

## **R' Orenstein, Author of the *Yesuos Yaakov*: The Controversy Over Publication of his Works**

by R. Yosaif M. Dubovick

R. Y. Dubovick has published many articles on diverse topics. He is currently working on many projects including a critical edition of the Rabbenu Hananel's commentary on Bava Kama. Additionally, he has published a critical edition of the Mahrashal on *hilchot shehita* and *Yoreh Deah* (discussed [here](#) ) and R. Dubovick is working on some of the Mahrashal's other works. As R. Orenstein's *yarhzeit* is the 25th of Av, Tuesday, Aug. 26, R. Dubovick provides the following information on this personage and his works.

### **Biographical Sketch of R' Orenstein**

Perhaps the crown of pre-war Polish Jewry was the city of Lvov (Lviv, Lemberg). Settled in the dawn of our history in Poland, the city was renowned as a center of learning and piety, drawing from the elite of scholarship to its helm. The mere mention of the city's name draws to mind those Gaonim, such as R' Yehoshua, author of *Shut Pnei Yehoshua*, *Sefer Maginei Shlomo* (grandfather of the author of the noted *Pnei Yehoshua* on Shas), as well as R' Shmuel HaLevi author of *Turei Zahav* on *Shulchan Aruch*<sup>1</sup> (son-in-law of R' Yoel Sirkes<sup>2</sup> the author of *Bayis Chodosh* on *Tur*)<sup>3</sup>. R' Zvi Ashkenazi (author of *Chacham Tzvi*, father of R' Yaakov Emden), R' Shlomo of Chelm, author of *Merkeves haMishnah* on Rambam (as well as homilies on the haftorot and a volume of responsa<sup>4</sup>), and R' Chayim Hakohen Rappoport<sup>5</sup> all held the position of Av Beis Din and Rav of Lvov.

The subject of *Toldos Anshei Shem* by R' Shlomo Buber, Lvov has had its history well written and studied. R' Buber went so far as to personally request from the Rav of Krakow, the noted historian and author, R' Noson Chayim Dembitzer to collate his own findings; the result, a sefer of immense value to any student of history and genealogy, *Klillat Yofe*.<sup>6</sup> These seforim list prominent men of stature and renown, leaders of the kehillot, their works and ancestors, shedding valuable light on the city's history.

From the beginning of the 5<sup>th</sup> century, (1640) Lvov's two communities ['inner' Lvov, and 'outer' Lvov] united under the leadership of one Rav. This period of grace between the communities lasted for close to two hundred years, and ended with the passing of the famed Gaon of Lvov, R' Yaakov Meshulem Orenstein in 5599 (1839), the focus of this article.

Much has been written regarding this sage, with numerous accounts detailing his biography. *Klillat Yofe* details his father's position as Rav of Lvov, R' Mordechai Zeev, who took office after R' Shlomo of Chelm stepped down as Rav in order to embark on a journey to Eretz Israel.<sup>7</sup> In 5547 (1787) R' Mordechai Zeev was taken suddenly from this world, leaving a young twelve year old Yaakov Meshulem an orphan. The youth's best interests in mind, whilst still in the shiva period he was betrothed to the daughter of R' Tzvi Hirsch of Yaroslav, who was financially well off and would support his son-in-law.<sup>8</sup> As such, the young man developed in his studies, and gained repute as a scholar of stature. His opinion was sought in many difficult matters, and elders as well as his contemporaries flocked to his doorstep in Yaroslav to discuss various issues with him. Notably, R' Aharon Moshe Tobias of Satnin, author of *Shut Toafos Reem*, would spend much time conversing with R' Yaakov Meshulem.<sup>9</sup> Additionally, he was friends with R'

Yehonosan Shimon Frankel, author of *Etz Pri Kodesh*, Lember, 1838. See his *haskmah* where he refers to him as "*yidid nafshe*." He was also friendly with R' Yaakov Tzvi Yalish, author of *Melo haRoim* who he refers to as "*hu yedidi min'noar*."

R' Yaakov Meshulem mentions having been Rav AB"D of Zhalkov for a period, but the exact dates aren't clear. Later, he was appointed to take his father's seat as Rav AB"D of Lvov, and we find witness that in 5566 (1806) was already serving Lvov as its spiritual head, a position he held for over 30 years, until his passing.

The hub of religious activity in Poland, R' Yaakov's opinion on halachic matters was sought out by the leading sages of his time. Halachic authorities such as R' Moshe Sofer (author of *Shut Chasam Sofer*), and R' Akiva Eiger, R' Aryeh Leibish of Stanislaw (as well as with his son and successor R' Meshulem Yissocher, author of *Shut Bar Leva*), as well as R' Yaakov's relative, R' Chaim Halberstam of Sanz all queried him on matters of grave importance. His opinions regarding rulings issued by R' Shlomo Kluger of Brody versus his dissenters are collected in sefer *Shivas Eynayim*, along with those of his son, R' Mordechai Zeev.

While himself not a member of the Chassidic camp, R' Yaakov showed no animosity towards Chassidim and their leaders, and is purported to have met with Rebbe Yisroel Freidman of Ruzhin, as well as Rebbe Meir of Premshlyn.

As the head of the most prestigious community in the area, R' Yaakov also held the position of Nasi or president of Eretz Israel, and was responsible for the collation and distribution of all tzedakah funds earmarked for the Holy Land's poor.<sup>10</sup> In addition, being financially secure, R' Yaakov established a personal free-loan organization, a gemach.

The apple of his eye, his only son R' Mordechai Zeev was taken from him at an early age on the 17<sup>th</sup> of MarCheshvan 5597 (Oct 28, 1836). Less than three years later, R' Yaakov passed away on the 25<sup>th</sup> day of Av, 5599 (Aug 5, 1839), and was buried next to R' Shmuel Halevi, author of *Turei Zahav*. Out of respect for their venerable leader, it was agreed upon that no longer would there be one Rav heading both communities, rather a new title called 'Rosh Bais Din', with less authority was implemented. In the succeeding line of leaders, Lvov called R' Yaakov's grandson, R' Tzvi Hirsch to take his rightful place. In turn, R' Tzvi Hirsch's son-in-law, R' Aryeh Leib Broide<sup>11</sup> succeeded him.

## **R' Orenstein's Works & the Controversy Over Their Publication**

A prolific writer, R' Yaakov is best known for his magnum opus, *Yeshuos Yaakov*, novella covering all four sections of the Shulchan Aruch. Published in his lifetime, R' Yaakov is said to have danced with a copy of a second edition, stating that he is now assured that this work is considered by heaven to be 'prophetic' in nature.<sup>12</sup> He also penned

chiddushim on the Torah in the order of the parshiyos, at first printed together with the chumash entitled '*Ein Yaakov*', and later published as a separate volume. A new edition of these chiddushim was re-typeset in 5764 (2004), with a two page biographical sketch.

Throughout *Yeshuos Yaakov*, R' Yaakov cites numerous times his chiddushim on Shas, Rambam as well as his teshuvos, responsa. Seemingly, these works remained in manuscript form, and over the course of the years were lost. Recently, an attempt was made to 'reconstruct' those chiddushim on Shas based on chiddushim and references gleaned from sefer *Yeshuos Yaakov. Chiddushei Yeshuos Yaakov al Seder haShas*, 7 volumes, printed by Machon leCheker Kisvei Yad - Chochmas Shlomoh, Yerushalayim, 5757-60/1997-2000.

In the last months of 5666 (1906), R' Avraham Yosef Fisher, a well-known publisher, printed R' Yaakov's teshuvos from manuscript, in Peterkov. According to R' Fisher, he was given the autograph from the then Gerrer Rebbe, R' Avraham Mordechai Alter (author of *Imrei Emes*) for printing. The responsa were reordered according to the Shulchan Aruch, and in the end of the sefer, a table of contents as well as a list of errata and annotation was added. For reasons not fully explained, R' Fisher printed the book sans approbations that he claimed to have received from various leaders. He had applied to several sages for their approval, and while waiting for their response, decided to publish without them. In deference to those letters not at hand, he chose to omit those he did have, citing his desire to publish as taking precedence. This printing of the sefer was photo-mechanically reproduced in New York some forty years ago.

Several months after his sefer was printed, R' Aryeh Leib Broide, the son-in-law of R' Yaakov's grandson and heir, R' Tzvi Hirsch, issued a variant title page, and introduction. Claiming that the book had been in his personal possession to date, he alone had sent it to a printer, one Shimon Neiman for publication. Seemingly, the book changed hands, R' Fisher took possession of the printed volumes, selling them under his name, with R' Aryeh Leib Broide receiving a mere thirty volumes. As rightful owner, R' Aryeh Leib decried this act, and wondered how the name of the Gerrer Rebbe had been brought in to the fray. The variant pages were then bound to these thirty volumes.

Speculation as the behind the scenes reasoning would be an exercise in futility, as no word of it was mentioned by the Gerrer Rebbe himself.<sup>13</sup> While it is possible that R' Aryeh Leib's claims are accurate, R' Fisher was a respected publisher, and would only stand to lose by stooping to theft. Further, the silence of the Gerrer Rebbe on the issue is deafening in its own right. What cause could he have had be still regarding this issue? If he did give the book along with a letter, why remain silent? On the other hand, if his name was simply being used, why did he allow himself to remain an accessory to theft, even if only a defacto one?

One might postulate based upon the religious leanings of those involved. Lvov at the time was torn between the haskalah movement, and the majority of its opposition, the Chassidim. While R' Yaakov stood strong against the waves of the enlightenment, after his passing those safeguards he passed began to lose potency. The Rabbinate in Lvov

became politically controlled by those with positions of power and wealth, and sentiment among the Chassidic community in Lvov was that even R' Tzvi Hirsch was suspect of leaning towards the maskilim.<sup>14</sup> Certainly R' Aryeh Leib was considered controversial. His son Mordechai (Marcus) studied in Polish schools, received a doctorate, and married Martin Buber's sister, Gila. It is possible that R' Neiman had suspicions as to the religious opinion of the book, seeing how the main buyers market were Chassidim. Should the book be published under R' Aryeh Leib's name, it might not sell. Moreover, it could be he suspected R' Aryeh Leib of wanting to edit the text, based on his personal leanings. Perhaps he sent it to the Gerrer Rebbe, who in turn allowed for R' Fisher to print it, and use his name. In the event of exposure, R' Fisher would take the blame, while the Gerrer Rebbe would remain silent, thereby obfuscating the facts.

This year, a new edition of this controversy-fraught sefer has been published. Completely re-typeset, with the annotations and corrections penned by R' Fisher added in their rightful locations. Additionally, an index has been set up, to reference the standard ensemble of basic halachic texts; Shas Bavli and Yerushalmi, Rambam, Tur and Shulchan Aruch.

Many of the responsa are those alluded to by R' Yaakov in his Yeshuos Yaakov; some of the letters are replies to expound his thoughts in Yeshuos Yaakov. A veritable 'who's who' of Galitzian Rabbis can be listed among those querying R' Yaakov; R' Chayim Halberstam of Sanz, R' Aryeh Leibish of Stanislaw, and R' Moshe Sofer, to name a few.

The current publisher did not feel the edition would be complete without scouring the available literature and storehouses for those novella and letters that are not readily available. Such, an addendum was appended to the sefer, with additional responsa, derashos, chiddushim and even witticisms and anecdotes not found in the more common seforim. Of note, is a particularly interesting piece R' Yaakov expounded upon in the main beis medrash of Lvov in honor of Kaiser Franz Joseph [Emperor Franz II], on June 29 1814 (the 11<sup>th</sup> of Tamuz 5). The spirit of the derashah is the miraculous victory the Emperor had over Napoleon Bonaparte, and how he was Divinely aided in battle. A lone copy of this sermon survived, and Dr. M. Balaban reproduced it in his volume in honor of Dr. Mordechai (Marcus) Broide.

Other curios include novella that elaborate on those posed in Yeshuos Yaakov, and anecdotes from obscure works of that period. In one incident, while speaking with a local Rav of lesser standing, R' Yaakov offered a very insightful thought. The Rav, realizing the potential use of this thought in a personal derashah, asked of R' Yaakov to 'present' him with this thought and make it his "own". Understanding the Rav's motive, R' Yaakov agreed under one condition: that upon using the thought as his own, he must announce that he received it as a gift from R' Yaakov.

As a final touch, the publisher added a photo of the original title page, as well as the variant pages printed by R' Aryeh Leib. The ability to locate an extant copy of one of thirty copies ever bound testifies to the sheer effort expended in this edition.

[Available at Girsra Books, Jerusalem; Biegeleisen Books, Brooklyn NY USA, and fine bookstores worldwide]

## Notes

[1] Originally, the sefer was written as glosses and comments on Tur, much like the work by his father-in-law. [One might correlate the two works even more closely, and claim both emanated from marginal notes. See Prof. Y. S. Speigel, *Amudim bToldot Hasefer halvri*, vol. 1, p. 297.] Later these notes were edited to form the present commentary.

[2] R' Shmuel married R' Yoel's widowed daughter-in-law (m. R' Shmuel Tzvi Hertz, son of the Bach), and raised her orphan R' Aryeh Leib, author of *Shut Shagas Aryeh* (w/ Kol Shachal). R' Aryeh Leib was sent along with his brother by his stepfather to investigate the issue of Shabbtai Zvi.

[3] During the outbreaks of 5424, two of his sons were massacred along with hundreds of the cities inhabitants. See D. Kahane, *Sinai*, 100 (Jubilee Volume), pp. 492-508.

[4] Both published by Mossad HaRav Kook from manuscript.

[5] Author of *Shut R' Chayim HaKohen*.

[6] Indexed by Jacob B. Mandelbaum.

[7] Unfortunately, he never made it to E. Israel, having passed away along with his wife in the city of Salonika, Greece, and is entombed there. See A. Brick, *Sinai* 61, pp. 168-84.

[8] Introduction to *Yeshuos Yaakov*.

[9] Citation in *Killat Yofe* and see [here](#) as well.

[10] Called "the charities of R' Meir Baal Hanes". There is uncertainty regarding the true name of this charity. Historically, the tanna Rebbi Meir was never called "Baal HaNes" and the name is not found in neither Geonic literature or in works by the Rishonim. Furthermore, geographical guidebooks that list gravesites in E. Israel mention TWO R' Meirs, one in Teveryah (this is the grave of the well known tanna, the student of R' Akiva and friend of R' Yehuda and R' Shimon Bar Yochai) and one in Gush Chalav, the second bearing the name "Baal Hanes". This would seem to distance the moniker from the well known R' Meir even further despite his ability to perform miraculous accounts (see A"Z 18b. see also *Petach Eynayim* by R' Chida ad loc). In his pamphlet biography of Ramban, R' Reuven Margolis notes the above discrepancies. Based on Ramban's final sermon in Spain, extolling the urgency to support those dwelling in the Holy Land, as well as Ramban's personal activities in founding a house of worship along with a yeshiva in the then desolate Yerushalayim, R' Margolis offers a novel theory. He is of the opinion that at one point, whether while heading his personal yeshiva in Yerushalyaim, or perhaps as the subsequent head of the Yeshiva of R' Yechiel of Paris in Acco, Ramban established a central organization charged with soliciting and collecting funding from the Diaspora. As the years passed, the fund was named after its founder, Charities of Ramban. In all likelihood, at the fall of Acco to the Mamelukes, the Yeshiva was dismantled, and the funding dwindled, the name falling into disuse. At the rebirth of E. Israel settlement, perhaps in the times of R' Chayim Abulefia in Tiveryah, the acronym forming the name RMB"N was reinstated as an antique fund, and further misinterpreted to be read R' Meir Baal haNes.

[11] Father of Dr. Marcus Broide. Out of respect for his grandfather, who opposed secular studies, Marcus did not attend university. See M. Balaban, *Shalsholet haYachas shel Mispachat Orenstein-Broide*, Warsaw, 1931.

[12] Intro to Y"Y al hatorah

[13] Rosh Gulat Ariel (A.M. Segal, Yerushalayim, 1990) page 378 citing an article in *Ner Yisroel* by the late R' Tzvi Yizchok Abromovitz, rabbi of Chatzor HaGalilit.

[14] Balaban.