – which is not an autograph but has been identified as an earlier version – makes no mention of the other circumventory transaction. In a similar vein, references to the sale of leavened bread in the continuation of the passage do not assume that details of that transaction are before the reader.⁸¹

As noted, laws of firstborns are traditionally included in *Yoreh De'ah*, yet the transaction guidelines were the only surviving section of that body of law. The additional introductory line – “Apropos the sale of leavened bread [before Passover] to a Gentile, I will now also mention” – linked the two sale transactions, thereby justifying the inclusion of the firstling transaction in the Passover volume.

Who wrote this introductory line? It seems conceivable that it was added by the sons as they boldly organized the manuscripts for publication. Admittedly, we cannot discount the possibility that Shneur Zalman himself juxtaposed the two transactions. Yet the existence of the manuscript version indicates that the transaction guidelines were not originally authored as part of a codification of firstborn laws, nor were they written together with guidelines for the sale of leavened bread. Thus it was an editorial decision – and we have no evidence of any of Shneur Zalman’s editorial decisions relating to *Shulḥan ‘Arukh ha-Rav* – to include the firstling transaction in the code and to print it in the 1814 Passover volume.

In the following year, 1815, a single responsum was published as a stand-alone booklet, also in Kopust.⁸² This was soon after the volume that included the eighteen responsa but before the second wave of printing had begun in 1816. This responsum was written to Rabbi Levi Yiṣḥaq of Berditchev (1740–1809) and dealt with a case of *agunah* – a woman chained to her marriage because her husband is missing, and therefore there is no possibility that he can be declared dead or that he can deliver a bill of divorce. The legal question under discussion was what constitutes acceptable evidence to prove the death of the missing husband. While the imprint information is incomplete, the title

80 Shneur Zalman of Liady, “Seder Mekhirat Beheimah ha-Mevakeret (Mahadu[rah] Qa[mma]),” *Yaḡdil Torah* (New York) 49 (1982): 329–31. See also *Shulḥan ‘Arukh [ha-Rav]* (Brooklyn: Kehot, 2001–7), III:458–59 nn. 61–78.

81 For instance, the manuscript version has “as in the sale of leavened bread,” while the 1814 printed version has “as above regarding the sale of leavened bread.”

82 *Teshuvat Admor ... Shne’ur Zalman ...* (Kopust: n.p., 1815). Mondshine, *Halachic Works*, 49 (Hebrew numbers), 186–87.

page notes that “this too was printed with their knowledge” – presumably with the knowledge of the sons who had just published three volumes of Shneur Zalman’s legal writings.

Why was this responsum not published together with the other responsa in the second published volume or together with another relevant section of law? Laws of *agunah* are normally included in *Even ha-‘Ezer*. No selections of Shneur Zalman’s writings on *Even ha-‘Ezer* were printed in the first edition (or any edition, for that matter). Laws of evidence are normally included in *Hoshen Mishpat* – corresponding to the third volume printed in 1814 which did include a section on evidence.⁸³ The plausible explanation for the 1815 stand-alone booklet is that the responsum was not procured until after the 1814 printing, and then it was published without delay.

Then in 1816 another three volumes were published in Kopust. The first volume of this second wave included a new three page “preface and approbation” by Dov Ber. This introduction focused on urging disciples to take part in studying the code. Again Shneur Zalman’s “holy will” was mentioned, but in a different context: “I have a standing obligation to carry out (my father’s) holy will. In particular, this applies to the *mitzvah* of communal Torah study as it involves the members of the chassidic brotherhood.”⁸⁴ To this end, Dov Ber recalled his father’s exhortations and designed a multi-tiered learning program that would ensure that the code would be studied.⁸⁵ Dov Ber did not suggest that the manuscripts used for these volumes were of better quality, though these manuscripts – unlike those used in the previous volumes – had been vetted and annotated:

My uncle, the renowned R. Yehudah Leib, the *rav* of Yanovitch, checked it – almost in its entirety – and added source references (and glosses).⁸⁶ Similarly, my uncle, the prodigious rabbinic

83 *Shulḥan ‘Arukh [ha-Rav]* (Kopust: Israel Jafe, 1814), III:6a–16a: “Laws of Witnesses, Legal Documents, and [the Deposition of a Legal Document in the Hands of a] Third Party.”

84 *Shulḥan ‘Arukh ha-Rav*, I:48.

85 Dov Ber did not claim that this was connected to the decision to publish the code, but it may have been a factor. The motivation of the sons is beyond the present scope. See also Levi Cooper, “Divide and Learn,” *Jewish Educational Leadership* 12, no. 1 (2013): 59–63; idem, “Towards a Judicial Biography,” 119–21.

86 Regarding the authorship of these references and glosses, see Mondshine, *Halachic Works*, 20–21 (Hebrew numbers).

authority, R. Mordechai (Posner, *rav* of Orsha), checked it according to his capacity. Certainly, they would not release (the work) from their hands were it not sound.⁸⁷

The introduction includes a postscript, reiterating the ban on reprinting that appeared in the first volume.

5.2 Subsequent Editions

Ten years passed, and in 1826 a **second edition** of the code was printed in Sudyłków.⁸⁸ This was one year before Dov Ber passed away, though it is unclear whether he was involved in the effort. Most of the changes in this edition were minor. The most significant change was the reorganization of the work, so that it more closely followed the contours of the classic *Shulḥan 'Arukh*. In a move that further unified the work, the volume dealing with sections from *Yoreh De'ah* was renamed "*Shulḥan 'Arukh*," instead of "*Hilkhot Niddah*" as it was titled in the first edition. Furthermore, *'isqa*, laws of usury, and laws of Torah study were moved to this volume, bringing the categorization of these laws in line with the traditional division of Jewish law.⁸⁹ The title page of the sixth volume added the subtitle "*Hoshen Mishpaṭ*."⁹⁰ In addition, two sections that were missing from the first edition were copied from Shneur Zalman's *Siddur*.⁹¹

87 *Shulḥan 'Arukh ha-Rav*, I:50.

88 Mondshine, *Halachic Works*, 40–55; Mondshine demonstrated that this edition was not printed in order, with the laws of Passover (volume four) printed before the laws of Sabbath (volumes two and three).

89 Laws of *'Isqa* appears on the verso of the title page; Laws of Usury on pp. 109a–28b; Laws of Torah Study on pp. 226a–54b.

90 The first edition mentions that the material was taken "from *Tur*, *Hoshen Mishpaṭ*" (denoted by the acronym מ"טטח); the 1826 edition turned "*Hoshen Mishpaṭ*" into the subtitle, as did the 1831 edition. In the fourth edition, Warsaw 1837–40, the title page did not include any mention of *Hoshen Mishpaṭ*. Relevant title pages are reproduced in Mondshine, *Halachic Works*, 30, 55, 67, 79.

91 *Shulḥan 'Arukh [ha-Rav]* ([Sudyłków]: Pinḥas Eli'ezer ben Mordekhai Biltsh, 1826), I:257b–58b, *OḤ*, sections 175–76. This case further speaks to the conglomerate nature of the work (above, near n. 42). Subsequent editions followed suit by including the material and noting the source in the margin. The 1855 edition included the material, without a note in the margin. The most recent edition reverted to the first edition; see *Shulḥan 'Arukh [ha-Rav]* (Josefov: S. Waxa, 1855), I:154a–b; *Shulḥan 'Arukh [ha-Rav]* (Brooklyn: Kehot, 2001–7), I:486; see also

The **third edition** of *Shulḥan 'Arukh ha-Rav*, Sudyłkóv 1831, did not include changes that are relevant to the present discussion.⁹² The **fourth edition**, Warsaw 1837–40, also included material that had not been included in previous editions.⁹³

Ḥayim Avraham, Shneur Zalman's second son, was central to the **fifth edition**, printed in Zhitomir 1847 – the last edition to be printed in his lifetime.⁹⁴ Ḥayim Avraham's sons and grandsons were responsible for this edition, and Ḥayim Avraham added a new preface. The stated reason for the new edition, was that "[t]he available copies did not suffice to quench the thirst of those who desired to delight in their pearls; they were depleted through wear and tear."⁹⁵ But this was not the only reason that the time for a new edition had arrived. As Ḥayim Avraham explained in his preface:

It has manifold additions, for we found other writings of my father ... These include responsa in which he gave halachic directives to the chassidim who throughout his life addressed questions to him on issues that commonly arise.⁹⁶

Twenty-three responsa that had not been previously published were included in this volume. Presumably they did not come from autograph manuscripts.⁹⁷ The three responsa that had not been included in the responsa section at

Abraham Haim Noe, *Qunṭras ha-Shulḥan* (Jerusalem: Shoham, 1949), 25–26 nn. 31, 32.

92 Mondshine, *Halachic Works*, 56–67.

93 *Ibid.*, 19, 25, 77 (Hebrew numbers), 68–79. One of those involved in the printing was Rabbi Avraham Mordekhai (1816–55), son of the hasidic master of Gur, Rabbi Yitshak Meir (known by the moniker "*Ḥiddushei Harim*"; 1799–1866). The additional material was sent by Rabbi Yissakhar Ber Horowiṣ, rabbi in Lubavitch from 1832; see also Yiṣḥaq Wilhelm, "*Hagahot Moreinu ha-Rav Yissakhar Ber Horowiṣ 'Al Shulḥan 'Arukh Admor ha-Zaqen*," *He'arot u-Vei'urim* 865 (2002): 58–61. Regarding Horowiṣ, see *Ṣemaḥ Ṣedeq: Maftēiḥot* (Brooklyn: Kehot, 1994), 165c–66b.

94 Mondshine, *Halachic Works*, 80–87.

95 *Shulḥan 'Arukh ha-Rav*, I:58.

96 *Ibid.*

97 The title page announced that these responsa were "heretofore in manuscript form." Mondshine explained that these were not autograph manuscripts. Two autograph responsa – printed as nos. 7 and 14 – have reached us. Mondshine, *Halachic Works*, 49 n. 1, 54 (Hebrew numbers), 191–94; Sholom Dovber Levin, "*He'arot le-Shut Admor ha-Zaqen*," *Yagdil Torah* (New York) 20 (1978): 484–87.

the back of the volume of the first edition – the one printed in the middle of the laws of ritual slaughter, the one printed on the back of the title page, and the one printed separately in 1815 – were also printed together with the other responsa. In toto, the volume contained forty-two responsa.⁹⁸ The responsa were also printed as a separate volume, for the benefit of those who already own a copy of the code and were unlikely to purchase the complete new edition.⁹⁹

That was not the only new material included in the volume. New writings had been discovered; namely, in-depth scholarly excursions to the apodictic laws of the code: “(We also included) the glosses of *Kuntreis Acharon* [supplement] to sec. 447 on the laws of Pesach, and source references to approximately sixty sections of the laws of *Shabbos* which were missing.”¹⁰⁰ But this was not all that the new edition boasted: “Similarly, we made many other corrections and inserted variant readings in every part of the text, adding elements that had been omitted.”¹⁰¹ Once again we have a window into the dishevelled state of the manuscripts – and consequently the state of printed editions – of the code. This window also displays the tenacious desire and persistent efforts to offer a complete – or at least a more complete – code of law.

A curious addition concerns a paragraph that was added to the aforementioned guidelines for the sale of a kosher animal pregnant with a firstling. The paragraph, printed in a different font, briefly warns against following a ruling that had apparently been disseminated. According to the disseminated ruling, a firstling whose ear had been maimed was no longer sanctified and therefore could be treated like any other kosher animal. The paragraph succinctly discusses what type of ear wound deconsecrates a firstling, before signing off with the declaration that “the page is too short to include the

98 Regarding the forty-third responsum – the missing no. 21 – see Mondshine, *Halachic Works*, 49, 50 (Hebrew numbers); idem, “Teshuvah Avudah mi-Kevod Qedushat Admor Rabbi Shne’ur Zalman mi-Li’ady Ba’al ha-Tanya ve-ha-Shulḥan ‘Arukh,” *Ohr Yisroel* 26 (2002): 9–13.

99 See the preface to the responsa: *She’elot u-Teshuvot me-’Admor ... Shne’ur Zalman ...* (Zhitomir: Szapira, 1847), 3 = *Shulḥan ‘Arukh [ha-Rav]* (Zhitomir: Szapira, 1847), IV, third series, p. 3; Mondshine, *Halachic Works*, 87, 188.

100 *Shulḥan ‘Arukh ha-Rav*, I:58. The new material was complemented by a table of contents and a reorganization such that the *Qunṭras Aḥaron* glosses were printed on the relevant page, rather than at the back of the volume.

101 *Ibid.* The preface ends with a statement of copyright.

proofs, and those who heed [these words] will be granted pleasantness.” This is followed by an acronym indicating an end of a citation.¹⁰²

Scholars have debated whether this paragraph is part of a responsum.¹⁰³ Certainly the paragraph is not written in the language of a code. Rather, the formulation sounds like a public notice or an instructional epistle. Shneur Zalman sought “to notify all those who heed me,” suggesting that this may have been addressed specifically to his disciples.¹⁰⁴ Indeed, Shneur Zalman used the phrase “to notify” (*lehodi’a*) in other instructional epistles to his followers.¹⁰⁵ Moreover, the concluding salutation – “and those who heed [these words] will be granted pleasantness” – has a personal timbre that is out of place in a code of law. This language is not used elsewhere in the code, but appears in Shneur Zalman’s letters.¹⁰⁶ But if this is part of a responsum

102 *Shulḥan ‘Arukh [ha-Rav]* (Zhitomir: Szapira, 1847), III:276; acronym ע”כ, presumably ע”כ כאן, meaning “until here.”

103 Sholom Dovber Levin, “Be-‘inyan Hanal,” *Yagdil Torah* (New York) 21 (1978): 553–55; Mondshine, *Halachic Works*, 62, 64 (Hebrew numbers); *Shulḥan ‘Arukh [ha-Rav]* (Brooklyn: Kehot, 2001–7), III:459 n. 76.

104 For a jurist who understood that this passage was addressed to disciples, see Ševi Yehudah Rosenzweig, *Sefat Emet* (Warsaw, 1898), 5. Compare, Naftali Ševi Yehudah Berlin, *She’elot u-Teshuvot Meishiv Davar* (Warsaw: Eizenshtadt, 1894; New York: Saphrograph Company, 1950), II, no. 61 who was dismissive of Shneur Zalman’s brevity on the grounds that it was nothing more than a “threat” aimed at guaranteeing obedience. Berlin’s assessment – which was censored in later editions of his responsa – appears to be overstated, and to my mind Rosenzweig’s conclusion is far more accurate: the passage is indeed addressed to loyal disciples who would rely on their master’s teachings without extensive legal explication and justification. Regarding the censorship of this line in Berlin’s responsum, see Glick, *Kuntress Ha-Teshuvot He-hadash*, III:1294; Marc B. Shapiro, *Changing the Immutable: How Orthodox Judaism Rewrites its History* (Portland: Littman Library of Jewish Civilization, 2014), 225–27.

105 *She’elot u-Teshuvot Shneur Zalman*, 15 (no. 2); *Iggerot Shneur Zalman*, 18, 114, 118.

106 *Iggerot Shneur Zalman*, 140 (=Tanya, *Iggeret ha-Qodesh*, ch. 16), 319, 323 (=Tanya, *Iggeret ha-Qodesh*, ch. 1); *She’elot u-Teshuvot Shneur Zalman*, 16 (no. 2); 183 (no. 39). The phrase, which is a play on Proverbs 24:25, also appears in Shneur Zalman’s *Siddur* in the introductory paragraph to the midnight prayer ritual; see *Siddur Rabbeinu ha-Zaqen*, ed. Levi Yiṣḥaq Raskin (Brooklyn: Kehot, 2004), 406. Shneur Zalman’s sons also used a similar expression at the conclusion of their introduction to the code, after they condemned infringement on their property rights and implored those with manuscripts to come forward; see *Shulḥan ‘Arukh ha-Rav*, I:46. Dov Ber also used the term in an approbation he penned; see *Shulḥan ‘Arukh*, vol. I (Dubno: H.M. Margoliyot, 1819), facing p. 1a;

why not print the entire responsum together with the other newly added responsa in this edition? It must be assumed that the descendants did not have an entire responsum at their disposal. All they had was this succinct, instructional paragraph, which they duly appended.

Thus the sons tried valiantly to construct Shneur Zalman's code as best they could. They avidly collected, hastily prepared, and quickly published manuscripts as they entered their possession. The sons' endeavor did not end with the 1814–16 publication of the first edition; throughout their lives, hitherto lost legal material was discovered and patched into the code. In fact, the quest to locate missing sections of Shneur Zalman's code continues to this day.¹⁰⁷ The result was a work that – while never really complete and performed based on faulty copied manuscripts – was nonetheless well-received.

6. Search and Rescue

Having recounted the early printing history of *Shulḥan 'Arukh ha-Rav*, we are now in a position to reconsider the irregularities detailed above. Many of these strange features can be explained by the fact that the sons were earnestly trying to preserve and mold their father's legal legacy. They therefore published what they could, when they could, and they framed the publication as a code of law.

The first published volume points to an unorthodox order of publication. The sons published what they had, and they began with the laws of Passover – the only topic that is not missing any sections.¹⁰⁸ This was followed by the volume with the laws of menstruation, ritual slaughter, *ṭereifot*, and relevant

[Yehoshua Shelomo Zirkind, ed.], "Haskamat ... Admor ha-'Emsa'i ...," *Yagdil Torah* (New York) 1 (1976): 11; *Iggerot Dov Ber*, 158.

107 For instance, Shneur Zalman's grandson copied a section from his grandfather's writings that may be part of *Shulḥan 'Arukh ha-Rav*, Laws of *Ṭereifot*, section 30. This section was not included in *Shulḥan 'Arukh ha-Rav*, until it was appended to the 1985 edition. See *Ṣemaḥ Ṣedeq, Piṣqei Dinim* (Brooklyn: Kehot, 1992), YD 30:10, p. 99; *Shulḥan 'Arukh [ha-Rav]* (Brooklyn: Kehot, 1985), IV:926; Mondshine, *Halachic Works*, 30 (Hebrew numbers); idem, *Masa' Berditchev*, 82 n. 269. It is beyond the present scope to detail manuscripts that have come to light in recent years and discussions regarding their authorship.

108 Laws of Passover span *OḤ*, sections 429–94. Section 428 (which is missing from *Shulḥan 'Arukh ha-Rav*) concludes the laws of the new month; section 495 begins the laws of festivals and appears in the sixth published volume. Completeness,

responsa, where the publishers departed from the order that appeared in *Shulḥan 'Arukh*. Presumably, the laws of menstruation appeared at the front of the volume, because the bulk of those laws were extant, while only a few sections of the laws of ritual slaughter and *ṭereifot* were available.¹⁰⁹ The laws of *ṭereifot* end in the middle of the page and are signed off with the words “until here we found from his holy words.”¹¹⁰

It was not just the relevance of the eighteen responsa that led to their inclusion in this volume; rather, this was part of what the sons had successfully procured. This may be what the sons were saying on the title page of this second volume: “Laws of Menstruation with the commentary of ... Shneur Zalman ... and collected laws of ritual slaughter and some laws of *ṭereifot*, and also responsa that are currently in our hands etc.”¹¹¹ Similarly, one of the responsa is introduced with the words: “This too we found, a responsum to a question.”¹¹²

We can further surmise that the sons originally obtained seventeen responsa; the eighteenth responsum was discovered when the volume was already at an advanced stage of preparation. Given its genre and subject matter, it belonged in this volume together with the other responsa. The volume was already typeset, with the first word of the laws of menstruation ornamentally boxed.¹¹³ The back of the title page was blank, so the responsum was printed there. This suggests that the ongoing search continued well into the publication process. Other responsa would be secured later, but in 1814 the sons published what they had. When another responsum surfaced soon afterwards – correspondence with no less than the great Rabbi Levi Yiṣḥaq of Berditchev – the sons immediately printed it as a stand-alone booklet.

however, does not imply error free; see, for example, Levin, *Toledot Ḥabad be-Rusya ha-Šarit*, 44 n. 169.

109 From the Laws of Menstruation, we have sections 183–91; the continuation of these laws is missing (sections 192–200). From the Laws of Ritual Slaughter we have sections 1–2, 18, and 23–26 while significant portions are missing (sections 3–17, 19–22, and 27–28). From the Laws of *Ṭereifot* we have sections 31–33, while the bulk is missing (sections 29–30, and 34–60). Regarding missing sections see above, near n. 35.

110 *Shulḥan 'Arukh [ha-Rav]* (Kopust: Israel Jafe, 1814), II:54b.

111 *Ibid.*, title page.

112 *Ibid.*, [60b] (=responsum no. 28 in Zhitomir 1847 edition; no. 27 in Brooklyn 2007 edition).

113 *Ibid.*, 1a.

The urgency in printing this lone responsum probably stemmed from the prominence of Shneur Zalman's correspondent: a famed hasidic leader and a city rabbi of impeccable credentials. By the fifth edition in 1847 more responsa had been procured, and then all forty-two responsa were published together.

The third published volume – the volume that would become *Hoshen Mishpat* – was first printed as a miscellany of relevant laws that the sons had obtained. The laws of *'isqa* are incomplete and perhaps were acquired at a late stage in the printing process. This would explain why this short section was included in this volume, on an unnumbered page, and with the header “This too we found[,] the words of his holiness.”¹¹⁴

Similarly, the fourth published volume that included two versions of the first four sections: the sons printed whatever manuscripts they could secure.¹¹⁵ Even if the material did not exactly fit the contours of the standard *Shulhan 'Arukh* and even if there was overlap in the material presented. Humility may have dictated that the sons not cast away one version in favor of another. As with the lone responsum on the back of the title page of the second volume, the addition of these four sections at the beginning of the volume without an ornamental incipit and with separate page numbering suggests that this material was procured after the rest of the volume had been typeset.¹¹⁶

The different styles of writing was a fact that could be partially explained by stating that the *Yoreh De'ah* section was written for a professional readership. But apart from this acknowledgement, the anomaly of different styles was ignored. In any case, the different styles were not perceived as a

114 Ibid., III, after p. 66b. This might be a partial explanation for the page numbering of the beginning of the next section, Laws of Torah Study: the first two sides are unnumbered, the third side is then numbered 67 [side a], the fourth side is numbered 69 [side a] which is the correct page number if *'Isqa* is included.

115 Levin demonstrated that Shneur Zalman authored two versions for these four sections alone, and not that the continuation of this later version was lost. Levin, *Toledot Habad be-Rusya ha-Šarit*, 51.

116 A further example of this phenomenon (in addition to the case of the eighteenth responsum, Laws of *'Isqa*, and the so-called “second edition” of the first four sections), may be *Tanya, Quntzas Aḥaron*, ch. 9 – part of the material first included in the sons' edition of *Tanya* printed in Shklov 1814. From the style and contents of this letter, it is apparent that it should have been included in the previous section of *Tanya* that contained Shneur Zalman's epistles. It would appear that the letter only reached the printer after the work had been typeset and hence was appended to the end of the work.

stumbling block to the mission of preservation and dissemination of Shneur Zalman's writings.

Missing sections were to be expected at this interim stage, so the sons printed what they had and hoped that "the purchaser will assemble them until, with God's help, they are collected together."¹¹⁷ As it would turn out, this was a dream that would never be fully realized.

It should be clear from the account thus far that the peritext of code is primarily, if not entirely, editorial rather than authorial. Thus we should not accuse Shneur Zalman of hubris by naming the work "*Shulḥan 'Arukh*."¹¹⁸ It is likely that the sons selected or at least approved this lofty title, and we may say that they showed great admiration for their father and sought to enhance the text and engender reverence.

Was this really what Shneur Zalman meant when he instructed his sons "to publish and circulate his wisdom and his teachings throughout the world"? There is no way to ascertain what exactly Shneur Zalman meant. Certainly the sons were in the best position to understand their father's request, though publishing a code may well have served their own interests. Whatever the motive, it is apparent that at the beginning of the nineteenth century, Shneur Zalman's legal manuscripts were in a state of disarray. The sons valiantly sought to transform this situation.

There can be little doubt that the situation would have been far different had Shneur Zalman himself published his code. Writings that Shneur Zalman published do not suffer from similar maladies. This raises the question: Why did Shneur Zalman not publish the bulk of his legal writings?

117 *Shulḥan 'Arukh ha-Rav*, I:42.

118 In the wake of the 1810 Liady fire, Dov Ber penned a letter bemoaning precious possessions that were lost, including autograph manuscripts of Shneur Zalman's legal writings. Dov Ber used the Hebrew phrase "על ד' ש"ע קרשו על ד' ש"ע". This phrase does not suggest that the title of the work was already "*Shulḥan 'Arukh*"; rather, that the manuscripts followed the order of, or were written in the style of ('*al derekh*) the *Shulḥan 'Arukh*, meaning legal writings that had some sort of relationship to Karo's seminal work. See *Iggerot Dov Ber*, 7; cf. Mondshine, *Masa' Berditchev*, 79, 82.

7. *Shulḥan 'Arukh* – of the Sons – of the Rav

I have considered the peritext of *Shulḥan 'Arukh ha-Rav* – the title, the two versions of the first four sections, the missing sections, the variety of styles, the unorthodox order of printing, the departures from the contours of Karo's original *Shulḥan 'Arukh*, and the front matter, in particular the prefaces written by the sons. The analysis converges at an explanation for why Shneur Zalman did not print his code. Simply put: the code – as such – did not exist.

In Shneur Zalman's eyes, he left behind legal writings that were not ready for the printing press. He may well have dreamed of completing a code, or of publishing additional legal works; we may never know for certain for he never reflected on his own legal writing. If he did have an aspiration to write a code of law, then when he died prematurely in 1812 this remained an unfulfilled ambition.¹¹⁹

The lot fell to Shneur Zalman's sons, who cobbled together faulty and partial manuscripts in a gallant attempt to preserve the legal legacy of their saintly father and frame it for posterity. They printed what they were able to lay their hands on: unedited manuscripts, multiple versions, sections that were clearly incomplete, disparate legal genres. They published the treasures as soon as they could, even though that meant releasing the work out of order.

Out of respect for their venerable father, they called the work "*Shulḥan 'Arukh*." Not only did they indicate how they felt about the legacy they were sharing, they suggested how the work should be read and how its author should be regarded. Genette spoke of "the capacity of the paratext to decree"¹²⁰ – the title "*Shulḥan 'Arukh*" may not decree, but it broadcasts a literary expectation and sends a lucid message with illocutionary force. As Genette's English-language translator, Marie Maclean, noted: "[I]n every case, the title offers guidance, attempts to control the reader's approach to the text, and the reader's construction of that text ... It may be aimed at a general public or a small ingroup ... [N]o title, not even an innocuous *Essays* or *Observations*, leaves the reader unaffected and fails to influence."¹²¹

119 Shneur Zalman was still actively teaching, ministering, and writing before he fled the approaching *Grande Armée*; see Mondshine, *Masa' Berditchev*, 99.

120 Genette, "Introduction to the Paratext," 268.

121 Maclean, "Pretexes and Paratexes," 275–76. Adorno commented that "it is so much easier to find titles for the works of others than for one's own." Theodor W.

Undoubtedly, the title “*Shulḥan ‘Arukh*” would have impacted how readers perceived the work before them and what they would have thought about the deceased author.

Indeed, naming the work and trying to fit the manuscripts into the contours of Karo’s *Shulḥan ‘Arukh* were pivotal moves in framing the tome. Conceivably the sons could have published the disparate works under the rubric “Collected Writings,” or more specifically “Collected Legal Writings.” The sons chose a different route: they used the title to sculpt the diverse writings into a unified work, thereby creating the code. Their introduction that recounted specific details of conversations, thoughts, feelings, and intentions surrounding the beginning of the project further served to frame the work: the code was a monumental legal endeavor conceived and directed by the Maggid of Mezritch, a revered hasidic personality of unimpeachable spiritual character. From amongst his worthy disciples, the Maggid turned to Shneur Zalman and selected him for this towering task.¹²² Thus the sons’ peritext effectively changed the nature of the extant text from a chaotic array of non-autograph legal manuscripts to a code of law that commanded respect.

Spotlighting the peritext leads us to the conclusion that the sons deserve significant credit for bequeathing this legal work to posterity – not just for ensuring that Shneur Zalman’s legal writings would be preserved but for fashioning those writings as a code of Jewish law. The peritext – which at first blush appears to be a mere fringe of the printed text – in truth, “controls the whole reading.”¹²³ *Shulḥan ‘Arukh ha-Rav* is in some ways the *Shulḥan ‘Arukh* of the sons of the *rav*.

Adorno, *Notes to Literature*, ed. Rolf Tiederman, trans. Shierry Weber Nicholzen (New York: Columbia University Press, 1991–92), II:4.

122 Compare, in the front matter of the 1883 posthumous printing of *Menorah ha-Ṭehorah* – a work on the laws of Sabbath written by another of the Maggid’s disciples, Rabbi Uziel Meisels Rosenwasser (1744–85) – the author’s descendant noted family traditions regarding the work. *Inter alia*, he recorded that his forebears had seen an approbation for the work penned by Rabbi Elimelekh of Leżajsk (1717–87). The descendant did not know the exact language of the approbation, but he recalled that Elimelekh had declared that the work needed no approbation “because it was written in holiness and purity, at the instruction of ... Dov Ber of Mezritch ... and he said about the present work that it is true Torah as it was given at Sinai”; see Uziel Meisels, *Menorah ha-Ṭehorah* (Lemberg: U.W. Salat, 1883–84), [5].

123 Above, n. 1.

Bringing the role of the sons into sharp relief opens a new set of questions that must be considered. From a historical perspective we should ask whether the sons were driven by motives other than rescuing their father's legal legacy from oblivion? Should we link the publication efforts to the contemporary issue of succession? What is the connection between publication of Shneur Zalman's legal writings and Dov Ber's innovative tiered learning program of those writings?

From the perspective of legal literature, we should consider why the sons chose to present the material as a unified code of law, particularly given the state of the manuscripts. Might their efforts be linked to contemporary Jewish legal writing mores? Perhaps *Shulḥan 'Arukh ha-Rav* should also be viewed from a broader perspective as part of contemporary Enlightenment codification trends beyond the world of Jewish law?

From a normative perspective we may wonder whether the conclusions drawn here might affect the weight of *Shulḥan 'Arukh ha-Rav* or of specific laws in the code.¹²⁴ Should the code be viewed differently given its unfinished state, or considering that it was the sons of the author who chose to publish the work, rather than the author himself?¹²⁵

A final point: Analysis of any work is contingent on determining the text and understanding the context in which the work was written and published. The paratext is umbilically connected to the text and the context and should not be glossed over. This study suggests that an examination of the paratext may reveal valuable information and be key to understanding the work itself.¹²⁶ More importantly, the paratext can be used to mold raw materials, essentially creating works that would not have otherwise existed.

124 For a case where the fact that Shneur Zalman did not publish his work affects the interpretation of sources and consequently may have normative results, see Shlomo Zalman Havlin, "Sefer Torah she-Katav le-'Ašmo Rabbeinu Nissim mi-Gerondi," *Alei Sefer* 12 (1986): 34 n. 154.

125 Sholom Ber Wolpo—a voice on the Lubavitch landscape who has openly acknowledged the unfinished state of *Shulḥan 'Arukh ha-Rav*—stridently denied any normative consequences. Wolpo, *Pardes Shalom*, II:116–17, 121–23.

126 Of course, the paratext can be deliberately misleading, particularly in the case of pseudepigraphy and forgeries. See, for instance, the analysis of the paratext of a collection of pseudepigraphic responsa in Levi Cooper, "A Baghdadi Mystery: Rabbi Yosef Ḥayim and Torah Lishmah," *Jewish Educational Leadership* 14 (2015): 54–60.

It has been noted that the paratext “may be so cumbersome as to eclipse the text itself.”¹²⁷ In the case of *Shulḥan ‘Arukh ha-Rav* the peritext does not eclipse the text; rather, it presents the text in a particular light. It is unlikely that the conclusions presented here will cast a shadow over the place of *Shulḥan ‘Arukh ha-Rav* in the library of Jewish law. The code has long been accepted as an important work of Jewish law, and it will likely—and rightly—continue to be treated as such. But as Genette wrote regarding the paratext: “I do not say that one must know it; I only say that those who know it do not read in the same way as those who do not.”¹²⁸

127 Maclean, “Pretexts and Paratexts,” 273.

128 Genette, “Introduction to the Paratext,” 266.