

The Genocide that Wasn't: Raphael Lemkin, the Aleppo Codex, and the Status of Communities in Law

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What protection, if any, does the law grant to communities as such? The article discusses this perennial question through a reading of two rather different sources: an article by legal scholars Leora Bilsky and Rachel Klagsbrun, and a documentary film by director Avi Dabach. Both sources advance critiques of Israel's policies towards either Ashkenazi or Mizrahi Jews, and its wrongs towards their cultural heritage. Taken together, they reveal both the legal significance of the category of community, and its threat to the modern state, as a form of pre-statist association that gives its members a sense of belonging and meaning. This threat has a particular flavor in a context where the state is expected to realize the right to self-determination of the Jewish people. The challenge these sources present is ultimately the same: what should the status of communities within the state be? In developing his concept of "cultural genocide," Polish-Jewish jurist Raphael Lemkin provides the outlines of an answer. The state must protect forms of communal property in a way that protects not only all its citizens, but also the communities it is composed of.