

## KEYNOTE ADDRESS

The Assembly was convened at 4:45 p.m. on Thursday, April 13, 2017, and the Keynote Address was given by Phillippe Sands of University College London and Matrix Chambers.

*By Philippe Sands QC\**

### INTRODUCTION

Few groups are likely to assemble today that would better know the shortcomings of international law than this group which I am privileged to address. You are aware of the confusions, of the incompleteness, of the lack of ordinary sanctions, and of all that might be said in criticism of international law. Yet here you are, assembled in Washington, at no little personal inconvenience, to reiterate your inveterate belief that international law is an existing and indestructible reality and offers the only hopeful foundation for an organized community of nations. There is no paradox in this. Those who best know the deficiencies of international law are those who also know the diversity and permanence of its accomplishments and its indispensability to a world that plans to live in peace. I am happy to join you in what amounts to a timely and resolute confession of faith.

Not my words, but those of Robert Jackson, spoken at this Society's Annual Meeting on Friday, April 13, 1945.<sup>1</sup> The circumstances then were rather different than they are today: no UN Charter, no NATO, no European Union, no GATT, no Nuremberg Tribunal, no Genocide Convention, no Universal Declaration of Human Rights. Justice Jackson set out his vision for the future. Yet today, seven decades on, it seems to many that we stand on the cusp of a great unraveling, of a return to those heady days when sovereignty meant sovereignty, when individuals and groups had no minimum rights under international law, when states were in control.

Jackson was not just a man of words. A month later he writes to Rafael Lemkin to thank him for the letter Lemkin had written informing him that his recently published book, *Axis Rule*, is available in the library of the Supreme Court.<sup>2</sup>



Lemkin's War Department ID card, May 1946

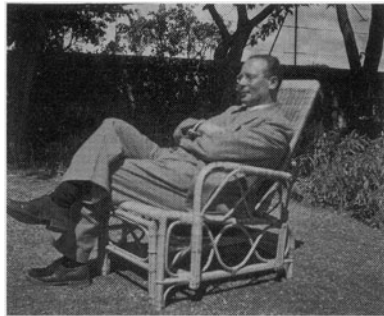
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<sup>1</sup> Address by the Hon. Robert H. Jackson, 39 ASIL PROC. 10, 10–11 (1945).

<sup>2</sup> PHILIPPE SANDS, EAST WEST STREET: ON THE ORIGINS OF CRIMES AGAINST HUMANITY AND GENOCIDE 184 (2016).

Jackson borrows the book from the library—he keeps it in his office for more than a year, returning it in October 1946—and it seems to have worked its magic. On May 16, 1945, Jackson meets his team to prepare a planning memo for Nuremberg, having added a new crime to the list prepared by his staff. Soon after, Lemkin is hired by the U.S. government to work on war crimes with Jackson’s team.<sup>3</sup>

Two months later Jackson is in London, working on the draft statute of the Nuremberg Tribunal. Facing various difficulties, on July 29 he travels to Cambridge to lunch with Hersch and Rachel Lauterpacht.



Hersch Lauterpacht, 1943

They sit in the garden of Lauterpacht’s home on Cranmer Road, having tea and discussing the possible crimes over which the Tribunal might exercise jurisdiction. Lauterpacht puts forward various ideas, including the insertion of titles, to help public understanding and add legitimacy, to which Jackson reacts positively, taking the ideas with him back to London.<sup>4</sup>

#### INTERNATIONAL JUSTICE

I encountered these details—and a great many others—while researching my book *East West Street*. Over seven years in the writing, it tells the story of four men, two crimes, and one city. Three of the men were involved in the Nuremberg Trial, and the book seeks to understand how each one’s circumstances contributed to the roads they took and how the roads thus traveled changed the system of international law that is the stuff of my daily work and that of many in this room. The book also touches a more personal theme: how four interweaving lives influenced my own path, as an academic and practitioner. It has been described as a double detective story, one that raises significant questions that occupy us all: Who am I, individual or member of a group? How should the law cast its protective embrace?

*East West Street* came about by accident. In the spring of 2010 I received an invitation from Ukraine, an email from the law faculty of the university in the city that was called Lemberg during the Austro-Hungarian Empire until 1918, then Lwów during the Polish years until 1939, then Lviv after 1945. Would I care to visit and deliver a public lecture on my work on “crimes against humanity” and “genocide,” about the cases in which I’d been involved, about my writing on Nuremberg and the trial’s consequences for our world today? I accepted the invitation, and

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 109–11.

that summer prepared the lecture I was to deliver. I chanced across a number of coincidences that I considered to be remarkable—although my wife, who is American, and of a more grounded disposition, did not.

## LAUTERPACHT

The first surprise was to learn more about the man who came up with the idea of putting the term “crimes against humanity” into the Nuremberg Statute. Surprisingly, he came from Lviv, and studied at the very university that invited me to lecture, although those who issued the invite were unaware of the connection. Born in 1897 in the small town of Zolkièw, about fifteen miles north of Lemberg, he moved to the nearby city in 1911 and enrolled at the university’s law faculty four years later. In 1919 he went to study in Vienna, then in 1923 to London and the LSE. In 1937 he was elected to the chair in international law at Cambridge, and in 1945 published the academic book that laid a foundation for our modern system of human rights.

### AN INTERNATIONAL BILL OF THE RIGHTS OF MAN

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His name was Hersch Lauterpacht, and the book, commissioned by the American Jewish Committee in 1942, was titled *An International Bill of the Rights of Man*.<sup>5</sup> It offered a revolutionary idea: to give every individual human being certain minimum rights under international law. His twenty draft articles covered much that was new but not exhaustive: notable omissions included silences on torture and discrimination against women and blacks. His draft Bill gave effect to his credo, that “the individual human being ... is the ultimate unit of all law.”<sup>6</sup>

He came to know Robert Jackson in 1941, and when Jackson visited on July 29, 1945, he offered another idea, in respect of atrocities committed against civilians, a matter on which the Soviets and Americans were deeply divided.

*crimes against humanity*

“crimes against humanity,” Hersch Lauterpacht, July 1946

<sup>5</sup> HERSCH LAUTERPACHT, *AN INTERNATIONAL BILL OF THE RIGHTS OF MAN* (2013).

<sup>6</sup> Hersch Lauterpacht, *The Law of Nations, the Law of Nature and the Rights of Man*, 29 *TRANSACTIONS OF THE GROTIUS SOCIETY* 1, 31 (1943).

Why not, he suggested, call them “crimes against humanity”? Jackson liked the idea, took it back to London, and on August 6 the term was adopted in the Nuremberg Statute.<sup>7</sup> An innovation perhaps, Lauterpacht told the Foreign Office, but a necessary one.<sup>8</sup>

### LEMKIN

The second surprise concerned the man who invented the word “genocide.” He also passed through Lviv, and also studied at the same law school as Lauterpacht, although only arriving in 1921, a couple of years after Lauterpacht left. Again, those who invited me to lecture were unaware of his connection with the city. His name was Rafael Lemkin.

He finished law school in 1926 and became a public prosecutor in Warsaw, and in 1933 wrote a paper for a League of Nations meeting in Madrid, proposing new international crimes to combat “barbarity” and “vandalism” against people. His focus was not the protection of individuals, like Lauterpacht’s was, but rather the protection of groups. With Hitler having taken power in Germany, nothing came of the idea. In 1939, when Germany invades Poland, Lemkin escaped from Warsaw and eventually makes his way to Duke University in Durham, North Carolina, where he’s been offered academic refuge.

He arrives with little money or personal belongings, but with vast amounts of luggage, suitcases filled—literally—with paper, thousands of pages of decrees promulgated by the Nazis in the countries they’ve occupied. He’s gathered these materials in Stockholm, and now in America analyzes them.<sup>9</sup>



In 1942 the Carnegie Endowment for International Peace, here in DC, offers a book contract to examine Nazi actions and patterns of behavior. The book, published in November 1944, is called *Axis Rule in Occupied Europe*.<sup>10</sup>

<sup>7</sup> Charter of the Nuremberg Tribunal, Art. 6, 82 UNTS 279.

<sup>8</sup> Sands, *supra* note 2, at 113.

<sup>9</sup> *Id.* at 165, 170.

<sup>10</sup> RAPHAEL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE: LAWS OF OCCUPATION—ANALYSIS OF GOVERNMENT—PROPOSALS FOR REDRESS* (1944).



“genocide” in the handwriting of Rafael Lemkin, c. 1945

Chapter IX is entitled “Genocide.” Lemkin has invented a new word: the crime of the destruction of groups, the Nazi master plan, an amalgam of the Greek word *genos* (tribe or race) and the Latin word *cide* (killing). Here you see it in his hand. Disappointed that the Nuremberg Statute includes “Crimes against Humanity”—the killing of individuals—but is silent as to genocide or the destruction of groups, in September he travels to London and pushes for his word to be included in the Indictment. There is strong opposition from Jackson’s office, under pressure from Southern senators concerned about discrimination against African-Americans, and from the British, concerned about a colonial legacy. Nevertheless, against the odds, on October 18 the Indictment is filed at the Tribunal and includes the crime of “genocide,” the “extermination of racial and religious groups,” including “Jews, Poles, and Gypsies and others.”<sup>11</sup>

#### FRANK

By the time the Nuremberg Trial opens on November 20, 1945, Lauterpacht and Lemkin are both involved in prosecution teams. Lauterpacht is present in the courtroom, with the British, pushing for the protection of individuals. Lemkin remains in Washington, with the Americans, pushing for the protection of groups.



“I declare myself not guilty,” Hans Frank, November 21, 1945

One of the twenty-two men in the dock that day is Hans Frank, the fourth man in *East West Street*. From the late 1920s he served as Adolf Hitler’s personal lawyer. In 1933 he becomes Bavarian

<sup>11</sup> *Nuremberg Trial Proceedings Vol. 1, Indictment: Count Three* (1947), available at <http://avalon.law.yale.edu/imt/count3.asp>.

Minister of Justice, and in October 1939 is appointed governor general of Nazi-occupied Poland. In August 1942 he visits Lemberg and Galicia, after its incorporation into his territory, and announces the implementation of the Final Solution in the city and surrounding areas. Among those caught up in the horrors that follow are the families, friends, and university teachers of Lauterpacht and Lemkin, as well as my grandfather's family. For each of the three families there will only be a single survivor. Frank is a point of connection.

Three weeks after Jackson addresses this Society, Frank is caught by the U.S. Army in Bavaria. With him are forty-two volumes of his diaries and a remarkable collection of artwork—and I mean remarkable: it includes this portrait of Cecilia Gallerani, the Lady with an Ermine, painted by Leonardo da Vinci in about 1489, which hung in Frank's private office in the Wawel Castle in Krakow. Frank's son Niklas, who I have come to know, tells me that as a young boy his father made him stand before the painting and slick down his hair, like Cecilia.<sup>12</sup> Now Frank is in the dock, an accused. He is charged with “crimes against humanity” and “genocide.”



The Lady with an Ermine, by Leonardo da Vinci

On the first day of the trial a Soviet prosecutor takes the judges to events in Lviv in August 1942, in the days that followed Frank's visit. More than 130,000 individuals were killed in the city, including eight thousand children. At this point, Lauterpacht and Lemkin are unaware of the fate of their families. Indeed, they are not yet aware that the man they are prosecuting, Hans Frank, may be directly implicated.

On this day, for the first time ever, the terms “genocide” and “crimes against humanity” are spoken in open court. I know Lauterpacht and Frank to be in the same room on this day, and wonder if there is a photograph. Lauterpacht's son Eli—my first teacher of international law, mentor, colleague, and friend, and from whom we have just heard the wonderful words of Steve Schwebel—told me there was no photograph, but I thought it worth exploring (I'm a litigator, remember, no stone unturned!). At the Getty Images archive—the largest collection from the trial—I spend a day going through hundreds of old glass plate images, each to be taken out of its protective paper sleeve. Finally, after several hours, I find this:

<sup>12</sup> Sands, *supra* note 2, at 253–54.



Palace of Justice, Nuremberg, November 20, 1945

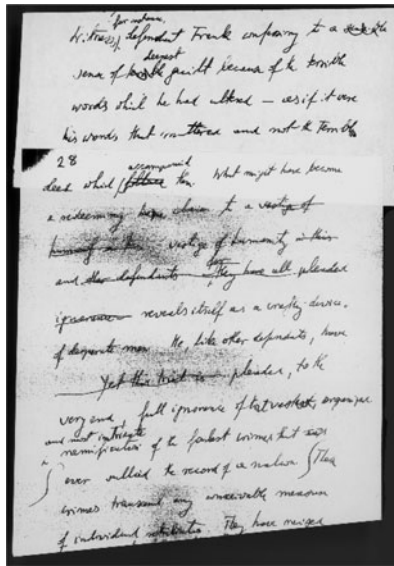
Lauterpacht sits at the end of the British table, the second on the left, elbows on the table, hands clenched under the chin. In the lower right hand corner, you can see the large figure of Goering, in an oversized light-colored suit. Moving along the bench to his left, six along and just before the image is cut by the protruding balcony, is the semi-bowed head of Frank. Divided by no more than a few tables and chairs, Lauterpacht and Frank are together in the same room.

## THE TRIAL

The trial lasts for a full year, and judgment is handed down over two days, on September 30 and October 1, 1946.<sup>13</sup> The seventieth anniversary was marked last year in Courtroom 600 of Nuremberg's Palace of Justice, still a working courtroom and a museum. Time is limited, so I cannot address what transpired over the course of that year, as the lives of those three men became increasingly intertwined. Over time, family stories emerged. In July 1946 Lauterpacht learns of the fate of his family, and the role played by Frank. Eli Lauterpacht shares with me his father's handwritten draft of the closing arguments of British Attorney General Hartley Shawcross, arguing for the protection of every individual human being and "the rights of man against the ... barbarity of his own State." Eli tells me his father never talked about the fate of the family, a private man, not prone to public displays of emotion. This makes all the more striking a feature of Lauterpacht's draft: over dozens of pages, the only defendant mentioned repeatedly is Frank, the one most directly connected to the murder of his family. Right at the end of the seventy-six-page handwritten manuscript Lauterpacht permits himself to become personal, to target the man who sat but a few feet from him in the dock. The handwritten version reflects a rare passion and anger. He writes of the accused: "[n]either have they seriously attempted to alleviate the anger of the civilized world by a simple admission of guilt. Even the abject confessions, with a ring of sincerity about them, have been no more than artful evasions."<sup>14</sup>

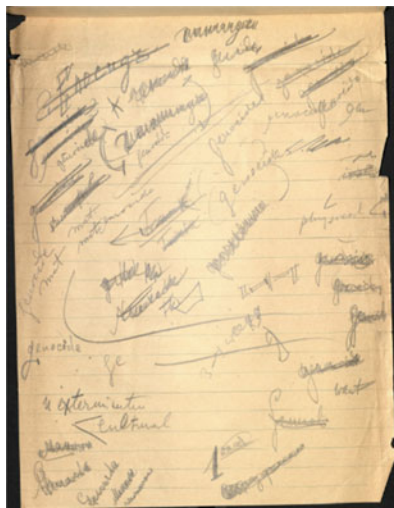
<sup>13</sup> *Nuremberg Trial Proceedings Vol. 22, Judgment* (1947), available at <http://avalon.law.yale.edu/imt/09-30-46.asp>.

<sup>14</sup> Sands, *supra* note 2, at 340.



“Witness...defendant Frank,” Lauterpacht’s draft, July 10, 1946

He is referring to Frank. In September 1946 Lemkin learns of Frank’s role in the destruction of his family. In a New York archive, at Columbia University, I come across an undated page of pencil writing in Lemkin’s hand, on a single sheet of lined, yellow paper.<sup>15</sup>



Lemkin’s scribbles, c. 1945

As you can see, he has written the word “genocide” at least twenty-five times, then crossed them out. He toys around with other formulations. And there, right in the middle of the page, hidden

<sup>15</sup> *Id.* at 341.



among the thicket of words, another is crossed out, with a line pointing away that resembles an arrow. The word is: “Frank.”

### LEGACY

The journeys taken by Lauterpacht and Lemkin, and by Robert Jackson in the period after he addressed this Society, produced an outcome to change the course of legal history, and then history itself. The ideas and endeavors of Lauterpacht and Lemkin—expressed at a time of great personal difficulty—influenced politics, history, culture, my life and yours. To many it seems that the concepts of “crimes against humanity” and “genocide” have always existed, but they did not: both are the product of creative and inventive minds, of two men driven by their own experiences forged on the anvil of a single city. Why Lauterpacht opted for the protection of the individual, and what caused Lemkin to embrace the protection of the group, is a matter of speculation. Their backgrounds were similar; they studied at the same university, had the same teachers. But if you want to trace the origins of these crimes, you can trace them to Lemberg, to events at the end of World War I, to the law faculty. Indeed, you can trace the origins to a teacher the two men had in common—Julius Makarewicz, a renowned Polish professor of criminal law. You can follow the line to a particular building, and even to the very room where Makarewicz shared his ideas on the treatment of minorities, as I have done.



Remarkably, despite their common origins, interests, and journeys, it seems that Lauterpacht and Lemkin never actually met. Yet their ideas touched, and one point of *East West Street* is that ideas matter, that individuals can make a difference, and that personal stories help us understand those ideas.

### PERSONAL MATTERS

Let me turn to the personal, something we lawyers are generally discouraged from doing. I didn't accept the invitation to go to Lviv because of a burning desire to deliver a lecture.



Leon

I traveled to find the street in the city where my grandfather, Leon Buchholz, was born, in 1904. He never once spoke to me of the city, whose inhabitants the wonderful Polish poet Josef Wittlin described as embodying “an extraordinary mixture of nobility and roguery, wisdom and imbecility, poetry and vulgarity.”<sup>16</sup> Leon left Lemberg for Vienna in 1914, at the age of ten, when the Russians occupied it. In January 1939 he was expelled from Vienna and the Reich because he was Jewish and newly stateless, truly a citizen of nowhere. He left behind a wife—my grandmother Rita—and a six-month-old daughter—my mother Ruth. That first visit to Lviv opened many doors, so *East West Street* became a personal detective story, too: Why did my grandfather leave Vienna alone? How did my mother get from Vienna to Paris in July 1939, as a one-year-old infant? Why did my grandmother stay behind?

I manage to find the answers to those questions and more, buried in the muck of evidence that is family history. Many discoveries surprised, not least the fact that my mother owes her survival—and I my existence—to a courageous woman who did missionary work on behalf of the Surrey Chapel in Norwich, motivated by a particular interpretation of chapter ten, verse one of Paul’s Letter to the Romans: this single line, it seems, motivated her to travel to Vienna and save my mother’s life in the summer of 1939.

Unexpectedly, I also came across more direct connections between my family and that of Lauterpacht’s and Lemkin’s. I learned that my great-grandmother, Amalia Buchholz, was born and lived in the small town of Zólkiew, the same place where Hersch Lauterpacht was born.



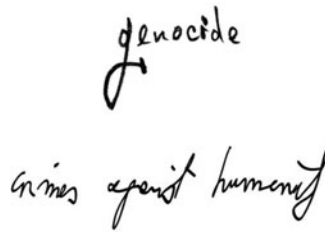
Zólkiew, Lembergerstrasse, 1890

<sup>16</sup> JÓZEF WITTLIN & PHILIPPE SANDS, *CITY OF LIONS* (2016).

Indeed, both were born and lived on the same street, only a few hundred yards apart. It was called Lembergerstrasse back then. Eli Lauterpacht and I had known each other for three decades before we learned of our shared connection to the same street, called East West Street by the writer Joseph Roth. Later I learned that Amalia's life ended on September 23, 1942, in the kingdom of Hans Frank, and that the last street she walked on was called Himmelfahrtstrasse, the "street to heaven" leading straight from the rail platform at Treblinka to a gas chamber. Within a month, Lemkin's parents Bella and Josef walked down the same street and perished in the same gas chamber.

Amalia Buchholz's life was caught between the Lauterpachts and the Lemkins as, it might be said, is mine, albeit in a rather different way.

#### THE FUTURE



genocide  
crimes against humanity

"genocide" in the handwriting of Rafael Lemkin, c. 1945, and "crimes against humanity," Hersch Lauterpacht, July 1946

It's not easy to explain these various points of connection. I can however, say something about the impressions gleaned while revisiting that period of acute challenge. Lauterpacht and Lemkin shared a belief that in going forward after the terrible events they experienced—events about which President Trump's spokesman has recently revealed himself to be distressingly ill-informed—international law had a central role to play. At a time of real personal challenge, they put effort into implementing ideas for a workable international rule of law, supported by the American and British governments committed to implementing the 1941 Atlantic Charter, with its three pillars of a new world order—economic liberalism, human rights, outlawing war.<sup>17</sup> I am not starry-eyed about the system that emerged and in which we live today, but it was based on a vision of carefully constructed ideas and values. If it is to be replaced, I do not see in my country or yours an equivalent process of reflection and thought as to what comes next.

Instead, Britain votes narrowly for Brexit and the United States votes narrowly for Mr. Trump. Neither development appears to offer much by way of ideas as to what needs to happen going forward, beyond a dismantling of that which exists.

The British prime minister appears to have embraced a "hard Brexit," which seems to mean the ending of pretty much all existing arrangements with the European Union. No single market, no customs union, no European Court of Justice. The economic implications of that are slowly dawning on her, as is the possible—and I might even say likely—severing from the Kingdom of

<sup>17</sup> *The Atlantic Charter*; THE YEARBOOK OF THE UNITED NATIONS, available at <http://www.unmultimedia.org/searchers/yearbook/page.jsp?volume=1946-47&bookpage=2>.

Northern Ireland and Scotland, and perhaps even Gibraltar. Yet she also tells us that if she could she'd take the United Kingdom out of the European Convention on Human Rights<sup>18</sup> and castigates those who feel a connection to the idea of global humanity as "citizens of nowhere."<sup>19</sup> "Taking back control" comes at a price, it seems, with control vested in a much diminished rump. Where is the vision, the equivalent to an Atlantic Charter for today, a blueprint for world order and law? If there is one, I haven't seen it. Instead, global Britain rests its hope on bilateral free trade agreements, injections of cash from friends in the Gulf, and investor-state arbitration as a model to replace the ECJ (the idea, evoked in the U.K. government's recent Brexit white paper,<sup>20</sup> seems so untouched by the reality of knowledge or experience that it might easily have emerged from the mind of the White House press spokesman).

Mrs. May is rather desperate for trade agreements, one reason no doubt she hot-footed her way to Washington to be photographed holding hands with Mr. Trump. That this occurred on the day the new president finalized an executive order to ban large numbers of human beings from entering this country simply because they happen to hold passports issued by Somalia or Yemen was, to put it mildly, unfortunate. The Italian chemist and writer Primo Levi—like the U.S. federal courts that have spoken thus far—knew to where such sentiments can lead. "I do not comprehend," he wrote in the preface to the first German edition of *If This Is a Man*, "I cannot tolerate—that a man be judged not for what he is, but for the group into which he happens to belong."

The unraveling of earlier accomplishments is not a matter over which Britain has a monopoly. Making America Great Again also requires much dismantling. NAFTA and NATO seem to be in Mr. Trump's sights.<sup>21</sup> Or are they? This morning I read that although NATO was obsolete on the day Mr. Trump took office, less than three months later it is not, because the organization has listened to Mr. Trump and acted. So too for the United Nations, now magically rehabilitated as a consequence of President Assad's supposed use of chemical weapons on his own people in defiance of UN requirements. This caused Mr. Trump to order fifty-nine Tomahawk missiles to be dispatched in the direction of Syria (shared with the president of China while eating a slice of the most fabulous chocolate cake, we now learn).<sup>22</sup> Perhaps there are grounds in international law to justify the use of force when a country uses chemical weapons, but decisions made on the hoof can be a very dangerous thing, as Iraq surely taught us. Where is the policy? Where is the plan? Where is the legal justification? What comes next?<sup>23</sup>

Teaching and writing about international law, as with litigating and adjudicating, I have come to appreciate the importance of context, and in particular the role of historical context. It can assist, help us understand from where we have come and to where we might be heading. There are decent and honorable reasons to have cast a vote in favor of Brexit and Mr. Trump, but there are also other reasons. Once again, a poison of xenophobia and nationalism is coursing its way through the veins

<sup>18</sup> Asa Bennet, *How Theresa May Will Take Britain Out of the ECHR, Eventually*, THE TELEGRAPH, Apr. 27, 2017, available at <http://www.telegraph.co.uk/news/2017/04/27/theresa-may-will-take-britain-echr-eventually/>.

<sup>19</sup> Theresa May, *Theresa May's Conference Speech in Full*, THE TELEGRAPH, Oct. 5, 2016, at <http://www.telegraph.co.uk/news/2016/10/05/theresa-mays-conference-speech-in-full/>.

<sup>20</sup> HM Government, *The United Kingdom's Exit from and New Partnership with the European Union* (Feb. 2017), at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/589189/The\\_United\\_Kingdoms\\_exit\\_from\\_and\\_partnership\\_with\\_the\\_EU\\_Print.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589189/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Print.pdf).

<sup>21</sup> Ginger Gibson, *Trump Warns He Could End NATO Guarantee, Scrap NAFTA*, REUTERS (July 21, 2016), at <http://www.reuters.com/article/us-usa-election-nato-idUSKCN1010MC>.

<sup>22</sup> Charlotte Krol, *Syria Strikes over "Beautiful Piece of Chocolate Cake"*, THE TELEGRAPH, Apr. 13, 2017, available at <http://www.telegraph.co.uk/news/2017/04/13/donald-trump-told-president-xi-syria-strikes-beautiful-piece/>.

<sup>23</sup> Anne-Marie Slaughter, *The Strike on Syria Must Herald a New Trump Doctrine*, FINANCIAL TIMES, Apr. 11, 2017, available at <https://www.ft.com/content/441ee618-1de3-11e7-b7d3-163f5a7f229c?mhq5j=e3>.

of our world. Are we going back to the 1930s, many are asking, to a time when states could treat their citizens without fetters imposed by international law?

My part, I find it difficult, having gone through the experience of writing *East West Street*, an immersion in the world of the years between 1914 and 1945, without feeling an acute sense of anxiety as to what is stirring.

A change is in the air, we can all feel it, a sharp move to identity politics. I felt it in Poland and Ukraine while filming the BBC Storyville documentary that accompanies the book, *My Nazi Legacy*. I feel it in the United States, even if it is accompanied by a sentiment of your remarkable checks and balances, and your Constitution. I feel it most acutely in the country where I live, a place where one former London mayor offensively evokes Adolf Hitler as a supporter of Zionism,<sup>24</sup> and another former London mayor—now Britain’s foreign secretary—feels able to suggest that the EU and Adolf Hitler somehow share common aims,<sup>25</sup> when he’s not referring to a former U.S. president as “part-Kenyan” (to explain his supposedly “ancestral dislike of the British empire”).<sup>26</sup>

In such times, we would do well not to forget from whence we came, or the struggles of the generation of Lauterpacht and Lemkin. It might be said that I oscillate between their ideas, the tension between the rights of the individual and the rights of the group, between crimes against humanity and genocide. Yet I can but admire their fortitude and commitment, and their lifelong belief in the vital, central role of international law for human well-being.

International law is a precious thing. Reasonable people—and even friends—can disagree on direction and detail. Yet surely all of us gathered here today, while recognizing Robert Jackson’s references to “the confusions, . . . the incompleteness, . . . the lack of ordinary sanctions, and . . . all that might be said in criticism of international law,” recognize that what we have is not to be taken for granted and is worth fighting for. The rights of individuals and of groups. The idea of an international rule of law. A system of justice that includes independent effective international courts and tribunals. These are decent things.

And they are decent things for which the American Society has played—and will continue to play—a vital role. You have always been a broad church, a place of vital and impassioned debate, and at no time has the Society—a principled, robust, generous, open Society, one that speaks especially for the younger and future generations—been more important than right now. Like Robert Jackson, seventy-two years ago to this day, I am happy to join you in what amounts to an especially timely and resolute confession of faith.

<sup>24</sup> Rowena Mason, *Ken Livingstone Repeats Claim About Nazi-Zionist Collaboration*, THE GUARDIAN, Mar. 30, 2017, available at <https://www.theguardian.com/politics/2017/mar/30/ken-livingstone-repeats-claim-nazi-zionist-collaboration>.

<sup>25</sup> Tim Ross, *Boris Johnson: The EU Wants a Superstate, Just as Hitler Did*, THE TELEGRAPH, May 15, 2016, available at <http://www.telegraph.co.uk/news/2016/05/14/boris-johnson-the-eu-wants-a-superstate-just-as-hitler-did/>.

<sup>26</sup> Anushka Asthana & Ben Quinn, *London Mayor Under Fire for Remark About ‘Part-Kenyan’ Barack Obama*, THE GUARDIAN, Apr. 22, 2016, available at <https://www.theguardian.com/politics/2016/apr/22/boris-johnson-barack-obama-kenyan-eu-referendum>.