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CHECK AGAINST DELIVERY

Ladies and Gentlemen,

It is a great privilege for me to with you on this day, as we come together to mark the anniversary – the 75th – of the liberation of the Auschwitz extermination camp. In this way, and in particular in this place, the home of the principal judicial organ of the United Nations, we signal our continuing commitment to mark the Holocaust and all the terrible events of that period, and subsequently.

We join together today as a group, yet each of us is also here as an individual. Long ago I came to understand that the activities of any person – in my case teaching, writing, litigating here in The Hague – is informed by their background. None of us arrives in the world as an entirely blank slate. In his fine autobiography *Interesting Times*, the historian Eric Hobsbawm recognised that complex connection between who we are and what we do, noting the “profound

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way in which the interweaving of one person's life and times, and the observation of both, [help] to shape a historical analysis" (p. xiii).

I am not a historian but a lawyer, one who focuses on matters international, my professional and academic interest being a desire to understand how the law functions: how rules come into being, how they are interpreted and applied, how they affect behaviour. My curiosity about a person's life and times concerns the way it might inform the world, and the experiences of the past quarter of a century in my work – not least in the courtroom - points to a rather clear conclusion: individual lives, memory and personal histories matter and they make a difference.

My book *East West Street*² was nearly seven years in the writing. It is not about the life of one person but four. I suppose it seeks to understand how, in the context of the Holocaust, the particular circumstances of each man contributed to the roads he took and, how the different roads thus travelled changed the system of international rules that is the daily work of so many of us in this room.

As many of you will know, the book also touches a more personal theme: how these four, interweaving lives influenced my path. In so doing, it asks some larger

² Alfred A. Knopf/Weidenfeld & Nicolson

questions, ones that touch upon matters of identity for each of us : who am I? how do I wish to be defined, as an individual or a member of one or more groups? How shall the law to protect me, as an individual, or as a member of a group? Those questions are as pertinent today as they were when the legal concepts of ‘crimes against humanity’ and ‘genocide’ were coined, back in 1945.

East West Street came about by chance. In the spring of 2010 I was immersed in my world, classrooms at UCL, academic articles, cases here in The Hague. An invitation arrived from the Ukraine, an email from the law faculty of the university in a city called Lemberg during the Austro-Hungarian empire, until 1918, then Lwów during the Polish years until 1939, then Lviv after 1945. Would you like to visit and deliver a public lecture on your work on ‘crimes against humanity’ and ‘genocide’, about your cases and your academic work and the Nuremberg trial and its consequences for our modern world.

Yes, I replied, I would. I’d long been fascinated by myths of Nuremberg, the words, images, sounds. I was mesmerized by tiny points of detail in the transcript, the grim evidence, the books and memoirs and diaries, the testimony, the judges, the love affairs that went on behind the scenes. I loved the film *Judgment at Nuremberg*, the 1961 Oscar winner made memorable by Spencer Tracy’s momentary, unexpected flirtation with Marlene Dietrich and the simplicity of a closing line from his judgment: “We stand for truth, justice and the value of a

single human life”. The Nuremberg judgment blew a powerful wind into the sails of a germinal human rights movement. Sure, there was a strong smell of “victor’s justice,” but the case was catalytic. For the first time in history, the leaders of a country could be put on trial before an international court. That opened the door, twenty years ago, to events in London that were felt here.

My work as a barrister, rather than my writings, caused the invitation to be sent from Lviv. In the summer of 1998 I was peripherally involved in the negotiations in Rome that led to the creation of the International Criminal Court (ICC), which would have jurisdiction over ‘genocide’ and ‘crimes against humanity’. The essential difference between the two concepts is on who is protected, and why. If 3,000 people are systematically murdered, it will invariably be a ‘crime against humanity’, but will it be a ‘genocide’? That depends on the intent of the killers, and the ability to prove that intent. To establish ‘genocide’ you must prove that the act of killing is motivated by a special intent, to destroy a group in whole or in part. The two crimes operate side by side, and overlap: every ‘genocide’ is also a ‘crime against humanity’, but not every ‘crime against humanity’ is a ‘genocide’.

A few months after both crimes were inscribed into the Statute of the ICC, Senator Pinochet was arrested in London, on charges of ‘genocide’ and ‘crimes against humanity’ laid against him by a Spanish prosecutor. The House of Lords

ruled that even as a former president of Chile he was not entitled to claim immunity from the English courts. This was novel, a revolutionary judgment.

In the years that followed, the gates of international justice creaked open, following five decades of relative quiescence during the Cold War. Cases from the former Yugoslavia and Rwanda soon landed on my desk. Others followed, relating to allegations in the Congo, Libya, Afghanistan, Chechnya, Iran, Syria and Lebanon, Sierra Leone, Guantánamo, and Iraq. These were based on the new rules that came into being after 1945, a revolutionary moment that recognised that the rights of the sovereign over its people were no longer unlimited. I became involved in too many cases of mass killing. Some raised claims of crimes against humanity, the killings of individuals on a large scale; others gave rise to allegations of genocide, the destruction of groups.

These two distinct crimes, with their different emphases on the individual and the group, grew side by side, although over time genocide seems to have emerged as the crime of crimes, a hierarchy that leaves a suggestion that the killing of large numbers of individuals is somehow less terrible. Occasionally, I'd pick up hints about the origins and purposes of the two terms and the connection to arguments first made in Nuremberg's Courtroom 600. I never inquired as to what exactly had happened at Nuremberg. I knew little about the personal stories behind the trial. The invitation from Lviv gave me a chance to explore history.

I could say that I made the trip to give a lecture, but that would not be true. [IMAGE 1 LEON ON] I went because of this young man, my grandfather, Leon Buchholz, who was born in the city, in 1904. He called it Lemberg when he spoke in German, Lwów in Polish. In his wonderful slim volume *Moy Lwow*, written in 1946, the fine Polish poet Josef Wittlin describes the “essence of being a Lvovian” as “an extraordinary mixture of nobility and roguery, wisdom and imbecility, poetry and vulgarity”. “Nostalgia even likes to falsify flavours too, telling us to taste nothing but the sweetness of Lwów today”, Wittlin writes, “but I know people for whom Lwów was a cup of gall.”

It was a cup of gall for my grandfather Leon, buried deep in a hinterland of which he never spoke. His silence barely covered the wounds of a family he left in 1914, when he moved to Vienna, then lost forever after 1939, when he fled to Paris. Yet the moment I first set foot in the city, in the autumn of 2010, it felt familiar, like meeting a long-lost relative. [IMAGE 1 OFF]

Why I had that reaction caused me to explore writings on the relationship between grandparent and grandchild. I was directed to the work of Maria Torok and Nicolas Abraham, two Hungarian psychoanalyst. “What haunts are ... the gaps left within us by the secrets of others”, they wrote, and these are the words with which the book opens. Leon’s secret was that he came from a huge family, one

centred in Lemberg and its environs, literally dozens of uncles, aunts, cousins, nephews and distant relatives. The family grew until war came. By the spring of 1945, alive in Paris, he was the only member of the family in Galicia to survive. In preparing the lecture for Lviv I found the expulsion order. [IMAGE 2 – 1933 EXPULSION ORDER ON]. Translated into English it says: “*The Jew Buchholz Maurice Leon is required to leave the territory of the German Reich by December 25, 1938*”). He was expelled because he had been made stateless. [IMAGE OFF]

I had always assumed Leon had left Vienna with his wife Rita, my grandmother, and his one-year-old daughter Ruth, my mother. Now I learned that this was not the case, that he left alone, that his daughter travelled to Paris a few months later, that his wife remained in Vienna for three more years. It seems that something else had intervened in their lives, to cause the separation.

Why did Leon leave Vienna on his own?

How did my mother Ruth get to Paris, an infant of less than a year?

Why did Rita remain in Vienna, allowing herself to be separated from her only child?

These were big questions. I found more documents in Leon’s papers, hunting for clues. As a litigator – a sort of lesser, amateur historian-cum-psychiatrist– you learn that every scrap of paper or photograph is capable of hiding information that may not be immediately knowable. This is the muck of evidence that I love.

Look carefully, keep an open mind, attend to the unexpected, find the dots, try to join them, persist. Nothing is ever only what it seems. Two items stood out.

[IMAGE 3 ON - SCRAP] The first was a small scrap of thin yellow paper. It was folded in half. One side was blank, the other bore a name and address written firmly in pencil. The writing was angular and strong. “Miss E. M. Tilney, Menuka, Bluebell Road, Norwich, Angleterre.” [IMAGE 3 OFF]

[IMAGE 4 ON MAN IN BOW TIE] The second item was a small black-and-white photograph, taken in 1949. It showed a middle-aged man staring intently into the camera. A faint smile across the lips, he wore a pin-stripe suit, a white handkerchief folded into the breast pocket, a white shirt and a polka-dot bow tie, which emphasized a sense of mischief. On the back of the photograph, in blue ink, was written: “Herzlichste Grüsse aus Wien, September 1949” - “Warmest wishes from Vienna”, and there is a signature, firm but indecipherable. [IMAGE 4 OFF]

I asked my mother who were Miss Tilney and the man in the bow tie. I don’t know, she said. I didn’t believe her. I pinned the scraps on the wall above my desk and turned to the lecture I had to write.

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I have taken you off on a personal detour, but let me take you back to the lecture and several ‘coincidences’ I encountered. I was surprised to learn, that summer, that the man who put ‘crimes against humanity’ into international law was a student at Lviv university, but those who invited me did not know it.

Hersch Lauterpacht was born in the small town of Zolkiew, about 15 miles north of Lviv. He later enrolled at the University law faculty, and in 1919 moved to Vienna. There he spent four years, obtained a doctorate in law, then moved to London, with his new wife. He became a renowned academic, first at the LSE, then at Cambridge. In 1945 he published a book that laid a foundation for the modern system of human rights. Titled *An International Bill of the Rights of Man*, it offered a new idea: to recognise that every human being had rights under international law, as an individual. He prepared a draft convention, one that gave effect to his credo, that “The individual human being ... is the ultimate unit of all law”.

In April 1945, as the war in Europe ends, Churchill, Roosevelt and Stalin agree that senior Nazi leaders will be put on trial. The British hire Lauterpacht to assist in the prosecution, to work with Robert Jackson, the chief prosecutor. Jackson travels to London to draft the Tribunal’s Charter. As the four powers – America, Britain, France and the Soviet Union - disagree about the crimes over which the Tribunal will exercise jurisdiction, Jackson is driven to Cambridge to meet with

Lauterpacht. They have tea in Lauterpacht's garden. [IMAGE 5 ON - LAUTERPACHT IN THE GARDEN AT HIS HOUSE, 1945] The two men discuss the problem of crimes. Lauterpacht suggests that it might be a good idea to insert titles into the Charter, to help public understanding. Jackson reacts positively, Lauterpacht offers another idea, on atrocities against civilians, on which the Soviets and Americans are deeply divided. Lauterpacht has a longstanding academic interest in the subject, and a personal interest – he has no news about his family in Lemberg, a matter about which he says nothing to Jackson. [IMAGE 5 OFF]

Why not refer to the atrocities against civilians as 'Crimes against Humanity', Lauterpacht suggested? [IMAGE 6 ON – CaH WRITING] Here we see the words in his own hand. The term will cover massive atrocities against individuals – torture, murder, disappearance - and introduce the new concept into international law. Jackson likes the idea and takes it to London. A few days later, 'Crimes against Humanity' is incorporated into the Charter. "Clearly an innovation", Lauterpacht tells the Foreign Office, but necessary to stop those who break international law from hiding behind the law of their own State. [IMAGE 6 OFF]

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Preparing the Lviv lecture required me to focus also on ‘genocide’, which brings me to a second surprise: the man who invented that word also passed through Lviv and studied at the same law school as Lauterpacht. Rafael Lemkin arrived at Lwów university a couple of years after Lauterpacht left, and remained there until 1926 when he obtained a doctorate in criminal law. Those who invited me to Lviv me were also unaware of his connection to the university.

He became a public prosecutor in Warsaw, and in 1933, for a League of Nations meeting, proposed new international crimes, to combat ‘barbarity’ and ‘vandalism’ against people. His focus was on the protection of groups, not individuals. The timing was hardly ideal, with Hitler having just taken power in Germany.

In 1939, when Germany invades Poland, Lemkin escapes from Warsaw to live in Sweden. He then leaves for America, to Durham, North Carolina, where he has been offered a place of academic refuge. He travels with little money, no personal belongings and a vast number of suitcases. They are filled with paper, thousands of decrees promulgated by the Nazis in occupied countries. He has gathered the material in Sweden, carted it around the world, and now analyses it. In November 1944 he publishes a book, with the title *Axis Rule of Occupied Europe*. It examines the Nazi actions. [IMAGE 7 ON – GENO WRITING] Chapter IX is entitled ‘Genocide’, a new word invented by Lemkin to describe the destruction

of groups, an amalgam of the Greek word *genos* (tribe or race) and the Latin word *cide* (killing). Here you see it in his hand. [IMAGE 7 OFF]

In the summer of 1945, Lemkin is hired by the US Government to work on war crimes with Robert Jackson, but separately from Lauterpacht. [IMAGE 8 ON-
LEMKIN WAR DEPARTMENT ID] He wants the senior Nazis to be indicted for genocide for the destruction of groups. He is greatly disappointed when the Nuremberg Charter includes ‘Crimes against Humanity’ but makes no mention of genocide or the destruction of groups. He flies to London to draft the Indictment of the defendants and is persistent. There is strong opposition to ‘genocide’, from Jackson’s office, under pressure from Southern senators concerned about discrimination against African-Americans, and from the British, concerned about the legacy of colonialism.

Against the odds, Lemkin’s word makes it into the Indictment as a ‘War Crime’, to include the ill-treatment and murder of civilians in occupied territories, including Lemberg and Wolkowysk, where his parents lived (although like Lauterpacht, he had no news of his family’s fate). This the first time the word is used in an international legal instrument, with an agreed definition, the “extermination of racial and religious groups”, and it mentions “Jews, Poles, Gypsies and others”. [IMAGE 8 OFF]

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The Nuremberg trial opened on November 20, 1945. Lauterpacht is present in the courtroom, with the British team, pushing for the protection of individuals. Lemkin remains in Washington, pushing for the protection of groups from a distance.

[IMAGE 9 ON – FRANK IN DOCK] One of the twenty-two men in the dock is Hans Frank, the fourth main character in *East West Street*. Like Lauterpacht and Lemkin, he was a lawyer, one who worked personally for Hitler, who then appointed him as Governor General of Nazi occupied Poland, in October 1939. Three years later Frank visits Lemberg and Galicia, newly conquered. He stays with Otto Wächter, his deputy, and Wächter's wife, Charlotte, who, I discovered from the diaries I gained access to in writing the sequel, is in love with Frank. Frank hosts a concert - Beethoven's 9th - and gives a series of speeches to announce the elimination of half a million Jews in the city and surrounding areas. Amongst those who are caught up in the horrors that follow Frank's visit and words are the families, friends and teachers of Lauterpacht and Lemkin, and my grandfather's family. For each family there will be only a single survivor.

[IMAGE 9 OFF]

Three years later, in May 1945, Frank is apprehended by the US Army, near his home in Bavaria. With him are his diaries, forty-two volumes, and a fantastic collection of artwork. When I say fantastic, I mean fantastic: it includes the portrait of Cecilia Gallerani, the Lady with Ermine, painted by Leonardo da Vinci in about 1489 [IMAGE 10 ON – CECILIA GALLERANI] He took the painting from his private office in the Wawel Castle in Krakow, where it hangs again today. Frank's son Niklas tells me that as a young boy his father made him stand before the painting and slick down his hair, like Cecilia Gallerani. Now Frank was in the dock, charged with 'Crimes against Humanity' and 'Genocide'. [IMAGE 10 OFF]

On the first day of the trial, the Soviet prosecutors take the judges to the terrible events in Lemberg that followed Frank's visit. They describe the murder of 130,000 human beings in just a few months, Jews and Poles, including eight thousand children, in the heart of the city. As the words are spoken in court, Lauterpacht and Lemkin do not know whether the victims include their families. They are not aware that the man they are prosecuting, Hans Frank, is directly implicated in the unknown fate of their own families.

On this day, for the first time ever, the terms 'genocide' and 'crimes against humanity' are used in open court. I knew Lauterpacht and Frank to be in Courtroom 600, and wonder if there is a photograph. Lauterpacht's son tells me

there is none, but I don't believe him. I persist, and eventually, in an obscure archive in London, find what I am looking for: **[IMAGE 11 ON - NUREMBERG COURT ROOM ON 20 NOV 1945]** Here is Lauterpacht, at the end of the British table, in the top left hand corner, hands clenched, listening to a Soviet prosecutor. In the lower right hand corner, near Goering, in his oversized light-colored suit, is Frank, with head semi-bowed. Divided by no more than a few tables and chairs, Lauterpacht and Frank, together in the same room. **[IMAGE 11 OFF]**

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The trial lasts for a full year, and judgment is handed down on September 30 and October 1, 1946. I do not have time to address what transpired over the course of a remarkable year, as the lives of the three men become increasingly intertwined. The historian Anthony Beevor describes it, generously, as a tale “no novel could possibly match”. Life as literature, it could be said, and more. The point I make is that personal journeys coincided, to change the course of legal history, then history itself. The words and ideas of Lemkin and Lauterpacht – who served as a judge here at the ICJ - influenced politics, history, culture, my life and yours.

The concepts of ‘crimes against humanity’ and ‘genocide’ have not existed since time immemorial, as many imagine. They are the product of the creative, inventive minds of two men, experience 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, studied at the same university, had the same teachers. You can trace the origins of these crimes to Lemberg, after the Great War, to the law faculty, to one teacher the two men had in common – Julius Makarewicz, a Polish professor of criminal law. You can even follow the line to one building, and one room, where Makarewicz taught. [IMAGE 12 ON - ROOM AT THE LAW FACULTY]

Curiously, despite their common origins, interests and journeys, and the fact that I have been able to locate them in the same city on the same day – although not Nuremberg or Courtroom 600, where they missed each other by only a day - it seems that Lauterpacht and Lemkin never actually met. [IMAGE 12 - OFF]

Their ideas inform the working life of so many of us in this room. I have frequently wondered how it could be that I ended up doing the work I do, and came across their stories. My quest was surely driven by a personal history, by a legacy of memory and stories buried deep in a crypt of family secrets. That journey included more family detective work: [IMAGE 13 ON] I discovered who Miss Tilney was and what she did, and understand why my mother – and I, and my brother - have reason to be grateful to a woman of great courage, a missionary at the Surrey Chapel in Norwich who was motivated by the sermons of her pastor and Paul's Letter to the Roman: a single line from Chapter 10, verse 1 motivated

her to travel to Vienna, bring my mother to Paris, and save her life in the summer of 1939. [IMAGE 13 OFF]

I also uncovered the identity of the man in the bow tie, a journey that took me first towards the east and then towards the west, across rivers and an ocean, with the help of a pile of old Austrian telephone directories, a private detective in Vienna, and Facebook, ending up in an attic in Massapequa, Long Island in New York. [IMAGE 14 ON] Here lay a photograph that offered a key to unlocking another family mystery, a single image taken in a garden in Vienna, in the spring of 1941, my grandmother with two men in white socks, one of whom was the man in the bow tie, her lover. One discovery catalyzed another, the identity of the man who seems to have been my grandfather's true love, his closest friend Max.

Such efforts took several years, and involved the assistance of a range of remarkable individuals. Such are the requirements of an exercise in personal archaeological enterprise. [IMAGE 14 OFF]

Perhaps even more remarkably, and entirely unexpectedly, I learned of the more direct connections between my family and the Lauterpachts and Lemkins. I was surprised to learn that my great-grandmother, Amalia Buchholz, was born and lived in the small town of Zolkiew, where Hersch Lauterpacht was born. [IMAGE 15 ON - LEMBERGERSTRASSE] Indeed, both were born and lived on the same

street, only a few hundred yards apart. It was called Lembergersterstrasse back then. Coincidentally, or perhaps not, Lauterpacht's son and only child, Eli, was my first teacher of international law, in 1982, my mentor and colleague, and then my friend. He knew this building well. Only after three decades of working together did we learn that we shared a connection to the same street, one the writer Joseph Roth called *East West Street*.

Then I learned that Amalia, whose life began on the street of the Lauterpachts, ended in September 1942, in the kingdom of Hans Frank. The last street she walked was Himmelfahrtstrasse, the "street to heaven", which led from a railway platform to a gas chamber at Treblinka. A month later Lemkin's parents Bella and Josef walked down the same street and died in the same chamber.

Amalia's life was caught between the Lauterpachts and the Lemkins, as, it might be said, is mine, albeit in a very different way. [IMAGE 15 – OFF]

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[IMAGE 14 ON – WRITING g & CaH]

How does one begin to understand these points of connection? The starting point is surely the ideas of Lauterpacht and Lemkin, and their enduring relevance today. The relationship between the individual and the group has been contested across the ages. Lauterpacht believed that we should be concentrate on the

protection of the individual, and would surely argue, still today, that Lemkin's invention of the concept of 'genocide' has been practically useless and politically dangerous, that it will tend to replace the tyranny of the state with the tyranny of the group. In a way my own practical experience concords with that view: I have observed for myself, in working in cases before courts in this city, that by focusing on the protection of one group against another there is a tendency to reinforce the sense of "them" and "us", to amplify the power of group identity and association, reinforcing the sense of victimhood of the targeted group, and hatred towards the perpetrators as a mass.

Yet I also understand what Lemkin was trying to do. He was surely right to recognize a reality, that in most (if not all) cases mass atrocity is targeted not against individuals but against those who happen to be a member of a group. Lemkin would say, and it is a powerful argument, that the law must reflect that reality, that it must also recognise and give legitimacy to that feeling we all have, of association with one or more groups.

Nevertheless, I am concerned about hierarchy, one that puts 'genocide' atop the list of horrors. Call something a genocide and it will be on page 1 of our papers, call it a crime against humanity and it will only be on page 13. That is the power of the word invented by Rafael Lemkin, of our association with the group.

What, one might ask, is the enduring legacy of these two legal terms? Last week in Washington DC, I discussed this on a panel with Tom Buergenthal who, as a small boy, was in Auschwitz, and who later served as a judge at the Court. We wondered how it could be that, on the 75th anniversary of the liberation of Auschwitz, the poison of xenophobia and nationalism was once again coursing its way through the veins of Europe and many other parts of the world. The strong man as leader is back. I see it on journeys to the central and eastern parts of our European continent – those of you who saw my BBC film *My Nazi Legacy* might recall seeing me standing in a faraway field watching people dressed in SS uniforms celebrating the creation of the Waffen SS Galicia Division.

I have seen it on my journeys too in writing my new book, *The Ratline*, which you can listen to as a BBC podcast series. Travelling across Europe, it is hard to avoid what seems to be stirring, and wondering to where this will lead. The generation that experienced the horrors of the 1930's, that lived through the Second World War, that knows why States came together after 1945 to create a United Nations and the idea of human rights, to adopt a Universal Declaration of Human Right and a Convention on the Prevention of Genocide, will soon be gone. Perhaps the disappearance of actual memory, of actual experience, allows our politicians to take for granted what occurred in 1945.

It is impossible not to have gone through the experience of writing *East West*

Street, an immersion in the world of the years between 1914 and 1945, and not feel an acute sense of anxiety as to what is stirring. Not so long ago the one who is now President of the United States called ‘for a total and complete shutdown for Muslims entering the United States.’ The idea of targeting people not because of their individual propensities but because they happen to be a member of a particular group has a long, dark history. The writer Primo Levi put the point crisply in the Preface to his book *If This Is a Man*, in 1947. He wrote:

Many people – many nations – can find themselves holding, more or less wittingly, that every stranger is an enemy.

When this happens,

when the unspoken dogma becomes the major premiss in a syllogism, then, at the end of the chain, there is the [concentration camp].

One thing leads to another, when you start to single out people not for what they might have done but because they happen to be a member of a particular group, or feel yourself to be a citizen of the world. Four years ago, the then British Prime Minister told her party conference: “If you believe you are a citizen of the world, you are a citizen of nowhere”. She was, it seems, blissfully unaware of the implications of what she was really saying. Her words reminded me of a passage in Stefan Zweig’s magnificent book *The World of Yesterday* – required reading for our times – published posthumously in 1942, after Zweig committed suicide. “For almost half a century”, he wrote, “I trained my heart to beat as the heart of a citizen of the world. On the day I lost my Austrian passport I discovered that

when you lose your native land you are losing more than a patch of territory within set borders”. Or, as the Chilean poet Raul Zurita put it, six decades later, “I weep for a country that is my enemy.”

One thing leads to another, across time and place. [IMAGE 14 OFF, IMAGE 15 ON] Today again we are at a dangerous moment. Many of our politicians seem not to be able to recognise how precious was the settlement of 1945, and how vulnerable is the *acquis* that was created, one that has offered a foundation to international relations in our time. We cannot take for granted what was achieved back then. The threat to the multilateral global order, and to the rights of individuals and groups, is very real. That the current retreat from that 1945 moment – initiated by the Atlantic Charter signed by Churchill and Roosevelt in August 1941 - should be led by the two countries that have done more than any other to support the idea of a rule of law and the protection of fundamental human rights, in a multilateral framework, is deeply troubling. Who would have thought, on the day the Nuremberg Trial opened on 20 November 1945, that 75 years later the rule of law flame would be carried by the country whose nationals sat in the dock, rather than those whom prosecuted?

Yet there are too some positive developments. Efforts are underway, led by the United Nations’ International Law Commission, under the direction of my good friend Professor Sean Murphy, to prepare a new Convention on the Prevention

and Punishment of Crimes against Humanity. This will fill a much-needed gap alongside the Genocide Convention, and it deserves universal support. There is too new thinking on how we can better enforce that which we already have: tomorrow, here in The Hague, discussions will continue on a possible new multilateral treaty for mutual legal assistance and extradition for the most serious international crimes.

And of course, just last week, the International Court of Justice handed down a far-reaching – many would say momentous - provisional measures order in a case concerning the protection of the Rohingya group and its members in Rakhine State in Myanmar, to safeguard, as it put it, “the fundamental values sought to be protected by the Genocide Convention” (Order, para. 70). It is not just that the Court ordered clear measures, or that, for the first time, it ordered measures to prevent the destruction and ensure the preservation of evidence related to allegations of genocidal acts, as well as reporting requirements “on all measures taken to give effect to [its] Order”. Most strikingly, the Court spoke with a single voice, all the judges together, without any dissent: seventeen distinct individuals, one group.

And so, on we go, looking back, moving forward.

The sequel to *East West Street* will be published shortly. It tells the story of Otto

and Charlotte Wächter, and my relationship with their son Horst. His godfather was Arthur Seyss-Inquart, a man who is well known to this country, and whose actions contributed directly to the events we commemorate today. Seyss-Inquart served as Reichskommissar of the Netherlands from May 1940 until the end of the war. He worked He was hanged at Nuremberg for the crimes against humanity he committed and directed from his office in the Binnenhof, close to where we are today. Seyss-Inquart's deputy, Hans Fischböck, a close friend of the Wächters, got away to Argentina, where he became Juan Fischböck.

[**IMAGE 15 ON – WÄCHTERS**] *The Ratline* is a tale of love, lies and justice, one that takes us into the Cold War period. Otto Wächter ordered the construction the Krakow ghetto, and later served as Governor of Galicia, in Lemberg. On 9 May 1945 he disappeared off the face of the earth, indicted for mass murder. For three years he hid in the Austrian Alps – in this image you see him with his wife, secretly on his way to Italy, in late 1948, assisted by a most unlikely coalition of helpers. The following April he reached Rome, where he was protected by an Austrian Bishop and elements in and around the Vatican. Believing himself to be a hunted man, he gathered the documents necessary to make his way along The Ratline, to safety in Argentina. He never made it. After a weekend near Castelgandolfo, and a swim in Lake Albano, he died unexpectedly in the Santo Spirito hospital, a stone's throw from St. Peter's. For the past ten years, his son has sought to persuade me as to his father's essential decency, as I have explored

the crimes committed by Horst's father, and sought to understand how it could be that a highly intelligent, educated and prosperous couple became embroiled in such terrible wrongdoing. [IMAGE 15 OFF]

[IMAGE 16 ON – MANY PICS]

One thing leads to another. Round and round we go, in a state of constant interconnection - "rearranging the meat", the writer Alia Trabucco Zerán has suggested - each of us haunted by "the gaps left within us by the secrets of others". Perhaps the fact of our haunting, and the discovery of that fact, alongside the interminable legacy of memory and experience, might not destroy us but could make us stronger.

This is the context in which I oscillate between the views of Lauterpacht and Lemkin, between the individual and the group, between the realism of Lemkin and the idealism of Lauterpacht. I can see the force of both arguments, and recognise the tension and the struggle between the individual and the group, between crimes against humanity and genocide, one that will not soon be resolved. International law today embraces both.

East West Street ends at a place in the woods, an unmarked site of mass killing. I came across it unexpectedly, a conversation with Lyudmyla Baybula, who worked in the municipal office in Zolkiew. She accompanied me.

‘We have arrived.’ She spoke quietly. Here were the ponds, two great sandpits filled with an expanse of dark water, mud and reeds that bent in the wind, a site marked by a single white stone, erected not by the town in expression of grief or regret, but as a private act of remembrance. There we sat, on grass, watching the sun fall onto dark, still water that stretched tight across the openings of the earth. Deep down, untouched for half a century and more, lay the remains of the thirty five hundred people of whom the long forgotten Gerszon Taffet wrote in the summer of 1946, individuals each, together a group.

Among the bones that lay beneath was a commingling, Leon’s uncle Leibus, Lauterpacht’s uncle David, resting near each other in this place because they happened to be a member of the wrong group. The sun warmed the water; the trees lifted me upward and away from the reeds, towards an indigo sky. Right there, for a brief moment, I understood.

On this special day of memory, I thank you for your kind attention.