בס''ד

**Table of Contents**

**Abstract א**

**Prologue 1**

1. The Shakh – Who was he? 1

2. Research Goals 2

3. Methodology 2

4. Literature Review 4

5. Structure of the Dissertation 8

6. Technical Details 9

**Part I: Background and Biography 12**

**Chapter 1: General Background and Scholarly Background 13**

1.1 Introduction 13

1.2 General Background: The Judaism of Poland-Lithuania Through the Lifetime of the Shakh – Legal, Social, and Economic Features 13

1.3 Scholarly Background 15

**Chapter 2: The Biography of the Shakh 21**

2.1 The Life of the Shakh 21

2.2 The Shakh’s Family 24

2.3 The Shakh’s Teachers 25

2.4 The Shakh’s Writings 27

2.5 The Shakh as a Halakhist 28

2.6 Shining Pearls 30

2.7 Common (Mis)Conceptions of the Shakh 31

2.8 Summary 34

**Chapter 3: General European Influences on the Torah World**

**of 16th and 17th Century Poland-Lithuania 35**

3.1 Introduction 35

3.2 The Print Revolution 36

3.3 The Rise of Nationalism and Pan-Communalism 40

3.4 The Age of Codification 42

3.5 Christian Polemics Against the Talmud 43

3.6 The Creativity of Jewish Orthodoxy 45

3.7 Economic and Other Influences in Daily Life 46

3.8 Summary 51

**Part II: The Scholarly-Halakhic Approach of the Shakh 53**

Introduction 53

**Chapter 4: Introduction to the Scholarly-Halakhic Approach of the Shakh 54**

4.1 Introduction 54

4.2 Features of the Approach 54

4.3 The Dual Concept of “Scholarly-Halakhic” 56

4.4 Survey of the Shakh’s Areas of Interest in the Laws of Damages 57

4.5 The Commentators on the Shulhan Arukh and their Scholarly-Halakhic Approaches 57

**Chapter 5: The Shakh’s Theory of Decision-Making in Cases of Doubt in Monetary Claims (the Halakhic Approach) 60**

5.1 Introduction 60

5.2 Sources: *Siftei Kohen* on *Shulhan Arukh Hoshen haMishpat* 62

5.3 Sources: The Work *Takfu Kohen* 63

5.4 Doubt in Monetary Cases Versus Doubt in Forbidden and Permitted Things 64

5.5 The Ontology of Doubts in the Laws of Damages 66

5.6 The Concept of *Natal haRayah* (Burden of Proof) 67

5.7 The Claim of *Kim Li* (Certainty) 69

5.7.1 The Sources of the Claim 69

5.7.2 Dispersal of the Claim 71

5.7.3 Expansion of the Claim to Include a Claimant in Possession

5.7.4 Limits of the Claim 74

5.7.5 Responses of Later Halakhists to the Shakh’s Position on *Kim Li* 77

5.8 *Halakhah keBatrai* (The Halakhah Follows the Latest Authority) 78

5.9 The Case of a Judge Who Erred 80

5.9.1 Delimitation and Explanations of the Concepts “He Erred in a Secondary Matter” and “He Erred in his Judgment” 80

5.9.2 The Shakh’s Treatment of Each Type of Claim 81

5.9.3 Special Cases 82

5.10 *Sugya d’Alma* 84

5.11 Possession by the Claimant 86

5.11.1 The Claimant Has Precedence 87

5.11.2 No Party Has Precedence 90

5.12 The Extent of a Rabbinic Judge’s Autonomy 91

5.13 The Shakh’s Approach to Decision-Making in Cases of Doubt in Monetary Claims: A Summary of the Shakh’s Position 102

5.13.1 Halakhic Principles of Doubtful Cases 102

5.13.2 Judicial Error 104

5.13.3 A Claimant in Possession 104

5.13.4 Judicial Authority to Decide in Doubtful Cases According to his Best Halakhic Judgment 105

5.13.15 “The Central Clasp”: the Scholarly-Halakhic Profile of the Shakh 105

**Chapter Six: Fundamental Principles of the Scholarly Approach 107**

Introduction 107

6.1 The Shakh’s Full and Authoritative Command of the *Shulhan Arukh* and its Sources 107

6.2 The Shakh’s Independence in Relating to Previous Rulings 117

6.3 The Power of Innovation in the Shakh’s System 122

6.4 Preference for Complex and Difficult Topics 124

6.5 The Primary Role of Logic and Reason 128

**Chapter 7: Additional Features of the Scholarly Approach 135**

7.1 *Sugat haTavniot* 135

7.2 Adoption of Forgotten and Marginal Approaches 141

7.3 “To Increase Torah and to Glorify It” 144

7.4 The Totality of the Debate 144

7.5 The Shakh’s Breadth of Knowledge 145

7.6 The Shakh’s Acute Analyses 147

7.7 Was the Shakh Stringent in His Rulings? 151

7.8 Interpretations of Halakhic Texts that Differ or Contradict Accepted Readings 154

7.9 A Talent for Differentiation 155

7.10 Meta-halakhah in the Shakh’s Thought 156

7.11 Addressing Textual Variants and the Scientific Approach 158

7.12 Use of Didactic Aids 159

7.13 Problematic Arguments 162

7.14 Miscellany 163

**Chapter 8: The Shakh and *Pilpul* 164**

8.1 Introduction 164

8.2 *Pilpul* – What is it? 165

8.3 When did *Pilpul* Emerge? 168

8.4 What is the History of *Pilpul* and for How Long was it Employed? 168

8.5 What are the Features of Techinical *Pilpul*? 170

8.6 The *Hiluk* 172

8.7 The Men Who Taught the Shakh – and *Pilpul* 177

8.8 R. Shmuel Kaidanover 181

8.9 R. Moshe Katz, the Shakh’s Son 181

8.10 To What Extent did the Shakh Himself Engage in *Pilpul*? 181

8.11 Summary 196

**Chapter 7: The Shakh on Yoreh Deah 197**

9.1 The Shakh’s Writings on *Shulhan Arukh Yoreh Deah* 197

9.2 Scholarly Opinions Regarding *Siftei Kohen* on *Yoreh Deah* 198

9.3 The Goals of *Siftei Kohen* on *Yoreh Deah* 200

9.4 Methodological Note: The Reliance on Long Subentries in the Writings of the Shakh 201

9.5 *Siftei Kohen* on *Yoreh Deah* and *Siftei Kohen* on *Hoshen Mishpat*: A Comparison 203

9.6 Summary 209

**Part III: “Ask Your Father and He Will Tell You” – On the Shoulders of Giants 210**

Introduction 210

**Chapter 10: The Shakh’s Relationship to Earlier Halakhists and Their Influence on Him 211**

10.1 Introduction 211

10.2 Methodology 211

10.3 The Shakh’s Legal Library 213

10.4 Worlds of Influence on the Shakh 220

10.5 The Influence of the Rishonim on the Shakh 221

10.6 Influence of Halakhists from the Time of the *Shulhan Arukh* and its Era 236

10.7 The Sources of Influence on the Formation of the Shakh’s Halakhic Principles 254

10.8 The Influence of the Halakhists of *Tzir haTefisah* 257

10.9 Summary 260

**Chapter 11: What Led the Shakh to Write *Takfu Kohen*? 261**

11.1 The Research Question 261

11.2 Who are you, R. Moshe Lima? 263

11.3 Documentary Foundation 264

11.4 Identifying the Makeup of the Rabbinic Court that Heard the Case of the Partners 265

11.5 The Mysterious “Dissenter” 266

11.6 R. Moshe Lima’s Arguments and Their Refutation by the Shakh 266

11.7 The Case of the Hemp Clothes and Its Wondrous Connection to the Shakh’s Relationship to R. Moshe Lima 270

11.8 The Absence of R. Moshe Lima Among the Approbations to *Siftei Kohen* on *Hoshen Mishpat* 271

11.9 Summary

**Part IV: The Shakh in the Eyes of Later Generations and as a Forerunner of *Lamdanut* 273**

Introduction 273

**Chapter 12: The Shakh as a Forerunner of *Lamdanut –* His Influence on Later Halakhists 274**

12.1 Introduction 274

12.2 *Lamdanut* – What is it? 274

12.3 *Lamdanut* – Three Types and Three Periods 275

12.4 The Shakh as a Forerunner of the New *Lamdanut* 281

12.5 The Influence of the Shakh on Contemporary and Later Halakhists – Prologue 289

12.6 The Influence of the Shakh on Halakhists of the 17th and 18th Centuries 291

12.7 His Influence on *Ketzot haHoshen* 296

12.8 His Influence on *Netivot haMishpat* 302

12.9 Summary 303

**Chapter 13: The Reception History of the Shakh’s Rulings 304**

13.1 Introduction 304

13.2 How Did Halakhists Relate to the Shakh’s Decisions? 305

13.3 Summary 320

**Part V: Literary and Bibliographic Features in the Shakh’s Writings 321**

Introduction 321

**Chapter 14:** **Literary and Bibliographic Features in the Shakh’s Writings 322**

14.1 Introduction 322

14.2 Literary and Bibliographic Features – By Category 323

14.3 The Shakh’s Introductions and Poems 338

14.4 Summary 342

**Summary of Dissertation 344**

**Bibliography and Key to Bibliographic Abbreviations 345**

**Abstract and Table of Contents in English 369**