HMC Heritage, Memory and Conflict

Heritage, Memory and Conflict Journal (HMC)
3 2023, 25–30
DOI 10.3897/hmc.3.69978

Holocaust victims, Jewish law and the ethics of archaeological investigations

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Published 10 May 2023

Abstract

Dead bodies – and the graves in which they are interred – are often highly contested within Holocaust campscapes. Although photographs of bodies at places like Bergen-Belsen, Dachau, and Ohrdruf emerged in the immediate aftermath of the Second World War, the exhumation of mass graves of Holocaust victims for either judicial or humanitarian reasons has become something of a taboo subject. Whilst some see dead bodies in these environments as evidence of a crime, others view them as relatives, friends, and loved ones who require a proper burial, a marked burial site, or should be left undisturbed. Disputes arise between governments, communities, individuals, and religious groups when accounting for Halacha (Jewish Law) and the dead. This paper highlights how a non-invasive methodology, derived from archaeology and other disciplines, offers one way of locating and classifying graves whilst respecting the ethical sensitivities involved in their investigation. This is a growing field of research and one which has proven ability and future potential to shed new light on the crimes perpetrated across the European Holocaust landscape.

Key Words

archaeology, ethics, forensic, Halacha, Holocaust, mass graves

The bodies of the victims of mass violence often exist within the boundaries or in the liminal spaces of campscapes. This is particularly true of Holocaust-era camps where sites were either dedicated to mass extermination or where people died in large numbers as a result of how they were treated there. As photographs of places like Bergen-Belsen, Dachau and Ohrdruf emerged in the immediate aftermath of the Second World War showing the dead bodies of the victims and with Holocaust memorialization practices placing ashes, hair, teeth and prosthetic body parts at the heart of their exhibitions, the foundations were laid for dead bodies to become entrenched in the iconography of the Holocaust.

However, despite these trends and the initial impetus to exhume the mass graves of Holocaust victims for either judicial or humanitarian reasons, searches and recovery operations for Holocaust victims have become something of a taboo subject (Sturdy Colls 2012 and 2015). This is perhaps evidenced by the fact that although there has been a significant increase in the number of archaeological and forensic investigations of Holocaust campscapes and killing sites over the last four decades, dead bodies have either been absent from the foci of these projects or their investigation has been contested, often to such an extent that exhumation works have been forced to cease (Sturdy Colls 2016). There are numerous such examples from all over Europe – perhaps most famously in Bełżec (Poland; Kola 2000), Jedwabne (Poland; Polonsky and Michlic 2004) and Iąsi (Romania; Murray 2010). However, the origins of such contestation are located many decades prior to these projects. In another article in this issue, Jean-Marc Dreyfus describes the evolution of mass grave investigations after the Second World War and highlights the example of exhumations at Bergen-Belsen in the 1950s, when disagreements between the national agencies undertaking exhumations and the Jewish community led to the cessation of all searches for Holocaust victims at this site (Rosensaft 1979).

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Ultimately, here – as in other places – disputes over dead bodies arose due to the conflicting nature of Halacha (Jewish law) governing Jewish burials and the pursuit of scientific, judicial or political aims. Halacha stipulates that graves of Jewish persons should not be disturbed, except in extreme cases where they come under threat (e.g. from man-made or natural landscape change). This rule – which centers on the belief that to disturb the grave of a person is to disturb their soul – is applied to graves created legally or illegally (as in cases of individual or mass violence such as the Holocaust) (Schudrich 2014). Scientific analyses of dead bodies – such as autopsies and DNA sampling – are also prohibited under Halacha. Conversely, civil legislation in many countries stipulates that victims of crimes should be recovered regardless of their religious denomination. This therefore creates tensions between governments, religious groups and individuals. This is not a problem unique to Jewish graves but one that persists whenever exhumations are not wanted by religious, cultural or familial groups. The perceived sacred nature of Holocaust sites, particularly those which have remained undisturbed for decades, the fear of the deceased on the part of some Roma and Sinti groups, and practical issues around the costs and logistics of exhuming large numbers of human remains may all be reasons why excavations may not be deemed desirable or necessary. Against these wishes, some nationalist governments have sought to reinvigorate searches for their citizens and claim ownership over the dead – often for political rather than humanitarian reasons. Contestation over the disturbance of Holocaust-era graves is therefore likely to intensify rather than diminish.

As argued by Sturdy Colls in her book *Holocaust Archaeologies: Approaches and Future Directions*, the apparent mismatch between religious law, archaeological practices (which often centre on excavation) and, sometimes, the wishes of survivors and family members of the deceased, has also rendered many sites 'off limits' to researchers and practitioners who seek to investigate Holocaust sites outside the remit of legal investigations. Having made this observation back in 2007, we developed a methodology that attempted to account for the ethical sensitivities surrounding the investigation of Holocaust-era graves whilst facilitating their thorough investigation. This approach has since been applied at a wide range of Holocaust sites and other places of mass violence across Europe, first as part of my doctoral studies and the Holocaust Landscapes Project, and now, most recently, as part of iC-ACCESS.

This methodology consists of the use of a suite of non-invasive methods drawn from archaeology, forensic investigation, digital humanities, history, geography engineering, computing, heritage studies and various other fields of study. Starting with desk-based assessment – which includes the examination of archival sources such as documents, photographs, maps and audio-visual materials – the work progresses to the collection and analysis of satellite and aerial imagery, the collection of airborne and terrestrial remote sensing data, and geophysical surveys (to map below-ground remains). Drones, airborne and terrestrial laser scanners (LiDAR), GPS and other survey equipment, photogrammetry equipment, Ground Penetrating Radar (GPR), resistance survey and other 3D

Figure 1. Ground Penetrating Radar survey at Oświęcim cemetery in Poland aimed at locating unmarked individual burials and mass graves (Copyright Centre of Archaeology).

Figure 2. LiDAR mounted UAV rig (Flythru Ltd) used to complete digital terrain modelling through overgrown vegetation at SS Lager Sylt, Alderney, the Channel Islands (Copyright Centre of Archaeology).

visualization techniques provide the opportunity to map surface and below-ground traces that may indicate the presence of burials when multiple datasets are compared. All this can be achieved without disturbing the ground and thus in accordance with Jewish burial laws while also accounting for the concerns of others who may not wish exhumations to take place.

Since 2010, this approach has been applied successfully at the site of Treblinka extermination camp (Poland) where between 800,000 and one million victims (mostly Jews) were murdered during the Holocaust. The graves of these victims had largely gone uninvestigated up to this point since it was generally believed that excavation offered the only means of searching the area. Once the locations of the mass graves had been determined using non-invasive methods, excavations of selected parts of the remaining camp landscape (including the gas chambers and camp waste pit) were able to proceed in 2013 and 2017 without fear of disturbing human remains buried within graves (Sturdy Colls 2014; Sturdy Colls and Branthwaite 2016; Sturdy Colls and Colls 2020). This approach also offered the possibility to protect the identified mass graves in the future. The Rabbinical, museum and conservation authorities all welcomed this approach as an ethical and responsible compromise between religious considerations and the undisputed need to further investigate the site. A variety of non-invasive methods have now also been used to examine a wide range of Holocaust landscapes. Some – such as the camps in Bergen-Belsen and Adampol, and killing sites across Poland and Ukraine (International Holocaust Remembrance Alliance 2014) – were found to contain unmarked graves. This approach therefore affords the same level of protection to these sites as at Treblinka.

Despite the successes of this methodology – both in terms of its ability to account for Halacha and to successfully identify the locations of dead bodies that have remained unidentified for decades – non-invasive research is not without its challenges and ethical issues. One of the most prominent limitations of this approach is the fact that no method or combination of methods exist that could prove the existence of human remains to the same degree of certainty as excavation. Whilst it is possible to present a case for the existence of graves based on a wide range of evidence derived from these methods, only excavation can reveal the bodies themselves and facilitate their detailed examination (Figure 5). A key problem is that we may not know exactly who is buried in a grave until we excavate, but we may not be allowed to dig due to fears over who might be buried therein. In these situations, decisions regarding whether to excavate following non-invasive research may be particularly problematic when individuals from Jewish and non-Jewish backgrounds are believed to be buried in the same grave or campscape, with lengthy discussions once again potentially ensuing if one group favors invasive work while another does not.

Figure 3. Ground Penetrating Radar survey in rural Ukraine aimed at locating unmarked mass graves under rabbinical supervision (Copyright Centre of Archaeology).

Once prospective graves have been found, debates may be reignited or emerge about whether to excavate them, causing rifts between communities with different views on these issues. We have encountered cases where (Jewish) family members want graves to be excavated but Halacha, and thus Rabbinical authorities, say this cannot take place. Likewise, the extent to which Halacha is implemented at Holocaust sites can vary somewhat depending upon how orthodox a particular Rabbi or Jewish community may be. Hence, the ban on excavation has not been universally applied to Jewish burial sites around the world so it cannot always be assumed that non-invasive research will be the end of the process (for example Kola 2000; Golden 2003).

Looting may occur once the locations of graves are publicly revealed via non-invasive means and there may be no guarantee of protection by local authorities when non-invasive evidence is presented. In my experience, non-invasive data is often easier to ignore by local authorities who may already lack the political will to engage with their Holocaust history or finance costly memorial projects. The results of non-invasive research might conversely spark panic amongst memorials, museum and other communities, particularly if the accepted narrative of a site is challenged by them.

Taking the decision to implement non-invasive methods in the first place also requires lengthy consideration, particularly at campscapes where histories are highly contested. For example, the numbers war that is being

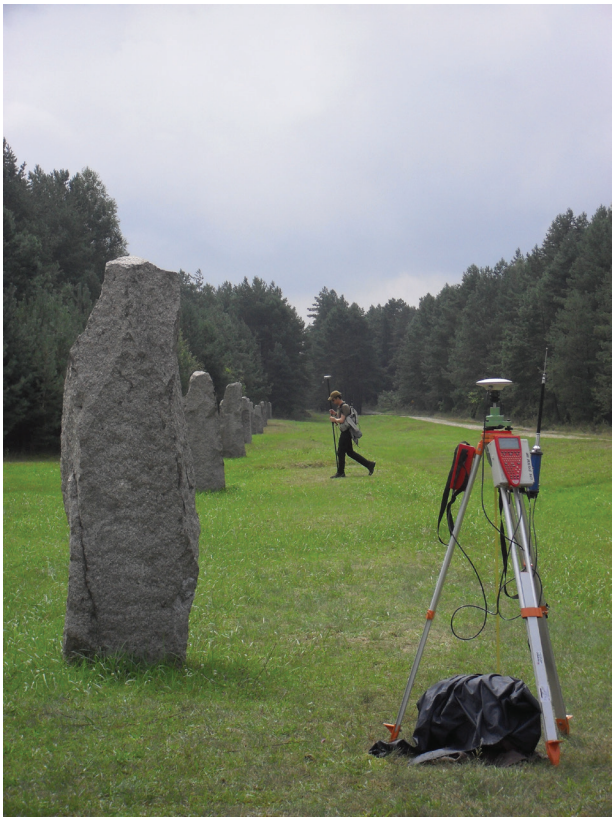

Figure 4. Topographic modelling at the landscape of Treblinka in Poland (Copyright Centre of Archaeology).

Figure 5. After non-invasive investigation, an archaeological test pit was completed in central Ukraine to confirm the presence of a burial pit. No bones were disturbed during the work – which was supervised at all times by rabbinical support. (Copyright Centre of Archaeology).

waged between Croatia and Republika Srpska regarding the events that occurred in Jasenovac concentration camp means that examining the mass graves at the burial site Donja Gradina, even using non-invasive methods, would almost certainly result in the findings of any archaeological work being used in this debate (Benčic 2017; van der Laarse 2017). As has already been observed, non-invasive geophysical methods can provide details regarding the dimensions of potential graves but not the number of bodies contained within them. Hence, this could give rise to archaeological data being misused to create speculative higher or lower mortality rates. Dead bodies, or their absence, have also been used as a central part of revisionist arguments in the decades following the Holocaust. Non-invasive research in particular is prone to getting drawn into these arguments. Some revisionists, when writing about archaeological projects at campscapes, have claimed that these methods prove that no graves exist and that numbers of victims are lower than expected. Others have even claimed that the stipulation of Halacha that excavation is not permitted is a 'big excuse' to disguise the fact that the Holocaust did not occur at all. Therefore, archaeological work can be misused and/or politicized for a range of reasons, often with the archaeologists carrying out the work having little control over the process. This is something that must be considered before the work is even carried out.

Aside from cases involving buried remains, it is also important to acknowledge that human remains may be encountered on the surface within campscapes, sometimes during archaeological fieldwork or when the public visit sites. Likewise, they may be encountered scattered amongst other remains e.g. building rubble, when excavations of other camp features are permitted. In the case of scattered surface remains, they are likely to be deemed to be under threat and therefore their burial is likely to be preferred. The approach taken will likely vary depending upon whether or not remains have come to the surface as a result of looting or animal activity (thus they were originally buried in a grave) or whether they exist on the surface because they were never interred in a grave in the first place. If remains have been removed from a grave, many Rabbis would prefer that they remain in situ and thus they will likely request that they be recovered. If remains have never been buried in a grave, their collection and interment may be necessary. This may therefore

apply to both scattered remains and those found during other excavations. These approaches require sensitive handling of the remains to ensure that religious laws are respected and that they can be adequately protected. A suitably qualified archaeologist should be used so that local and international standards on how remains are treated can also be followed. It should be noted that regarding the Jewish victims' remains, Rabbis are likely to request that prosthetic body parts, teeth, fillings and hair are treated in the same way as bones or soft tissue in terms of their handling and interment.

Dead bodies – and the graves in which they are interred – are often highly contested within Holocaust campscapes. This is not least of all due to the laws governing the treatment of Jewish burials and the various views that might exist with regards to whether excavation of remains is necessary or permitted. Whilst some see dead bodies in these environments as evidence of a crime, others view them as relatives, friends and loved ones who are in need of a proper burial or marked burial site. At some sites, campscapes are off limits, spaces to be avoided, which may conflict with desires to scientifically locate remains and/or reveal new information about the history of sites. Non-invasive methods, derived from archaeology and other disciplines, may offer one way of locating and classifying graves whilst respecting the ethical sensitivities involved in their investigation. Whilst these methods are not without their issues and challenges from a practical and ethical standpoint, they can allow sites to be examined in a way that avoids ground disturbance whilst successfully documenting new evidence relating to graves and their surrounding environment. This is a growing field of research and one which has proven ability and future potential to shed new light on the crimes perpetrated across the European Holocaust landscape.

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