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SHEMINI

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THIS MONTH'S LEHRHAUS OVER SHABBOS IS SPONSORED BY  
THE CHANALES FAMILY L'ILUI NISHMAT  
SURI CHANALES Z" L  
(SARA BAT AVROHOM YEHOSHUA HESCHEL HAKOHEN V'FRIMET)

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THIS WEEK'S LEHRHAUS OVER SHABBOS IS SPONSORED BY  
HOWARD AND TOVA WEISER TO COMMEMORATE  
THE 75TH ANNIVERSARY OF THE LIBERATION OF THEIR PARENTS,  
MOSHE AND DORA WEISS AND GITTEL WEISER  
FROM BERGEN BELSEN (APRIL 15, 1945) AND  
AHARON WEISER FROM EBENSEE (MAY 6, 1945),  
AND THE YAHRZEIT OF HOWARD'S FATHER,  
AHARON BEN REUVEN ELIEZER, ON THE 25TH OF NISSAN

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**FOUR DAYS OF KRISTALLNACHT IN HESSEN**  
STEPHEN DENKER has published five history and genealogy books.

*These past six years, I have been helping my son-in-law's father, Bert Katz, write his memoirs about his home in Nentershausen, a small rural village in the State of Hessen near the geographic center of Germany. In the Fall of 1940, when Bert's family fled Germany to safety, Nentershausen had fewer than 700 residents. His family escaped Germany through the Soviet Union, Japan and across the Pacific Ocean to Quito, Ecuador. He was 10 years old.*

Although many historians have focused on the events that occurred on the night of November 9, 1938, the *Kristallnacht* pogroms were neither one twenty-four-hour event nor confined to cities. *Kristallnacht* began earlier than in other places in the smaller villages of Hessen, and extended over the four days of November 7-10, 1938. [Alan Steinweis, *Kristallnacht* 1938, Harvard University Press, 2009.]

Throughout Germany, violence erupted in hundreds of communities, the vast majority of them small villages with only a handful of Jews. The list of places in which pogroms occurred includes many unknown even to experienced scholars of German history — villages such as Nentershausen. In all these small villages, Germans were prepared to inflict violence upon their Jewish neighbors. The number of rural Jewish families had dwindled since the Nazis had come to power. Unfortunately for the few who remained, they and their small synagogues were easy targets on *Kristallnacht*.

The pretext to initiate the pogroms was the assassination attempt on the German diplomat Vom Rath in Paris. In "response," Nazi thugs set fire and destroyed synagogues and looted Jewish-owned stores and homes. Many Jews were terrorized or beaten, and some were even murdered. In the aftermath of the pogroms, more than 30,000 Jewish men were arrested and sent to concentration camps, including Bert Katz' father, Willy.

The first destructions occurred late in the evening on November 7, in Kassel. Prompted by a local Nazi official, the riot began when a mob, mostly made up of SA and SS members, broke into and destroyed a Jewish restaurant, then a synagogue, and then some twenty Jewish businesses.

The next night, November 8, 24 small Hessen villages, including Nentershausen, were also the scenes of violence. Mobs led by Nazis in the village entered, looted, and desecrated—but did not destroy—the Nentershausen Synagogue. The prayer sanctuary was ransacked, its contents thrown out into the street. Torah scrolls and sacred books were burned.

The vandals would not set fire to the building itself, as that would jeopardize neighbouring Christian-owned buildings. Instead, they tried to collapse the entire building by sawing through its supporting central column. However, their motorized saw stalled and its blade became stuck during the attempt. With their goal unrealized, the vandals fled, fearing the building would collapse on them.

After trashing the synagogue and desecrating its religious contents, the mob continued their destruction in Jewish homes. They looted and trashed both the Katz' living quarters and their shoe shop. Inside

the Katz living space, the dining room and the kitchen were smashed. The mob looted crystal, pots and dishes. Even wet laundry was stolen.

The mob leader and instigator was the local Ortsgruppenleiter (Nazi Leader) Konrad Raub (whose surname, ironically, means “loot” in German). Raub commanded blacksmith Karl Gebhardt and house-painter Heinrich Windedemuth to engage in the robbing and pillaging, but both declined—*“They would not join such a thing!”*

Earlier in the morning that terrible day, Georg Wettich had boasted to shoemaker Heinrich Stein—who himself did not participate in the violence—that, *“In the evening it would go badly for the Jews.”* While leading the plundering of the Katz’ home, Wettich opened the drawers of Willy’s business desk. Among other objects, he took the shoe business record book and loudly declared in Stein’s presence that he would now see *“who had done business with the Jew, Katz.”*

The Katz family sought refuge in the attic while the mob looted the house and shoe shop below. Behind the door on the top of the stairs, the family piled furniture and other heavy items. The looters discussed setting the house afire. Had they gone through with the plan, the hiding place would not have helped much. Bert was terrified, recalling a massive barn fire he had seen when he was six years old. Fortunately the mob was talked out of it by their neighbors, whom Bert believes knew that the family was hiding inside the house.

To protect his family in the attic against harm and ensure the mob would not change their mind, Willy went out of the house with his four-year-old twin sons. Once outside, he was kicked by one of his own apprentice shoemakers, Justus Kesten, who also had played a leading role in looting the synagogue, and was beaten by the mob despite the neighbors’ protests.

Mayor Schwanz, Nentershausen Police Sergeant Zimmermann, and several neighbors were brave men, especially for 1938 Nazi Germany. They were not afraid to help the distressed Nentershausen Jewish family. (Earlier, the Nazis had created new official police hierarchies and roles throughout Germany. Local police, even those in Nentershausen, were officially under national Nazi command, including Zimmermann himself.)

In his reparations affidavit, Willy wrote, *“That we came away with life itself, we owe to Mayor Schwanz, the shoemaker Ewald Moeller and the carpenter Johann Bergling. Herr Schwanz was so ashamed [sic] about this painful act of vandalism to our home and to our furniture he sent a carpenter, who made enough makeshift repairs of our furniture for us to use.”*

The day after the pogrom, Zimmermann recovered the shoes that had been stolen during the lootings. The local Nazi Leader Konrad Raub, also a shoemaker and a business competitor of Willy, had over 120 pairs of stolen shoes and other stolen shoe-making equipment in his possession. (Self-aggrandizing theft was a common thread in *Kristallnacht* looting.) They were seized and delivered to the Mayor’s office, then returned to Willy.

After *Kristallnacht* in Nentershausen, Bert Katz’ parents thought they would be safer in a large city. His father had relatives living in Frankfurt, but did not have an automobile to travel there. Willy therefore contacted his second cousin Norbert Bloch, who had his own car. Bloch came and drove the family to Frankfurt during the night of November 9, an action which saved his life. Later Bloch found out that he was on a Nazi list of persons to be arrested and murdered

on *Kristallnacht*, but the authorities could not find him since he was away rescuing family members.

As the Katz family embarked on their drive to Frankfurt, little did they suspect that *Kristallnacht* would precede them. Bert vividly remembers their family’s great shock and grief when they arrived in Frankfurt on the morning of November 10 seeking safety, and instead saw synagogues burning.

Willy decided to return to Nentershausen alone. But close to home, he was recognized and arrested at the railway station and taken to Kassel. From there he was transported to Konzentrationslager, Buchenwald (60 miles east of Nentershausen) and imprisoned. Willy was held there from November 12, 1938 until December 10, 1938. He was released earlier than most prisoners since he had served with distinction and honor in WWI, receiving medals for his valor. When he was released, he was warned that he should leave Germany as soon as possible. *“If he did not, he could be re-arrested. He would not leave Buchenwald alive again.”*

Despite their diminishing numbers, Jewish community life in Nentershausen continued. Then on May 30, 1942, the last remaining Jews in Nentershausen were taken to Kassel. From there they were transported on June 1, 1942 to the Majdanek death camp.

#### At Peace

After WWII, Willy returned to Nentershausen: to the place he was born and raised, had married and had started a family.

Many long years ago, local farmers had tried to persuade and reassure him, *“Willy, stay here, it will not last long with Adolf, nothing is as bad as it looks.”* But it was.

In 1980, at the age of 82 and living in Israel, Willy made his last visit to Nentershausen. He and his wife Martha still had Christian neighbors and friends in Nentershausen. *“They were good people, very good people.”*

Of course, he had not forgotten who had been the the ringleaders and looters during *Kristallnacht*. He still could recall them all by name. School classmates of Willy had included Konrad Raub. Willy visited the former local Nazi leader, who had lost his only son in WWII, on his deathbed. They spoke for the last time without bitterness.

Back in his Petah Tikvah living room, Willy smiled a little. *“We all have to thank Adolf. I would have preferred to have stayed in Nentershausen, surrounded by sons and grandsons and great-grandsons, speaking the familiar local Hessian dialect.”*

A thousand memories, good and bad, still bound Willy to the birthplace where he knew every tree, every lane and every family. The graves of his mother, grandparents, schoolmates and childhood friends are all in Nentershausen. Nentershausen was his home.

#### The Nentershausen Synagogue Restored

In her 2007 book *Synagogen und Jüdische Rituelle Tauchbäder in Hessen* (Synagogues and Jewish Ritual Baths in Hessen), Thea Altara counted the number of synagogues that survived *Kristallnacht*. In the early 1930s there had been 439 synagogues in the State of Hessen. Of these, 40 percent were destroyed during the *Kristallnacht* pogroms, 16 percent were demolished after 1945, and only 44 percent of the synagogue buildings still exist, but in degradation or another use.

The Nentershausen Synagogue building had survived, but could no longer be used. Axes had obliterated the gold inscription on the wooden lintel above the Torah Ark. Today this desecrated lintel is on permanent display at the United States Holocaust Memorial Museum in Washington, DC.

After *Kristallnacht*, local resident Johannes Krause bought the synagogue building from the Municipality together with the adjacent *Hirtenhaus* (shepherd house) for 600 Reichsmarks. He converted the former synagogue into a garage for his trucks, cutting large openings in the street-side of the building to allow the large vehicles to move in and out. His family still owns the land today.

In 1987 the Nentershausen Synagogue building was sold for one Deutsche mark, dismantled, and moved to the Freilichtmuseum Hessenpark (Hessenpark Open-Air Museum) in Neu-Anspach, a city north of Frankfurt. Founded in 1974, Hessenpark is a full-scale recreation of rural Hessian villages, with grounds that include over 100 original buildings which have been dismantled from their original locations and rebuilt there.

On July 16, 1996, the reconstructed Nentershausen Synagogue with its original 1925 decorations, colors, furnishings and *Mikvah* was rededicated. The dedication ceremony took place in the presence of many prominent German government and religious dignitaries.

The Hessenpark leadership used the opportunity to issue a mutual challenge:

*Today this small, reconstructed synagogue bears testimony to the Jewish life that once existed before the pogroms of the Nazi era. Although it is in its original form but not used as intended, it will help others learn about the reasons that led to this diminished reality.*

*To prevent the disgrace of repetition, we want to keep alive in our memory that the dark epoch in German history is never forgotten. We want to keep alive in our memory, in our historical consciousness, to learn from yesterday for today and for tomorrow. We want to keep alive the memory to help us handle the dark periods of our history here. Jews had lived in Nentershausen nearly 300 years.*

*And what about today? Responsibility remains. We cannot escape our history. We have to acknowledge it. What to do? There must be a lively dialogue with the Jewish people. We must accept our responsibility for the Jewish people, for the people of Israel.*

*We also need solidarity with all working to remove persecution. We must not retreat into a comfortable private and silent life when injustice occurs. We have a special responsibility. We must defend against any injustice, against any cruelty. More so after the Holocaust no one is allowed to stand on the sidelines when humanity is at stake. We must always be alert for the bad things that can happen again. The evil spirit is still stirring again in many corners.*

*If we stand up, then this day of remembrance of the horror, grief and shame can better be a day of promise.*

*The construction of this humble, beautiful synagogue in Hessenpark is a modest but important contribution to memory, to exhortation, to knowledge and to hope.*



1996 Nentershausen Synagogue rebuilt in Hessenpark

## THE RUINED GARDEN: CULTURAL HERITAGE IN AN AGE OF ETHNOCIDE

**MATTHEW OMELSKY** is a human rights lawyer and a researcher in the field of cultural heritage law and policy.

On a late summer's day in 1946, amidst the twisted girders, scattered bricks, and spent cartridges that littered the ruins of the Warsaw Ghetto, a team of Polish researchers began sifting through the pulverized wreckage of 68 Nowolipki Street. The excavators faced daunting obstacles in their methodical progress from surface to substrate, their spades and metal probes slowly working their way through the deposits of jumbled debris to the impacted clay beneath. After hours of strenuous digging at the site of the Marxist Poalei Zion's demolished safe-house, a probe at last found its mark: an otherwise unassuming tin box, carefully bound in twine but very much worse for the wear. Nine more receptacles were soon unearthed nearby, some badly waterlogged and beyond redemption, but most salvageable. However laborious the process of exhumation proved to be, the researchers' efforts were undeniably worth the while. These war-worn artifacts, after all, contained portions of the precious archives of *Oyneg Shabes*, "The Joy of Sabbath," a clandestine society devoted to chronicling the life and culture of the Warsaw Jewry prior to the Ghetto's liquidation.

Under the leadership of historian Emanuel Ringelblum, *Oyneg Shabes* operated underground, assiduously gathering some 35,000 documents, ranging from official papers, eyewitness testimonies, and last testaments to playbills, menus, and even candy wrappers. Ringelblum's goal was to take a "photograph of life" capturing the scattered remains of the Ghetto. "If none of us survives," wrote Ringelblum, "at least let that remain," safe for posterity's sake "from fire and water." As they prepared their makeshift receptacles in the semi-darkness of bunkers and subterranean, the volunteers were under no illusion as to their impending fate. In a September 1942 essay included in one of the caches, archivist Gustawa Jarecka acknowledged that "we have nooses fastened around our necks. When the pressure abates for a moment we utter a cry. Its importance should not be underestimated. Many a time in history did such cries resound; for a long time they resounded in vain, and only much later did they produce an echo." Although "this will not help us," Jarecka admitted, "we are noting evidence of the crime," for "the record must be hurled like a stone under history's wheel in order to stop it."

whom they sought to destroy. For no one can annihilate letters. They have wings, and they fly around in the heights ... into eternity.

Emanuel Ringelblum and his band of academic archivists could hardly have made a better case for the vital nature of their collective mission of cultural heritage preservation than the one made by the Rabbi Nokhem *in extremis*. Indeed, each one of these figures arrived independently at the same conclusion. Faced with the inevitable and irrevocable destruction of their persons and the better part of their communities, they waged an ultimately successful rear-guard action against the attempted eradication of faith, memory, culture, and humanity.

"Through a miracle, I have been rescued from Nazi bondage," wrote the survivor Binyomin Orenshtayn in another such memorial book, "yet I feel like a solitary twig from a ruined garden." Orenshtayn's simile is bleak, but the image of a sprig miraculously surviving the garden's general ruination nonetheless contains within it a crucial kernel of hope. Even a mutilated bud, drooping stalk, or harrowed plot may rejuvenate, germinate, and re-establish itself, however pronounced the surrounding welter and waste may be. The various botanical metaphors for humanity are popular for a reason, conveying as they do that comforting sense of fecundity and regenerative capacity present in human culture, which offsets a concomitant sense of vulnerability and transience. "As for man, his days are as grass, as a flower of the field, so he flourisheth," the Psalms (103:15) tell us, while the parables of the Gospels are replete with budding fig trees and sprouting mustard seeds in the garden of mankind. The Koran likewise has its metaphorical oases of palm and grapevine, alongside those of tamarisk and lote-tree. Rabbi Nachman of Bratslav poignantly declared the mass graves of pogrom victims at Uman to be a garden of a kind, and offered to serve in perpetuity as "Master of the Field." Of course, in a rather more secular context, we have the quietist Voltairean admonition that "*il faut cultiver notre jardin*" ("we must cultivate our garden").

According to another Enlightenment philosopher, the proto-anthropologist Johann Gottfried Herder, "to the good of mankind as a whole can no one contribute who does not make of himself what he can and should become; each should therefore cultivate and tend the garden of humanity first on that bed, where he turns green as a tree, or blossoms as a flower." As the primogenitor of cultural relativism, Herder maintained that "every tribe and people was unfathomably and indestructibly unique," and that each specimen within the human garden "represented a truth of its own, which was compounded of blood, soil, climate, environment, experience," as opposed to representing an "isolated rock" or "egotistic monad." The Herderian notion that cultural bonds are, as Frederick Barnard later summarized, neither "*things* or artifacts imposed from above but living energies (*Kräfte*) emanating from within" was an outgrowth of the organic dynamism of the *Aufklärung* philosopher's conception of humanity in all its vitality and resilience. How consolatory, then, is the *hortus gardinus* metonym for society, with its implication that a solitary twig in a ruined garden need not represent the last of its kind.

Regrettably, our horticultural metaphor has not always been employed in so uplifting a manner. Anthony Trollope, at the height of Britain's imperial expansion, wrote of native peoples that "have withered by commune with us as the weaker weedy grasses of Nature's first planting wither and die wherever come the hardier plants, which science added to nature has produced," while his contemporary Thomas Henry Huxley surmised: "supposing the [colonial] administrator to be guided by purely scientific

The *Oyneg Shabes* repositories thus represented an ante-mortem deposition delivered against any future spoliators of historical evidence. There were hortatory and precatory aspects as well. "We want our sufferings," wrote Abraham Lewin, a fellow archivist, "to be impressed on the memories of future generations and on the memory of the whole world." The spiritual aspect of this undertaking should not be overlooked either, given that the archives rather resemble *genizot*, those ancient storehouses that protected worn-out Hebrew texts from profanation. "The contents of the book go up to heaven like a soul," as the antiquarian Solomon Schechter put it, and so written records, in whatever form they take, are by their very nature deserving of an appropriate interment. "A *genizah* serves therefore the twofold purpose of preserving good things from harm and bad things from harming," in Elkan Adler's words, and Ringelblum's *Oyneg Shabes* served an equivalent purpose. In doing so it constituted one of the most profound acts of cultural heritage preservation ever undertaken.

The organizers of the Warsaw Ghetto archives were by no means the only victims of the Shoah to conceal recorded evidence of their persecution in the soil beneath them, in the desperate hope that posterity would benefit from their testimony. Herman Kruk and Zalman Gradowksi famously did so at Klooga and Auschwitz-Birkenau respectively, as did Itzhak Katzenelson, who used three small bottles to bury his last manuscripts, including the justly renowned epic poem "*Dos lid funem oysgehargetn yidishn folk*," "The Song of the Murdered Jewish People," in the doleful shade of a tree in the French detention camp at Vittel. While imprisoned in the Hôtel Providence and the Hôtel Beau-Site—the hideous irony of those names surely not lost on him—Katzenelson conjured up a macabre, yet expectant, vision later to be discovered curled up in one of his phials:

Oh, alas, my people appear. Raise your hands  
Out of the deep, mile long graves and sealed shut,  
Layer upon layer, doused with lime and burned,  
Up! Up! Ascend from the obstacle, the deepest layer!

By uncovering buried testimonies in the ghettos, death camps, and spa towns of post-war Europe, the heirs of Ringelblum, Katzenelson, *et al.* were effectuating just that, as the dead hands of the past were grasped and pulled out from under those awful barrows of heaped earth so that they might take up a new task for posterity's sake.

A similar impetus was behind the widespread production of *yizker-bikher*, or memorial books, produced by survivors and émigrés in an effort to record the lives, deaths, and afterlives of their brutalized communities. One such book recounted the words Rabbi Nokhem Yanishker uttered to his students upon the arrival of the German army in Slobodka, Lithuania: "Now that evil is so widespread, who shall uphold the world, if not Slobodka?" Preparing himself and his charges for the "final deed" of martyrdom, Rabbi Nokhem kept one eye on futurity, with the exhortation that:

If peace should return to the world, you should continuously tell of the greatness and wisdom in Torah and morals of Lithuania, what a fine and honorable life the Jews led there. But don't dissolve into tears and mourning. Tell it peacefully and calmly, as our Holy *Tannoim* did in their midrash *Eykho Rabosi*, about the destruction of the Holy Temple. And like them, the holy wise men, you should also recreate your speech in letters. That will be the greatest revenge you can take on the evil ones. In spite of them, the souls of your brothers and sisters will live on, the martyrs

considerations, he would, like the gardener, meet ... serious difficulty by systematic extirpation, or exclusion, of the superfluous." A century later the Australian anthropologist Roger Sandall would excoriate Herder's vision of the "comity of nations as a garden of wildflowers," calling it

the most childish notion ever to have imposed itself on an influential mind. Whatever he [Herder] may have imagined, the garden of human cultures contains just as many stink-lilies as violets, strangling vines as primrose, sick societies as those with rosy cheeks—and too many problems in the modern world stem from sentimentally denying this fact.

Sandall, perturbed as he was by the Rousseauian "culture cult" of "romantic primitivism," effectively conveyed his exasperation with cultural relativism, but the concern is that such an attitude asymptotically approaches Social Darwinism, the worst manifestations of which can, in turn, provide the ideological basis for appalling infractions of natural justice. What are rosy-cheeked societies meant to do about their sick counterparts? What are the growers of sophisticated cultivars supposed to do about unwelcome varieties? It is one thing to advance the seemingly neutral observation that the human garden is not merely composed of flowers, but also noxious, strangling, and stinking weeds intrinsically inferior to cultivated species. It takes only one more conceptual leap to consider the role of the pruning hook, the scythe, and the sickle, not to mention more advanced pesticidal methods (and it may be worth noting in passing that the prussic acid compound later known as Zyklon-B made its commercial debut as a citrus fumigant).

Small wonder, then, that a 1932 edition of the Nazi satirical—if one can really call it that—*hebdomadaire Die Brennessel* depicted a fascist gardener lopping off Jewish heads above the caption "*Kampf dem Unkraut*," or "Battling the Weeds." Hitler himself obsessed over the need to "prune off the wild shoots and tear out the weeds," inspired by the inventor of the term *Lebensraum*, Friedrich von Bernhardi, who warned of "inferior or decaying races [that] would easily choke the growth of healthy budding elements." The Turkish nationalist Ziya Gökalp, at the time of the Armenian Genocide maintained that "the people is like a garden. We are supposed to be its gardeners! First the bad shoots are to be cut. And then the scion is to be grafted." Mao Zedong likened his democratic or aristocratic foes to "poisonous weeds." The Rwandan Hutu Power *génocidaires* in 1994 referred to adult Tutsis as "tall weeds" and to their children as "shoots," while congratulating themselves on having "swept dry banana leaves before burning them," another horticulturist's task. The list could go on.

"Modern genocide," Zygmunt Bauman pronounced in *Modernity and the Holocaust*, "is a gardener's job," for "it is just one of the many chores that people who treat society as a garden need to undertake. If garden design defines its weeds, there are weeds wherever there is a garden. And weeds are to be exterminated ... All visions of society-as-garden define parts of the social habitat as human weeds." Eliminationist ideologies recast genocide as a sort of swiddening in the interests of societal restoration. Orenshtayn's solitary twig is thus dismissed as a pernicious weed unworthy of cultivation, or worthy only of being torn out, root and branch, in the interests of improving the *jardin politique*.

It is here that we approach the crux of the historical debate over cultural genocide. For Ringelblum and his fellow preservationists, the campaign against cultural obliteration was a matter of paramount importance, even when compared to the threatened physical

destruction of a people, just as it was for the jurist Rafael Lemkin. When coining the word, Lemkin defined "genocide" as the "intent to destroy or cripple permanently a human group," but he hastened to add that the "derived needs" or "cultural imperatives" of a society are

just as necessary to their existence as the basic physiological needs ... These needs find expression in social institutions or, to use an anthropological term, the culture ethos. If the culture of a group is violently undermined, the group itself disintegrates and its members must either become absorbed in other cultures which is a wasteful and painful process or succumb to personal disorganization and, perhaps, physical destruction.

There is thus the phenomenon as ethnocide or social death, the process by which traditions, values, folkways, languages, and other collective projects are snuffed out, and intergenerational linkages severed, without the utter destruction of a people necessarily being accomplished—the pruning of a people, in other words. As Claudia Card summarized it:

The harm of social death is not necessarily less extreme than that of physical death. Social death can even aggravate physical death by making it indecent, removing all respectful and caring ritual, social connections, and social contexts that are capable of making dying bearable and even making one's death meaningful. In my view, the special evil of genocide lies in its infliction of not just physical death (when it does that) but social death, producing a consequent meaninglessness of one's life and even its termination.

One imagines that Ringelblum, Katzenelson, Reb Nokhem, and the others cited above would have understood Card perfectly, though she admits that "this view, however, is controversial."

So it has proven. In the aftermath of the Second World War, the framers of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide wholly omitted cultural genocide from the finalized text. The United States representatives were adamant that the "prohibition of the use of language, systematic destruction of books, and destruction and dispersion of documents and objects of historical or artistic value, commonly known in this Convention to those who wish to include it, as 'cultural genocide' is a matter which certainly should not be included in this Convention." The United Kingdom objected that the "inclusion of such indefinite concepts as cultural genocide" would "render the whole concept of genocide meaningless," while for France such a move risked "transforming a minor infringement of rights into an international principle."

Eastern Bloc nations took umbrage at this line of reasoning, with the Belarusian delegate pointing out that:

the destruction of cultural and national centers accompanied the mass destruction of people, cities, and villages. The Germans had burned the Academy of Sciences, the State University, the State Library, the schools of medicine and law, the Ballet Theater, the National Library, whose books had been plundered and destroyed, and over one thousand school buildings in the region of Minsk alone.

Poland's plenipotentiary concurred, echoing Lemkin in his insistence that the convention "would only be effective if it covered cultural

genocide which could be as destructive of the life of a nation as physical extermination.” Sadar Bahadur Khan of Pakistan, meanwhile, flipped the traditional script by insisting that “cultural genocide represented the end, whereas physical genocide was merely the means. The chief motive of genocide was a blind rage to destroy ideas, the values and the very soul of a national, racial, or religious group, rather than its physical existence,” while adding that “for millions of men in most Eastern countries, the protection of sacred books and shrines was more important than life itself; the destruction of those sacred books or shrines might mean the extinction of spiritual life,” *pace* those who “appeared to consider cultural genocide as a less hideous crime than physical or biological genocide.” This critically important theme was later picked up by Zygmunt Bauman, who stressed that modern genocide is “genocide with a purpose,” for:

Getting rid of the adversary is not an end in itself. It is a means to an end: a necessity that stems from the ultimate objective, a step that one has to take if one wants ever to reach the end of the road. *The end itself is a grand vision of a better and radically different society.* Modern genocide is an element of social engineering, meant to bring about a social order conforming to the design of the perfect society.

Unfortunately, just as Soviet delegates were arguing in favor of cultural protection within the Convention, the Soviet Union itself was engaged in widespread purges not just of individuals and classes, but of cultural paraphernalia like the epic poems, or *dastans*, of the Azeri, Turkmen, Uzbek, Kazakh, Kyrgyz, and Karakalpak peoples, which were deemed dangerously “bourgeois nationalist,” “clerical,” “feudal,” and generally un-dialectical. The communities of the Jewish Autonomous Oblast were likewise subjected to Stalinist policies of libricidal cultural suppression, prompting the Yiddish poet Chaim Beyder to describe the bonfires outside a Jewish library in Birobidzhan in terms that mirrored those employed by Itzhak Katzenelson:

With what anguish those Yiddish books burned  
And trembled in the smoke’s stationary vortex,  
Their very pages upturned  
Like lifted limbs  
Writhing in pain amid the flames.

Elsewhere, in the Trans-Baikal territory, entire Buddhist libraries were being obliterated, with precious Kanjur manuscripts sent to pulp-mills and sacred woodblocks fed into the iconoclastic pyres of a brutal purge. Though Louis Henkin once posited that “the development of human rights law may indeed serve as a lesson in the benign consequences of certain kinds of hypocrisy, of the homage that vice pays to virtue,” the most vocal of the state sponsors of cultural genocide legislation had stumbled badly out of the gate.

So complete was the official rejection of cultural genocide that the Trial Chamber of the Yugoslav Tribunal found in *Prosecutor v. Krstić* (2001) that “an enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide.” The effect of this attitude, however defensible from a narrow juridical standpoint, has nevertheless proven undeniably perverse, as we now find ourselves inhabiting a sort of Manichaeic *globus horribilis* marred by a seemingly endless consecution of ethnocidal campaigns.

“Indigenous groups,” Robert Hitchcock and Tara Twedt noted in their contribution to the 1997 anthology, *Century of Genocide*, “disappeared at an unprecedented rate” over the course of the twentieth century, “a product of both physical and cultural extinction.” Their stark warning—that “without efforts to document cases of genocide and to impose penalties on those governments and agencies responsible, killings and disappearances will be commonplace occurrences not just for indigenous groups but for many of the world’s peoples”—has been borne out in spades. Take the ongoing butchery in the Levant, which has transformed the Mediterranean basin into an immense bleeding bowl. Assyrian Christians, who weathered Ottoman and Baathist massacres, internment in *mujamma’at* processing centers, and the wholesale destruction of churches, monasteries, orchards, statues, and books, now face existential threats to their community and cultural patrimony coming from the Islamic State of Iraq and the Levant (ISIL). The president of the Assyrian Genocide and Research Center, Sabri Atman, has argued that “when the massacres and human rights violations of the past were not sentenced sufficiently, it paved the way for new massacres. The most effective way to prevent future slaughter is to condemn past slaughter.” But Assyrians, Chaldeans, Copts, Mandaeans, Yazidis, Jews, and other groups facing campaigns of extermination and cultural cleansing have ample evidence—in the form of widespread attacks, *sabaya* (sexual enslavement), hostage-taking, and iconoclasm—that neither past nor present enormities have fully penetrated the international consciousness.

What is occurring all over the wider region, as a consequence, is what Freya Stark memorably termed the “breaking of the human mainspring.” In an interview with Gerard Russell, author of the moving Middle Eastern travelogue, *Heirs to Forgotten Kingdoms*, the Mandaean asylum-seeker Nadia Gattan described the dynamic in an Iraqi context: “We were the fulcrum in a pair of scales—holding Iraqi society together. And when the Mandaeans and other minorities left, the scales were broken.” It is not just in the Levant that such catastrophic processes are at work.

In Crimea, the Tatar Mejlis parliament has been branded an extremist organization by the Russian-backed authorities and most Tatar media organizations have been banned outright, all in a transparent attempt to grind down a community scarred by a brutal history of deportation and massacre. Many Uyghurs find themselves in an analogous position in China’s East Turkestan, facing what the European Parliament has described as a pattern of “marginalisation, discrimination and repression that has been meted out to the Uyghur community in China since the 1940s,” including the bulldozing of the ancient city of Kashgar and official campaigns against traditional attire, prayer, and Ramadan fasting. The Sincization of Tibet can be viewed similarly, given the Dalai Lama’s claims that “there is an ancient cultural heritage that is facing serious danger” and that “whether intentionally or unintentionally, some kind of cultural genocide is taking place.”

In the Bumburet valley of northwestern Pakistan, the ancient Kalash community has found itself beset by institutional conversions and militant attacks. Yasir Kalash has warned that “if this goes on, our culture will be finished within the next few years,” while beseeching: “We request to the world, preserve us.” The Kalash share the same problem afflicting the beleaguered peoples of the Near East, best described by the Chaldean Father Fr. Douglas Al-Bazi, namely that they are “living and breathing human beings, not museum pieces,” but “soon we will be small enough for the world to forget about us completely.”



It is hard to gainsay such a foreboding outlook, though not all has been lost in recent years. The language and customs of the Libyan Amazigh (Berbers) survived Muammar Gaddafi's Cultural Revolution, and recent years have seen a renaissance owing to the efforts of language activists like Madghis Buzakhar. In the Nafusa mountain range of Tripolitania, Berbers are now able to speak Amazigh, read the Tifinagh script, and celebrate the Amazigh New Year, all without fear of repression, as they "refresh their collective memory," in the hopeful words of the archaeologist Mostafa Ouachi. Readers of Joshua Hammer's spirited 2016 account, *The Bad-Ass Librarians of Timbuktu*, will be familiar with Abdel Kader Haidara's heroic efforts to safeguard Mali's religious and secular manuscripts from the depredations of al-Qaeda militants. Haidara's preservation campaign was followed in short order by the September 27, 2016 ruling by the International Criminal Court in *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, in which the trial chamber, for the first time in history, found a defendant guilty of directing attacks against "buildings dedicated to religion, education, art, science or charitable purposes, [or] historic monuments," in this case a number of UNESCO World Heritage Sites in Timbuktu. While the court emphasized that Al Mahdi was "not charged with crimes against persons but with a crime against property"—which, "even if inherently grave ... are generally of lesser gravity than crimes against persons"—a precedent has thankfully been set.

For all that, there are altogether too many groups upon whom total darkness threatens to descend. This is in no small part because of a longstanding attitude that ethnocide pales in comparison to physical genocide. It was the contention of Rafael Lemkin, Sadar Bahadur Khan, and other human rights luminaries that this formulation is counter-productive, if not completely misguided. But in our present-day only the most vacillatory efforts are being made to prevent human rights malfeasors from creating a future without a past for the religious minorities of the Levant, Crimea, East Turkestan, Tibet, and elsewhere. Perpetrators of crimes against cultural patrimony have an implicit understanding of the Syrian aphorism that "one who has no old has no new." The victims of these acts of cultural despoliation understand this even better. It is incumbent on the international community to recognize the truth of it as well.

Given all of the noisome foregoing descriptions of threatened peoples within the garden of humanity as weeds, unclean branches, and worse besides, it seems appropriate to conclude in the lush and holy valley of Lalish, where the Yazidis have situated the original Paradise. There, as John Guest described in his history of the Yazidis, *Survival Among the Kurds*,

Travellers from the treeless plain of Nineveh make their way up the foothills to enter a world of mountain oaks, arbutus and mulberry, willows and terebinths, hawthorn and oleander ... On the northern slope of the valley, where Adi's shrine now stands, clear spring water gushes out of the rock and irrigates a garden of plane, mulberry and fig trees. In the summer the air is filled with the fragrance of countless flowers, the songs of birds, the humming of bees and the gentle flight of butterflies.

The hills surrounding the shrine are strewn with crimson poppies, flowers which are nourished, it is believed, by the copious blood of Yazidi martyrs. From the seventeenth century on, the people of Êzîdxan have faced down existential threats emanating from the Sublime Porte, al-Qaeda, and ISIL, and have in recent years been cruelly forced into slavery, conversion, and the stopped earth of mass graves. In Lalish, in the supposed Garden of Eden, one certainly does

not encounter the "weaker weedy grasses of Nature's first planting," but rather adornments to our collective civilization, sustained by the sacrifice of generation after generation. But in Lalish, as threats from beyond the valley inexorably mount, we also find confirmation of the Ukrainian-Israeli poet Jacob Steinberg's assertion that "the world is not an enclosed garden."

The Yazidis, for their part, derive considerable comfort in their collective distress from the tale of Tawûsê Melek, the benevolent Peacock Angel said to have fallen from Heaven and wept for seven millennia, eventually extinguishing the infernal fires with the sheer volume of his teardrops. In the outcry of the Peacock Angel one is reminded of another *cri de coeur*, that of the *Oyneg Shabes* archivist Gustawa Jarecka, who observed that "many a time in history did such cries resound; for a long time they resounded in vain, and only much later did they produce an echo." We hear those echoes in the moving words and deeds of preservationists all the world over, sometimes faint, sometimes resonant. All that remains for the listener is to absorb the admonitions of the past and present, and to acknowledge that the malevolence that fuels ethnocide is seldom satisfied by the destruction of values and artifacts, and invariably endangers individuals, communities, and the very repose of nations.

And as Rabbi Nokhem Yanishker posited on the eve of the destruction of his own Lithuanian community, the "greatest revenge" against practitioners of genocide, cultural or otherwise, is to forestall the annihilation of letters, the better to ensure that imperiled cultural patrimony survives to take flight again. Amidst the leaden fog of war that surrounds the rampant humanitarian crises of our day, at least let that cogent and altogether hard-won counsel emerge.

## BETWEEN "REID" AND LEARNING: BEHAG ON SEFIRAT HA-OMER

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I regularly remind my *talmidim* and *talmidot* that learning, for *yeshivah* day school students, often requires *unlearning* what we first encountered while less mature. While I most commonly urge this unlearning regarding Tanakh and *midrashim* (think Vashti's tail), for *yeshivah* students, this reminder is particularly apt in regard to "*reid*," dominant analytical explanations of particular Talmudic *sugyot* which have been popularized in many Lithuanian-style *yeshivot*. While there is certainly value in becoming familiar with well-trodden "*lamdanut*," which creates a common discourse and identity among those who study in and identify with *lamdanut*-oriented *yeshivot*, the flipside is that we run the risk of uncritically receiving learning without delving deeper.

The classic opinions of Behag (*Ba'al Halakhot Gedolot*, [R. Shimon Keyara](#), circa 8th century Babylonia) regarding *Sefirat ha-Omer* exemplify precisely this pitfall. Behag is typically presented as having maintained two independent *shitot*: 1) One who omits the count at night may still count the next day; and 2) One who misses an entire twenty-four hour period may no longer count with a *berakhah*. Tosafot ([Menahot 66a s.v. zekher](#)) present Behag in this fashion, cite Rabbeinu Tam as having rejected Behag's first view, and dismiss the second position as a "bewildering, implausible" position. (See also [Tosafot Megillah 20b s.v. kol](#).) Tosafot and other *rishonim* (such as

[Rosh Pesahim 10:41](#)) thus set forward Behag's two positions entirely independently of one another.

Accordingly, Tosafot explains the logical basis for Behag's two rulings differently: the former, concerning counting at night, is rooted in the comparison to the cutting of the *omer* barley, which was performed at night ([Menahot 71a](#)); and the latter, regarding missing a day, is based on Behag's innovative invocation of *temimot* ([Leviticus 23:15](#)), the requirement that one's count must be comprehensive.

This presentation of Behag's positions has generated a tremendous amount of well-trodden discourse among *rishonim* and *aharonim*, particularly his view regarding one who misses an entire day. According to Behag, for example, if each day is dependent on all others, shouldn't we only recite a *berakhah* on the first night? And, as the Hida (*Moreh be-Etzba* 7:207) points out, why aren't we concerned that one might forget to count at night, thus retroactively rendering all the previous nights' blessings in vain? More fundamentally, does Behag view all forty-nine as a single *mitzvah* ([Sefer ha-Hinnukh 306](#) as explained by [Minhat Hinnukh](#) ad loc.), or does he merely think that one cannot be considered to have "counted" if he skips an entire day (Rav Joseph B. Soloveitchik, summarized [here](#))? Finally, what are the practical implications of this conceptual question for a host of situations, including one who remembers to count during *bein ha-shemashot* at the very end of that day, becomes bar mitzvah in the middle of *Sefirah*, or had been unable to perform the *mitzvah* due to illness or *aninut* (burying a relative)?

Yet when we set aside the way Behag's view is commonly cited, and instead examine the text in its original, we arrive at a different understanding of Behag's position.<sup>1</sup> Behag first addresses the laws of *Sefirat ha-Omer* in *Hilkhot Atzeret* (12), writing that "where one forgot and did not recite the blessing over the counting of the Omer at night, he should recite the blessing by day." This seems to be the basis for the first view of Behag as cited in Tosafot and other *rishonim*: it is ideal to count at night, yet one who forgot may count the next day.

Later, Behag writes:

The master Rav Yehudai Gaon said the following: Where one did not count the first night, he does not count the other nights. What is the reason? Because we require seven complete weeks and nights. However, regarding the other nights, where one did not count at night, he counts by day, and it is fine. (*Hilkhot Menahot*, 71)

The ruling of Rav Yehudai Gaon is cited by Behag without comment, indicating that Behag endorses this view. If so, rather than issuing a general ruling concerning one who omits a night of the count, he is discussing the first night of *Sefirah* in particular. And, apparently, his comments in *Hilkhot Atzeret* regarding one who omits *Sefirah* at night were made in reference to any night but the first.

What of Behag's position regarding one who omits an entire day of counting? While not explicit, his language suggests that, consistent

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<sup>1</sup> I will set aside the question of the various recensions of Halakhot Gedolot (see [here](#) for a brief summary). My interest is not in whether or not Tosafot "got Behag right" but whether we should satisfy ourselves with relying on received digests.

with Tosafot's presentation of Behag's opinion, one "loses the count" if he omits an entire day of the Omer. This emerges from a close reading. It seems odd that Behag concludes by writing that "regarding the other nights, where one did not count at night, he counts by day, and it is fine." Since his point in the first section concerns one's ability to count future nights, we would have expected him to conclude by stating that regarding other nights, one may count future nights if he omits an earlier night. Instead, he writes that one who omits another night may count the next day. This suggests that Behag takes for granted that one who omits an entire twenty-four hour period may no longer continue to count.

A close examination of Behag's words, then, suggests a view that is similar to but not identical with the presentation of Tosafot and subsequent *rishonim*. In general, consistent with Tosafot's presentation, Behag holds that one who omits the night may count the next day, yet one who misses an entire day may no longer count with a *berakhah*. Yet he adds one crucial point: *one who neglects to count on the first night can no longer recover the count; counting on the first day does not work.*

What is the logic for Behag's distinction? Yet again, a close reading suggests an explanation: he writes that "we require seven complete weeks and nights." This formulation indicates that Behag utilizes a dual application of the *temimot* principle. First, one who misses an entire day lacks the complete counting required for the *mitzvah*. Second, one must draw a direct link between the date of the *korban ha-omer* and the count. Accordingly, one who neglects to count the first night loses the entire count.<sup>2</sup> In the words of [Rav Sa'adiah Gaon](#), who holds the same position as Behag regarding the first night, "If he forgot to recite the blessing on the first night he can no longer recite the blessing on the *omer* this year, for they are not complete [*temimot*], due to what they lack at their beginning, and they no longer begin [immediately] following the holiday" (*Siddur Rav Sa'adiah Gaon*, pg. 155).

This view of Behag was even known to some *rishonim*, if not to Tosafot. R. Nissim (*Pesahim* 28a, s.v. u-mehayevin), for instance, cites the view of Behag that we distinguish between the first and subsequent nights, then quotes Rav Hai Gaon as having rejected this distinction. Tur (*Orah Hayyim* 493), while citing Behag in the same way he is cited by Tosafot, quotes the aforementioned Rav Sa'adiah Gaon as having drawn this distinction. Bayit Hadash (s.v. ve-khatav) explains the reasoning for Rav Sa'adiah along the same lines we outlined above.

Yet, to the best of my knowledge, this position, apparently not uncommon among the Geonim and cited in a classic *rishon*, is rarely cited in contemporary discussions of Behag's (or other Geonim's) view. My point is not that we should set aside Tosafot's presentation - it too is surely worthy of halakhic analysis. I am also not advocating for a reexamination of the practical *halakhah*; we can safely assume that no contemporary authority would entertain following Behag and

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<sup>2</sup> In principle one might have accepted one of these *hiddushim* without the other. Tosafot's presentation of Behag, of course, accepts the point regarding the importance of each day without granting unique status to the first night. On the flipside, R. Sa'adiah Gaon holds like Rav Yehudai and Behag that one who misses the first night fails to fulfill one's obligation, but simultaneously maintains that "one who forgot to bless one of the nights of the Omer may bless the coming nights."



Rav Sa'adiah Gaon's stringency regarding the night of 16 Nissan. Nevertheless, an overreliance on the "reid" impoverishes our understanding of Behag in particular, and the range of viewpoints in this *sugya* in general.

And it is not just that we neglect to look up Behag inside. Even those who do so, informed by the "reid" on the *sugya*, can all-too-easily misread the text. Take the following image of the text of Behag I once found online:

הלכות פסח הלכות פסח גזירות

דלא כוין פירכה . אמר רב אשי מ'טס למימני יומי ומ'טס למימני  
מ'טסי . רבנן דבי רב אשי מ'טו יומי ומ'טו מ'טסי אמר רב  
יהודאי ג'אך כוין אמר . כיכא דלא מ'טס ע'טס ליל' ק'חא לא  
מ'טו ג'ארי ליל'ק'א מ'טו ד'ב'ע'י'אל מ'טס מ'טס ק'ח'י'מ'טו ולי'טס  
אכל מ'טס ליל'מ'טס כיכא דלא מ'טס מ'טס ק'ח'י'מ'טו מ'טו כ'מ'טס  
מ'טס דמי . (מ'טס פ'א) ול'טו מ'טס ק'ח'י'מ'טו ולא ק'ח'י'מ'טו כ'מ'טס

Presumably seeking to underscore the classic explication of Behag's view on the basis of *temimot*, the image cuts short the first underline immediately before the word "kamma," a reference to the first night! This radically alters the meaning of Behag's position, bringing it in line with the classic explanation with which we are generally familiar, and missing an opportunity to "discover" an alternative viewpoint.

There is a world of difference between learning the "reid" and learning Behag. By being overly reliant on summarized quotations and canned *sugyot*, we impoverish our ability to more fully appreciate the words of Behag - and, ultimately, the word of God.

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