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**A MEMORY OF JUSTICE:  
THE UNEXPECTED PLACE OF LVIV IN INTERNATIONAL LAW—  
A PERSONAL HISTORY**

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January 12, 2011

I. PARIS

Earlier this year, in the summer, a curious thing happened. In preparation for my visit to deliver an earlier version of this lecture in the city Lviv, in the Ukraine, I was introduced to an elderly lady in Paris. I had told a friend of the invitation, and was delving with increasing fervour into the city's history. "You should visit my relative Inka," my friend said, "she lived in Lwów from 1930 to 1945, she can tell you what it was like." So I made contact with Inka by telephone. We agreed that when next in Paris I would visit her, and last June we met. She told me her story, which is a remarkable account of survival and loss and renewal, for she is an admirable and courageous person, undimmed by the brutality of her experience. For present purposes, I will share just one aspect of the visit.

We were sitting at Inka's dining room table, which was covered in a lovely white cloth, drinking tea. On the table, I had laid out an old map of Lwów, dating back to 1938, where Inka lived as an eight year old, as well as copies of some old black and white photographs. One of the photographs was of a building in the small town of Zolkiew, about twenty miles from Lwów. The building was a famous synagogue constructed in the seventeenth century that still stands today, albeit in a state of abject dilapidation. Inka had told me that after the war she had lived for a few months in Zolkiew. Did she remember the building, I asked her. She examined the photograph. "No," she said, "I do not remember this building."

As she held the picture close to her face, the doorbell rang. Inka gently raised herself and went over to the front door of her apartment. It was the concierge, with the mail. One letter. Inka took the letter, looked at it, looked at me, and said: "I don't know what this is, maybe it's for you." This

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\* I would like to thank those who have kindly assisted in the preparation of this lecture, including in particular David Kennedy, Elihu Lauterpacht, Reut Paz, Stuart Proffitt, Natalia Schiffrin, and my research assistants Ioana Hyde and Remi Reichhold.

was curious, since I had never before met Inka, or set foot in her apartment. She handed me the letter, which was addressed to her. It came from Israel, from a body calling itself the association of the martyrs of Zolkiew. I opened the envelope. It contained a brochure. On the front was a picture of the very same building that Inka told me she had never before seen.

## II. LONDON

Memory and coincidence are curious things. They appear occasionally and unexpectedly, and when they do they get us thinking, even if we can usually not find a pressing or persuasive explanation as to what we remember and do not, or why certain things happen. We speculate, but we do not *know*. These things hover in the ether, drawing lines and connections that are imaginary or real, or perhaps both. In preparing this lecture, I have again thought about that visit with Inka, about the letter, about the photograph, about what these coincidences mean, about the life she left, and about the state of the world today.

I visited Lviv in October. More than two thousand kilometers from my home, in London, I was invited to deliver a public lecture on international law, in a country I had not previously visited, and to deliver a seminar at the University of Lviv's law faculty. What possible conspiracy of circumstances caused an invitation to be extended, and encouraged me to accept it? I will say this for now: the reasons are personal and not disconnected from the city's unlikely but—it seems—largely unknown contribution to the modern international legal order.

Why was I invited? I am an international lawyer who wears two hats. For half of the week, I am an academic, a professor of law at University College London, teaching classes about human rights, the environment and natural resources, international courts and tribunals, and writing books and articles. For the other half, I am a barrister, privileged to be an advocate before the courts about which I teach, arguing cases before the International Court of Justice (ICJ) in The Hague and other courts and tribunals.

These cases raise a great number of issues, invariably about the rights of states and, increasingly, the rights of individuals.<sup>1</sup> They reflect the changes that have occurred in the international legal order over the past decades, in the period since the Second World War. That legal order is characterized by three modern features: first, the rights of individuals being recognized, in particular in relation to human rights; second, the emergence of the new field of international criminal law; and third, the creation of new international courts and tribunals providing a forum for the settlement of

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<sup>1</sup> See, e.g., Linda Greenhouse, *Treaty Doesn't Give Foreign Defendants Special Status in U.S. Courts, Justices Rule*, N.Y. TIMES, June 29, 2006, at A22 (discussing the struggle the U.S. Supreme Court has faced as the ICJ has increasingly asserted individual rights).

international disputes.<sup>2</sup> This world of international law in which I work did not exist prior to the Second World War.<sup>3</sup>

Therefore, a typical working week can vary. I could spend a couple of days advising Croatia on its case at the ICJ that was brought under the 1948 Convention on the Prevention and Punishment of Genocide, the first modern human rights treaty adopted after the Second World War. The Convention prohibits genocide and commits to prevent and punish that act.<sup>4</sup> The Convention gives the Hague Court an enforcement role. In 1999, Croatia brought proceedings under the Convention against Serbia, accusing it of having committed genocide in Vukovar and other parts of Eastern Slavonia.<sup>5</sup>

Then I could spend a day on other issues of international crime. This week, it has been the question of whether a lawyer who authorizes acts of torture can be complicit in the commission an international crime.<sup>6</sup> The fact that such an argument could be made at all arises from the adoption by the United States, United Kingdom, Soviet Union, and France of the Charter of the International Military Tribunal, on August 8, 1945, and better known as the Nuremburg Charter.<sup>7</sup> This recognized, in its Article VI, that certain acts—crimes against peace, war crimes, and crimes against humanity—are so heinous that they give rise to individual criminal responsibility, and that no one was to be immune from the jurisdiction of the Tribunal, even a Head of State.<sup>8</sup> These principles led directly to the emergence of the modern rules of international criminal law and the case against Senator Pinochet in the London courts; the International Criminal Tribunal for the former Yugoslavia proceedings against President Milosevic, a serving head of state; and also the adoption by nearly two hundred states of the Statute of the International Criminal Court (ICC).<sup>9</sup> These three events, all of which occurred in 1998, were made possible by the rather revolutionary legal developments post-1945.

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<sup>2</sup> PHILIPPE SANDS, INTRODUCTION AND ACKNOWLEDGEMENTS, *THE MANUAL ON INTERNATIONAL LAW AND TRIBUNALS IX-XI* (2d ed. 2010).

<sup>3</sup> THE EUROPEAN INSTITUTE FOR INTERNATIONAL LAW AND INTERNATIONAL RELATIONS, PUBLIC INTERNATIONAL LAW 2, <http://www.eiil.eu/en/component/content/article/82-public-international-law-.pdf> (last visited Mar. 6, 2011).

<sup>4</sup> *Id.* art. 1.

<sup>5</sup> *See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, THE HAGUE JUSTICE PORTAL, <http://www.haguejusticeportal.net/eCache/DEF/6/198.html> (last visited Mar. 6, 2011).

<sup>6</sup> *See, e.g.,* Jens David Ohlin, *The Torture Lawyers*, 51 HARV. INT'L L. J. 193, 196 (2010).

<sup>7</sup> *See* U.N. Charter of the International Military Tribunal—Annex to the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis (“London Agreement”), Aug. 8, 1945, available at <http://www.unhcr.org/refworld/docid/3ae6b39614.html> [hereinafter *Nuremburg Charter*].

<sup>8</sup> *See id.* art. 6.

<sup>9</sup> *Id.*

And then I could spend a couple of days on maritime issues, on the fascinating cases concerning the delimitation of the boundaries of the Bay of Bengal, advising on cases brought by Bangladesh, for whom I act, against India and Myanmar.<sup>10</sup> That such work is even possible is due to the adoption of the 1982 United Nations Convention on the Law of the Sea, a charter for the oceans, which provides also for the possibility of binding dispute settlement before bodies like the new International Tribunal for the Law of the Sea, in Hamburg, and international arbitration.<sup>11</sup> These too are illustrative of the new approach to international law.

I mention my involvement in these cases—for which I recognize a great privilege—simply to make the following point: the life of an international lawyer today is constructed upon foundations that were put in place after the Second World War. Without those rules—without the law of the sea, or the modern system of human rights law, or the new international criminal law—my working week would be very different. There is another reason I make this point in this lecture: these juridical developments, and many others, are connected to the city of Lviv.

For the students in the audience, let me say something briefly about becoming an international lawyer. I grew up in North London, in a middle class family. Home was not intellectual, not academic, and certainly not legal; there had never been any lawyers in my family. I went to university—Cambridge—to study economics, but having benefited from a wonderful economics teacher at school, with whom we had covered much of the first year university syllabus, decided to change to law (which in England is an undergraduate course). I did not love the study of law, learning about cases on contract and tort in a way that seemed divorced from the underlying political, social, and economic realities that cause particular rules to be adopted and enforced. But I had one professor who made a real difference: Professor Jennings, a Yorkshireman whose course on international law was the last he gave before he served as a judge at the World Court in The Hague. His lectures were different, not so much because of the quality of the delivery—I recall he delivered most lectures without any notes—but because of the subjects he addressed. His lectures were about war and boundary disputes and maritime issues, and other matters that excited the imagination, taking us out into the world, to exotic places with a propensity for conflict. Although I was English, I had a French mother who was born in

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<sup>10</sup> See M. Shah Alam & Abdullah Al Farugue, *The Problem of Delimitation of Bangladesh's Maritime Boundaries with India and Myanmar*, 25 INT'L J. MARINE AND COASTAL L. 405, 414–17 (2010), available at <http://agc-wopac.agc.gov.my/e-docs/Journal/0000017952.pdf> (discussing the long-standing conflict over maritime boundary delimitation with India and Myanmar over the resources located in the sea areas of Bangladesh).

<sup>11</sup> U.N. Convention on the Law of the Sea Part XV, Dec. 10, 1982, 21 I.L.M. 1261 (describing mechanisms of dispute settlement and the procedures associated therewith).

Vienna in 1938. So Professor Jennings' lectures connected to some degree with personal experience.

I added a year to my studies to do more international law. In 1983, I earned a specialist masters degree in international law—indispensable if you are truly committed to the subject—and then followed my heart, going off to America to be with my then girlfriend, an American neuroscientist, to the other Cambridge, in Massachusetts, to Harvard. I arrived the week that the Soviet Union shot down a Korean airliner, an event that became the subject of my first academic article.<sup>12</sup> I turned up at Harvard with a place to stay but not much else. I went to the law school to see if someone needed a research assistant on international law, and was fortunate to chance across David Kennedy, a young scholar newly appointed to the Manley Hudson Chair of International Law at Harvard Law School. He succeeded Professor Louis Sohn. David needed research assistance—to do footnotes—and he hired me. He also got me an appointment as a Visiting Scholar at the law school. I spent a happy and intellectually challenging year as a part of that vibrant community.

The following spring, in April 1984, I received an unexpected communication. A letter arrived from Cambridge, England, in a blue/grey envelope, on heavy paper, the kind that has a reassuring kind of authority. The letter informed me about a new Research Centre for International Law that was to be created at Cambridge University, and the writer was looking to appoint a Research Fellow for a period of four years. Was I interested? The letter came from one of my international law lecturers, Mr Eli Lauterpacht. I had come to know him a little, not well. I responded positively, and late that summer received an offer of employment. It was my first job. It came with a room and meals at St. Catharine's College, and the princely salary of £1000 per quarter.

With this began my career in international law, a quarter of a century ago in the autumn of 1984. Over the years, I eventually moved to London, and qualified as a barrister, with the encouragement of Eli Lauterpacht, who had become something of a mentor. My focus in those days was on the environment and natural resources, before they became fashionable, but that too was an accident, or at least the result of an accident: the Chernobyl nuclear power plant—coincidentally in the Ukraine—that exploded in April 1986. This caused me to receive an invitation from the United States to deliver a lecture on the subject of transboundary air pollution, a matter that was not (at that time at least) well-developed in international law. Eli Lauterpacht encouraged me to turn the lecture into my first book—entitled

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<sup>12</sup> Philippe Sands, *The Legal Fallout from KAL 007*, HARV. INT'L REV., Nov. 1983, at 44.

*Chernobyl: Law and Communication*—that came out in 1988.<sup>13</sup> That catalysed both my interest in the environment and another book, on *Principles of International Environmental Law*, the first edition of which appeared in 1995.<sup>14</sup> With colleagues, I am now working on the third edition.<sup>15</sup>

These writings caused me to be approached as a consultant from Non-Governmental Organizations (NGO), like Greenpeace and Friends of the Earth, and I became increasingly interested in the role of non-state actors in the making and enforcement of international law.<sup>16</sup> My work as a barrister also began to take off. I appeared for the first time before the ICJ as counsel in 1995, in an advisory opinion on the legality of the use of nuclear weapons. In July 1998, I participated on the delegation of the Solomon Islands in the final negotiations in Rome that culminated in the adoption of the Statute of the ICC.<sup>17</sup> Later that year, I was involved in the litigation before the English courts on the question of whether Senator Pinochet was entitled to claim immunity in respect of allegations of involvement in torture. In March 1999, the House of Lords handed down the landmark judgment against the claim to immunity, a clarion call for the right of victims and of individuals under the new international legal order.<sup>18</sup> In 2000, I became a professor at the University of London.

The following year, on September 11, 2001, I was teaching at New York University Law School when the attack on the World Trade Center took place, leading to wars in Afghanistan and Iraq and the use of torture by western powers. I wrote two books directed towards a wider audience, as international law issues gained more traction. In 2005, Penguin published my book *Lawless World*, on the illegalities of the war in Iraq and the treatment of detainees at Guantanamo and how Tony Blair and George W. Bush became serial violators of international law.<sup>19</sup> In 2008, Penguin published a second book, *Torture Team*, an indictment of the role of Bush Administra-

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<sup>13</sup> This lecture was hosted by the Annenberg Washington Program in May 1986, and titled “The Chernobyl Accident and Public International Law.” PHILIPPE SANDS, *CHERNOBYL: LAW AND COMMUNICATION* xi (1988).

<sup>14</sup> PHILIPPE SANDS, *PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW* (Manchester Univ. Press, 1st ed. 1995).

<sup>15</sup> PHILIPPE SANDS, *PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW* (Cambridge Univ. Press, 3d. ed.) (forthcoming XXXX).

<sup>16</sup> See Philippe Sands, *Environment, Community and International Law*, 30 HARV. INT’L L. J. 397 (1989).

<sup>17</sup> THE INTERNATIONAL CRIMINAL COURT: THE MAKING OF THE ROME STATUTE ISSUES, NEGOTIATIONS, RESULTS 422–23 (Roy S. Lee ed., 1999).

<sup>18</sup> R v. Bartle and the Commissioner of Police for the Metropolis and Others ex parte Pinochet (No. 3), available at <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldjudgmt/jd990324/pino1.htm>.

<sup>19</sup> See generally PHILIPPE SANDS, *LAWLESS WORLD: AMERICA AND THE MAKING AND BREAKING OF GLOBAL RULES* (2005).

tion lawyers in authorizing torture.<sup>20</sup> At the heart of that book were the rules of the Nuremberg Charter and the Geneva Conventions.<sup>21</sup> Coincident with these writings I became increasingly involved in litigation before various courts in defense of the rights of individuals who alleged that they had been subject to abuse and torture, in violation of international law.

There are lines that run through my work on international law, in the writings and in the cases: the rights of individuals, the limits on the power and authority of the state, the role of international courts and judges. And the question I have sometimes asked of myself is this: What drew me to these areas?

That is not an easy question to answer, no doubt a consequence of nature and nurture, but it seems that there is a connection to Lviv. In 2008, I received an invitation from the World Economic Forum, organizers of the Davos meeting, to do some work on international law and to work with Oksana Myshlovska, a Ukrainian lawyer who came from Lviv. “That’s interesting,” I said, digging deep into family memory, “my grandfather was from Lviv.” Until that conversation, I had not given much attention to this part of my family history. I was close to my grandfather, even though he lived in Paris and I lived in London, and he had lived a life about which questions of the past were not encouraged. “We live for today,” he would say to me, “you must live for now.” The past was behind a closed door. I had always thought of him as Austrian. I knew he had lived in Vienna, that he had left in 1938 after the Anschluss and the arrival of the Nazis, with my mother, who was an infant of just a few months, and that they had gone to France. The focus was always Vienna, not beyond, not before. But somewhere, in one of our last conversations, he did talk about a place called Lemberg, and I said to him that one day I would like to visit that place. I had no idea where it was.

At some point I must have looked it up, learning that Lemberg did not exist anymore. Now it was called Lviv and it was in the Ukraine.<sup>22</sup> I learned that in a period of three decades up to 1945, it had been Austrian, then Russian, then Austrian again, then Polish, then Western Ukrainian, then Polish again, then Russian, then German and then—and now—Ukrainian.<sup>23</sup> A complex place, at many crossroads. I also recall a conversation with Eli Lauterpacht, my teacher and mentor at Cambridge, who told me that his father was born near Lemberg, but that he had never visited,

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<sup>20</sup> See generally PHILIPPE SANDS, *TORTURE TEAM: RUMSFIELD’S MEMO AND THE BETRAYAL OF AMERICAN VALUES* (2008).

<sup>21</sup> *Id.*

<sup>22</sup> *Brief History of the City of Lviv*, UNIV. OF CAL. SANTA BARBARA HOLOCAUST ORAL HISTORY PROJECT, [http://www.history.ucsb.edu/projects/holocaust/Resources/history\\_of\\_lviv.htm](http://www.history.ucsb.edu/projects/holocaust/Resources/history_of_lviv.htm) (last visited Mar. 6, 2011).

<sup>23</sup> LVIV: A CITY IN THE CROSSCURRENTS OF CULTURE 13–14 (John Czaplicka ed., 2005).

although he wanted to. Over the years we talked about visiting, with our families, but he has not been well and that has not happened. Last October, I made it to Lviv, thanks to Oksana. She introduced me to former colleagues in Lviv, and an invitation duly arrived. I started to think more about Lviv, did some research and learned that it has many famous sons and daughters. No one, however, seems to have focused on its contribution to international law. That contribution comes principally through the work of three remarkable lawyers, each of whom passed through the law department of the Jan Kazimierz University—now the Ivan Franko University—in the period between 1916 and 1939. This fact would not be apparent if you visited Lviv or the law faculty of the Ivan Franko University; the students with whom I met had no idea.

### III. LEMBERG

I begin with Louis Sohn, whom I have already mentioned through his connection with Harvard Law School and my friend David Kennedy. I first met Louis in 1987 at a meeting in Cairo, and the following year invited him to join the board of a new NGO that I was creating, the Centre for International Environmental Law.<sup>24</sup> Louis participated in the 1972 Stockholm Conference on the Human Environment and written a very fine article about that conference.<sup>25</sup> Following his death in June 2006, the *Washington Post* newspaper described him as “one of the world’s greatest scholars of international law who helped draft the United Nations charter, define international human rights and design disarmament agreements.”<sup>26</sup> To the end of his life, he believed in the power of international law not only to shape state-to-state relations, but also to govern relations between individuals and legal entities. His most famous work was *World Peace through World Law*, which advocated for a system of world government. He sought security through rules. Given what happened in the early years of his life, that is perhaps not surprising.

Until recently I did not know that Louis was born in Lemberg, as it then was, on March 1, 1914, when the city was part of the Austro-Hungarian Empire.<sup>27</sup> These were years of incredible turmoil and insecurity;

<sup>24</sup> Ctr. for Int’l Env’tl. Law [CIEL], *The Center for International Environmental Law (CIEL) is pleased to grant its International Environmental Law Award for 2009 to the Co-Founders of CIEL, and to the United Nations Environment Programme*, CIEL, [http://www.ciel.org/IEL%20Award/IEL\\_Award\\_2009.html](http://www.ciel.org/IEL%20Award/IEL_Award_2009.html) (naming Philippe Sands as a co-founder of the CIEL) (last visited Mar. 6, 2011).

<sup>25</sup> Louis B. Sohn, *The Stockholm Declaration on the Human Environment*, 14 HARV. INT’L. L.J. 423 (1973).

<sup>26</sup> Patricia Sullivan, *International law expert Louis Sohn*, WASH. POST, June 14, 2006, at B8, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/13/AR2006061301542.html>.

<sup>27</sup> See LVIV, *supra* note 24, at 36–37.

in his first year, he lived through a Russian occupation until June 1915, followed by a period of resumed Austro-Hungarian control, until October 1918; and then the declaration of a short-lived Western Ukrainian National Republic, in November 1918, of which Lviv was the capital;<sup>28</sup> and then a resumption of the Polish/Ukrainian war and the Polish takeover in July 1919. By the time he was six, he had lived under the rule of four different nations without setting foot outside the city. He lived through pogroms against the Jews, of which community he was a member, and a Red Army siege in August 1920. No surprise, then, that his view of the world would be informed by these events.

In 1935, Louis obtained degrees in science and law at Jan Kazimierz University, staying on as a young academic researcher under the most difficult conditions—despite the Polish Minorities Treaty of June 28, 1919, which committed Poland to respect the rights of “all inhabitants of Poland without distinction of birth, nationality, language, race or religion.”<sup>29</sup> As a Jew, Louis could only gain illicit access to the library very early in the morning, and had to remain secretly throughout the day in order to leave late at night. He left Poland, as it then was, in 1939, on one of the last boats before the arrival of the Nazis. He made his way to Harvard, where he obtained a Masters Degree and then a doctorate. In 1945, he participated in the San Francisco Conference that led to the creation of the United Nations, as a member of the U.S. delegation, working alongside Manley Hudson, the American judge at the Permanent Court of International Justice, and with whom he worked closely over many years.<sup>30</sup> Louis also helped draft the Statute of the ICJ.<sup>31</sup> From 1961 to 1981, he taught international law at Harvard Law School, during which period he served as a leading member of the U.S. delegation to the Law of the Sea Convention.<sup>32</sup> His key contribution was on the development of innovative mechanisms for compulsory dispute

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<sup>28</sup> JOHN COOPER, RAPHAEL LEMKIN AND THE STRUGGLE FOR THE GENOCIDE CONVENTION 13 (2008).

<sup>29</sup> See Patricia Sullivan, *International Law Expert Louis Sohn*, WASH. POST (June 14, 2006), [http://www.washingtonpost.com/wp-dyn/content/article/2006/06/13/AR2006061301542\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/13/AR2006061301542_pf.html) (“Mr. Sohn received degrees in science and law in 1935 from John Casimir University. He stayed on as a researched but as a Jew was forced to enter the library early in the morning and leave late at night.”). Minorities Treaty between the Principal Allied and Associated Powers, June 28, 1919, 225 Consol. T.S. 412.

<sup>30</sup> See Dennis Hevesi, *Louis B. Sohn Passionate Supporter of the U.N., Dies at 92*, N.Y. TIMES, June 23, 2006, at B1 available at [http://www.nytimes.com/2006/06/23/us/23sohn.html?\\_r=1&sq=DENNIS%20HEVESI,%20Louis%20B.%20Sohn,%20Passionate%20Supporter%20of%20the%20U.N.,%20Dies%20at%2092,&st=cse&adxn1=1&scp=1&adxnlx=1297144806-cTsqt/zdp0YshlZgIw1ufg&pagewanted=print](http://www.nytimes.com/2006/06/23/us/23sohn.html?_r=1&sq=DENNIS%20HEVESI,%20Louis%20B.%20Sohn,%20Passionate%20Supporter%20of%20the%20U.N.,%20Dies%20at%2092,&st=cse&adxn1=1&scp=1&adxnlx=1297144806-cTsqt/zdp0YshlZgIw1ufg&pagewanted=print) (discussing Louis Sohn’s time with Manley O. Hudson).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

settlement.<sup>33</sup> Without him, it is unlikely that Annex VII of the 1982 Convention on the Law of the Sea—that is the source of much of my work as an advocate—would have seen the light of day. Without his efforts, I might not be litigating cases for Bangladesh under the rules Louis Sohn helped to put in place.

Louis's time in Lwów overlapped with that of another famous international lawyer, Rafael Lemkin, the father of the 1948 Genocide Convention.<sup>34</sup> Lemkin was born on June 24, 1900, in Bezwodne, then part of Imperial Russia and now Belarus, one of three children of a Jewish family.<sup>35</sup> He came to Lwów in 1920 to enter the Jan Kazimierz University where he studied philology.<sup>36</sup> He too had witnessed terrible conflict—between Germany, Russia, and Poland—and was acutely aware of the cultural differences in and around the Lemberg community and threats to minorities. By then, Louis already spoke nine languages, believing that language was the key to understanding cultures and nations.<sup>37</sup>

Once enrolled at the Jan Kazimierz University, he switched to study law, against the background of the assassination of Talaat Pasha, the Turkish Minister of the Interior, in Berlin in 1921, and the ensuing trial in Berlin of Soghomon Tehilrian, the alleged assassin.<sup>38</sup> Pasha is said to be one of the main perpetrators of the massacre of Armenians. In June 1921, a Berlin court acquitted Tehilrian by a Berlin court, on grounds of insanity.<sup>39</sup> This led to a heated exchange between Lemkin and one of his professors, in the course of which Lemkin expressed the view that it was the Turkish Minister—not the assassin Tehilrian—who should have been hauled before a court for the crime of mass murder.<sup>40</sup> The professor was not impressed. There was no law under which to charge the Turkish Minister. Lemkin records him as saying. "Let us take the case of a man who owns some chickens," the Professor said. "He kills them. Why not? It is not your business. If you interfere, it is trespass."<sup>41</sup> According to his unpublished autobiography, Lemkin dismissed the analogy in the following way: "Sovereignty cannot be conceived as the right to kill millions of innocent people," he

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<sup>33</sup> See Sullivan, *supra* note 27.

<sup>34</sup> James Fussell, U.S. Holocaust Memorial Museum, Lemkin's War: Origins of the Term "Genocide" (Mar. 11, 2003) (transcript available at <http://www.ushmm.org/genocide/analysis/details.php?content=2003-03-11>).

<sup>35</sup> COOPER, *supra* note 29, at 6.

<sup>36</sup> *Id.* at 15.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 14–15.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

wrote.<sup>42</sup> Other cases of the day also raised issues. One concerned a fellow Jewish law student, Mundyk Steiger, convicted of trying to assassinate the President of Poland whilst on a visit to Lwów, who was apparently saved from execution only after a Ukrainian nationalist confessed to the act.<sup>43</sup> Another related to the trial in Paris of Samuel Schwartzbard, for the assassination in 1926 of Symon Ptiura, a leader of Ukrainian nationalists whom Schwartzbard considered to have been involved in the pogroms that killed his parents.<sup>44</sup> The Paris court freed Schwartzbard on grounds of insanity.<sup>45</sup>

Lemkin obtained a Doctorate in Law from the Jan Kazimierz University in 1926.<sup>46</sup> He began his professional career as a prosecutor in the District Court of Berezhany and then in Warsaw.<sup>47</sup> Simultaneously, he acted as Secretary of the Committee on Codification of the Laws of the Polish Republic, becoming increasingly interested in the subject of international crimes. In October 1933, at the meeting in Madrid of the Fifth Conference for the Unification of Penal Law, he presented his ideas for the recognition of two new crimes in international law: the crime of barbarity (outlawing exterminations by means of massacres, pogroms, or economic discrimination), and the crime of vandalism (the destruction of cultural and artistic works).<sup>48</sup> These were the forebears of what we know today as “genocide.” It is not clear whether he actually attended the Madrid meeting or provided his ideas in writing only, as the Polish Minister of Justice opposed his radical ideas, in the context of the government’s desire for rapprochement with the new German government of Adolf Hitler. Nevertheless, by this time Lemkin was a player on the international circuit with contacts.

In 1939, Lemkin fled Poland, arriving in the United States in 1941 after journeying through parts of Europe.<sup>49</sup> He settled in North Carolina, teaching law at Duke University.<sup>50</sup> In 1944, the Carnegie Endowment for International Peace published his most famous work, *Axis Rule in Occupied*

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<sup>42</sup> Raphael Lemkin, *Totally Unofficial Man*, in PIONEERS OF GENOCIDE STUDIES 365, 371 (Samuel Totten & Steven Leonard Jacobs eds., 2002).

<sup>43</sup> *Id.*

<sup>44</sup> *See id.* at 372.

<sup>45</sup> *See id.*

<sup>46</sup> Tanya Elder, *What You See Before Your Eyes: Documenting Raphael Lemkin’s Life by Exploring His Archival Papers, 1900–1959*, 7 J. GENOCIDE RES. 469, 475 (2005).

<sup>47</sup> *See* Lemkin, *supra* note 43, at 372.

<sup>48</sup> WILLIAM A. SCHABAS, GENOCIDE IN INTERNATIONAL LAW: THE CRIME OF CRIMES 30–31 (2d ed. 2009). Lemkin credited Vespasien V. Pella with the concepts and confirmed that the crimes he had recommended in 1933 “would amount to the actual conception of genocide.” *Id.*

<sup>49</sup> CHRISTOPHER GILKERSON, RAFAEL LEMKIN: A BRIEF BIOGRAPHICAL SKETCH (Orville H. Schell Jr. Center for International Human Rights at Yale Law School 1989), available at <http://www.plu.edu/social-sciences/documents-forms/documents/Lemkin%20Bio.pdf>.

Lemkin also travelled via Sweden and the Soviet Union before arriving in the United States.

<sup>50</sup> *Id.*

*Europe*, detailing Nazi crimes throughout Europe.<sup>51</sup> This book was the first to use the word “genocide,” apparently coined by Lemkin after hearing Winston Churchill refer to Nazi atrocities as “a crime without a name”<sup>52</sup> (“genocide” is derived from the Greek word “genos” (race, clan) and the Latin suffix “cide” (killing)).<sup>53</sup> *Axis Rule* was influential and referred to as “the most talked-about work in the corridors of the Nuremburg court in late 1945/early 1946.”<sup>54</sup>

At Nuremburg, Lemkin served as adviser to the chief prosecutor, Justice Robert Jackson.<sup>55</sup> He was deeply disappointed that while reference was made to genocide in individual indictment, overall preference was given to the concept of crimes against humanity,<sup>56</sup> which did not require proof of atrocity being committed against a particular group. Lemkin devoted the rest of his life to the prohibition of genocide, the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. He became “a permanent fixture at the fledgling United Nations Organization, where he walked the corridors prodding and persuading hesitant delegates.”<sup>57</sup> He personally wrote the initial draft of the Genocide Convention,<sup>58</sup> and during days of intense lobbying at the United Nations, he was variously seen as a “dreamer,” a “fanatic,” an “exceedingly patient” man, and a “totally unofficial man.” In 1948, his Genocide Convention was adopted.<sup>59</sup> It was written that “[w]hen the U.N. General Assembly approved the Convention of December 9, 1948, reporters who went looking for him [Lemkin] to share in his triumph found him in a darkened assembly hall, weeping in solitude.”<sup>60</sup>

The remaining years of his life were devoted to the implementation of the 1948 Convention, which contained enforcement mechanisms allowing for recourse to the ICJ. It was these provisions that were relied upon by Bosnia (in 1993) and Croatia (in 1999) when they brought proceedings

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<sup>51</sup> *Id.* See also WILLIAM A. SCHABAS, GENOCIDE IN INTERNATIONAL LAW: THE CRIME OF CRIMES 17 (2d ed. 2009).

<sup>52</sup> See *supra* 50 and accompanying text.

<sup>53</sup> See GILKERSON, *supra* note 50. Lemkin also travelled via Sweden and the Soviet Union before arriving in the United States.

<sup>54</sup> See Schabas, *supra* note 52, at 43. The United Nations War Crimes Commission included the charge of genocide as a new type of international crime as coined in Lemkin’s book *Axis Rule in Occupied Europe*. RAPHAEL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE LAWS OF OCCUPATION, ANALYSIS OF GOVERNMENT, PROPOSALS FOR REDRESS* (Lawbook Exchange 2005).

<sup>55</sup> Cooper, *supra* note 29, at 70.

<sup>56</sup> *Id.* at 70–2.

<sup>57</sup> GILKERSON, *supra* note 50.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

against Serbia in respect of Srebrenica and Vukovar.<sup>61</sup> On the account of a recent biography, Lemkin's later life seems not to have been a happy one. He taught at Yale Law School and at Rutgers University in Newark, lobbied actively on the implementation of the Genocide Convention, and died on August 28, 1959, in New York City.<sup>62</sup> He never married and had no children.<sup>63</sup> It was reported that only seven people attended his funeral.<sup>64</sup>

#### IV. LWÓW

Lemkin did not live to see the full recognition of his role in developing the Genocide Convention, a landmark of modern international law. Of his various disappointments, none seems to have been greater than the fact that more was not made of the concept of genocide at the Nuremberg trials. Greater prominence was given to the concept of crimes against humanity, a term that then (but not now) related to crimes during times of war, thereby excluding the events of the 1930s in Germany.<sup>65</sup> That term—crimes against humanity—emanated from the mind of Hersch Lauterpacht, who formulated the definitions of the crimes that were to be enshrined in Article 6 of the Nuremberg Charter.<sup>66</sup> He too was closely connected with Lviv, and he was the father of my mentor, Eli Lauterpacht.

Hersch Lauterpacht was born on August 16, 1897, in Zolkiew, just a few miles from this lecture theater, into a middle-class Jewish family, the second of three children.<sup>67</sup> In 1910, his family moved to a six-room apartment in Lviv, so that he could attend a better quality of secondary school,

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<sup>61</sup> See Application Instituting Proceedings by Bosnia & Herzegovina, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Montenegro), 1993 I.C.J. Gen. List No. 91, at 1 (Mar. 20, 1993), available at <http://www.icj-cij.org/docket/files/91/7199.pdf>; Application Instituting Proceedings by Croatia, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croat. v. Serb.), 1999 I.C.J. Gen. List No. 118, at 2 (July 2, 1999), available at <http://www.icj-cij.org/docket/files/118/7125.pdf>.

<sup>62</sup> See COOPER, *supra* note 29.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> See International Military Tribunal for the Trial of German Major War Criminals, Judgment: the Law Relating to War Crimes and Crimes Against Humanity (Sept. 30, 1946), THE AVALON PROJECT BY YALE LAW SCHOOL, available at <http://avalon.law.yale.edu/imt/judlawre.asp> (“The Tribunal therefore cannot make a general declaration that the acts before 1939 were crimes against humanity within the meaning of the Charter . . .”).

<sup>66</sup> Reut Yael Paz, Making It Whole: Hersch Lauterpacht's Rabbinical Approach to International Law 4, n. 14 (2010) (unpublished manuscript) (“William Jackson, Robert Jackson's son who assisted his father during the Nuremberg trials, confirmed this to Robinson.” J. Robinson, *The Contribution of Hersch Lauterpacht to the Theory of War* in STUDIES IN PUBLIC INTERNATIONAL LAW IN MEMORY OF SIR HERSCH LAUTERPACHT 68 (N. Feinberg ed., 1961)).

<sup>67</sup> See COOPER, *supra* note 29.

the Humanist Gymnasium, where he was said to have been a brilliant student.<sup>68</sup> In 1915, at the outset of the First World War, he was conscripted into the Austrian Army, serving at the timber yard run by his father.<sup>69</sup> At some point, probably in 1915, Lauterpacht began legal studies at the Jan Kazimierz University, which he continued for eight semesters.<sup>70</sup> It is not clear whether he actually obtained a degree. In 1920, he wrote a letter explaining that he had not been “able to take the final examinations because the University has been closed to Jews in Eastern Galicia.”<sup>71</sup> However, University of Lwów issued a certificate on April 26, 1917, stating that he took an examination on that day in law and history, including Roman Law.<sup>72</sup> He passed with a “good” result, but whether this led to graduation from the Faculty of Law is not clear.<sup>73</sup>

During this period, Lauterpacht became active in the Jewish student movement, and in 1917, he organized a demonstration to celebrate the publication of the Balfour Declaration, a notable act given that Austria was at war with Britain at the time.<sup>74</sup> In 1918, following the termination of the First World War, a conflict arose in Galicia between Poles and Ukrainians, and the Versailles Peace Committee sent a Commission to decide upon the frontier.<sup>75</sup> This Committee, known as the Curzon Committee, selected Lauterpacht, who was twenty-one years old, as an interpreter, on the basis that he knew both languages and was acquainted with the territory.<sup>76</sup>

In 1919, at the age of twenty-two, he moved to Vienna to enter the university, where he studied under Hans Kelsen.<sup>77</sup> By then he was already “angered by . . . social inequality, opposed to chauvinism and dreamed of a Jewish Renaissance based on the spirit of social justice.” His writings are said to have “displayed a vast culture, an extraordinarily powerful style and clarity of thinking and exposition of ideas.”<sup>78</sup>

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<sup>68</sup> ELIHU LAUTERPACHT, *THE LIFE OF HERSCH LAUTERPACHT* 19 (2010).

<sup>69</sup> *Id.*

<sup>70</sup> LAUTERPACHT, *supra* note 69.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Hans Kelsen, *Hersch Lauterpacht*, 10 INT'L & COMP. L.Q. 3 (January 1961); *see also* the recently published ELIHU LAUTERPACHT, *THE LIFE OF HERSCH LAUTERPACHT* Chs. 1 & 2 (Cambridge 2010).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* The statements about Hersch's work for the Curzon Committee have been impossible to verify. The records of the Committee's work in the National Archive contain no reflection of it. There may be some element of exaggeration in Dr Roth's statement because we know from what Arnold McNair said about Hersch's spoken English at the time of his arrival in London in 1923 that even then this was limited.

<sup>77</sup> *Id.*

<sup>78</sup> Letter from Dr Joseph Roth (July 10, 1960) *in* ELIHU LAUTERPACHT, *THE LIFE OF HERSCH LAUTERPACHT* 21 (Cambridge 2010).

He never again lived in Lwów, although he returned for two short visits. On one occasion, in 1928, his visit coincided with a Conference on International Law in Warsaw.<sup>79</sup> By then, he was already a member of the British group, having moved to Britain in 1923 to study at the London School of Economics.<sup>80</sup> During the Conference banquet he spoke in English and Polish, and was approached by Mr. Marcowicz, the Polish Chief Justice, who asked: "How comes it that you speak such good Polish and how do you come from England?"<sup>81</sup> The reply was: "Thanks to your *numerus clausus*."<sup>82</sup>

In Vienna, Lauterpacht obtained a Doctor of Laws and a Doctor of Political Studies degree, and met his wife Rachel Steinberg, who was studying piano.<sup>83</sup> They moved to London in 1923.<sup>84</sup> Lauterpacht attended the London School of Economics as a Research Student, studying with Dr. Arnold McNair, who became a mentor and a friend, and in 1928, his only child, Elihu, was born.<sup>85</sup> He taught at the London School of Economics until 1937, when he was appointed Whewell Professor of International Law at Cambridge University.<sup>86</sup> In 1954, he emerged as a candidate for election to the ICJ, nominated by the United Kingdom.<sup>87</sup> He attracted support from the Minister of State, Selwyn Lloyd, who wrote to the Lord Chancellor, Lord Simonds, on July 25, 1954, that his nomination "would meet with universal approval internationally" and would be "the best and the right thing."<sup>88</sup> As an immigrant, however, Lauterpacht's nomination raised concerns in some high quarters. The Attorney-General, Sir Lionel Heald MP, was concerned that Lauterpacht's nomination would be badly received by the legal profession and the House of Commons.<sup>89</sup> "It is . . . surely desirable," wrote the Attorney General, "that our representative at The Hague should both be and be seen to be thoroughly British, whereas Lauterpacht cannot help the fact that he does not qualify in this way either by birth, by name or by education."<sup>90</sup> The objection came too late: the nomination was already made and

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<sup>79</sup> Lord McNair, *Tributes to Sir Hersch Lauterpacht*, available at <http://207.57.19.226/journal/Vol8/No2/art6.pdf>.

<sup>80</sup> ELIHU LAUTERPACHT, *THE LIFE OF HERSCH LAUTERPACHT* 21 (2010).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Hans Kelson & Lord McNair, *Tributes to Sir Hersch Lauterpacht*, 8 *EUR. J. INT'L L.* 309, 312 (1997) ("In 1923 he married Rachel, daughter of Michael Steinberg, resident in Palestine.").

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Lauterpacht, *supra* note 69, at 82.

<sup>87</sup> *Id.* at 373.

<sup>88</sup> *Id.* at 375.

<sup>89</sup> *Id.* at 376.

<sup>90</sup> Philippe Sands, *Global governance and the international judiciary: choosing our judges* in 56 *CURRENT LEGAL PROBLEMS* 481, 493 (M.D.A. Freeman, ed., 2003).

Lauterpacht was elected to the World Court in October 1954.<sup>91</sup> He served with great distinction until 1960, when he died of a heart attack.<sup>92</sup>

Lauterpacht's writings and activities are too numerous to begin to summarize in this short lecture, but many of his works are still consulted today. At the heart of his approach is, as one colleague has put it, a belief that international law is "a translation of natural decency, rationality and universal values into its professional language," an approach "based on principles of legal normativism, legal completeness and absolute justice," so that the system of international law was "'complete,' pluralistic and liberal cosmopolitan."<sup>93</sup> These themes emerge consistently in his writings, from his doctoral thesis on *Private Law Sources and Analogies of International Law*, published in 1927, through *The Function of Law in the International Community*, published in 1933, and *An International Bill of Human Rights*, published in 1945, and up to *The Development of International Law by the International Court*, published in 1958.<sup>94</sup> Lauterpacht's *An International Bill of Human Rights* directly and immediately influenced the text of what became the 1950 European Convention of Human Rights, to which the Ukraine became a party in 1995.

Unusually, for the times, Lauterpacht was also uniquely interested in the practical side of international law, including litigation. He edited the *Annual Digest of International Law* with Macnair from 1929—now the *International Law Reports*—and was called to the English Bar in 1935, appearing as counsel for the United Kingdom in two cases at the ICJ.<sup>95</sup> Just as Rafael Lemkin advised Justice Robert Jackson at Nuremburg, so also Lauterpacht assisted at the trials, and prepared large parts of the first drafts of the opening and closing speeches of chief British prosecutor Sir Hartley Shawcross.<sup>96</sup> At the end of those trials, Shawcross wrote to him: "I hope you will always have the satisfaction in having had this leading hand in something that may have a influence on the future conduct of international relations."<sup>97</sup>

Through the turmoil and grief of the 1930s and 1940s, Lauterpacht remained dedicated to the rule of law and promoted the protection of human rights for all. He advocated for the imposition of individual criminal responsibility under international law—prevailing over the counter argument that only states could incur liability under international law—and the recognition

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<sup>91</sup> *Id.* at 494.

<sup>92</sup> Lauterpacht, *supra* note 69, at 419.

<sup>93</sup> Philippe Sands, *My Legal Hero: Hersch Lauterpacht*, GUARDIAN, Nov. 10, 2010, <http://www.guardian.co.uk/law/2010/nov/10/my-legal-hero-hersch-lauterpacht>.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Lauterpacht, *supra* note 69, at 276.

<sup>97</sup> *Id.* at 297.

and prosecution of international crimes.<sup>98</sup> He contributed directly and forcefully to the most powerful trends of the modern system of international law. It is hard to overstate the significant role Lauterpacht played in the emergence of the modern system of international law. Following his death, Lord Macnair, who had been Lauterpacht's mentor in Britain, wrote that Lauterpacht's "prominence and success . . . were due to his passion for justice, his devotion to the relief of suffering, his transparent sincerity and his gifts of persuasion, both in writing and in speech."<sup>99</sup>

#### V. LVIV

As I draw to a conclusion, let me pull together the threads of this lecture. It will not have escaped your attention that what I have said up to this point touches upon, but hardly investigates, many issues of considerable complexity: Zolkiew; Lauterpacht; international criminal law; Lemkin; the human rights of individuals; the new international courts; and Sohn. What are the connections? What is this tale about?

Perhaps some of you in this distinguished audience may have found a connection. I have a professional interest in these matters, of course, in the circumstances in which new rules of international law emerged in the aftermath of the brutalities and atrocities of the period around the Second World War, reflected in texts like the Atlantic Charter of 1941, the United Nations Charter of 1945, the Nuremberg Charter of 1945, the Universal Declaration of Human Rights of 1948, and the Genocide Convention of 1948. These were instruments that reflected the aspirations and endeavors of Sohn and Lemkin and Lauterpacht, whose efforts have contributed directly and substantially to the modern system of human rights and international criminal laws with which the Case Western Reserve Law School is so very closely committed, including through the vital work of the Frederick K. Cox International Law Center.

It would be odd if I were not interested in the people who made the new rules, designed to fill the gaps left by the patent inadequacies of earlier treaties like the 1919 Minorities Agreement that bound Poland to protect the rights of all minorities in Lwów. It would be odd if I were not to note their common connection to this city, and to speculate as to how their personal experiences will have informed their intellectual inquiries and their professional activities. And it would be odd, too, to conclude that these factors might be entirely unconnected, whether by the air and atmosphere of a re-

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<sup>98</sup> HERSCH LAUTERPACHT, *INTERNATIONAL LAW AND HUMAN RIGHTS* 40–45 (Archon Books 1968) (1950). "[T]here is cogency in the view that unless responsibility is imputed and attached to persons of flesh and blood, it rests with no one." *Id.* at 40.

<sup>99</sup> *Tributes to Sir Hersch Lauterpacht*, 2 *EUR. J. INT'L L.* 309, 311 (1997).

markably cultured, intellectual city, or by the collective experience of unimaginable abuse and atrocity.

But there is another reason I am interested, which I mentioned very briefly earlier, and it is this: the invitation provided me with an opportunity visit the birthplace of my own grandfather, who was born in Lemberg on May 10, 1904, when it was eastern Galicia, part of the Austro-Hungarian empire. Maurice Leon Buchholz was the youngest of four children. At the time of his birth, his parents lived at number 12 Sheptyt'kykh Street, a building that still stands and that I visited last October. His mother Malka, was born in 1870 in Zolkiew, the birthplace of Hersch Lauterpacht, which I also visited, having the opportunity to enter the dilapidated ruins of one of the great synagogues of central Europe. As far as I have been able to work out, the family remained in Lemberg until 1914 or 1915. My grandfather then left for Vienna with his parents and his two sisters (Gusta (b. 1895) and Laura (b. 1899)); this was shortly after his oldest brother Emil (b. 1893), who had been conscripted into the Austrian Army, was killed in the First World War. I thought that he had never returned, but recently I found amongst his papers a Polish passport in his name dating to 1923, which seems to have been issued in Lwów. In any event, he never forgot the city.

So having by then done some research on Lauterpacht, Lemkin and Sohn, I was particularly pleased when, earlier this year, my mentor and friend Eli Lauterpacht put me in touch with his relative, Inka Katz, in Paris, the visit to which I described at the beginning of this lecture. Inka was Hersch Lauterpacht's niece, and the only member of that part of his family that remained in Poland and in Lwów who survived the Holocaust.<sup>100</sup> I did visit Inka, and she told me her story of survival and, with maps spread out on her dining room table, described with perfect recall her childhood and showed me where she had grown up and lived—at No. 10 3 May Street, which is now Techniczna street—just around the corner from where the Lauterpachts and her Uncle Hersch lived as a young child—at No. 64 Petra Doroshenka street. Then she showed me on the map where my grandfather had lived, during the same period, just around the corner at number 12 Sheptyt'kykh Street.

In October, I visited all three of those addresses, which are no more than a couple of hundred yards from each other. Walking the streets, I imagined the possibility that whilst the two families would not have known each other socially—the Lauterpachts being professionals whereas my great-grandfather was an inn-keeper—they might have crossed each other in the street, in the weeks before the outbreak of the First World War, or per-

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<sup>100</sup> To read an account of those times, I commend a book by another remarkable lawyer, Louis Begley, a retired partner of the international law firm of Debevoise and Plimpton: entitled *Wartime Lies*, it is a fictionalized memoir of a child's survival in Lwów, now published as a Penguin Modern Classic. LOUIS BEGLEY, *WARTIME LIES* (1992).

haps when the Russians were in occupation in early 1915. Or perhaps the Lauterpachts even visited my great-grandfather's inn?

I doubt, however, that my grandfather could have imagined another possibility: that seven decades later, sitting in a small apartment one floor above the Grolier poetry bookstore in Cambridge, Massachusetts, an English grandson of his would receive a letter from the son of his Lemberg neighbor inviting him to take up a first academic position for the study of international law at Cambridge, an invitation that would eventually lead me to this lectern today. When Eli Lauterpacht identified me as a candidate for the post, he did not know of our geographical and historical connection. It is only in the past weeks that I have shared with him this account.

It is difficult to know what precisely would have caused different individuals from that post-First World War generation of Jews in Lemberg to take up the cause of international law, and to seek to remake the field in a new image. Apart from their connection with Lemberg/Lwów, the individuals I have written about shared something else, suffering the loss of a great number of family members and friend in the Nazi Holocaust. Sohn and Lemkin lost their parents and many other family members; Lauterpacht's parents Aron and Deborah were murdered in Belzec or Lwów in 1942 or 1943, the only local family member to survive being Inka Katz, who was saved as a twelve year old by a community of nuns in this city.<sup>101</sup> My grandfather lost his mother, murdered in Treblinka on an unknown date in 1942, and his sisters. It is not hard to see how these terrible events would have contributed to an instinct for justice and the rule of law, even if it is plain from the accounts that I have given that such instincts were in place well before the horror.

One can speculate also on how these three men would react to the world of international law today, which despite its numerous enhancements still suffers from many of the same limitations that characterized the 1920s and 1930s. Ask the Christian community in Baghdad today whether these new international norms afford them adequate protections, or the Palestinians in Gaza, or the detainees of Guantanamo, or the citizens of Chechnya.

Nor can I know for certain what might have caused the same instincts to be kindled in someone like me, two generations later. We know, of course, that the memory of events occurring to one's own family can give rise to a thirst for vengeance, a terrible 'sins-of-the-fathers' hatred. But there are other ways, and the instinct to justice under the rule of law is one of those alternatives. That is the lesson I draw from the experience of these remarkable men from Lviv, whose efforts remind us that the challenges we face today are neither new nor insurmountable. The international rule of law

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<sup>101</sup> See generally ELIHU LAUTERPACHT, *THE LIFE OF HERSCH LAUTERPACHT* (2010) (presenting a background on Hersch Lauterpacht's family before, during and after the Holocaust).

imagined by Lauterpacht, Lemkin, and Sohn is as vital and important today as it was in 1945. It should inspire all victims of abuse and illegality, irrespective of creed, or nationality, or race or religion, a route for which all the people of Lviv might feel pride, honoring the possibility of moving forward in the spirit of justice, rather than backwards in the spirit of vengeance.

Whatever the causes of my own direction, one thing is clear: Lviv, or Lwów, or Lemberg, has made a singular contribution to the creation and application of the modern international legal order. The city's DNA is impregnated into the modern international legal order.<sup>102</sup> This could be a cause for pride and even celebration, even if not yet fully recorded. I hope that the city's contribution, and that of these pioneering international lawyers, might be embraced by modern Lviv. Such an act would pay tribute to memory and to justice.

I conclude by thanking you for your kind attention, and recording my appreciation to the organizers of the Klatsky Seminar in Human Rights for the invitation to be here with you today, and to all those who made the visit possible.

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<sup>102</sup> See Phillip C. Jessup & R. R. Baxter, *The Contribution of Sir Hersch Lauterpacht to the Development of International Law*, 55 AM. J. INT'L L. 97 (1961).