



East West Street: On the Origins of “Genocide” and “Crimes Against Humanity” by Philippe Sands, Weidenfeld and Nicolson: London, 2016, ISBN-10: 1474601901

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Introduction

I recently watched a new Hollywood movie titled “Nuremberg” and, eventually, a book that I read a while back and the book’s presentation by the author that I attended at the Graduate Institute for International and Development Studies (IHEID) came to my mind. It then got me reflecting on two massive concepts of (international) criminal law, viz. Genocide and Crimes Against Humanity. It is in this spirit that I decided to share a review of the book, as it narrates the origins of these two enduringly relevant concepts.

Philippe Sands’ East West Street: On the Origins of “Genocide” and “Crimes Against Humanity” occupies an unusual, and unusually effective, space between legal history, biography, archival reconstruction, and family memoir. Sands’ central achievement is to show how two foundational categories of modern international criminal law, crimes against humanity and genocide, were not simply coined by jurists in isolation, but were forged in a dense web of place,...

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displacement, loss, and institutional improvisation, in which the city of Lviv (Lemberg/Lwów/Lvov) becomes both geography and jurisprudence. The work follows four interconnected lives, viz. Sands' grandfather (Leon Buchholz), the jurists Hersch Lauterpacht and Raphael Lemkin, and the Nazi Governor-General Hans Frank, whose prosecution at Nuremberg supplied a theatre in which emerging legal concepts were tested against mass atrocity and against the constraints of positive law.¹

East West Street offers more than an origin story. It exposes the constitutive tension at the heart of atrocity law between the protection of the individual, associated with Lauterpacht, and the protection of the group, associated with Lemkin. That tension continues to structure both doctrine and politics. By foregrounding technical drafting choices, including the notorious “semicolon versus comma” episode, Sands demonstrates that international criminal law is shaped by interpretive contingency as much as by moral necessity. The book's relevance is not confined to Europe's mid-twentieth-century trauma. Its analytic frame helps illuminate contemporary struggles over hierarchy and naming in atrocity prosecution, including in domestic systems such as Ethiopia's, which adopted an expanded genocide provision that protects political groups and thereby complicates the conventional post-1948 narrative.

2. Sands' method: narrative as jurisprudence

Sands writes as a practitioner-scholar who is alert to how legal concepts travel, harden, and acquire symbolic capital. Yet the book is not structured like a doctrinal treatise. It operates by assembling overlapping archives, including family testimony, university records, diplomatic drafts, courtroom transcripts, and the afterlives of perpetrators and survivors. This method matters because it resists a comforting teleology in which law naturally progresses after catastrophe. Instead, it depicts law as a fragile language that must be made, word by word, and then defended against the pressures of politics, proof, and institutional design.

For a legal audience, particularly one situated in Ethiopia and the Horn of Africa, Sands' method carries an additional value. It models how legal scholarship can remain rigorous while refusing to separate legal categories from social consequences. Concepts do not merely describe violence; they organise memory, allocate recognition, and distribute legitimacy in the aftermath. In that sense, *East West Street* is also a book about the politics of naming and about the risks of fetishising names.

¹ Philippe Sands, *East West Street: On the Origins of “Genocide” and “Crimes Against Humanity”* (Weidenfeld and Nicolson, London, 2016) ISBN-10: 1474601901.

3. Lviv to Nuremberg: The Personal Geography of Legal Invention

The book's anchor is Lviv, a city of blurred borders that changed sovereignty repeatedly in the twentieth century. Both Lauterpacht and Lemkin studied there under the same intellectual milieu, yet emerged with sharply different legal imaginations. Sands uses this shared origin to resist simplistic hero narratives. Their divergence is not treated as merely temperamental but as jurisprudential, leading to the inquiry into what, exactly, the legal object that atrocity law must protect is.

At Nuremberg, the divergence becomes institutional. Crimes against humanity entered the Charter of the International Military Tribunal as a basis for prosecuting systematic violence against civilians. Genocide, although invoked in rhetoric and in parts of the prosecutorial strategy, did not secure the same textual foothold in the final judgment. The book's reconstruction of this episode is one of its strongest contributions, because it shows how legal recognition is frequently produced by a combination of conceptual persuasion, bureaucratic access, and drafting opportunity, rather than by moral clarity alone.²

Sands' treatment of Hans Frank is especially effective. Frank, a lawyer-bureaucrat who governed occupied Poland, embodies the bureaucratisation of atrocity. Sands draws on Frank's diaries and documentary thoroughness as a form of evidentiary self-incrimination and as an emblem of how modern violence is administered through records rather than through chaotic passion. That evidentiary texture allows Sands to keep the law in view without aestheticising suffering. The legal reader sees why Nuremberg mattered, not because it purified law, but because it built an institutional grammar for speaking atrocity in legal form.

4. Individual Versus Group: The Conceptual Fault-line

Sands frames Lauterpacht and Lemkin as representing two moral-legal grammars. Lauterpacht, associated with the primacy of the individual, sought to pierce state sovereignty by treating systematic violence against persons as an international concern. Lemkin, by contrast, insisted that atrocity often aims at the destruction of a social entity, and that law must therefore name the destruction of groups as such.

Lauterpacht's scepticism about group-protective language rests on a fear that naming groups can entrench the very tribalism that fuels violence. Lemkin's counter-argument is that an individual-only frame fails to capture the distinctive evil of annihilating a people. The book's value lies in the fact that it does not settle the argument. Sands ultimately leaves

² Charter of the International Military Tribunal (London Agreement) (8 August 1945) art 6(c).

the reader in an unresolved, but intellectually honest, space, recognising the force of both positions.

A critical reading can nonetheless heighten the tension. The competition between the two concepts is not only about moral priority. It is also about evidentiary design and institutional incentives. Genocide requires proof of a special intent to destroy a protected group in whole or in part, which tends to produce trials that are highly dependent on inferential reasoning, leadership statements, and patterns of conduct. Crimes against humanity, in contemporary formulations, focus on the context of a widespread or systematic attack against a civilian population, which often better fits the evidentiary realities of bureaucratic violence. The result is a paradox; genocide is rhetorically supreme, but frequently harder to prove, while crimes against humanity may be doctrinally more capacious yet symbolically undervalued.

This is not merely an academic puzzle. It shapes charging strategies, victim expectations, and political bargaining in transitional contexts. It also shapes public hierarchies of suffering, as genocide is often treated, informally and politically, as the “crime of crimes”.³

5. The “Lonely Semicolon”: Legal Technique as Moral Consequence

One of the most striking contributions of *East West Street* lies in its insistence that punctuation and jurisdictional drafting choices can govern the reach of justice. Sands recounts a dispute over the insertion of a semicolon in Article 6(c) of the Nuremberg Charter. A seemingly technical amendment helped constrain the tribunal’s jurisdiction by tying crimes against humanity more tightly to the war nexus, thereby limiting attention to earlier Nazi persecutions, including those between 1933 and 1939.⁴

This episode is not merely anecdotal. It offers a methodological warning that international criminal law is repeatedly shaped by compromises that appear technical at the time but later become doctrinal constraints. Sands thereby invites a broader jurisprudential humility. If law is built through drafting contingencies, later invocations of settled categories ought to be read with an awareness of their constructedness and of the political trade-offs embedded within their textual lineage.

The semicolon episode also reinforces the book’s deeper moral argument that atrocity law is never merely a mirror of violence; rather, it is a selective frame that inevitably includes and excludes. In this regard, Sands does not offer a utopian faith in law, but a disciplined

³ William A Schabas, *Genocide in International Law: The Crime of Crimes* (2nd edn, Cambridge University Press 2009).

⁴ Charter of the International Military Tribunal (London Agreement) (8 August 1945) art 6(c).

insistence that one must look closely at how law's frames were made if one is to use them responsibly now.

6. Contemporary Relevance, including Ethiopia's Legal Experience

Sands situates his historical reconstruction within a continuing world of atrocity politics. His reflections resonate because the core dilemmas remain: whether and when to use the label "genocide", whether crimes against humanity have become the workhorse category that nonetheless lacks the same political force, and how international institutions mediate between legal proof and moral expectation.

The Ethiopian perspective illustrates how domestic systems can both receive and revise international categories. Ethiopia ratified the Genocide Convention early and incorporated genocide into domestic law with a significant expansion, i.e. the 1957 Penal Code criminalised genocide against political groups as well as the Convention's protected groups. This divergence from the Convention's definition is jurisprudentially important. It shows that the post-1948 settlement was never universally received domestically, and that some states treated the Convention's compromise, particularly the exclusion of political groups, as normatively insufficient. Ethiopia's later prosecutions of Derg officials, including Mengistu Haile Mariam, demonstrate how the symbolic prestige of the genocide label can shape prosecutorial strategy in transitional justice, even where crimes against humanity might have been a doctrinally simpler vehicle.

This Ethiopian example also offers an interpretive lens on the hierarchy problem. If genocide functions as a privileged label in international discourse, domestic systems may internalise that hierarchy. Yet where domestic law broadens genocide, the label may lose some of its distinctive function and become a general condemnation category for political violence. That development may increase expressive condemnation, but it may also generate doctrinal confusion if genocide becomes a catch-all category for mass atrocity.

For Ethiopian legal scholarship, especially in leading journals, the book invites two productive lines of inquiry. First, how should domestic atrocity provisions be aligned, or not aligned, with treaty definitions when domestic histories of political violence exceed the Convention's compromise? Second, how do naming choices affect reconciliation, memory, and the legitimacy of prosecutions in contexts where violence was multi-directional and accountability selective?

7. Critical evaluation: strengths and limits

The book's principal strength is the fusion of narrative power with legal seriousness. Sands does not dilute doctrine; he rather renders it legible by showing what concepts did in the

world, and what they failed to do. His depiction of Lauterpacht and Lemkin avoids hero worship by keeping their conceptual limits visible, including Lauterpacht's anxiety about group identity and Lemkin's single-minded lobbying that sometimes appears institutionally naïve. The result is a work that humanises legal invention without romanticising it.

The book also contributes to legal historiography by modelling a form of scholarship that takes travaux-like fragments seriously, not merely as interpretive aids, but as evidence of power, contingency, and contestation. This is particularly salient for readers engaged in treaty interpretation and in the sociology of international law-making.

And yet, as a critical reader, I observe two limitations that merit attention. First, the narrative form sometimes leaves doctrinal structure implicit. The modern elements of crimes against humanity, including the contextual “widespread or systematic attack” and the policy element in some formulations, are not systematically set out. This is not a defect in a literary-legal work, but it means the book is best read alongside doctrinal accounts of contemporary international criminal law.

Second, the framing tends to privilege European origin as the primary genealogy of atrocity law. This is historically defensible given Nuremberg's centrality, but a TWAIL-inflected critique would press for greater attention to non-European experiences that were contemporaneous with, and in some respects constitutive of, international legal development, including colonial violence and its lack of recognition within early post-war legal imagination. The narrative does not deny these histories, but the weight remains anchored in Europe. That choice risks reproducing the tendency to treat European catastrophe as the privileged engine of universal norms, even when those norms were later applied globally.

8. Conclusion

East West Street is an intellectually serious and ethically restrained work that advances international criminal law scholarship by returning legal concepts to their lived and institutional origins. It shows that crimes against humanity and genocide are not merely doctrinal categories; they are competing moral grammars, each with political afterlives that shape how victims are recognised and how perpetrators are prosecuted. Sands' insistence on the fragility of legal drafting, exemplified by the “semicolon versus comma” episode, is a methodological reminder that the reach of justice is often determined in apparently minor textual choices.

For Ethiopian legal scholarship, the book's relevance is amplified by Ethiopia's distinctive domestic genocide provision and by the Derg prosecutions, which illustrate how the

hierarchy of atrocity labels can migrate into domestic justice. Ultimately, Sands leaves the reader with an unresolved but necessary question, one that is as much about law's architecture as about law's ethics: should atrocity law primarily protect persons as individuals, or peoples as groups, and what is lost whenever law chooses one frame over the other?

Conflict of Interest

The author declares no conflict of interest.