



CONFRONTATION AND COOPERATION

1000 YEARS OF POLISH–GERMAN–RUSSIAN RELATIONS

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Genocide – from the crime to the legal rule

Key words: Rafał Lemkin, Nuremberg trial, German concentration camps in Poland, United Nations, CPPCG

1. Introduction

The history of the middle and eastern Europe in the 20th cent. is often perceived through the several revolutionary changes, namely transformations. The first of them was the dismantling of the 19th-century empires, i.e. the Russian Empire, Austro-Hungarian, and German ones, after the Treaty of Versailles. The second one was the failure of Hitler's project of establishing the 3rd Reich empire after 1945. The third transformation was imposing on the countries of eastern and middle Europe (Poland, Czech Republic, Hungary, Romania, Bulgaria) the Soviet order, i.e. the communist dictatorship and elimination of the free market rules, right after the overthrowing of the Nazi occupation. The fourth transformation took place in 1989 when the societies of the above mentioned countries decided to take advantage of the weakening of the authorities in the USSR. It was then that manifestations of the millions resulted in overthrowing of the communist rulers, which resulted in the first actual elections of the legislative after the outbreak of the WWII. New authorities basing on the mandate of their voters initiated the establishing of democratic system and reintroduction of the free market that had been destroyed by the communists.

Taking the above into consideration there is no exaggeration in the statement that the countries mentioned in the previous paragraph are truly a laboratory. Within two generations the societies in this part of Europe had experienced four transformations: the dismantling of multinational empires, overthrowing of the 3rd Reich dictatorship, and replacing it with the communist one, and finally overthrowing the communist rule and introducing democracy. After 1945 free market was crushed in the name of communism, and then according to the will of citizens the capitalist economy was rebuilt in 1990. Nowhere else in the world were so huge changes carried out in such a short period of time. No wonder then that numerous researchers, e.g. Timothy Snyder¹, a renowned American historian, consider this region as the unique territory for serious research. Economists emphasized that never before had anyone made the attempt to make a transition from socialist economy to the free market one. Hence, each and every event in the region, no matter how it is perceived, is worth observation and analysis, since they are an excellent material to construct generalizations (theories).

¹ Timothy Snyder, *Thinking the Twentieth Century*, Penguin 2012.

It is a common knowledge that significant political and economic transformations are followed by the change of society's consciousness and the birth of new ideas. No great theory explaining social changes will emerge without a thorough analysis of events, or particular cases. The first ever trial of criminals from the Nazi concentration camp in Majdanek, which was held in Lublin in November and December 1944, i.e. half a year before the war ended, was an interesting event with immense legal consequences of international importance.

2. The problem of punishing the culprits of crimes committed on civilians

It is common in legal-historic literature that when it comes to Nazi criminals only the trial of Nuremberg is being mentioned². Nowadays the Second World War seems to become more and more often a thing of the past. It is understandable since its last participants are just passing away, which makes the wrong which had been caused then become less painful. However, this war was unprecedented when it comes to its range in the history of human kind. It took the toll of more casualties than the wars that had been waged throughout centuries. No wonder the generation that took part in the war has very vivid memories of it. For long years the attempts have been made to put it in scientific frames, as well as account for legally and morally.

Nowadays the historians of western Europe seldom take the interest in the topic of crimes during WWII. It is worth reminding then that it was already on 20th April 1940 that the authorities of France, Poland, and Great Britain accepted the declaration on breaking the rules of war law by the 3rd German Reich. In 1942 the nine allied states announced in the declaration of 13th January punishing of the ones causing terror in the occupied states. The above declarations were announced basing on the sources illustrating the brutal actions of Wehrmacht and SS units in occupied Poland. The materials on the German repressions towards Polish civilians were sent by the Underground State to the Polish government in London, which then delivered them to the allies. Poland as the longest occupied country, with the most developed conspiracy organizations, possessed the best information on the brutal methods applied by the occupant. No wonder then that as a result of more

and more information on crime on 31st March 1943 the President of the Republic of Poland in London issued a Decree on criminal liability and pursuing the culprits of war crimes. It was the first such meaningful legal move on the side of the allies that made it possible to punish the criminals.

When lawyers deal with the issue of accounting for the war crimes of WWII they remind that the Agreement from 6th July 1945 on pursuing and punishing war criminals of the axis states was the basis of settlement. It was signed by 23 states. Then the London Charter of the International Military Tribunal accepted by the Great Powers on 8th August 1945 was attached to the agreement. These documents proclaimed criminal liability for crime against humanity, crime against peace, as well as war crime (murdering POs, civilians, deportations). The agreement enabled the establishing of International Military Tribunal for judging war criminals. It was the first international criminal tribunal ever.

The first trial at the tribunal took place in October 1946. The accused were doctors who had committed crimes against the imprisoned by carrying out medical experiments as well as performing euthanasia on them. Their deeds had been chosen as the most dreadful ones. Only afterwards politicians and generals were judged. Looking at this choice one can notice how the mentality of the Europeans has transformed throughout the years. Today euthanasia is perceived as a procedure implied by doctors. In 1945 such an attitude was unacceptable and putting patients into death by doctors was seen as a crime. The London Charter provided for the prosecution of not only the ones guilty of criminal deeds. It made it possible to consider certain organizations, e.g. the head staff of NSDAP or SS, as criminal ones. Every member of such an organization was to be placed before the tribunal and explain his service in it. During the most well-known of the trials, the Nuremberg one, the prosecutor stated in the indictment that, "the accused had purposefully and systematically committed homicide, i.e. the extermination of race and national groups of civilians in order to annihilate particular races, classes, nations, and peoples, racial and religious groups, particularly Jews, Poles, and Gypsies"³.

The General Assembly of the UN accepted the setting up of the International Military Tribunal on 1st December 1946. On 11th December 1946 it accepted

² The beginning of the Nuremberg trial had place on 20th Nov. 1945.

³ J. Sawicki, T. Cyprian (oprac.), *Materiały norymberskie: umowa, statut, akt oskarżenia, wyrok, radzieckie votum*, Warszawa 1948, p. 84.

unanimously the resolution on homicide explaining that this crime is about denying the right for existence and that it is a crime according to international law. The military tribunals of western states, working until the end of 1949, had issued 5025 convicting sentences concerning the citizens of the 3rd German Reich, including 806 death sentences.

The idea of punishing the ones who caused the WWII was widely understood, both by politicians and lawyers from the societies that had suffered the German occupation. However, the crimes of this war exceeded everything that so far had been an issue of international regulations. Therefore, while the trials were being carried out, new legal constructions were being created that made it possible to punish for new, unknown up to now crimes. One may say that it was an example of a situation when the law didn't keep up with criminals. Hence, the lawyers were firstly making attempts to describe the situation, then define it in legal terms, and finally form the legal rules so that the law could follow the range and sort of new crimes. Convention on the Prevention and Punishment of the Crime of Genocide accepted by the UN in 1948⁴ was the crowning of these intellectual efforts aiming at drawing the legal conclusions from the course of WWII.

The Convention was to protect nations against any attempts to commit crimes against humanity. It guarantees the protection of each human being without regard for time and space factors. After they had been ratified the regulations of the Convention were included in legal systems of numerous states, which makes it possible to pursue criminals practically everywhere around the world. According to the convention war criminals are to be pursued no matter how much time has passed. Since international law doesn't apply the rule of limitation for such crimes criminals are also pursued on the basis of a state's regulations, no matter how much time has passed. It is not only stated in the convention, but also in the previous documents, such as the declaration of Great Powers from 5th June 1945 and the Agreement of Potsdam from 2nd August 1945.

3. The first ever trial of Nazi criminals

The need to punish crimes of the WWII period was strongly desired especially by the societies in these re-

gions of Europe when they had been particularly vivid. The first trial of Nazi criminals in Europe began in Lublin in November 1944, i.e. still during the war. There weren't new international regulations that would made it possible to punish war criminals. The trial concerned the staff of the German concentration camp in Majdanek near Lublin.

To judge the importance of the trial we should remind what Majdanek camp was. It was a German concentration camp, i.e. a death camp. During its existence over 150 thousand people were imprisoned there, more than half of whom were murdered. Today we are in possession of not only the archival documents, studies of historians, or prisoners' recollections. There is also the report of Polish Underground State about the camp prepared in 1944 for the Polish Bureau of war crime working in London within the structures of the Polish government on immigration. This document describes in detail the building up and extension of the camp, the guards consisting of the SS-men, terror applied towards the imprisoned, their number, the list of names of the Germans who worked as the staff of the concentration camp, the methods and scale of murders, using five gas chambers to exterminate the imprisoned. The report, whose typed copy can be found in Warsaw in Instytut Pamięci Narodowej (the Institute of National Memory) is the evidence of good work done by the Home Army intelligence, which was informing the government in London and all the allies about murdering Polish citizens, Poles, Jews by Nazis in the camp in Majdanek. Out of 1037 people of the Majdanek camp staff 170 were prosecuted.

The decision of the trial was made at the end of 1944 by the Polish authorities having their seat in Lublin, consisting of citizens of the 2nd Republic of Poland who deserved Stalin's trust. In 1944 Joseph Stalin decided that since the Red Army was fighting against the Nazis, all the territories taken over from them were the Soviet Union's trophy. Therefore, the Soviet authorities were entitled to decide on the status of the territories overtaken by the Red Army, as well as on who was going to govern them. Stalin took advantage of the gullibility of the western leaders, Roosevelt and Churchill, who during the conferences in Yalta and Teheran promised him the influences in middle and western Europe. At the same time the ally leaders agreed on not only the occupation of the Red Army on the territories of eastern Germany and the states that had collaborated with the 3rd Reich, i.e. Czechoslovakia, Hungary, Bulgaria, Romania. Breaking the ally agreement with Poland the

⁴ Convention on the Prevention and Punishment of the Crime of Genocide.

Allies gave the Red Army the right to introduce its rules within unlimited time, treating Poland as its supply base. It happened although Poland was the first state to resist Nazi army, despite the fact that Polish soldiers were fighting against the Nazis the longest of all the allies, and Poland lost almost 6 million of its citizens. In spite of it all in Teheran and Yalta Poland was treated as the Russian war trophy, and handed to Stalin like the state collaborating with the 3rd Reich during the WWII. What is interesting, for many years Poland had been the only state of the Soviet zone where the Soviet Army was stationing after the war, i.e. till 1993. It proves that controlling Poland was the most significant outcome of the Second World War for Stalin.

The decree of Polish authorities in Lublin (the town was liberated from the Nazi occupation by the Soviet army in July 1944) was the legal basis for the trial against Nazi criminals. The decree was issued on 31st August 1944⁵, and stated punishing the criminals guilty of crimes and abusing civilians and POs. On its basis special courts were appointed which were using Polish criminal procedures. In January 1946 the authorities appointed so called Najwyższy Trybunał Narodowy (the Highest National Tribunal) which took over judging the Nazi criminals from special courts. Polish criminal law⁶ was helpless when it came to numerous crimes committed by the Nazis, since according to it only individual crimes could be pursued. It was only the decree from 31st August 1944 that enabled pursuing not only direct crimes but also being an accomplice in committing it. Apart from the Polish criminal code and the above mentioned decree during the trial there were references to the Hague Convention from 1907 and the Geneva Conventions from 1929. They comprised the existing laws concerning war. The 4th Hague Convention was of particular significance since it concerned the land war of international character. It was ratified by Germany in 1909, and by Poland in 1927, whereas the Geneva Convention was ratified by Poland in 1932 and by Germany in 1934.

The trial began on 27th November 1944 at the special criminal court in Lublin against 6 members of the concentration camp staff (so called trial of Herman Vogl from SS and 5 others). The trial was open according to the procedures of the Polish criminal code (the protocol is in the archive of IPN – the Institute of National

Memory – in Warsaw). On the prosecutor's motion the court rejected the request of appointed defenders to release them from the duty, explaining that according to art.15 of the PKWN decree from the 12th September 1944 the participation of a defender is indispensable to carry out the trial. The case of one of the accused was dismissed since he had committed suicide while waiting for the sentence. The head of Krajowa Rada Narodowa (The State's National Council), then the head of the state, didn't take the privilege of mercy. The punishment was performed in public on 3rd December 1944 on 5 accused. While OSKARZAC it was pointed out that not only the accused were to be blamed, but also the system, Nazi state, and national-socialist ideology. However, only the individuals could be sentenced. The prosecutor emphasized that both executors of criminal acts, as well as the commanders and politicians making decisions were to be responsible, if the decisions were of criminal character.

The court began with recognizing the motion of defenders, in which they asked whether it was competent in case of individuals who were foreign citizens, in military service. The defense raised the problem of the status of the accused, asking if people who were to be called POs could be judged by the criminal court of the Republic of Poland. The prosecutor stated that according to international law the accused had really been the members of military units, however the tasks of these units were in no way associated with usual warfare. The accused participated in systematic annihilation of civilians. Such people could in no way be subjects of the conventions referring to POs or veterans, although they were wearing uniforms. They didn't apply war law, killed civilians beyond battlefield, and by having acted this way they were not entitled to be treated as POs, and could be treated as criminals. Such a situation is also described in articles 234 and 228 of the Treaty of Versailles, which provides punishment for common crimes. According to the Hague Convention common crimes are judged by the states on whose area the crime has been committed. The court in Lublin was the competent one since the camp in Majdanek was in its vicinity. It is worth adding that Jerzy Sawicki (1910–1967) Ph.D. in legal science, criminal law specialist, and later on Polish prosecutor in Nuremberg, was one of the prosecutors during the trial in Lublin. In 1946 he examined among the others general Von dem Bach as a part of the investigation concerning the crimes on civilians during the Warsaw Uprising. It shows the further significance of the experience gained during the trial in Lublin.

⁵ The decree had been amended five times.

⁶ So called Kodeks Makarewicz – Polish Criminal Code from 1932.

After hearing the arguments of both defense and prosecutor the court decided it was competent to judge the common crimes committed in Majdanek between 1940 and 1944. In the grounds the court pointed out that even though the accused served in military formations i.e. Waffen SS, they were meant to work in the concentration camp staff. Thus they didn't perform any military assignments, and as a result couldn't be treated as POs, didn't deserve the rights of such, were guilty of committing common crimes and could be judged by a criminal court in Poland.

During the hearing the accused confirmed the existence of a crematorium in the camp, where people had been gassed and murdered on a massive scale, including the murder of many thousands of Jews on 3rd November 1943. During the trial the testimony was given by witnesses, the former prisoners, who not only did recognize the accused, but also described how the latter ones had tortured the imprisoned. Experts appointed by the court made chemical expertise confirming the use of cyanide B in order to dispose of prisoners.

The trial from 1944 wasn't the only one concerning the staff of the concentration camp in Majdanek. Another trial took place in November 1945, in which e.g. the head of the crematorium in this camp was tried. However, the 1944 trial is significant not only because it was the first of that kind in Poland and in Europe. It was also unprecedented for other reasons. Although the Nazi army was still fighting, and Adolf Hitler still holding the power, the guilty of crimes had been caught and punished. Additionally, during the first trial of Nazi criminals in Lublin all the significant legal problems showed up. Among them the question of the basis of the functioning of a court, the law applied by the court, the issue of the status of the accused, the possibility of accusing for crimes committed on civilians, as well as judging people in military service, judging the ones who had executed orders as well as the superiors of criminals. Solving these questions was necessary, and meant the revolution in the legal system functioning so far. The new definition of crimes on civilians, different from the one in the Hague and Geneva conventions, was the fundamental issue.

4. Reflection on the genocide

The legal reflection on crimes committed by the Nazis is a narrow, though strictly separated field of study. The descriptions of WWII crimes and trials of culprits

guilty of genocide, made it possible to create the rules accepted later on by all the civilized states to prevent such crimes in the future. It was already during the WWII that the attempts were being made to categorize the crimes against civilians as a particular kind of crime and were called genocide. Rafał Lemkin was the first to point out that the 3rd Reich aimed at changing the relation of biological potential⁷ between Germany and other European nations by the use of genocide. As a result even if they were to be defeated militarily the Germans would dominate in Europe, and would function in the future Europe from this dominant position. According to this author the Germans guilty of committing crimes were to be punished after the war, whereas the German state was to compensate damage done during the occupation. He pointed at the common approval Hitler's rules acquired from German citizens, the support German society expressed towards the idea of racial superiority and for the idea of Lebensraum. Although the fate of Jewish citizens of the Polish Republic was the closest for Lemkin, he pondered upon the issue of general crime on all the nations of Europe. He understood that the Germans were not aiming at the Germanization of invaded nations, but on their physical annihilation. Describing the fate of Jews under the German occupation he reminded about the order that made them live only in ghettos. The order had been valid since 16th November 1940 e.g. in Warsaw, Łódź, Krakow and other cities. Afterwards, since 22nd July 1942 the Germans started mass deportations of the inhabitants of ghettos to the Nazi death camps like Treblinka, Majdanek, Bełżec, Sobibor, Auschwitz-Birkenau.

Rafał Lemkin (1890–1959), is considered to be the author of the definition of genocide. He was born at the end of the 19th cent. in a Polonized Jewish family in the countryside. Lemkin was a lawyer. He graduated from the law department at the University in Lwów (Uniwersytet Jana Kazimierza). He had Ph.D. degree in legal science, and was the specialist in international criminal law. After his studies he worked firstly at the court of appeal in Warsaw, then as a prosecutor, and next a barrister. In Poland he was the co-author of the comments to the Polish criminal code. He was especially interested in the function of criminal law in totalitarian systems. Lemkin wrote about law in fascist Italy and communist Soviet Union. He admitted to becoming interested in genocide after having read the descriptions

⁷ Lemkin meant the demographic potential of individual nations.

of persecution of Christians during the times of Nero in ancient Rome. It happened when he had read “*Quo Vadis*” by Henryk Sienkiewicz. Next he got interested in persecution of the Armenians by the Turks, and starving millions of Ukrainians to death by the communist authorities⁸.

In 1933 Lemkin represented Poland in the Legal Commission of the League of Nations. He was a member of the International Bureau of the Unification of Criminal Law. It was then that he elaborated the outline of the convention aiming at the penalization of activities leading to suppression or biological destruction of civilians. He thought that the idea of total war involving not only states and their armies but also civilians, was to be prevented. He himself took part in WWII as a soldier of Polish Army defending the country against Nazi invasion in September 1939. Later via Lithuania and Sweden he got to the USA where he worked as a consul of the US government and lecturer at the law department. After settling down in the USA he worked for the Bureau of Economic War at the Department of War. After the war he was an advisor of the US Attorney, Robert H. Jackson, during the trial in Nuremberg, and a lecturer at Yale University, as well as a consultant of the Law Comity at UN.

Rafał Lemkin was the first to use the term “genocide” in the meaning that later on was commonly accepted in law teaching, as well as in the UN Convention from 1948⁹. According to Lemkin genocide is a crime against humanity. He believed that there are universal values, and the ones who violate them act detrimentally towards the humanity, which cannot exist without accepting common rules recognized as the basic ones. It was of no importance for him whether they were called the law of the nature, heritage of Greek and Roman culture, Decalogue, or merely the convention accepted by the majority of states. The important thing was that such rules were to exist and be obeyed. Therefore he was explicitly against the legal positivism. He was in favour of the straight connection between legal rules and the system of values. The lack of connection between law and morality was, in his opinion, the source of abnormal function of law in totalitarian systems.

As a Polish citizen throughout the war Lemkin was interested in the fate of people in countries occupied by the 3rd Reich. There lived both his family and friends.

German occupants murdered 49 members of his family. He was learning gradually about their tragic fate while already being in the USA. Thus he was much more motivated to collect information on German army in occupied Europe than his American lawyer colleagues or diplomats. Lemkin had been staying in the USA since 1941. Ever since he arrived he kept in touch with the Polish embassy in Washington, where he also acquired current materials on the condition of societies under the German occupation.

Now we should make an attempt to determine the knowledge Lemkin had on German occupation while writing his work about genocide, and then the project of the UN convention. He knew about the declaration of France, Poland and Great Britain from 20th January 1940. He also knew, and quoted in his book the letter of the Polish minister of foreign affairs to the allied powers from 3rd May 1941¹⁰. In addition, he knew the declaration of the allied states from 13th January 1942, and the Decree of the President of Poland from 31st March 1943.

He also knew the materials passed since 1941 by a secret group from the concentration camp KL Auschwitz under the leadership of Witold Pilecki. The information got to London via Warsaw, and then to the Polish diplomatic post in the USA. Lemkin received materials concerning the fate of Polish population under the German occupation from Szmul Zygielbojm (1895–1943), who represented the community of Polish Jews in political representation at Polish Government in London. He knew the letter of the Polish Government to the allied states from 10th December 1942 on persecution of Polish citizens of Jewish origin during the German occupation. It was expanded in a brochure which Polish Government published in English in London and New York in December 1942¹¹. In response the allies announced on 17th December 1943 that they knew about the persecution but hadn't undertaken any measures apart from the verbal protest against repression towards the Jews in Ghettos and camps. The states announced punishing the guilty of crimes committed on civilians after the war.

Lemkin was one of many who in 1943 talked about the fate of the Jews under German occupation with Jan

⁸ His last work on this was published under the title, „Soviet Genocide in the Ukraine” in 1953

⁹ The Convention was ratified by Poland in 1950

¹⁰ Polish White Book: German Occupation of Poland – Extract of note Addressed to the Allied and Neutral Powers, New York 1942

¹¹ In 1943 Karski met President Roosevelt to talk about this case.

Karski, the representative of Polish Underground State and Polish Government¹². From him he heard directly about the methods used by the Germans towards occupied nations. Lemkin knew the book by Karski, which was published in the USA¹³ (at that time it had printing of 360 thousand sold copies). He knew the official documents prepared by the Polish Government in London on German occupation¹⁴. He was familiar with the outcome of the American-English Bermuda conference from April 1943, when after the analysis of the information on persecution of the Jews by the Germans, the allies decided that they were not able to prevent them. He was in possession of information from, firstly, Polish underground press, and later on the press issued in Lublin since the half of 1944. He knew the press materials on the trial of Nazi criminals taking place in Lublin in 1944. He refused to react on the information about Nazi crimes in Europe unlike a well-known Polish-Jewish politician Szmul Zygielbojm. The latter one terrified with the passive attitude of the western states committed suicide. Lemkin was searching for a more efficient *modus operandi*. He decided to work as a lawyer, an international criminal law specialist. He believed that only the law making all authorities pursue the guilty of genocide would prevent this crime in the future.

No wonder then that it was Lemkin who, staying since 1944 in the USA, published a dissertation "The Axis Rule in Occupied Europe: Law of Occupation – Analysis of Government – Proposals for Redress." In this work he defined genocide. He wrote there, "Genocide is the crime of the annihilation of national, racial and religious groups." He meant not only murdering the groups of people, but also destruction of foundations of their lives in order to eliminate them. According to him it may be done by the destruction of the basis of existence, burning down cities, factories, destroying the institutions of culture, religion, persecution for the use of national language so that foreign cultural patterns could be imposed on a community. The book by Lemkin is indeed an exceptionally thorough study. It comprises various aspects of genocide, i.e. the activity of German administration, police, legal system, the judiciary, the issue of ownership, taxation and currency, enforced work, the legal status of Jews, and recommendations for the future. The study is based on a detailed

documentation (prepared with the accuracy of a professional prosecutor) presenting the course of German occupation in many countries, e.g. Albania, Czechoslovakia, the Baltic states, Denmark, France, Greece, the Netherlands, Norway, Poland, the USSR, Yugoslavia. Thus, he wasn't just concerned about the fate of Polish citizens of Jewish origin.

Later on Lemkin was developing the concept of genocide publishing in 1945 in the USA the text "Genocide as a Modern Crime". There he pointed out that genocide is a crime of international character, therefore international repressions should be established for committing it. Lemkin's new perspective was about showing, before the war actually ended, a significant field of crime on civilians, which so far hadn't been taken into consideration in legal terms. Genocide, as he wrote, is a war not against an army, but against a society. He stated clearly that it was about crimes against various groups for such reasons as their nationality, race, or religion, without any reference to individual activities of a repressed human being.

It shows that Lemkin perceived genocide in broad context. It was not just annihilation of human beings, but also their degradation, persecution for religious issues, race, and political opinions. If this crime is defined so broadly individual states might be too weak to pursue and punish criminals. Therefore, Lemkin got involved in establishing tribunals trying such crimes and in working out legal solutions enabling punishment of the guilty. As a realist he knew that no prohibition to wage wars would be effective, however, in his opinion war was no excuse for the crimes against humanity.

Lemkin, who was writing about the crimes of WWII and the need to punish the criminals seems to have been a lonely knight fighting for justice. One may say, that he reacted on German crimes because he perceived himself as a defender of European civilization, which in the 20th century was threatened by the German barbarity. As the co-author of the UN Convention in 1948 he is an example of an intellectual, who not only wrote books, but also aimed at making the world better for the future. Alas, since the above UN Convention was passed, one could observe numerous situations when even during the peace time the crime of genocide has been committed, when people have been murdered for ethnic or religious reasons, deprived of the right for nationality, degraded economically, or chased for their political views. Thus Lemkin's opinions and works are worth remembering. No wonder, he has been a candidate for the Nobel award. Lemkin's reflection on genocide is bound

¹² Karski was accepted by President Roosevelt in 1943.

¹³ J. Karski, *Courier from Poland, Story of Secret State*, 1944.

¹⁴ *German Organization and Distribution in Poland*, New York 1941.

to be a basic literature for anybody aiming at studying holocaust crimes, and the history of the Second World War.

Conclusions

It is hard not to come into conclusion that the stand point and output of Rafał Lemkin's resulted from his roots, namely his connection with middle and eastern Europe. If it hadn't been for his knowledge of Polish experience of Nazi occupation during the war, the holocaust performed by the Germans on the Jewish community in Europe at that time, it is hard to imagine that he would have been able to work out legal concepts concerning genocide. Rafał Lemkin's work is an input to the world's legal science. It also proves the theory on an exceptional character of this part of Europe. As one may conclude from this work even the most dreadful crimes can inspire the development of international law.

System transformations which had place in the 20th cent. in the countries of this region make it a significant, yet still not used enough laboratory for researchers. The problem of holding of criminals to account is not just a theoretical issue in Europe today. The case of punishing criminals of the communist totalitarian system hasn't been completed so far. It shows that problems Rafał Lemkin dealt with are still up to date in the 21st cent.

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