Dr. Gerschom Scholem and the U.S. Army in 1946

Theft or Conscientiousness?

Introduction

An individual's loss (or theft) of property can be addressed by offering monetary compensation, though it may only partly correspond to the value of that property, or may only go that individual's heirs. A culture, a transmitted heritage held collectively in some manner, that is lost, cannot be replaced, especially when the individuals or institutions which supported it or passed it on are gone.

However, though Eastern European Jewish culture was largely obliterated by 1945, many objects associated with that culture, from items used in religious ceremonies to manuscripts, remained – and came into the hands of the occupying U.S. Army. Where it was clear, as the Nazis had often plundered clearly marked collections, many such items were quickly returned to their rightful owners or heirs.

However, the U.S. Army did not presume to know what to do with the thousands of ceremonial objects of unknown provenance and the hundreds of thousands of books of unknown ownership they held in 1946, and turned to Jewish institutions and organizations for help. An army aspires to be an orderly institution which preserves order through rules and procedures that must be followed. But this was a situation without precedent, with the needs, resources, and desires of the moment at times taking priority over procedures.

Judaic practices, in turn, put much store by the written word, and the preservation of words has been a core aspect of cultural continuity, given all the many efforts to

destroy Jewish cultural life, including long before the twentieth century. The case of Dr. Scholem's actions in 1946 with respect to what the U.S. Army held – it must be said, in safe-keeping – illustrates that the determination to preserve written materials which represent one part of Jewish cultural heritage can find itself in conflict with equally persuasive motivations, in this case of the kind that guided the actions of the U.S. Army.

The Case

In the summer of 1946, Dr. Gerschom Scholem of Hebrew University, a scholar known for his work on Jewish mysticism and the Kaballah, went on a mission to Germany to gather information on the whereabouts of former Jewish libraries and archives. Having established that major collections, including the Berlin Jewish Community and the Jewish Theological Seminary in Breslau, had been sent to Czechoslovakia for safekeeping, Dr. Scholem then turned to evaluating what was at Offenbach.

The Collecting Point at Offenbach, near Frankfurt, had been established in July 1945 by the U.S. Army and was one of two central locations to which looted books, Jewish cultural objects and archival material of unknown origin or ownership was sent to be identified and inventoried, prior to restitution. The Offenbach Archival Depot, as it was renamed in 1946, was located, ironically and tragically, in an I.G. Farben building. Security for the Depot was provided both by the U.S. Military and by I.G. Farben police.

Dr. Scholem helped identify, organize, and sort books and manuscripts while he was at the Depot that summer. It was not a small undertaking since in July of 1946, the Depot reported that among the items they held (estimated in mid-1948 to still amount to

about one million items), there were over 400,000 identifiable volumes taken from Jewish libraries in Germany, Austria, the Baltics and Eastern Europe, around 138,000 volumes in Hebrew that were unidentifiable, and nearly 50,000 Jewish religious and historical books written in German. In a later report, Scholem would note that he was somewhat disappointed by the quality of the rare books and archival material he saw, perhaps because his own interests were in earlier materials. The chief characteristic of the material at Offenbach, a different report concluded, "was that it consisted almost entirely of broken sets, remnants of private and public collections, with not a single collection which seemed an intact unit."

Nevertheless, during this summer, Dr. Scholem ranked a number of books and manuscripts and marked them with Roman numerals from "I" to "V", with "I" judged the most valuable. Under the orders of Captain Isaac Bencowitz, the Director of the Offenbach Depot in 1946, employees then packed the books and manuscripts marked "I" and "II" into boxes and stored them in the "Torah Room." This locked room contained hundreds of Torah scrolls and thousands of silver objects used in Jewish rituals and religious services, as well as rare books and manuscripts. Only two persons had keys to it, one of them a certain Captain Bencowitz. Soon thereafter, these boxes disappeared.

A few days later, the boxes reappeared. They were unpacked and placed on the shelves in the Torah Room, and employees completed an inventory that indicated nothing was missing. In October, 1946, Captain Bencowitz ordered employees to repack these same materials into five wooden boxes (or cases), stencil the name "Scholem" on them, and put them back into the Torah Room. In November, 1946, these boxes were shown to two visiting Monuments, Fine Arts, and Archives officers, and soon afterwards, Captain

Bencowitz went to Palestine on leave, returning to Offenbach on December 27. Three days later, Rabbi Philip Bernstein and Captain Herbert Friedman from the Office of the Advisor on Jewish Affairs to the Office of Military Government of the U.S. in Germany paid the Offenbach Depot an inspection visit. Once they left, Captain Bencowitz told his secretary to write a receipt in the name of the Joint Distribution Committee (JDC) for 1100 items, and later that same day, Captain Friedman came back, signed the receipt, and took the five "Scholem" boxes. The JDC, in existence since 1914, was a Jewish relief organization based in New York.

The new Depot Director, Joseph Horne, discovered on January 20, 1947, that the five boxes were missing, and initially believed the JDC was involved, probably on the basis of the receipt Captain Friedman had signed. The JDC, did, in fact, have an agreement with the Office of Military Government in Germany, approved by its head General Lucius Clay in January, 1946, that it could borrow books of unknown provenance that had little or no value to distribute to Displaced Persons camps. Camp residents, the JDC had argued, were starved for material, and some of these refugees had not seen a text in Hebrew for the entire duration of the war. The agreement explicitly stated that unusual, irreplaceable, or valuable books could not be borrowed, nor could books that were clearly the property of any known institution or individual be borrowed by the Joint.

The "Scholem" boxes, as far as Depot Director Horne could assess, contained priceless manuscripts and books, and taking them was "a clear violation of the agreement, and puts Military Government, which is the custodian of these materials, into a very embarrassing position." The JDC at first denied any involvement, then admitted in

February that it was no secret to them "that the five boxes of valuable materials had with full knowledge and consent of Captain Friedman and Rabbi Bernstein been shipped by air to Paris for reshipment to Palestine."

We know all this because General Lucius Clay requested the Office of the Inspector General of the Army to investigate the matter, and if the boxes had indeed arrived in Palestine, to contact the British authorities in the hope of recovering them. Hebrew University informed the American Consulate in Jerusalem on April 21, 1947, that it in fact had received the five boxes from Offenbach, and agreed to hold them pending further instructions from the Military Government in Germany. At first, the American Consulate was instructed to immediately return the boxes to Offenbach, as they had been removed without authorization and contained identifiable restitutable property, but the Office of Military Government soon reversed this decision and instead asked that the boxes be opened and inventoried.

The inventory, listing 366 items was completed on June 22, 1947, by I. Joel, then Acting Librarian of the Hebrew University Library. The list he prepared identifies books and manuscripts in the five "Scholem" boxes by author, title, estimated age by century, and where indicated, by origin (e.g., Records of the Minsk Burial Society; Register of Jewish Community Pelten). Thus while the works are named, the list itself does not identify ownership. An archivist at a Jewish Studies library has examined this list and judges that these materials probably came from yeshivas, institutions, or Jewish communities that no longer existed by 1946; the list indicates about one-tenth were comprised of handwritten manuscripts, and about one-quarter was from the 18th century or earlier. In other words, these were items of cultural and scholarly value, of a kind Dr.

Scholem assessed as worthy of belonging in a public collection such as a university library.

Hebrew University signed a receipt for these materials in 1947, and there the matter rested for the next two years, in part because General Clay did not want such materials to be transported unnecessarily, and in part because Clay was at this point still "awaiting the formation of a representative Jewish organization to take over the custody" of Jewish cultural property at Offenbach, according to Rabbi Philip Bernstein's assessment. By August, 1947, Jewish Cultural Reconstruction, Inc. (JCR, Inc.) - a U.S.-based consortium of Jewish interest groups founded earlier that year, whose executive secretary was Dr. Hannah Arendt - had agreed to be the agent of the Jewish Restitution Successor Organization (JRSO, a similar consortium, also founded in 1947, though focused on recovering economic property) in tracing and restituting Jewish cultural property in the U.S. Zone in Germany. But JCR, Inc. would only be recognized by the Office of Military Government as the trustee for heirless and unidentifiable Jewish cultural materials stored at Depots in Germany by February 15, 1949. Shortly afterwards, on April 5, 1949, an agreement between the U.S. Military Government, JCR, Inc. and the JRSO was signed in Berlin, stating that "approximately 366 manuscripts… comprising all cultural properties moved in one single shipment from Offenbach Archival Depot…and placed in custody of Dr. I. Joel, Acting Librarian, Hebrew University, on 22 June 1947," were now to be transferred to JCR, Inc., which would act as a trustee for this material.

As part of the agreement, JCR, Inc. was enjoined to return those manuscripts whose ownership could be established to their rightful owners, but that in the case of unidentifiable materials, these "properties are to be utilized for the maintenance of the

cultural heritage of the Jewish people." JCR, Inc. was also to designate a representative to act as custodian of these works, and at a special meeting of the Board of Directors on June 7, 1949, Dr. I. Joel of the Jewish National and University Library was so designated, the same person who had been in charge of the materials since they had arrived in Jerusalem in 1947. The special meeting at which this decision was reached was also attended by Dr. G. Scholem, appointed as Vice-President of JCR, Inc. in January 1949 to replace the late Dr. Judah Magnes.

Considerations

So this removal of material to Jerusalem was not a case of theft in the dictionary sense of the removal of personal property with an intent to deprive the rightful owner of it. In fact, for material where the U.S. could establish rightful ownership, as was true of the Rosenthaliana collection of Amsterdam or the library of the Collegio Rabbinico in Rome, such material was rapidly returned in 1946 and 1947. Even later, from 1949 to 1952, when books deemed "heirless" were distributed to libraries in the U.S. by JCR, Inc., the owners of about twelve percent of these books could be identified, and these works were returned to survivors or heirs worldwide. The problem at Offenbach had been two-fold: the identification of what a particular work was, difficult to do owing to language barriers or handwriting and the reason scholars like Dr. Scholem were called upon to help, and the identification as to ownership, which would prove impossible in thousands of cases.

On the other hand, Dr. Scholem certainly seems to have been complicit in the unlawful taking of property, another definition of theft, in his dealings with Captain

Bencowitz. It is not clear, though possible, that Dr. Scholem met with Captain Bencowitz while Bencowitz was on leave in Jerusalem at the end of 1946, but Bencowitz certainly worked with Scholem at Offenbach by separating materials Scholem had evaluated as valuable, by having them packed and stored in the Torah Room, and later by having them repacked into cases marked "Scholem." Though it is conjecture, the initial removal of the boxes and their return a few days later to the Torah Room, looks like a dry run on Bencowitz's part (to answer the question how easy would it be to remove these boxes from the Depot) to prepare for their actual removal by Captain Friedman on December 30.

In fact, the investigating Inspector General of the Army recommended that not only should reprimands be issued to Captains Bencowitz and Friedman by their commanding General, but that a statement be placed in their personnel files stating that they were morally unfit to ever hold a commission in the U.S. Army. On the other hand, this report noted, Bencowitz and Friedman had not acted out of monetary incentives, but rather "because of a strong personal conviction that these rare books and manuscripts were the property of the Jewish race and therefore should be in the Hebrew University." At least by the standards of the U.S. Army, removal of these materials from Offenbach at the time was improper - if understandable.

But Dr. Scholem also did not think much of these standards. Discussions Dr. Scholem held in 1946 with the officers of the Military Government who were overseeing the Offenbach Depot led Scholem to think they were "responsive to the idea of turning over the collections to the Hebrew University," but he added that these discussions "were dominated by legalistic principles," and Dr. Scholem was clearly impatient that the

officers "abhorred even the slightest encroachment on private property." American legal principles and military practices were thus at odds with Dr. Scholem's desire to secure at least this much of the European Jewish intellectual patrimony for Hebrew University. Given that any number of valuable and older Jewish manuscripts did end in private hands, his desire to see these works get to Jerusalem was also understandable.

As a matter of policy, American decision-makers did not act with all due speed to resolve questions over the disposition of unidentifiable property. The policy concerns in Washington in 1946 and 1947 were focused on economic reparations between nations. Even the restitution of individual property was felt at the time to be a nearly insuperable practical problem, and if anything to be handled by postwar European governments, not by the occupying U.S. military. General Clay and key figures in the State Department were sympathetic to the view that materials of Jewish cultural heritage whose ownership could not be established should be used for the benefit of Jewish communities that were still viable, but were unwilling to act until an organization like JCR, Inc. had been formed, assigned specific tasks, and the legal niceties observed. That did not happen until three years after the stencil "Scholem" had been affixed to certain cases of books. At the same time, the U.S. Army wanted very much to be out of the business of civilian administration in Europe, and as one small token of this desire, closed the Offenbach Archival Depot in 1948.

This particular, small tale raises an issue still with us today: by whose standards is it wrong to ensure the safekeeping of culturally valuable items? The unauthorized removal of valuable materials from Offenbach was a clear violation of an agreement, and in that sense the "Scholem boxes" were stolen. Ironically, since the vast majority of

unidentifiable books and manuscripts held at Offenbach went either to Israel - and there first to Hebrew University - or to the U.S. once JCR, Inc. was in charge in 1949, the ultimate destination of these 366 books and manuscripts would very likely have been the same, just delayed by a few years. But Dr. Scholem and others associated with JCR, Inc., explicitly feared that to delay too long would mean materials would be lost - or end up on the black market.

One can of course argue that the right to ancestral material is simply a question of possession, and that the restoration of cultural property is a matter of transferring ownership from those with less claim to it (conquering armies, museums, collectors, thieves) to those with more (the acknowledged heirs to a cultural heritage). On the other hand, there is also a politics involved in culture, and it does not stretch credulity unduly to think that Dr. Scholem (as well, apparently, as some Jewish officers in the U.S. Army), believed that by bringing some of what remained of the Jewish cultural patrimony from Europe to Palestine the claims to nationhood of the State of Israel would be aided.

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Dr. John Bendix was a Senior Researcher and contributing author of the Historical Report of the Presidential Advisory Commission on Holocaust Assets in the United States; the report was completed in December, 2000. The material drawn on for this paper came from files declassified by the National Archives during the course of this Commission's work.