

Review of *East West Street: On the Origins of Genocide and Crimes Against Humanity* by Philippe Sands (Weidenfield and Nicolson, 2016)

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'The protection of the individual, and the idea of individual criminal responsibility for the worst crimes, would be part of the new legal order. The sovereignty of the state would no longer provide absolute refuge for crimes on such a scale, in theory at least'. (East West Street)

First published in 2017, Philippe Sands' *East West Street* is a moving and unforgettable story that interweaves a deeply painful and personal journey into the history of his family living under Nazi rule, with a parallel journey that traces the origins of the legal concepts of 'genocide' and 'crimes against humanity'. These concepts have since come to form the foundations of international human rights law and could not hold more resonance today as we enter a dangerous period marked by the slide towards authoritarianism and the retreat from an international rules-based world order created painstakingly in the aftermath of the holocaust and the second world war.

Sands takes us to Lviv: a city that over the years has seen many name changes and territorial claims to it on the part of many countries in Eastern Europe). It was the birthplace of his grandfather, Leon Buchholz, who managed to escape the horrors of the Holocaust unlike the rest of his family. Around the same time, two legal scholars - Hersch Lauterpacht and Rafael Lemkin - also escaped from the same city to the US where, unknown to each other, they developed the legal concepts of genocide and crimes against humanity. Both stories entwine and unfold like a compelling crime thriller, ending with the Nuremberg trials and the prosecution of Nazi war criminals such as Hans Frank, also a lawyer, who acted for Adolf Hitler and was likely responsible for the annihilation of the entire extended families of Leon Buchholz as well as Lauterpacht and Lemkin.



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The power of the book lies in the simple fact that the concepts of genocide and crimes against humanity didn't come out of nowhere; they were the result of a need to find the language and tools capable of addressing the gravity of the unprecedented mass violence and cruelty committed against millions of people: Jewish, Roma and other minorities and political dissidents. While Lauterpacht's concept of crimes against humanity emphasised large-scale atrocities committed against individuals, Lemkin's concept of genocide focussed on the intentional and wholesale destruction of groups of people. In showing us how the concepts jumped off the pages of abstract legal theory and entered the Nuremberg courtroom, Sands presents a profoundly uplifting story about the search for truth and justice.

The story is also intriguing for other reasons: tensions existed between Lauterpacht and Lemkin as each argued that their specific conceptualisation was more appropriate to reflect the crime of mass killings. Underlying that tension was a wider debate about how the concepts might lend themselves to the creation of a false hierarchy of crimes in which genocide may be perceived as the greater crime. For their part, both the US and the British resisted the use of the term genocide, no doubt because of concerns about its implications for themselves, given their own dark history of slavery, racism and colonial conquests. Nevertheless, both concepts - genocide and crimes against humanity - were vital to the Nuremberg prosecutions and consequently in establishing the idea of an international rule of law that led to the adoption of the Universal Declaration of Human Rights, the Convention on Genocide and much more.

As Sands reminds us, this history has been indispensable to the prosecution of criminals such as the Chilean dictator, Augusto Pinochet who was arrested in 1998 on charges of both genocide and crimes against humanity that had by then been written into the Statute of the newly created International Criminal Court. The event represented a milestone in international criminal law since it established the principle of universal jurisdiction and the end of unlimited sovereign impunity for those who commit international crimes and violate human rights as part of state policy, regardless of whether or not the violations take place outside the state in which they live and regardless of whether or not they directly affect the citizens of that state.

Sands has unearthed a remarkable account of personal memory, human connections and legal history that speaks powerfully and urgently to our times. All around us we are witness to a ferocious attack on human rights, the rule of law and the very principle of universality from the forces of nationalism, fundamentalism and fascism. From Gaza to Sudan,

Ukraine, Myanmar, India, Iran and Afghanistan, large-scale violence and human rights violations amounting to genocide and crimes against humanity are visited upon those deemed to be the enemy within or the enemy without. In this exercise, the perpetrators are often aided and abetted by states like the US, UK and others engaged in reshaping the global order to serve their own financial interests and unrestrained abuse of power.

Closer to home, we watch in disbelief as the UK government, whose members were ironically, once the loudest advocates of the European Convention on Human Rights (ECHR), call for its 'reform' in response to anti-immigration racism and right-wing populism. The government that lauded the ECHR as 'one of the great achievements of the post-war years' has, within 9 months of coming into office, joined many other European states in decrying the ECHR for interfering with their political agenda, particularly on immigration - for being 'out of step' with 'common sense', and the 'national interest'. It is an approach that only serves to legitimise right-wing concerns about human rights. Rather than an essential means by which to curb the overreach of political power, human rights law is increasingly regarded by the UK and other states as an impediment to sovereign governance, both at a domestic and international level.

Yet, where there is tyranny and oppression, there is also brave resistance mounted by ordinary people in the face of immense adversity. Our humanity is on the line, and to hold tyranny to account, we are often required to use international human rights law, however imperfect it may be, as an important part of our political resistance.

Witness for example, the arrest warrants issued by the International Criminal Court naming Netanyahu and his cohorts for crimes against humanity and genocide in Gaza: the use of mass starvation as a weapon of war and the destruction of the entire life-sustaining infrastructure of Gaza, including homes, water networks and hospitals as well as cultural and educational institutions, described accurately as 'civic annihilation' by the global charity Médecins Sans Frontières.

Elsewhere, women from Iran and Afghanistan are fervently advocating for the recognition of gender apartheid as a crime against humanity, confronting some of the most egregious and pervasive state-sponsored assaults on the human rights of women. These violations manifest through systematic violence and terror aimed at oppressing, persecuting and annihilating them; the denial of equality and autonomy; and their exclusion from every sphere of human endeavour, encompassing education, employment, healthcare, legal rights, familial roles, and public and political life. While such specific transgressions against women's human rights were not even contemplated by either Lauterpacht or

Lemkin, Iranian and Afghan women advanced a step closer to achieving their aspirations when, in January 2025, the International Criminal Court pursued arrest warrants for Taliban leaders due to their brutalization of women and girls. In this context, the parameters of international human rights law are being redefined, ensuring its relevance in an increasingly autocratic and repressive global landscape.

It is rightly argued that the international legal order is itself highly flawed and selectively applied to serve the interests of powerful states who bend the rules to suit their needs and ensure that judgements are unenforceable. But we also see what can happen if there is no moral and legal framework to check political power. Crimes against humanity and genocide remain an integral part of our resistance to the human rights crisis that surrounds us. If the emergence of these legal concepts represented a high point in humanity's endeavour to forge an ethical world order in response to the horrific realities of the Holocaust and other mass atrocities, the co-ordinated dismantling of human rights today represents the nadir of humanity. In this respect, ultimately, *East West Street* serves as an urgent warning cry to heed the lessons from history.

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