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# Raphaël Lemkin in Stockholm – Significance for his Work on “Axis Rule in Occupied Europe”

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## From Lwów to Stockholm

In 1944 Raphaël Lemkin coined the term “genocide” when he published his book *Axis Rule in Occupied Europe*. The term was derived from the Greek word *genos* (race, tribe) and the Latin *cide* (killing), thus corresponding in its formation to words such as homicide and infanticide etc.<sup>1</sup> The book had an immediate impact and it was featured in the book review section of the New York Times in January 1945.<sup>2</sup> Lemkin had successfully influenced the American delegation’s view on the concept of criminal organizations and joined the American prosecution team for the war crimes trials in Nuremberg where he became one of the legal advisors to United States Chief Prosecutor Jackson.<sup>3</sup> However, he was not part of the prosecution team in the narrow sense. Initially, during the negotiations of the London Charter of the International Military Tribunal (IMT), Lemkin was stationed at the War Department, in close contact with, but not formally a member of, the Jackson project and staff. After the London agreement Lemkin arrived at and was nominally affiliated with the Jackson staff – Lemkin’s name was added in pencil to the Jackson staff roster, but he did not have an assigned office or a telephone number – he was largely unsupervised. During the winter of 1946, Lemkin was in Washington working on the International Military Tribunal in the Far East (IMTFE). Lemkin definitely was in Nuremberg, perhaps for the first time, during the late spring of 1946. Barrett notes that Lemkin was only marginally involved in the international diplomatic process and subsequently the Nuremberg trial during 1945 and 1946.<sup>4</sup>

Even though the term genocide was not in the Charter of the International Military Tribunal in Nuremberg, the indictment charged the defendants with “deliberate and systematic genocide; viz., the extermination of racial and national groups, against the civilian population of certain occupied territories in order to destroy particular races and classes of people, and national, racial, or religious groups, particularly Jews, Poles, and Gypsies, as read out in Court on November 20, 1945.<sup>5</sup> The British Deputy prosecutor Maxwell Fyfe quoted Lemkin’s book when cross-examining Constantin von Neurath, Reichsprotektor of occupied Bohemia and Moravia.<sup>6</sup> It was also included in the concluding speeches of the British, French and Soviet prosecutors.<sup>7</sup> Lemkin’s collection, collation and translation of laws in occupied Europe also proved invaluable to the Nuremberg tribunal.<sup>8</sup> Lemkin was also present and actively involved as a consultant to the Secretary-General,

<sup>1</sup> Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*, Second Edition 2008, 2nd ed. (Clark: Lawbook Exchange, Ltd, 1944), 79.

<sup>2</sup> Otto D. Tolischus, “Twentieth-Century Moloch: The Nazi- Inspired Totalitarian State, Devourer of Progress – and of Itself, January 21, 1945,” *New York Times Review* (1945), see also Lemkin, *Axis Rule*, x and xx.

<sup>3</sup> Daniel Marc Segesser and Myriam Gessler, “Raphaël Lemkin and the International Debate on the Punishment of War Crimes (1919–1948),” *Journal of Genocide Research* 7, no. 4 (2005), 463.

<sup>4</sup> John Q. Barrett, “Raphaël Lemkin and ‘Genocide’ at Nuremberg, 1945-1946,” in *The Genocide Convention Sixty Years after Its Adoption*, ed. Christoph J. M. Safferling and Eckart Conze (The Hague: T.M.C. Asser Press, 2010), 41-43, 47-50, 53. Compare with Telford Taylor, *The Anatomy of the Nuremberg Trials*, Taylor (New York: Little, Brown and Company, 1992), 49n and 103.

<sup>5</sup> *Trial of the Major War Criminals before the International Military Tribunal, Volumes 1-42*, vol. 2, reprint edition (Buffalo: William S. Hein & Co., 1995), 45-46.

<sup>6</sup> *Ibid.*, vol. XVII, 61: “in the Indictment in this Trial we are charging you and your fellow defendants, among many other things, with genocide, which we say is the extermination of racial and national groups, or, as it has been put in the well-known book of Professor Lemkin, ‘a co-ordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups with the aim of annihilating the groups themselves’”; Philippe Sands, *East West Street: On the Origins of “Genocide” and “Crimes against Humanity”* (New York: Alfred A. Knopf, 2016), 324-325.

<sup>7</sup> TMWC, vol. XIX, 494, 497-498, 509, 515 (Shawcross, July 27, 1946), vol. XIX, 531, 550-551, 562, 564 (Champetier de Ribes, July 29, 1946), vol. XIX, 570 (Rudenko, July 29, 1946).

<sup>8</sup> Ana Filipa Vrdoljak, “Human Rights and Genocide: The Work of Lauterpacht and Lemkin in Modern International Law,” *European Journal of International Law* 20, no. 4 (2009), 1180.

throughout the drafting of the Genocide Convention.<sup>9</sup> In the preface to *Axis Rule in Occupied Europe* Lemkin explains that he began the preparation for and writing the book in 1940 in Sweden.<sup>10</sup> This is a story which begins in the city where he studied – Lwów – and continues in Stockholm, where he lectured and collected material for *Axis Rule in Occupied Europe*.

Lemkin was born on June 24, 1900 in Bezwodne, then part of Imperial Russia and now Belarus. He was one of three children of a Jewish family. He came to Lwów (Russian: Lvov; Ukrainian: Lviv; German: Lemberg) in 1920 and enrolled at the University of Lwów (Jan Kazimierz University) where he studied philology.<sup>11</sup> Once in Lwów, Lemkin became interested in the 1921 trial in Berlin against Soghomon Tehilrian, the alleged assassin of Talaat Pasha, the Turkish Minister of the Interior. Pasha is said to have been one of the main perpetrators of the massacre of Armenians. Lemkin asked one of his professors why the Armenians did not have the Turkish Minister Pasha arrested for the massacre. Lemkin expressed the view that it was Pasha - and not the assassin Tehilrian – who should stand before a court for the crime of mass murder. The professor answered that there was no law under which to charge the Turkish Minister. The Professor said: “Let us take the case of a man who owns some chickens... He kills them. Why not? It is not your business. If you interfere, it is trespass.” As described in his autobiography, Lemkin dismissed the analogy in the following way: “Sovereignty cannot be conceived as the right to kill millions of innocent people.”<sup>12</sup>

In 1926 Lemkin obtained a Doctorate in Law from the University of Lwów. Szawłowski has noted that doctoral degrees in law in Austria-Hungary (hence also at the universities of Cracow and Lwów) could only be obtained by passing some advanced examinations (so-called *rigorosa*), without presenting a doctoral thesis. Lemkin also studied in Germany, France and Italy, although it is not known for how long.<sup>13</sup> By the 1930s Lemkin was known internationally as a scholar in international criminal law, participating in and contributing to conferences across Europe, notably conferences in Paris (1931), Madrid (1933), Budapest, Copenhagen (1935), Hague (1937), Paris (1937), Amsterdam and Cairo.<sup>14</sup>

For the 1933 Madrid conference, Lemkin prepared a draft report, which suggested outlawing the acts of “barbarism” and “vandalism” by identifying them as international crimes. He later used this as a basis for his proposal to outlaw genocide, made in *Axis Rule in Occupied Europe*.<sup>15</sup> Lemkin had received information that, as a consequence of efforts of the anti-Semitic newspaper *Gazeta Warszawska*, the Polish Minister of Justice was opposed to him attending the Madrid conference.<sup>16</sup>

<sup>9</sup> Raphaël Lemkin, *Totally Unofficial: The Autobiography of Raphaël Lemkin*, edited by Donna-Lee Frieze (New Haven and London: Yale University Press, 2013), 68, 118 and 232-233; William A. Schabas, *Genocide in International Law*, 2nd ed. (Cambridge, UK: Cambridge University Press, 2009), 29.

<sup>10</sup> Lemkin, *Axis Rule*, xiv; Lemkin writes: “Now I can introduce into my book the reference to the most important ratification, since, as you know, it was during me lecturing in the University of Stockholm that I started to write my first book on genocide,” “Letter from Raphaël Lemkin to Ulla Lindström, Swedish Ministry of Foreign Affairs,” March 22, 1958, Manuscript Collection No. 60, The Jacob Rader Marcus Center, American Jewish Archives (hereafter AJA). The reference to a forthcoming book was probably to either of the unfinished drafts of *Introduction to the Study of Genocide* or *History of Genocide*, mentioned in Douglas Irvin-Erickson, *Raphaël Lemkin and the Concept of Genocide* (Philadelphia: University of Pennsylvania Press, 2016), 216.

<sup>11</sup> Samantha Power, *A Problem from Hell* (New York: Perennial, 2002), 17; Philippe Sands, “Memory of Justice: The Unexpected Place of Lviv in International Law - a Personal History,” *Case Western Reserve Journal of International Law* 43, no. 3 (2011), 748.

<sup>12</sup> Lemkin, *Totally Unofficial*, 19-20; Power, *A Problem from Hell*, 17-19; Sands, *Memory of Justice*, 748; Sands, *East West Street*, 152.

<sup>13</sup> Ryszard Szawłowski, “The Polish Lawyer Who Created the Concept of “Genocide”,” *Polish Quarterly of International Affairs* 14, no. 2 (2005), 104-105; Sands, *Memory of Justice*, 749.

<sup>14</sup> Lemkin, *Totally Unofficial*, 68, 106; Power, *A Problem from Hell*, 19, 21-23; Szawłowski, *The Polish Lawyer*, 113; Segesser and Gessler, *Raphaël Lemkin*, 458; Schabas, *Genocide in International Law*, 29-30; Sands, *East West Street*, 177.

<sup>15</sup> Lemkin, *Totally Unofficial*, 68 and 232; Segesser and Gessler, *Raphaël Lemkin*, 457; Vrdoljak, *Human Rights and Genocide*, 1176-1177, 1183.

<sup>16</sup> Lemkin, *Totally Unofficial*, 22-23; John Cooper, *Lemkin and the Struggle for the Genocide Convention* (New York: Palgrave Macmillan, 2008), 20-21; Sands, *East West Street*, 160-161. Contra, see Ryszard Szawłowski, “Raphaël Lemkin’s Life Journey: From Creative Legal Scholar and Well-to-Do Lawyer in Warsaw until 1939 to Pinnacle of International Achievements During the 1940s in the States, Ending Penniless Crusader in New York in the 1950s,” in *Rafał Lemkin: A Hero of Humankind*, ed. Agnieszka Bieńczyk-Missala and Sławomir Dębski (Polski Instytut Spraw Międzynarodowych, 2010), 35-39.

From the official documents of the Madrid conference it seems that Lemkin was not personally present at the conference, which may explain why his report was dropped.<sup>17</sup> The crime of barbarity consisted of “destroying a national or religious collectivity” and the crime of vandalism consisted of “destroying works of culture, which represented the specific genius of these national and religious groups”. Lemkin wanted to preserve both the physical existence and the spiritual life of these collectivities.<sup>18</sup> The proposal on outlawing “barbarism” and “vandalism” were of relevance for genocide because of their focus on group protection.<sup>19</sup> The basic idea of the proposal, as Lemkin subsequently formulated, was that “an international treaty should be negotiated declaring that attacks upon national, religious and ethnic groups should be made international crimes, and that perpetrators of such crimes should not only be liable for trial in their own countries but, in the event of escape, could also be tried in the place of refuge, or else extradited to a the country where the crime was committed.”<sup>20</sup> This proposal was developed further in *Axis Rule in Occupied Europe*: genocide should be prohibited in war and peace and universal repression of genocide should be included in an international multilateral treaty as well as in domestic criminal codes.<sup>21</sup> Lemkin was as concerned with the loss of culture as with the loss of life. He argued that mass murder should not be confused with genocide, stating that, “mass-murder or extermination do not convey the elements of selection and do not indicate the losses in terms of culture represented by the nation’s victims.”<sup>22</sup> Lemkin thus fused the concepts of “barbarism” - physical and biological destruction of a group - and “vandalism” - the destruction of cultural works - into genocide. Lemkin tried to get cultural genocide into the Genocide Convention and while it was in the 1947 draft presented by the UN Secretariat,<sup>23</sup> it did not get support by the states and was subsequently excluded from the 1948 Genocide Convention.<sup>24</sup> While the current definition of genocide covers barbarism and as such physical and biological genocide, vandalism and protection of property is instead part of the law of international humanitarian law and a war crime. The 1954 Hague Convention was the first international convention to exclusively address the subject of cultural property.<sup>25</sup> Destruction of cultural property is a war crime under customary international law and the Rome Statute of the International Criminal Court.<sup>26</sup>

In 1934 Lemkin was called to the Bar and started practicing law in Warsaw. The reason for entering into private practice has not been established. Lemkin’s law office was first based on Jerozolimskie Avenue and then in an elegant new building on Kredytowa Street.<sup>27</sup> Lemkin’s private practice is relevant for this study because it was in this capacity that he came in contact with Swedish companies operating in Poland, contacts which he used during his work in Stockholm as explained below.

In a lecture on Lemkin, Philippe Sands makes the personal reflection that Lemkin, together with international law scholars such as Louis Sohn (member of the United States delegation to the San Francisco Conference 1945, professor Harvard Law School), Hersch Lauterpacht (member

<sup>17</sup> Segesser and Gessler, *Raphaël Lemkin*, 458.

<sup>18</sup> Lemkin, *Totally Unofficial*, 22; Lemkin, *Axis Rule*, 91.

<sup>19</sup> A. Dirk Moses, “Raphaël Lemkin, Culture, and the Concept of Genocide,” in *The Oxford Handbook of Genocide Studies*, ed. Donald Bloxham and A. Dirk Moses (Oxford: Oxford University Press, 2010), 30 and 33.

<sup>20</sup> Lemkin, *Axis Rule*, xiii.

<sup>21</sup> *Ibid.*, 90-94, 139.

<sup>22</sup> “Memorandum from Raphaël Lemkin to R. Kempner,” June 5, 1946. R. Kempner Papers, United States Holocaust Memorial Museum, RS 71.001, quoted in and discussed by Moses, *Raphaël Lemkin*, 28 and 34.

<sup>23</sup> United Nations, *Draft Convention on the Crime of Genocide*, August 25, 1947 (A/362).

<sup>24</sup> Schabas, *Genocide in International Law*, 61, 207-221 and 646; Moses, *Raphaël Lemkin*, 33, 37-38.

<sup>25</sup> United Nations, *Convention on the Protection of Cultural Property in the Event of Armed Conflict*, adopted May 14, 1954; Patty Gerstenblith, “Protecting Cultural Heritage in Armed Conflict: Looking Back, Looking Forward,” *Cardozo Public Law, Policy, and Ethics Journal* 7, no. 3 (2009).

<sup>26</sup> *Prosecutor v. Strugar*, ICTY Trial Chamber Judgement, January 31, 2005, IT-01-42, paras. 229-230, 303-306; United Nations, *Rome Statute of the International Criminal Court*, July 17, 1998 (UN Doc. A/CONF.183/9), article 8(2)(b)(ix). See also Caroline Ehlert, “Article 8(2)(b)(ix) and (e)(iv),” in *The Commentary on the Law of the International Criminal Court*, ed. Mark Klamberg (Brussels: TOAEP, 2017), 89-91 and 129-131.

<sup>27</sup> Szawłowski, *The Polish Lawyer*, 117.

of the ILC and ICJ judge) and Raphaël Lemkin, were either born in, had lived in or had parents from Lviv.<sup>28</sup> Lviv’s role in international law might only be a coincidence. On the other hand the people of Lviv – of which many were Jews – had witnessed several catastrophic conflicts and were aware of the cultural differences in and around the Lemberg community as well as the threats to minorities.<sup>29</sup> Against this background Lviv’s place in international law – human rights law and international criminal law in particular – becomes easier to rationalize. This study describes the period when Lemkin lived and worked in Stockholm focusing on four aspects; 1) Why Karl Schlyter – a prominent lawyer and politician – helped Lemkin to get a visa to Sweden. For that reason this study will discuss Schlyter’s political views; 2) Lemkin as a lecturer at the department of Law, Stockholm University College (since 1960 called Stockholm University);<sup>30</sup> 3) Lemkin’s interaction with the Jewish community in Stockholm and Sweden; and 4) what role and impact Lemkin’s stay from 1940 to 1941 in Stockholm had on his book *Axis Rule in Occupied Europe*, published 1944.<sup>31</sup>

Lemkin’s flight from Poland started six days after the Wehrmacht’s invasion of Poland. He took a train to eastern Poland (Wołkowysk, now in Belarus), where his brother and parents lived. Thereafter, in October 1939, he headed to Kaunas and later Vilnius, Lithuania. In Lithuania, Lemkin stayed loyal to the idea that there had to be some kind of redress after the war. In a conversation with the criminologist Wroblewski, Lemkin stated that “[i]n all periods of transition ... moral standards break down. This does not mean that we should accept it passively – we must try to set the standards up again.” In another conversation Lemkin stated that “[k]illing an individual is a domestic crime – every nation deals with it through its courts and on its own initiative... But murder of a whole people must be recognized as an international crime, which should concern not just one nation but the entire world.” According to his autobiography Lemkin refers to the fact that he sent three telegrams, two telegrams – pleas of refuge – to his friend and former Minister of Justice Karl Schlyter and to Count Carton de Wiart, president of the International Association of Criminal Law and former president of the League of Nations. He asked whether they could arrange for temporary entry into Sweden and Belgium. Lemkin had worked with them for many years at international conferences. He sent a third telegram to Pédonès, a mother and daughter who owned a publishing house in Paris, to inquire whether they had received the manuscript of the book *International Payments*, later to be published by the same publishing house: *La réglementation des paiements internationaux* (1939). He also wrote to Professor McDermott and it was clear already at this stage that he wanted to go the United States.<sup>32</sup> The manuscript was at the time Lemkin’s only possession and he perceived it as a bridge to the future. It was published with great speed and Lemkin sent it to universities where he intended eventually to establish himself, including to Karl Schlyter in Sweden and Malcolm McDermott at Duke University. A month later Schlyter arranged for Lemkin to come to Sweden.<sup>33</sup>

Lemkin’s autobiography fails to mention correspondence that appears crucial for his escape from Lithuania to Sweden. In the archives one can read a letter from Lemkin to Hartvig Nissen – the director of the prison *Botsfengslet* (Oslo, Norway) and dated October 25, 1939 – where Lemkin asked for help getting a visa to Norway. Lemkin asked Nissen to query Schlyter for the same help if a visa to Norway was not possible. Lemkin explained that he only needed help with a visa as his tangible assets were adequate.<sup>34</sup> Nissen made some enquires and on November 7, 1939 answered Lemkin that it was difficult to get a visa to Norway, it was only possible if one was traveling to

<sup>28</sup> Sands, *Memory of Justice*, 745. It just so happens that that my father’s birthplace of Borislav is in Lviv oblast (region).

Thus I found it compelling to examine how Lemkin was – for a brief period – a lecturer at the department of Law in Stockholm – a second piece that we have in common.

<sup>29</sup> Moses, *Raphaël Lemkin*, 23; Sands, *Memory of Justice*, 748.

<sup>30</sup> Lemkin writes “Stockholm University” in his autobiography, see for example Lemkin, *Totally Unofficial*, 75.

<sup>31</sup> On biographical studies as legal science, see Jan-Olof Sundell, *Karl Schlyter - En Biografi* (Norstedts Juridik AB, 1998), 12.

<sup>32</sup> Lemkin, *Totally Unofficial*, 29, 62-64, 71.

<sup>33</sup> *Ibid.*, 155.

<sup>34</sup> “Letter from Raphaël Lemkin to Hartvig Nissen,” October 25, 1939, Centraldossier (Lemkin), Archives of Statens Utlänningskommission (State Commission on Foreigners), Kanslibyrån, Socialstyrelsen (National Board of Health and Welfare), Riksarkivet (Swedish National Archives), Vol. FIAC 12832, translated by the author of this article.

another country and had a visa for that country prior to entry to Norway. Nissen explained that he would send a copy to Schlyter and that Norwegians were following the tragic events in Poland and expressed their sympathy to the Polish people.<sup>35</sup>

On November 8, 1939, Nissen sent a transcript of Lemkin's letter and added his own letter to Schlyter where Nissen asked if Schlyter remembered Lemkin from the 1935 Copenhagen conference and the Paris conference of 1937. Nissen explained that he had corresponded with Lemkin after these conferences. Nissen described Lemkin as a very respectable person and well known in international criminal law circles. He mentioned Lemkin's work on the Polish penal law commission and the overview that Lemkin had provided in *Recueil*, volume III, p. 127. Nissen found Lemkin's contribution very interesting and mentioned it in his book "Øie for øie, tann for tann?" (1934). Considering that it would have taken time to get a visa for Norway, Nissen turned to Schlyter and asked him for help.<sup>36</sup> Worth mention is that Nissen attended a lunch at Schlyter's home on December 1, 1939,<sup>37</sup> a few weeks after their correspondence concerning Lemkin. This suggests that Schlyter and Nissen had continuous contacts during this period. On November 11, 1939, Schlyter sent a letter with the correspondence from Lemkin and Nissen to the Director General of Socialstyrelsen (National board of Health and Welfare), using the letterhead of Scania and Blekinge Court of Appeal. He vouched for Lemkin, requested a visa for him and certified that the law journal *Svensk Juristtidning* (for which Schlyter was the chief editor) promised to stand as a guarantor (borgen) for Lemkin's living expenses for a period of six months.<sup>38</sup> This was important given that Sweden already in 1927 had started to raise barriers against immigration. Levine notes that throughout the 1930s Sweden was as restrictive, if not more so, than almost every other Western democracy in blocking the entry for Jews. This can be seen in contrast to Great Britain, which in 1939 allowed entry into the country of 40 000-50 000 refugees, Sweden tightening its restrictions even more following *Kristallnacht*. The only option for Jews subjected to the pressure of leaving Germany (and later Austria and annexed areas) was either to obtain an entry visa prior to departure, or hope to find a country willing at least to let them in awaiting onward transit. Sweden neither gave residency nor even transit to Jews in any significant numbers.<sup>39</sup> This is illustrated by the creation from October 5, 1938 of the German "J"-passport for Jews at the request of Sweden and Switzerland whereby Swedish and Swiss customs officials could more easily stop Jews from entering their countries.<sup>40</sup> By the end of 1938 Sweden had set a quota of 1,625 Jews to be allowed entry into the country, almost all with the condition that it was in transit.<sup>41</sup> Although Lemkin found faults in Sweden's foreign policy he admitted that he owed his life to Sweden's neutrality.<sup>42</sup>

In Lemkin's visa application dated January 3, 1940 it is stated that he was of Polish nationality

<sup>35</sup> "Letter from Hartvig Nissen to Raphaël Lemkin," November 7, 1939, Centraldossier (Lemkin), Riksarkivet (Swedish National Archives), translated by the author of this article.

<sup>36</sup> "Letter from Hartvig Nissen to Karl Schlyter," November 8, 1939, Centraldossier (Lemkin), Riksarkivet (Swedish National Archives), translated by the author of this article.

<sup>37</sup> Seating chart December 1, 1939, personal archives kept by the Schlyter family, available through his great-granddaughter Lisa Dumoulin, kept on file by this author. Other attendees were Ivar Agge and Folke Wetter, both professors in criminal law which suggests that the dinner was centered around a common interest in this area.

<sup>38</sup> "Letter from Karl Schlyter to the Director General of Socialstyrelsen (National board of Health and Welfare)," November 11, 1939, Centraldossier (Lemkin), Riksarkivet (Swedish National Archives), translated by the author of this article. Migration cases were transferred from the Ministry of Foreign affairs to the National board of Health and Welfare as consequence of the change in the migration law that entered into force January 1, 1938, Helmut Müssener, "Den Tysk-Judiska Emigrationen till Sverige efter 1933," *Nordisk judaistik/Scandinavian Jewish Studies* 1, no. 1 (1975), 60.

<sup>39</sup> Paul A. Levine, *From Indifference to Activism: Swedish Diplomacy and the Holocaust; 1938-1944*, Acta Universitatis Upsaliensis (Uppsala: Uppsala University, 1996), 102-104; Ingrid Lomfors, *Förlorad Barndom – Återvunnet Liv. De Judiskas Flyktingbarnen från Nazityskland* (Göteborg: Historiska institutionen, Göteborgs universitet, 1996), 60; Pontus Rudberg, *The Swedish Jews and the Victims of Nazi Terror, 1933-1945* (Uppsala: Uppsala Universitet, 2015), 213, 215 and 240.

<sup>40</sup> Müssener, *Den Tysk-Judiska Emigrationen*, 28; Steven Koblik, *The Stones Cry Out: Sweden's Response to the Persecution of Jews 1933-1945* (New York: Holocaust Library, 1988), 53-54.

<sup>41</sup> Klas Åmark, *Att Bo Granne med Ondskan*, 2nd ed. (Stockholm: Albert Bonniers Förlag, 2016), 491-492, 502; Lomfors, *Förlorad Barndom*, 64.

<sup>42</sup> Lemkin, *Totally Unofficial*, 73.

and Jewish religion. The reference person was Schlyter and the visa was to be retrieved at the Swedish consulate in Kaunas. The stated purpose was legal studies.<sup>43</sup> There was an additional reference person - hand typed on the business card of Schlyter - who vouched for Lemkin, that person being Hartvig Nissen.<sup>44</sup> On February 1, 1940, the Swedish Ministry of Foreign Affairs granted Lemkin's application for a two months stay on the condition that he made a written undertaking that he would emigrate to another country when the circumstance allowed.<sup>45</sup> Lemkin escaped Lithuania just in time, before the Baltic States were annexed by the Soviet Union and refugees were detained in camps.<sup>46</sup> The escape route to Sweden (and the West) via Lithuania was used by thousands of Poles, mainly military men and government officials, sometimes accompanied by their families.<sup>47</sup>

On January 3, 1940, having applied for a visa from Kaunas, Lithuania (approved by the Swedish Ministry of Foreign Affairs on February 1),<sup>48</sup> he arrived in Sweden on February 27, 1940 through Bromma by airplane and settled in Stockholm. His Polish passport was valid until August 16, 1941. On September 27, 1940 Lemkin applied for an alien's passport from the Swedish authorities.<sup>49</sup> It was very difficult to get housing.<sup>50</sup> Consequently, Lemkin lived at various addresses in central Stockholm.<sup>51</sup> His last documented contact with the Swedish authorities was March 1, 1941, when he applied for a return visa to Sweden, which was necessary in order to get transit visas for his journey to the United States.<sup>52</sup> He left Sweden on March 20, 1941 with a flight to Moscow.<sup>53</sup> He was desperate to leave Sweden and get to the United States, which he had idealized. He described himself as “powerless, caught in this pocket between Russia and Germany.”<sup>54</sup> With the help of a professor at Duke University, Lemkin secured an appointment to the Duke Faculty to teach international law. From Moscow he took the Trans-Siberian railroad to Vladivostok and travelled by small boat to the Japanese port of Tsuruga. He then took a bigger boat from Yokohama to Vancouver and on to Seattle, where he landed on April 18, 1941. He later worked at Yale University.<sup>55</sup>

### Assistance from Karl Schlyter

It was Karl Schlyter (1879-1959) who made sure that Lemkin was granted a visa to Sweden.<sup>56</sup> This assistance is interesting considering that Sweden, albeit neutral at the time, was somewhat leaning

<sup>43</sup> “Viseringsdossier 883 495 (Lemkin),” Archives of Statens Utlänningskommission (State Commission on Foreigners), Passbyrå (Ministry of Foreign Affairs, Office for Passport Cases), Riksarkivet (Swedish National Archives), Vol. F 2 BA:670.

<sup>44</sup> Hand typed on the business card of Karl Schlyter, dated January 9, 1940, *ibid.*

<sup>45</sup> Instruction from Ministry of Foreign Affairs to the Swedish consulate in Kaunas February 1, 1940, *ibid.* The arrival of the visa to the consulate in Kaunas is mentioned by Lemkin, see Lemkin, *Totally Unofficial*, 70.

<sup>46</sup> Josef Lewandowski, *Knutpunkt Stockholm* (Stockholm: Atlantis, 2006), 119.

<sup>47</sup> Szawłowski, *The Polish Lawyer*, 120.

<sup>48</sup> “Visumregisterkort 883 495 (Lemkin),” Archives of Statens Utlänningskommission (State Commission on Foreigners), Passbyrå (Ministry of Foreign Affairs, Office for Passport Cases), Riksarkivet (Swedish National Archives), Vol. D1:27, stated purpose of stay: tourist journey, business journey (tjänsteresa) and studies; *Viseringsdossier 883 495 (Lemkin)*. See also Lemkin, *Totally Unofficial*, 70.

<sup>49</sup> Passport application, September 27, 1940, *Centraldossier (Lemkin)*.

<sup>50</sup> Svante Hansson, *Flykt och Överlevnad: Flyktingverksamhet i Mosaiska Församlingen i Stockholm 1933-1950* (Stockholm: Hilleförlaget, 2004), 203.

<sup>51</sup> The visa applications show that Lemkin lived at different addresses in Stockholm: at Kungsgatan 75, pension Lindström April 19, 1940, April 26, 1940, June 25, 1940; at Sturegatan 13 bei Arndt, July 24, 1940, September 12, 1940, September 27, 1940; and at Vanadisvägen 31 on March 1, 1941, in *Centraldossier (Lemkin)*.

<sup>52</sup> Application for return visa, March 1, 1941, *Centraldossier (Lemkin)*.

<sup>53</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” March 17, 1941, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29, author's translation; Lemkin, *Totally Unofficial*, 82. There are two dossiers on Lemkin in the archives of the State Commission on Foreigners (Statens utlänningskommission), one is from the Ministry of Foreign Affairs (MFA) office for passport cases (Utrikesdepartementets expedition för utländska passärenden) and the second is from the National board of Health and Welfare (Socialstyrelsen).

<sup>54</sup> Lemkin, *Totally Unofficial*, 78.

<sup>55</sup> Power, *A Problem from Hell*, 26; Schabas, *Genocide in International Law*, 29. Lemkin writes in his last visa application in Sweden that he is employed by Duke University, USA, Application for return visa, March 1, 1941 in *Centraldossier (Lemkin)*.

<sup>56</sup> Mail from Lars Hallberg, May 30, 2016.



towards supporting Germany and that the Swedish upper class was Germanophilic,<sup>57</sup> in some cases even sympathetic to Nazism (as a bulwark against Communism but also because of racism).<sup>58</sup> Sweden responded to the Nazi persecution of Jews in the 1930s as many other democratic nations did - with closed doors. However, there were many voices in Sweden, particularly within Social Democratic circles, that called upon their nation to reject as ungenerous the response to the Nazi policies of expulsion.<sup>59</sup>

Schlyter and Lemkin had collaborated at various international juridical conferences.<sup>60</sup> Both had a broad European network during this period. Karl Schlyter was a lawyer and politician (Social Democrat). He was raised as a child in Lutheran pietism but was influenced by scientists such as Charles Darwin, Ernst Haeckel and the philosopher Harald Høffding. He left his childhood faith when attending secondary school and as an adult he can be described as an agnostic.<sup>61</sup> He was a minister without portfolio 1921-1923 and 1925-1926, Minister of Justice 1932-1936, Member of Parliament 1919-1920 and 1926-1949 and President of the Scania and Blekinge Court of Appeal 1929-1946. Together with Tore Almén, he founded the law journal *Svensk Juristtidning* and was editor between 1916 and 1951. In Sweden Schlyter was generally regarded as one of the most important Swedish lawyers of his time. As a politician he was involved in two great legal reforms. In 1911 he was appointed secretary in the Commission for the reform of procedural law (Processkommissionen), working on and off for this commission during the next 15 years. The new Procedural Code (Nya rättegångsbalken) was enacted by the Swedish Parliament in 1942 and became effective on January 1, 1948. Between 1938 and 1956 Schlyter was chairman of the Penal Law Commission (Strafflagberedningen - SLB), which submitted its final report in 1956. This Commission report became an important preparatory work for the new Criminal Code (Brottsbalken), that was passed by Parliament in 1962 and which became effective in 1965.<sup>62</sup> In other words, Schlyter was responsible for both the Procedural and Penal codes of Sweden, which are still in force.

During the earlier part of his life Schlyter was something of a Germanophile, with most Swedish lawyers looking to Germany for scholarly and law reform ideas during the latter part of the nineteenth and the early part of the twentieth centuries. Later in life Schlyter changed his opinion to favor partial reforms in procedure and penal legislation following the Anglo-Saxon pattern as opposed to the German model.<sup>63</sup> Other signs that Schlyter was a Germanophile is illustrated by his criticism of the Western powers that wanted to bring the German Kaiser to court for war crimes during the First World War. He stated that in England "they are certainly too intoxicated of the world spectacle that Kaiser Wilhelm is to be judged by a court composed of his enemies."<sup>64</sup> Schlyter's view of Germany changed later as a consequence of Hitler and Nazism.<sup>65</sup> He also appeared to be more positive to international tribunals and in 1943 argued that if Hitler was to be put before an international court where Schlyter was one of the judges, he would impose capital punishment (not because of vengeance but rather to protect society).<sup>66</sup> He even became reluctant to use the German language as a consequence of Nazi rule in Germany, later on deliberately using French

<sup>57</sup> Lewandowski, *Knutpunkt Stockholm*, 152.

<sup>58</sup> Levine. *From Indifference to Activism*, 92-94.

<sup>59</sup> *Ibid.*, 95.

<sup>60</sup> Lemkin, *Totally Unofficial*, 155. See also "Internationella Straffrätts- och Fängvårdskommissionens Verksamhet," November 22, 1941, Archives of Svensk Juristtidning, Strafflagberedningen Karl Schlyter Part 2, F 5:7, YK 1822, 6 which states that Karl Schlyter participated in a conference in Berlin.

<sup>61</sup> Sundell, *Karl Schlyter – en biografi*, 27.

<sup>62</sup> *Ibid.*, 12, 20-21; Jan-Olof Sundell, "Karl Schlyter – a Swedish Lawyer and Politician," *Scandinavian Studies in Law* 40 (2000), 505.

<sup>63</sup> Sundell, *Karl Schlyter – A Swedish Lawyer*, 509.

<sup>64</sup> "Letter from Karl Schlyter to his cousin Johan Thyrén," July 6, 1919, Johan Thyrén Collection, Lund University Library, volume 6, as cited in Sundell, *Karl Schlyter – en biografi*, 59, translated by the author of this article.

<sup>65</sup> *Ibid.*, 59.

<sup>66</sup> "Letter from Karl Schlyter to Olof Kinberg," March 28, 1943, Karl Schlyter Archives, volume 40, as cited in Sundell, *Karl Schlyter – en biografi*, 205, translated by the author of this article.

when writing to German colleagues.<sup>67</sup> He also took a very clear stand against sterilization based on social considerations and racial hygiene. In 1921 Sweden had established the world’s first racial biological institute “Statens institut för rasbiologi” with broad political support from left to right. In an article from 1929, Schlyter argued against sterilization regardless of whether it was for social or racial hygienic purposes. However, a law on sterilization was adopted in 1934 when Schlyter was Minister of Justice.<sup>68</sup> In the preparatory works he emphasized that public opinion displayed a consensus that this was an appropriate policy for the mentally retarded (in Swedish at the time called “sinnesslöa”).<sup>69</sup> While sterilization of the intellectually disabled today may be perceived as immoral, at that time and taking into account the historical context, it arguably cannot be seen as evidence that Schlyter was leaning towards fascism or Nazism. Schlyter was in the middle of the Swedish debate on refugees when the migration law was set to be prolonged in 1937.<sup>70</sup>

Returning to Schlyter’s international network, he successively established more and more international contacts with important persons abroad and he utilized these contacts in his work with his SLB committee.<sup>71</sup> As indicated above, Lemkin and Schlyter knew one another at the time Lemkin needed to get a visa to Sweden, a matter which Schlyter assisted with.

Another indicia that Schlyter opposed anti-Semitism was his choice of co-workers. One of Schlyter’s close collaborators was the German born civil servant Dr. Gerhard Simson. As a Jew Simson fled to Sweden in 1939, where he obtained a position at the Ministry of Justice as a civil servant.<sup>72</sup>

Following the proposal by Cuba, Panama and India for a resolution declaring genocide an international crime, in 1946 Lemkin wrote to Schlyter asking for his support for the initiative. In this correspondence Lemkin mentioned the Swedish female leader Hanna Rydh.<sup>73</sup> Schlyter was later instrumental in Sweden’s signing of the Genocide Convention. On December 31, 1949, Lemkin wrote to Schlyter thanking him for his support and encouraging other Scandinavian countries to sign the convention. Lemkin also asked Schlyter to secure the ratification of Sweden and Denmark, and accession by Finland.<sup>74</sup>

### Contacts with the Jewish Community

Lemkin had a deep Jewish identity expressed in terms of how he described the world of the shtetl and the religious life of Jews.<sup>75</sup> He knew how to read Hebrew and he received religious education.<sup>76</sup> Cooper argues that Lemkin broadly sympathized with Zionist aspirations.<sup>77</sup> However, contrary evidence suggests that Lemkin was rather a Bundist and influenced by Karl Renner, the non-Jewish Austro-Marxist. Lemkin appears to have believed in multiethnic states with minority protection

<sup>67</sup> “Letter from Karl Schlyter to Stephan Hurwitz,” June 7, 1957, Karl Schlyter Archives, volume 8, as cited in Sundell, *Karl Schlyter – en biografi*, 245.

<sup>68</sup> Sundell, *Karl Schlyter – en biografi*, 102.

<sup>69</sup> Swedish Ministry of Justice, *Proposition Nr 103*, 1934.

<sup>70</sup> Åmark, *Granne med Ondskan*, 505 and 517.

<sup>71</sup> Sundell, *Karl Schlyter – A Swedish Lawyer*, 510.

<sup>72</sup> *Ibid.*, 511.

<sup>73</sup> “Telegram from Raphaël Lemkin to Karl Schlyter,” November 23, 1946, Karl Schlyter’s Archive, Riksarkivet (Swedish National Archives), Box 45; see also “Letter from Raphaël Lemkin to Karl Schlyter,” November 25, 1946, Karl Schlyter’s Archive, Riksarkivet (Swedish National Archives), Box 45.

<sup>74</sup> “Letter from Raphaël Lemkin to Karl Schlyter,” December 31, 1949, Karl Schlyter’s Archive, Riksarkivet (Swedish National Archives), Box 56; Lemkin, *Totally Unofficial*, 243 n1. See also “Letter from Raphaël Lemkin to Alva Myrdal, UN Department of Social Affairs,” April 12, 1950, Manuscript Collection No. 60, The Jacob Rader Marcus Center, AJA, encouraging Sweden to ratify and “Letter from Raphaël Lemkin to Gerhard Simson, Swedish Ministry of Justice,” April 20, 1950, Manuscript Collection No. 60, The Jacob Rader Marcus Center, AJA, where the efforts of Karl Schlyter are mentioned.

<sup>75</sup> Lemkin, *Totally Unofficial*, xxiv 48-51, chapters 1 and 2; Moses, *Raphaël Lemkin*, 23.

<sup>76</sup> Lemkin, *Totally Unofficial*, 14-16.

<sup>77</sup> Cooper, *Lemkin and the Struggle*, ix, 12-13, 16, 21, 113. See also James Loeffler, “Becoming Cleopatra: the forgotten Zionism of Raphaël Lemkin,” *Journal of Genocide Research* 19, no. 3 (2017), 340-360.

rather than monocultural states based on a specific territory.<sup>78</sup> Moreover, there are indications that Lemkin practiced religion as an adult. Regardless, it was his Jewish heritage that explained why he had to flee Poland and temporarily seek refuge in Sweden. Thus, it becomes interesting to determine whether he sought contact with the Jewish community in Sweden and how this relationship was characterized. This was a sensitive issue at the time when Lemkin was in Stockholm.

Several holocaust survivors have accused the Jewish community in Stockholm (Mosaiska församlingen) of not doing enough during and after the Second World War. Claims have been made that it was the fault of the community leaders that more Jews were not given protection in Sweden.<sup>79</sup> Levine also notes that prior to the Second World War, the local Jewish population remained largely silent in the Swedish debate on immigration policy for fear that a substantial increase in Jewish immigration would incite even more anti-Semitism than they already experienced.<sup>80</sup> However, this has been challenged by Hansson and Rudberg. Hansson's conclusion is that the allegation that the Jewish community of Stockholm had been more restrictive than the Swedish Government is incorrect, although there were community officials like Rabbi Ehrenpreis who were more inclined to take part in sending relief to Jews abroad rather than to help refugees come to Sweden.<sup>81</sup> Rudberg has studied Swedish Jews' responses to the Nazi's anti-Jewish measures and found that the aid activities of the Jewish community of Stockholm, which came to represent Swedish Jewry, had a broader and more inclusive base than was previously known. Furthermore, Jewish representatives in Sweden tried to influence the Swedish and United States governments to change their immigration policies and admit more Jewish refugees. Rudberg's conclusion is that the form and limited extent of aid during different phases of the 1930s and the Second World War are ultimately attributable more to rigid governmental refugee policies, inadequate financial resources and international pressure than to the lack of effort or will on the part of Swedish Jews.<sup>82</sup>

Statistics for the period from October 1940 show that the Jewish Community of Stockholm gave continuous monetary assistance to 185 persons over the age of 20. This covered only a small number of the refugees that at the time were in Sweden. The recipients were mainly from the middle class. A full monthly allowance was 100 kronor for a single household, for married couples 160 kronor and for couples with children there was an additional allowance of 20 kronor per child.<sup>83</sup> The assistance was financed by a tax applied on the members of the Jewish Community of Stockholm (3% on top of general Swedish taxes), state subsidies (30 % of the total funding for 1941-1944), support from the American Jewish Joint Distribution Committee and other foreign organizations.<sup>84</sup> In the autumn of 1940, financial aid was given to 1,500 refugees, while at the time there were 4,000 refugees in the country. The aid was geared towards refugees in transit to other countries, which was the policy of the Jewish Community of Stockholm as well as the state.<sup>85</sup> As indicated above, the archives confirm that Lemkin received 100 kronor per month from the Jewish community of Stockholm.<sup>86</sup> However, there are no traces in the archives of the Jewish Community of Stockholm

<sup>78</sup> *Ibid.*, ix., 93; Moses, *Raphaël Lemkin*, 24.

<sup>79</sup> Hansson, *Flykt och Överlevnad*, 16.

<sup>80</sup> Levine, *From Indifference to Activism*, 93; Rudberg, *The Swedish Jews*, 2.

<sup>81</sup> Hansson, *Flykt och Överlevnad*, 118-126.

<sup>82</sup> Rudberg, *The Swedish Jews*, 3, 17-18, 329; Åmark, *Granne med Ondskan*, 526-527; see also the account of Hugo Valentin who was personally involved, Hugo Valentin, "Rescue and Relief Activities on Behalf of Jewish Victims in Scandinavia," *YIVO Annual of Jewish Social Science*, 8 (1953); *Judarnas Historia i Sverige* (Stockholm: Bonniers, 1964), 200-202; Lomfors, *Förlorad Barndom*, 259.

<sup>83</sup> Müssener, *Den Tysk-Judiska Emigrationen*, 31; Hansson, *Flykt och Överlevnad*, 195. 100 kronor in 1940 is the equivalent of 2,474 kronor or 293 United States dollars in 2015, see Historical Currency Converter by Rodney Edvinsson, Stockholm University at <http://www.historicalstatistics.org/Currencyconverter.html>.

<sup>84</sup> Valentin, *Judarnas Historia i Sverige*, 199; Rudberg, *The Swedish Jews*, 220-224. There was 7,000 Jews living in Sweden at the time. The Jewish Community in Stockholm had 4 000 members where of 1 753 paid tax. The Jewish Community had, in the same way as churches, right to tax its members, Hansson, *Flykt och Överlevnad*, 173-180; Åmark, *Granne med Ondskan*, 524.

<sup>85</sup> Åmark, *Granne med Ondskan*, 513, 525.

<sup>86</sup> "Police report," September 9, 1940 and "Certificate (medellöshetsintyg), Jewish Community of Stockholm," October 15, 1940, Centraldossier (Lemkin). Lemkin received 1,20 kronor February 1940, 77 kronor March 1940, 178, 5 kronor

of any correspondence with Lemkin or that he was a member of the Jewish Community.<sup>87</sup> This is not surprising considering that up until 1952, Swedish law provided that only Jews with Swedish citizenship could be members of a Jewish community in Sweden.<sup>88</sup>

### Lecturing at Stockholm University College and Friendship with Gösta Eberstein

As indicated above, prejudice against Jews was widespread within Sweden’s intellectual and academic circles. Anti-Semitic feelings at the universities were made evident by widely publicized demonstrations in early 1939 at the three major Swedish universities: Uppsala University, Lund University and Stockholm University. Nazis in Stockholm managed to assemble students in meetings where slogans such as “protest against the Jew import” were displayed. The Student Union in Uppsala held meetings, most notably on February 17, 1939, where by a fraction gained the majority for a resolution denying 10 Jewish medical doctors entry into Sweden with the argument that it would risk the Swedish students’ future possibilities of getting employment (548 voted in favor of the resolution and 349 against). The students in Lund based their arguments on the Uppsala decision and stated that they wanted to work for all Jews to leave Europe.<sup>89</sup>

There is nothing in the archives of the State Commission on Foreigners on Lemkin’s employment. He had no work permit as at the time it was difficult for foreigners to gain a work permit, especially in the scholarly field. However, if one had connections with an employer which offered work it was easier to obtain such a permit.<sup>90</sup> It should be noted that at the time there was a shortage of competent persons (i.e. with the research degrees *juris licentiat* or *juris doktor*) eligible to become law professors.<sup>91</sup> However, such positions were arguably impossible to obtain for a Jewish scholar with a temporary residence permit. Szawłowski reaches a similar conclusion, namely, that the kind of career that Lemkin later made in the United States in the 1940s would have been impossible in Sweden.<sup>92</sup>

Lemkin studied the Swedish language, Swedish law and worked on publishing an edition of his books in Swedish. He was able to lecture in Swedish after just five months, something that he described as making him “rise spiritually from the ‘refugee’ fall of modern man”.<sup>93</sup>

Lemkin’s book on international payments *La réglementation des paiements internationaux* (1939) was reported and reviewed by Professor Håkan Nial (civil law and conflicts of law at Stockholm University College) in the Swedish law journal *Svensk Juristtidning*. Nial placed the book in the context of stricter exchange controls with the outbreak of the Second World War. Nial praised the book, mentioned Lemkin’s Polish origin, ends the review by describing the “tragic fall of [Lemkin’s] motherland” and expressed hope that the author could contribute to the reconstruction of Europe.<sup>94</sup> The review of Nial appears important for Lemkin’s future stay in Sweden. Cooper notes that “Lemkin’s academic credentials were strengthened by the publication of the important

April 1940, 157,5 kronor (hereof 25,75 for travelling) May 1940, 126 kronor June 1940, 0 kronor July 1940, 100 kr August 1940-February 1941 from the relief committee of the Jewish Community of Stockholm, Archives of the Jewish Community of Stockholm, Flyktningsektionen (Relief Committee), Handlingar Angående Statsbidrag för Flyktingar (Restitutioner), 1939-1941, E 3 a:1, Restitutioner 1940, February 1940-February 1941 Reports, Riksarkivet (Swedish National Archives). In the same documents Lemkin is variously described as of Polish nationality and “stateless” (stateless).

<sup>87</sup> The author has checked the correspondence of chief rabbi Ehrenpreis, rabbi Kronheim, Jewish Community of Stockholm and its relief committee, list of members of the Jewish community in Stockholm, all at Riksarkivet (Swedish National Archives).

<sup>88</sup> Religionsfrihetslag (1951:680) entered into force January 1, 1952; Valentin, *Judarnas Historia i Sverige*, 214.

<sup>89</sup> Müssener, *Den Tysk-Judiska Emigrationen*, 30-31; Koblik, *The Stones Cry Out*, 54; Levine, *From Indifference to Activism*, 94; Lomfors, *Förlorad Barndom*, 66; Åmark, *Granne med Ondskan*, 507.

<sup>90</sup> Hansson, *Flykt och Överlevnad*, 197; Åmark, *Granne med Ondskan*, 493.

<sup>91</sup> “Karl Levinsson (Minister without Portfolio), Reply to Gunnar Myrdal,” April 2, 1938, Archives of *Svensk Juristtidning*, Strafflagberedningen Karl Schlyter Part 2, F 5:6, Yk 1822.

<sup>92</sup> Szawłowski, *The Polish Lawyer*, 120, note 87.

<sup>93</sup> Lemkin, *Totally Unofficial*, 65, Power, *A Problem from Hell*, 26.

<sup>94</sup> SvJT 1940 s. 625.

treatise on the law of exchange control in French.”<sup>95</sup> It is also notable that Karl Schlyter was founder, chief editor and publisher of *Svensk Juristtidning* at the time of the review of Lemkin’s book.<sup>96</sup> Under Schlyter, the journal had an explicit policy of not being dependent on contributors submitting texts, but rather the editors sought and asked distinct persons to contribute. Reviewing Schlyter’s time as the editor, Sundell concludes that Schlyter often used the journal to disseminate information about areas, which were of importance to him. The selections of contributors and themes were made accordingly in order to influence opinion in the legal community. Sundell has in the archives of *Svensk Juristtidning* found several examples where Schlyter’s selection of reviewers was made to influence the reception of a certain book.<sup>97</sup> Against this background, one may ask whether Schlyter’s decision to publish a review of Lemkin’s book was a political stand at a time when Nazi-Germany was occupying Poland.

Lemkin mentions Nial’s review in his autobiography in the same sentence as he describes how Schlyter suggests that Lemkin should lecture on the topic of his book at Stockholm University College. As a result Lemkin went to see the Prorector (vice president) of the university, Gösta Eberstein (who was a law professor in private law and finance law, his main legacy in intellectual property law). They had a meeting of minds, and an invitation was extended. Eberstein asked “[i]n what language will you lecture?” to which Lemkin responded “[i]n what language would you want me to lecture? I know little Swedish – I study it every day.” Lemkin tried his Swedish on Eberstein but the latter was not satisfied with his pronunciation. Friends telephoned a former actress, who agreed to work with Lemkin on his diction several hours a week.<sup>98</sup>

The course was on international payments, foreign exchange and banking laws. Lemkin started preparing his lectures drawing extensively on his book *La réglementation des paiements internationaux*, from which excerpts were translated into Swedish. Thus, the book became a bridge to the future just as he had intended. Whenever a lecture was ready, Lemkin would read it aloud with his teacher. After five months in Sweden he could address an audience in Swedish. His first lecture was attended by three hundred persons, many of them members of faculty as well as Prorector Eberstein.<sup>99</sup> The series had the title “International Payments: problems in international finance- and private law” (De internationella betalningarna: problem inom den internationella finans- och privaträtten) and the lectures were held on October 28, 1940 (Valuta- och clearingrättens allmänna drag, dess uppkomst och utveckling), October 31, 1940 (Valutarätt), November 4, 1940 (Clearingbestämmelser och betalningsöverenskommelser), 7 and November 7 and 11, 1940 (Valutarättsliga problem inom den internationella privaträtten) and November 14, 1940 (Clearingens privaträttsliga verkningar). Lemkin had the title Assistant Lecturer (assisterande föreläsare).<sup>100</sup> Lemkin sent a letter to Eberstein after the first lecture on October 28, 1940 where he wrote “Yesterday, after the hardest and darkest year of my life, I have experienced a joyful and spirited evening. This could only happen due to your kindness and so deeply distinct typically Swedish human kindness.”<sup>101</sup> However, Lemkin’s lectures during the autumn of 1940 were not included in the archives with course lists and registered students.<sup>102</sup> Furthermore, there are no documents indicating that the course was subject to written

<sup>95</sup> Cooper, *Lemkin and the Struggle*, 39

<sup>96</sup> Sundell, *Karl Schlyter – en biografi*, 225.

<sup>97</sup> *Ibid.*, 226-227.

<sup>98</sup> Lemkin, *Totally Unofficial*, 74-75, 155. Lemkin does not mention the name of the journal in his autobiography, he writes “professional Swedish press”. However, at the time SvJT was the only Swedish law journal that could fit Lemkin’s description. However, Lemkin specifically mentions Nial’s review in Raphaël Lemkin, *Valutareglering och Clearing: Bearbetat efter Författarens Föreläsningar vid Stockholms Högskola Hösten 1940* (Stockholm: P. A. Norstedt & Söner, 1941), 168.

<sup>99</sup> Lemkin, *Totally Unofficial*, 75. Lemkin consulted with Eberstein prior to the lectures, among other things the subtitle of lecture series, “Letter from Raphaël Lemkin to Gösta Eberstein,” October 19, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1940 1A:28, translated from German by Filip Recsec.

<sup>100</sup> “Letter from President Sven Tunberg,” December 21, 1940, Stockholm University College Archives, Volume B1:13, 416.

<sup>101</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” October 29, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1940 1A:28, translated from German by Filip Recsec.

<sup>102</sup> “Anteckningslista från Föreläsningar,” Stockholm University College Archives, Volume F 111 F:20.

examination.<sup>103</sup> Nor is Lemkin listed as a faculty member.<sup>104</sup> This suggests that his lectures were extracurricular, optional to attend, which makes sense since the course was only given once and Lemkin’s stay was temporary from the outset.

Lemkin actively sought opportunities to hold lectures at other universities. He had a conversation with Professor Bertil Ohlin (at the time Professor at Stockholm School of Economics and Member of Parliament who later became leader of the Liberal Party and recipient of the Nobel Memorial Prize in Economic Sciences in 1977) who suggested that Lemkin should have a presentation at the Gothenburg School of Business. Lemkin asked Ohlin and Eberstein to introduce him to Rector Hadar Berglund at the Gothenburg School of Business.<sup>105</sup> Berglund expressed interest for Lemkin’s work. Rector Hadar Berglund explained in a letter that their Professor Ivar Sundbom had an interest in the same field but considering that his lectures would be printed in a book they would not send a representative to attend the lectures in Stockholm. However, they expressed their interest to invite Lemkin to hold one or two lectures.<sup>106</sup>

Lemkin and Eberstein became friends and Lemkin was invited on at least two occasions to the latter’s home for dinner, the first recorded in a letter dated April 4, 1940.<sup>107</sup> When he was about to leave Sweden, the table was decorated with small red-and-white Polish flags.<sup>108</sup> In a letter after the dinner Lemkin wrote (in Swedish) that Eberstein’s friendship strengthened him morally.<sup>109</sup> A few days after his arrival in the United States Lemkin wrote a dense six-page letter (in Swedish) to Eberstein from Duke University. The trip had been hard with the train taking 9 days through Siberia, but it had been worth it. Although he knew some Russian, he chose to speak in French and German since the Russian officials did not understand these languages that well. He found Moscow intense, filled with culture and music but also a lot of poverty. He did some sightseeing in Japan, including a visit to Kyoto. In addition, he was very well received at Duke University. At the time he did not know if his book was printed yet. He asked Eberstein to contact the publisher Norstedts and to send a copy. He also asked Eberstein to write to and ask Professor Gunnar Myrdal whether the latter could write a review of Lemkin’s book in the American journals on economics.<sup>110</sup> At the time Myrdal, who was later to become the recipient of the Nobel Memorial Prize in Economic Sciences in 1974, was in the United States. Eberstein did as Lemkin asked. Myrdal wrote in a letter to Eberstein that he had not yet received Lemkin’s book. Myrdal would certainly take a look at it but was not sure whether he would be able to take the time to review it.<sup>111</sup>

Lemkin wrote a second letter (in Swedish) to Gösta Eberstein explaining how valuable their friendship was and which had helped him survive the tough times. He had received a copy of his book *Valutareglering och clearing* (Exchange Control and Clearing). He had received several letters from persons in Sweden who had appreciated the book. Lemkin wrote how his English was gradually improving and that his lectures were going well. It appears as though Lemkin was considering to translate his book– which was already published in French and Swedish as

<sup>103</sup> “Tentamenslistor Finansrätt, Internationell Privaträtt,” *Nationalekonomi*, Hösten 1940, Stockholms Högskola, Juridiska Fakulteten, Stockholm University College Archives, Volume F Ka:2-4, there were no lists for public international law (folkrätt) for the relevant period; see also “Dagbok, Hösten 1940,” Stockholms Högskola, Juridiska Fakulteten, Stockholm University College Archives, Volume IV Bb:1, where there are no documents mentioning Lemkin’s course.

<sup>104</sup> “Stockholms Högskolas Katalog för Hösterminen 1940,” Stockholm University College Archives Volume, D 1 c:9.

<sup>105</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” November 27, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:29, translated from German by Filip Recsec.

<sup>106</sup> “Letter from Hadar Berglund, the Rector (University Chancellor) of the Gothenburg School of Business to Gösta Eberstein,” December 3, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29.

<sup>107</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” April 4, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:28, translated from German by Filip Recsec.

<sup>108</sup> Lemkin, *Totally Unofficial*, 82.

<sup>109</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” March 15, 1941, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29, author’s translation.

<sup>110</sup> “Letter from Raphaël Lemkin to Gösta Eberstein,” April 27, 1941, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29, author’s translation.

<sup>111</sup> “Letter from Gunnar Myrdal to Gösta Eberstein,” August 13, 1941, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29.

explained above - to English taking into account legislation in South America. There is no mention or indication in the letter that he was working on what later became *Axis Rule in Occupied Europe*.<sup>112</sup> From other sources we know that in the summer of 1942, Lemkin was in contact with the Carnegie Foundation regarding the translation of the book from Swedish or French. He approached several expert translators to have the book translated to English from the Swedish version but did not succeed in finding one that would meet the Foundation's requirements.<sup>113</sup> It thus appears as Lemkin's initial plan was to become established in the United States in the same manner as before he came to Sweden, i.e. by asking somebody to review his book – available both in French and Swedish – on exchange control and clearing and later translate it to English. Eberstein was in the thoughts of Lemkin for the coming years, with Lemkin, for example, sending him happy birthday greetings in 1942 and 1944.<sup>114</sup> Lemkin wrote in a first letter from 1943 that he was on leave from Duke University and serving as "head consultant with a certain office in Washington." From other subsequent sources, we know that it was the Board of Economic Warfare, which had the role of coordinating America's war effort following the attack on Pearl Harbor and America's entry into war. He also mentioned the difficult situation of his parents, brother, sister and nephew and asked whether the Swedish Foreign Office could do something for them.<sup>115</sup> In a second letter from 1943, Lemkin described how satisfied he was with the success of his book *Valutareglering och clearing* and that he hoped that his forthcoming book that he was working on at the time, would have the same success.<sup>116</sup> In a letter from 1945, Lemkin expressed interest in Eberstein's pamphlet on "The Right of Artists,"<sup>117</sup> which may be explained by Lemkin's view that the destruction of culture could amount to genocide. In a letter from 1947 to Eberstein, Lemkin expressed sorrow that their correspondence had not continued as was intended but that their friendship was unaffected. He also mentioned that he had met Gunnar Myrdal in Lake Success and described how Myrdal had had great success in the United States with his book "An American dilemma: the Negro problem and modern Democracy,"<sup>118</sup> a study commissioned by the Carnegie Corporation. Myrdal was commissioned because he was not American, Sweden had no background or tradition of imperialism and it was perceived that Myrdal could give a more unbiased opinion.<sup>119</sup> The book was a study of race relations in the United States and was described as a "modern authority" in the landmark *Brown v. Board of Education* case.<sup>120</sup>

Gösta Eberstein was committed to Nordic cooperation, he was an active member of the Swedish church, he was anti-Nazi and he had helped several Jewish refugees during the war.<sup>121</sup> During the

<sup>112</sup> "Letter from Raphaël Lemkin to Gösta Eberstein," June 5, 1941, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29, author's translation.

<sup>113</sup> Cooper, *Lemkin and the Struggle*, 53; Szawłowski, *Raphaël Lemkin's Life Journey*, 43-44.

<sup>114</sup> "Telegrams from Raphaël Lemkin to Gösta Eberstein," December 5, 1942, November 4, 1944, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1942, 1a:30, 1944, 1a:32, author's translation.

<sup>115</sup> "Letter from Raphaël Lemkin to Gösta Eberstein," February 14, 1943, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:31; Lemkin, *Totally Unofficial*, 112; Sands, *East West Street*, 177.

<sup>116</sup> "Letter from Raphaël Lemkin to Gösta Eberstein," April 10, 1943, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:31.

<sup>117</sup> "Letter from Raphaël Lemkin to Gösta Eberstein," December 29, 1945, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:34.

<sup>118</sup> "Letter from Raphaël Lemkin to Gösta Eberstein," October 5, 1947, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1A:35.

<sup>119</sup> Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper & Brothers, 1944), see preface by Frederick P. Keppel, president of the Carnegie Corporation, vi and vii on the choice of Myrdal as general director of the study.

<sup>120</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), 494, fn 11. For Marxism criticism of Myrdal's study, see Herbert Aptheker, *The Negro People in America: A Critique of Gunnar Myrdal's "An American Dilemma"* (New York: International Publishers, 1946).

<sup>121</sup> Interviews with grandchildren jur. kand. Carl-Johan Eberstein, jur. kand. Gösta Eberstein and Christian Åhlund (executive director Legal Association Consortium – ILAC), August 23 and 24, 2016. One of the refugees that can be named is S. Siegel, German Jew and wine trader who lived in the home of Gösta Eberstein during the war. Glemme writes that Gösta's wife Agnes had extraordinary organizational capacity which she used to help refugees, they used the Chapel in Djursholm for this purpose, Ingemar Glemme, *Stiftelsen och dess Ordförande, Djursholms*

war, together with Myrdal, Eberstein had actively supported the *Freie Deutsche Kulturbund*, the most prominent German association in exile.<sup>122</sup> In a discussion organized by student associations at Stockholm University College, Gösta Eberstein stated – in the context of the Second World War – that if what is just is not only made known but also internalized as a value it could stop violence, i.e. the war. The speech was made in May 1942 and he made several references to the ongoing war between Finland and the Soviet Union.<sup>123</sup> Eberstein’s activism had the consequence that Swedish Nazis put him on the list of “traitors.”<sup>124</sup> Eberstein’s commitment against Nazism is further evidenced by the medal that the Danish King awarded him in 1946 for his action during the years of the Nazi occupation of Denmark.<sup>125</sup> Herbert Tingsten, professor in political science at Stockholm University College between 1936 and 1946, initially a socialist but later a liberal who was fervently pro-West and an early opponent of Nazism, in his memoirs described Eberstein as a person who “personifies kindness, right-mindedness and honesty.”<sup>126</sup> Riksmarskalk (marshal of the realm, permanent secretary of the King), during the war president of Svea Appeals Court and professor Birger Ekeberg wrote that during the war, Eberstein was a passionate defender of right-mindedness, which his Danish and Norwegian friends could testify to.<sup>127</sup> Karl Schlyter was on the *tabula gratulatoria* in the *liber amicorum* dedicated to Gösta Eberstein which indicates that they were acquainted with each other.<sup>128</sup> There is some correspondence between them, the letters relating to possible contributions for Gösta Eberstein in *Svensk Juristtidning* while no correspondence is found between Eberstein and Schlyter which relates to Lemkin.

Lemkin published the book *Valutareglering och clearing* (Exchange Control and Clearing) which is an edited text of his lectures at Stockholm University College during the autumn of 1940.<sup>129</sup> The book was dedicated to Gösta Eberstein. The archives reveal that Gösta Eberstein was involved

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*Kapell Restaurering* (Djursholm: Stiftelsen Djursholms kapell, 1989), 43; see also letter *Letter from Gustaf Borgström, Köpmannaförbundet to Gösta Eberstein, April 24, 1944, Ebersteinska Släktarkivet (Eberstein Family Archive) at Swedish National Archive, 1944 1A:32*, where Borgström asks Eberstein to help with housing for the Danish refugee Stampe-Bendix who has to leave her present accommodation. The letter does not give the first name, but it is probably Karen Stampe Bendix. Her father was the Jewish composer Victor Bendix (and mother baroness and editor Rigmor Stampe Bendix). It was in October 1943, half a year before the letter 7 800 Jews fled from Denmark to Sweden to avoid deportation from Denmark by the Nazis. Karen Stampe Bendix is mentioned as a Danish refugee by the anti-Nazi activist Amelie Posse (founder of the anti-Nazi discussion club “Tisdagsklubben” – the Tuesday club). They met May 4, 1945, presumably in Stockholm. to celebrate that the Germans had started to capitulate, Amelie Posse, *Åtskilligt kan nu Sägås* (Stockholm: Natur och kultur, 1949), 410; On Eberstein’s commitment to Nordic cooperation, especially harmonization in the Nordic countries on intellectual property law, see Åke von Zweigberk, “Samverkan Rörande Industriellt Rättsskydd,” in *Festskrift Tillägnad Gösta Eberstein*, 255-279, ed. Birger Ekeberg (Stockholm: Norstedts, 1950), 278-279 and Jan Rosén, “Ekeberg, Eberstein, Ljungman Och Immaterialrätten,” in *Juridiska Fakulteten 1907-2007: En Minneskrift*, 412-421, ed. Claes Peterson (Stockholm: Juridiska fakulteten, Stockholms universitet, 2007), 416-417, 421. Eberstein was raised in a Christian tradition based on the philosophy of Emanuel Swedenborg, i.e. that trinity is one person and one God, not three persons. Eberstein was also inspired by Natanael Beskow (preacher and writer) and Nathan Söderblom (archbishop of Uppsala and recipient of the 1930 Nobel Peace Prize: he was one of the principal founders of the ecumenical movement) Glemme, *Stiftelsen*, 1990, 41-42; See also Åke von Zweigberk, “Gösta Eberstein 80 År,” *Nordiskt Immaterialt Rättsskydd*, no. 3-4 (1960) and Ulf Bernitz, “Minnesord över Gösta Eberstein,” *Nordiskt Immaterialt Rättsskydd*, no. 4 (1975).

<sup>122</sup> Helmut Müssener, *Exil in Schweden: Politische und kulturelle Emigration nach 1933* (Munich: Hanser, 1974), 208 and 449; Dag Mattsson, “Anteckningar om Auktoritetskommittén,” *Svensk Juristtidning* (2013), 147.

<sup>123</sup> Gösta Eberstein, «Anförande,» in *Makt och Rätt: Diskussion vid Stockholms Högskola, 40-43* (Stockholm: Kooperativa förbundets bokförlag, 1942).

<sup>124</sup> *Vem är Vem i Folkfronten? Den Angloryska Propagandans Förgrundsgestalter i Sverige*, (Stockholm 1943), found as reference in Mattsson, *Anteckningar*, 137.

<sup>125</sup> The medal was “Kong Christian den Tiendes Frihedsmedaille,” “Letter from Kgl. Dansk Gesandtskap, Stockholm, to Gösta Eberstein,” May 1946, Ebersteinska släktarkivet (Eberstein family archive), Swedish National Archive, 1A:34, author’s translation.

<sup>126</sup> Herbert Tingsten, *Mitt Liv (My Life), Volume 2, Mellan Trettio Och Femtion* (Stockholm: P. A. Norstedt & Söner, 1961-1964), 194

<sup>127</sup> Birger Ekeberg, “Gösta Eberstein 70 År,” in *Festskrift Tillägnad Gösta Eberstein, 1-6*, ed. Birger Ekeberg (Stockholm: Norstedts, 1950), 5.

<sup>128</sup> Ekeberg, Birger (ed), *Festskrift tillägnad Gösta Eberstein* (Stockholm: Norstedts, 1950), xiv.

<sup>129</sup> Lemkin, *Valutareglering, 1941; Power, A Problem from Hell*, 26. It was reported in SvJT 1942 s. 240 by Christian Eberstein (lawyer secretary of the committee on clearing (1937-1945) and son of Gösta Eberstein).



in printing the book by acting as an intermediary between financiers and Lemkin. The printing of the book was financed by the General Export Association of Sweden (Sveriges Allmänna Exportföreningen), which donated 2,000 kronor for 900 copies and the Swedish Bankers' Association (Svenska Bankföreningen), which donated 600 kronor for 100 copies, the total circulation being 1,500 copies. The Bankers' Association was the first to pledge financial support. Häradshövding (judge) Dahlberg of the Bankers' Association explained that his son had attended Lemkin's lectures and found them easy to understand. However, a significant shortfall was the absence of any references to Swedish circumstances. Dahlberg forwarded his son's suggestion that referencing Swedish circumstances would be beneficial.<sup>130</sup> Eberstein wrote a letter to Lemkin (in Swedish) where he told him about the financial support from the Bankers' Association and asked him to consider the proposal to include references to Swedish circumstances.<sup>131</sup> Eberstein also wrote a letter to the General Export Association of Sweden where he informed them of the support from the Bankers' Association, the quality of Lemkin's lectures (based on the testimony of Dahlberg's son) and asked them for their support, which proved to be successful.<sup>132</sup> Lemkin completed the corrections on March 16, 1941, and submitted the manuscript to the printer (Norstedts) the following day.<sup>133</sup> The contract on the final circulation was 1,500 copies.<sup>134</sup>

Lemkin wrote that this "linguistic victory means a great deal." It gave him intellectual self-assurance and it helped him to rise spiritually from the "refugee" fall of modern man.<sup>135</sup> It appears as if Lemkin's period as a lecturer at Stockholm University College and his book in Swedish left a lasting impression. Lars Hjernner – for a long time the Swedish authority on finance – has in the bibliography of the book *Främmande Valutalag och Internationell Privaträtt* included both of Lemkin's books on foreign exchange and banking laws. Lemkin's name appears already on page three of Hjernner's book, which could be a sign of influence.<sup>136</sup> Lemkin's analysis and conclusions on foreign exchange and banking laws are also noted in more recent research by Michael Hellner,<sup>137</sup> professor at Stockholm University.

When Lemkin arrived in Sweden he had approximately 150 kronor and he received 100 kronor per month from the Jewish community of Stockholm. Prior to the war he had deposited money in a bank in England, whereof he had successfully withdrawn 1,800 kronor, which he needed for his approaching journey to the United States.<sup>138</sup> The relief committee of the Jewish Community of Stockholm was a small voluntary organization that was dependent on the state's policies and decision-making.<sup>139</sup>

### **Stockholm as an Information Junction for Polish Resistance and Evidence of the Holocaust**

As a result of a combination of its geopolitical location and successful realpolitik, Sweden managed to maintain its official policy of neutrality and stay out of Second World War. One of the consequences was that Sweden functioned as a channel for the information between the resistance

<sup>130</sup> "Letter from General Export Association of Sweden (Sveriges Allmänna Exportföreningen) to Gösta Eberstein," March 4, 1941, Ebersteinska släktarkivet (Eberstein family archive), Swedish National Archive, 1A:29; "Letter from Swedish Bankers' Association (Svenska Bankföreningen) to Gösta Eberstein," November 30, 1940, Ebersteinska släktarkivet (Eberstein family archive), Swedish National Archive, 1A:29.

<sup>131</sup> "Letter from Gösta Eberstein to Raphaël Lemkin," December 1, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29.

<sup>132</sup> "Letter from Gösta Eberstein to Managing Director Erik Nylander, the General Export Association of Sweden," December 1, 1940, Ebersteinska Släktarkivet (Eberstein Family Archive), Swedish National Archive, 1a:29.

<sup>133</sup> *Letter from Raphaël Lemkin to Gösta Eberstein*, March 15, 1941.

<sup>134</sup> *Letter from Raphaël Lemkin to Gösta Eberstein*, March 17, 1941.

<sup>135</sup> Lemkin, *Totally Unofficial*, 75.

<sup>136</sup> Lars A.E. Hjernner, *Främmande Valutalag och Internationell Privaträtt* (Uppsala: Appelbergs Boktryckeri, 1956), 3 and 628. Hjernner thanks Håkan Nial – who wrote the reviews on Lemkin's books – for his interest and valuable support in the preface of the book.

<sup>137</sup> Michael Hellner, *Internationell Konkurrensrätt. Om Främmande Konkurrensrätts Tillämplighet i Svensk Domstol* (Uppsala: Iustus Förlag, 2000), 224, 225, and 232.

<sup>138</sup> *Police report*, September 9, 1940.

<sup>139</sup> Rudberg, *The Swedish Jews*, 9.

in Poland and the Government of the Republic of Poland in exile in London.<sup>140</sup> This channel was used while Lemkin was in Stockholm and contained information that was highly relevant to the work he was collecting material on – did Lemkin have access to the information directly or did he rely upon intermediate channels?

The channel through Sweden increased in importance after the Soviet Union occupied the Baltic states in June 1940, closing the Baltic route of information. An alternative route of information through Budapest was closed when Germany, Hungary and Romania attacked the Soviet Union in the summer of 1941. The Swedish businessmen who remained in Warsaw and continued to do business in Poland after the invasion by Nazi Germany were key to the information route through Stockholm. One of them was Sven Norrman, manager in Poland of the subsidiary to the Swedish Industry company ASEA. Others were Carl Herslow (Svenska Tändsticks AB – STAB also referred to as Zündholzmonopol AG), Sigfrid Häggberg (L M Ericsson) and Harald Axell (Polish-American Bank, in Polish: Bank Polsko-Amerykański S.A. BP-A, owned by the Wallenberg family). During 1940 Swedish businessmen in Warsaw, including Norrman, started to act as couriers via Stockholm between the Polish resistance and the Polish Government in exile in London.<sup>141</sup> It was described as the most important information channel for the Polish resistance. At the end of 1940 the international communications of the Polish Home Army (Armia Krajowa) was primarily carried out by Swedes.<sup>142</sup> The Swedish couriers did not only bring documents for the Polish organized resistance and intelligence, they also brought letters and messages for others, including private persons.<sup>143</sup> Levine argues that although Holocaust historians have noted the role by Sweden as a conduit for information about the Final Solution (i.e. the Nazi plan for the extermination of the Jews during the Second World War), they have, apart from Steven Koblick, seriously underestimated its significance just how much information was made available via Sweden between 1939 and 1942.<sup>144</sup> Norrman visited the Warsaw ghetto to witness the situation personally and on May 21, 1942, brought the first large report about the Holocaust, which revealed that Hitler had already murdered 700,000 Jews and had started to use gas to murder Jews. The material reached London at the latest by May 29, 1942, and the story was first broadcasted by the BBC on June 2, 1942. One week later, on June 9, 1942, General Sikorski for the first time mentioned the mass murder of Poland’s Jews. At the same time, the Daily Telegraph published an article with the text “GERMANS MURDER 700,000 JEWS IN POLAND” and the headline “TRAVELLING GAS CHAMBERS.”<sup>145</sup> The Nazi leaders perceived the media coverage as very dangerous, Himmler writing to von Ribbentrop about the Swedish businessmen in Warsaw:

[W]ithin the framework of the entire enemy intelligence operations directed against Germany, the intelligence of the Polish resistance movement assumed major significance... One of the most important lines ran via Stockholm... Subsequent discoveries led to the conclusion that a number of Swedish nationals domiciled in Warsaw, employees of the Warsaw branches of the Swedish companies, ASEA, Ericsson and STAB who frequently visited Sweden for business or personal reasons, should be considered likely intelligence couriers... the most important couriers’ route between the Polish resistance movement in the General-Government and the Polish Government-in-exile in London. Norrman is identified by Himmler as the central figure of the Swedish-Polish intelligence.<sup>146</sup>

<sup>140</sup> Lewandowski, *Knutpunkt Stockholm*, 94, 153-155; Staffan Thorsell, *Warszawasvenskarna: De som Lät Världen Veta* (Stockholm: Albert Bonniers Förlag, 2014), 12, 59.

<sup>141</sup> Josef Lewandowski, *Swedish Contribution to the Polish Resistance Movement During World War Two (1939-1942)* (Uppsala: Almqvist & Wiksell International, 1979), 30-31, 34-35; Lewandowski, *Knutpunkt Stockholm*, 106-107, 138; Thorsell, *Warszawasvenskarna*, 63.

<sup>142</sup> Koblick, *The Stones Cry Out*, 57-58; Lewandowski, *Knutpunkt Stockholm*, 175, 182; Thorsell, *Warszawasvenskarna*, 158.

<sup>143</sup> Thorsell, *Warszawasvenskarna*, 59.

<sup>144</sup> Levine, *From Indifference to Activism*, 114; Koblick, *The Stones Cry Out*.

<sup>145</sup> Lewandowski, *Knutpunkt Stockholm*, 236-246; Thorsell, *Warszawasvenskarna*, 81-92. Koblick writes that Hitler sometime in summer 1941 decided upon a policy of extermination of all Jews within Germany’s control, Koblick, *The Stones Cry Out*, 56.

The Swedish businessmen acted without approval of their companies or the Swedish Government. The state policy at the time was the opposite, for example, on April 23, 1941, the State Council on Media (statliga Pressnämnden) gave new directives to Swedish media to avoid "detailed descriptions of atrocities connected to the war."<sup>147</sup> It is noted that the Swedish state at a later stage changed its policy and abandoned its neutrality, this, according to Levine, coinciding with the implementation by the Nazis of a racial ideology. The shift from indifference to activism by the Swedish state began in December 1942 as a response to the German transport on November 26, 1942, of 532 Jewish men, women and children on a ship from Norway to Stettin and then on to Auschwitz. Sweden consequently advised Germany that it was "prepared to accept all remaining Jews in Norway should they be subject to removal."<sup>148</sup>

The Polish exiled Government compiled the reports that came from occupied Poland in a series called *the Account for the situation in Poland* (hereinafter referred to as *the Account*) and from the winter of 1941 only 100 copies were disseminated to a selected group of prominent persons in a secret fashion. The exiled Polish Government in London used the material in *the Account* to inform the world what is happening in Poland and gain support. Mieczysław Thugutt, contact person of the Polish civil resistance in Stockholm, has stated that all documents in *the Account* from the start of the occupation until the summer of 1942 were smuggled from Poland by Norrman. The reports in *the Account* were used for several books on the situation in Poland, one of them being *The Black Book of Poland*<sup>149</sup> which was translated to several languages, including a summary in a Swedish pamphlet.<sup>150</sup> The first Swedish edition was published in 1942 after Lemkin had left Sweden. The first text in *the Account* contains German occupation laws in Poland,<sup>151</sup> something of great interest to Lemkin. The Holocaust was not given priority and there is not much text on the matter in the first edition of *the Account*. It was treated at a secondary matter. On the other hand, Lewandowski argues that it is surprising that aggressive anti-Semitism was absent from first edition of *the Account*, considering the anti-Semitism that was present in various Polish groups at the time. In later editions one may find aggressive anti-Semitism.<sup>152</sup> Even though the documents transited through Stockholm at the time Lemkin was a resident, there is no information that Lemkin had direct access to or knowledge about *the Account* or the Swedish couriers. However, Lemkin lists *The Black Book of Poland* as one of the works cited in *Axis Rule in Occupied Europe*. The bulk of the text in Lemkin's book is a review of occupation laws and he explains in the section on Poland that the documents used could be found in *The Black Book of Poland*.<sup>153</sup>

### Work on Axis Rule in Occupied Europe

Lemkin wrote that "[a] refugee is, first of all, a state of mind... He becomes like a broken pencil and cannot reunite the lost values of the past with the confused and hostile values of his present state of dispossession. The refugee status is the... fall of the modern man, sometimes the giving up

<sup>146</sup> Report from Himmler to von Ribbentrop, December 31, 1942, 2-3 and 6, reprinted in Lewandowski, *Swedish Contribution*, 86-99 and Lewandowski, *Knutpunkt Stockholm*, 319-332, see also 275-276; Thorsell, *Warszawasvenskarna*, 103.

<sup>147</sup> Thorsell, *Warszawasvenskarna*, 65; Åmark, *Granne med Ondskan*, 227-2451; see also Thorsell, *Warszawasvenskarna*, 120-121, 117-119, 124-127 on the meeting August 21, 1942 between the Swedish diplomat Göran von Otter and Kurt Gerstein, where the later reveals what is happening in Treblinka and Bełżec. The Swedish Ministry for Foreign Affairs did not act on the information. The same encounter is described in Levine, *From Indifference to Activism*, 127-130.

<sup>148</sup> Koblik, *The Stones Cry Out*, 59-61; Levine, *From Indifference to Activism*, 14-15, 136, 138-140. Rudberg states that "the Swedish policy towards Jewish refugees was restrictive until at least 1941" and notes that Levine's hypothesis has been partly challenged and Rudberg, *The Swedish Jews*, 8 and 11. See also Åmark, *Granne med Ondskan*, 139-140.

<sup>149</sup> Polish Ministry of Information, *The Black Book of Poland* (New York: Putnam, 1942).

<sup>150</sup> *En Polsk Svart Bok om den Tyska "Nyordningen" i Polen*, (Stockholm: Trots Allt!, 1942), the pamphlet read for this study has the red stamp "Konfiskerad" (Confiscated [by the State]). See Thorsell, *Warszawasvenskarna*, 67 and Åmark, *Granne med Ondskan*, 242 on the Government decision to confiscate the pamphlet.

<sup>151</sup> Lewandowski, *Knutpunkt Stockholm*, 140-142, 229-235; Thorsell, *Warszawasvenskarna*, 64-67; Åmark, *Granne med Ondskan*, 242-244, 274.

<sup>152</sup> Lewandowski, *Knutpunkt Stockholm*, 143-144, 229-230.

<sup>153</sup> Lemkin, *Axis Rule*, 506 n 1, 641.

of spiritual life and creation.”<sup>154</sup> As noted above, Lemkin stated that the possibility of lecturing in Stockholm made him “rise spiritually from the ‘refugee’ fall of modern man.”<sup>155</sup>

While lecturing at the University College of Stockholm Lemkin collected material for *Axis Rule in Occupied Europe*: legal decrees the Nazis had issued in each of the countries they occupied. The major part of the book consisted of sources similar to those that Lemkin collected in Stockholm and brought with him to the United States. He relied upon the network that he once managed from Warsaw – including a Swedish corporation with offices in Warsaw for which he had sometimes acted as a lawyer and branches in occupied countries, Swedish embassies around Europe and the Red Cross delegations and German occupation radio – to gather official gazettes in the occupied countries. He also found official gazettes of the German Reich in library collections in Stockholm. He hoped to compile these laws to demonstrate the ways in which these laws propagated hate and incited murder. As a lawyer he placed great significance on official documents for understanding Nazi policy. He read the intentions of the Nazi Government from legal enactments such as decrees and ordinances. He perceived these decrees and ordinances as “objective and irrefutable evidence.” Lemkin claims in his memoir that from the documents he could deduce that the Nazi’s aimed for the “complete destruction” of the Jews.<sup>156</sup> Cooper argues that it is far from certain whether Lemkin collected all this information from the decrees before his departure from Sweden. Until the German invasion of the Soviet Union in June 1941, there had been some arbitrary killings of Jews but no major massacre.<sup>157</sup> Cooper cautions against the use of Lemkin’s memoirs as a source, arguing that Lemkin antedates the evolution of his prescient perception of murderous plans either to October 1939, when he was fleeing Poland, or his stay in Sweden, when he started collecting Nazi occupation decrees. Lemkin was probably aware of the ghettos, but it was less likely that he knew of the policy of starvation and the genocidal intent of the Nazis.<sup>158</sup> Another consideration is whether Lemkin had additional sources? It is possible that Cooper does not consider the fact that Stockholm functioned as a channel of information. The city may have been one of the first points outside of Nazi occupied Europe where information about the Holocaust was spread both through documents but also verbally. Koblok writes that reports of Germany’s continued and stepped-up persecution of the Jews reached Stockholm in 1941, since Swedish businessmen, reporters and diplomats were able to move about in occupied Eastern Europe. The postal service continued to function and censored private letters traveled between Sweden and Poland. Although the censorship exercised by Germany eliminated specific details, it did not hide the increasingly harsh fate that awaited Jews.<sup>159</sup> Sands notes that even after his arrival in the United States, Lemkin continued to receive documents from Stockholm.<sup>160</sup>

The available material suggests that at the time when he was in Stockholm, Lemkin had early access to information on the situation in Poland. This was due to Swedish neutrality and Lemkin’s network in Poland. The fact that in his autobiography Lemkin mentioned that Swedish businessmen in Warsaw – who he had worked for as a lawyer before the war – helped him to get documents from Poland and parallel accounts of how Swedish businessmen such as Norrman, Herslow and Haggberg brought key documents from Poland to Stockholm, raises the question of just exactly who it was that helped Lemkin. One may ask why Lemkin did not identify by name the Swedish businessmen who helped him. It is also difficult to access any details on Lemkin’s private practice as a commercial lawyer before the war.<sup>161</sup> Even though Norrman, Herslow and Haggberg today may be perceived as heroes, this was not necessarily the perception in Sweden during as well as after the war. The Swedish businessmen concealed their assistance for the Polish resistance from

<sup>154</sup> Lemkin, *Totally Unofficial*, 67-68.

<sup>155</sup> *Ibid.*, 65; Power, *A Problem from Hell*, 26.

<sup>156</sup> Lemkin, *Totally Unofficial*, 76-77, 116, the decrees were translated to English at Duke University, 111; Power, *A Problem from Hell*, 26; Cooper, *Lemkin and the Struggle*, 46-47; Schabas, *Genocide in International Law*, 31.

<sup>157</sup> Cooper, *Lemkin and the Struggle*, 38.

<sup>158</sup> *Ibid.*, 98.

<sup>159</sup> Koblik, *The Stones Cry Out*, 57.

<sup>160</sup> Sands, *East West Street*, 179.

<sup>161</sup> Lemkin, *Totally Unofficial*, XII; Sands, *East West Street*, 161.

their superiors as they were afraid of being perceived as disloyal to their companies and country. To illustrate their silence, one may note that their work for the Polish resistance was unexplored by Swedish historians until 1976 when a Polish historian – Lewandowski – revealed the story.<sup>162</sup> The question concerning when Lemkin got information about what was happening in Poland is important since some scholars contend that when Lemkin wrote *Axis rule in Occupied Europe* he “did not yet fully comprehend the total planned annihilation of the Jewish people in Europe.”<sup>163</sup>

As noted above, the Swedish couriers did not only bring documents for the Polish organized resistance and intelligence, they also brought letters and messages for others, including private persons.<sup>164</sup> If Lemkin was in contact with Norrman, Herslow and/or Häggberg he might have had up to date access to reliable information about the Holocaust. Obviously, he did not have information about the Nazi extermination camps at the time he was in Stockholm since the camps had not yet been established. Lemkin appears to date the first reports and official knowledge in West about the mass executions to late 1942.<sup>165</sup>

### Conclusion

To summarize, while in Stockholm Lemkin collected material for *Axis Rule in Occupied Europe* which mainly consisted of legal decrees that the Nazis had issued in each of the countries they occupied. Even though it is unlikely that Lemkin received direct access to confidential documents and written reports that Norrman, Herslow and Häggberg smuggled from Poland on behalf of the Polish resistance, it is plausible that he got hold of verbal reports and accounts of the Holocaust that supplemented the decrees. This may in turn have provided him with the context necessary to understand the ongoing events.

As described in this study, Lemkin received valuable help from Karl Schlyter and Gösta Eberstein, who helped him to escape Nazi ruled Europe and re-establish himself as a scholar. It is also notable how other prominent Swedish scholars crossed paths with Lemkin, including Gunnar Myrdal and Bertil Ohlin, both recipients of the Nobel Memorial Prize in Economic Sciences. This study is not only a story about Lemkin, but also about how Swedish academia interacted with a Jewish refugee during the Second World War.

There are some additional, potential leads that may shed light on the connection between Lemkin and the Swedish businessmen, which would require the additional collection of material and research. The author of this study has been given access to the archives of STAB (Swedish Match) and L M Ericsson to check whether their Polish subsidiaries and BP-A (owned by Stockholms Enskilda Bank) had hired Lemkin as a lawyer or had been in contact with him. However, no response has been received in relation to repeated requests to access the archives of ASEA (ABB). In addition, documentation in Poland about Lemkin’s law firm could provide additional potential leads. Furthermore, this study has mainly examined archives in Sweden, which include correspondence sent by Lemkin to friends and colleagues, but not so much correspondence received by Lemkin. Potential depositaries of Lemkin’s correspondence in the United States have been contacted, however this has only resulted in access to fragments of the correspondence Lemkin received.

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<sup>162</sup> Lewandowski, *Swedish Contribution*; Thorsell, *Warszawasvenskarna*, 13 and 277.

<sup>163</sup> Yehuda Bauer quoted in Moses, *Raphaël Lemkin*, 35.

<sup>164</sup> Thorsell, *Warszawasvenskarna*, 59.

<sup>165</sup> Lemkin, *Totally Unofficial*, 117.

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