RAPHAEL LEMKIN POLISH JURIST, ORIGINATOR OF THE CONCEPT OF "GENOCIDE" AND INITIATOR AND CHIEF ARCHITECT OF THE UNITED NATIONS CONVENTION ON GENOCIDE OF 9 DECEMBER 1948

INTELLECTUAL BIOGRAPHY

TABLE OF CONTENTS

Chapter I RAPHAEL LEMKIN'S COUNTRY CHILDHOOD IN THE GRODNO REGION

1. Controversies as to the date of birth. **2.** Place of birth – the village of Bezwodne in the government of Grodno – then territory of the Russian Partition of Poland; the county town of Wolkowysk. **3.** Family life on a leased farm. **4.** Primary education at home. **5.** Russian school at Wolkowysk, the year 1913; outbreak of World War I, the year 1914; under German occupation (from mid-1915 until these territories were taken over by Poland in April 1919).

Chapter II THE BEGINNINGS OF RAPHAEL LEMKIN'S LONG ROAD TOWARDS THE CONCEPT OF "GENOCIDE"

1. Childhood years: deep social contrasts; Sienkiewicz's *Quo Vadis* and other reading. 2. School years from 1915. Student years from the academic year 1919/20: A. Jagiellonian University in Cracow and expulsion in July 1921; B. University of Jan Kazimierz in Lvov from academic year 1921/22. 3. The influence of news of the assassination, in Berlin in 1921 of Talaat Pasha, former Ottoman Minister of the Interior and henchman responsible for the extermination of Armenians during World War I. 4. The impression made by the murder in Paris, in 1926, of the ataman Petlura, in revenge for the mass murder of Jews in Ukraine. 5. The criminal law seminar of Professor Juliusz Makarewicz at the Jan Kazimierz University in Lvov. 6. *Rigorosa* and the "Austrian" doctorate of law at the UJK in Lwów on 9th July, 1926.

Chapter III FROM THE FINALIZING OF LAW STUDIES UNTIL APPOINT-MENT AS ASSISTANT PUBLIC PROSECUTOR: THE YEARS FROM MID – 1926 UNTIL 1929 INCLUSIVE

1. Military service in Grodno. 2. Serious patronage: work as secretary in the Court of Appeals in Warsaw, combined with articling; his first two independent publications. 3. The highly doubtful matter of Lemkin's studies abroad. 4. Appointment as assistant public prosecutor of the District Court in Brzezany (south-eastern Poland) and speedy transfer, again not without considerable patronage, to an identical post at the District Court in Warsaw. Participation in the criminal law seminar of Professor Waclaw Makowski at the University of Warsaw.

Chapter IV RAPHAEL LEMKIN: THE YEARS FROM 1929/30 UNTIL AROUND MID – 1934

A. Assistant – Deputy Prosecutor – Vice Public Prosecutor from 1933

1. The hierarchy of the structures and service ranks in the Public Prosecutor's Office of the II Polish Republic and correcting certain foreign "sensations" regarding Lemkin's rank. **2.** Thirty-year-old Assistant Deputy Prosecutor Lemkin within the leaderships of two elite legal organizations of the II Polish Republic. **3.** Work in the General Secretariat of the Codification Commission of the Polish Republic (1931–1932); little-known promotion of Lemkin to Vice Public Prosecutor of the Regional Court in Warsaw in 1933. **4.** Didactic activities at the Free Polish Academy in Warsaw and Lodz, and correction of his alleged habilitation there in 1933. **5.** Scholarly publications within the country in this period.

B. Raphael Lemkin as Barrister: the Years from Around the Latter Half of 1934 until September 1939

1. Lemkin's transition from the Public Prosecutor's Office to the Bar; tendentious reasons voiced by certain Western authors; the probable main reason for this transition. **2.** Five years as highly successful barrister in Warsaw. **3.** Further scholarly publications at home and first publications abroad in the years 1934–1939.

Chapter V RAPHAEL LEMKIN'S PARTIPATION IN INTERNATIONAL LEGAL COOPERATION IN THE THIRTIES

1. International intellectual cooperation in Europe after World War I, including the field of unification of criminal law; the creation of the Association Internationale De Droit Pénal (1924), its I Conference in November 1927 in Warsaw, the II Conference in

May 1928 in Rome and the establishment of the International Bureau for the Unification of Criminal Law. 2. Lemkin's participation in the III and IV Conferences: the years 1930–1931. 3. The year 1933: Lemkin's paper – written during situation when criminal events were in the rise in Nazi Germany - send to the V Conference for the Unification of Criminal Law in Madrid, with the concept of the "crime of barbarity", the first step in the direction of "genocide"; the subject was not discussed there, bat was adjourned sine die; the prophetic criticism of this by Professor Vespasian V. Pella; two different versions of Lemkin's paper, of 1933 and 1935. 4. Emil S. Rappaport and Lemkin prevented from taking part in the deliberations held from the spring of 1934 until 1937 in Geneva regarding the draft if the Convention on Combating Terrorism (and the creation of the International Criminal Court) as the result of a negative opinion voiced by Simon Rundstein, in December 1934. Lemkin's earlier letter to the Secretary-General of the League of Nations indirectly offering his services. 5. Lemkin's active participation in the VI Conference on the Unification of Criminal Law in Copenhagen (1935), the IV International Congress of Criminal Law in Paris (July 1937) and the II International Congress of Comparative Law in The Hague (August 1937). 6. Lemkin's membership in the International Law Association since 1934, and his participation broadening this legal horizons, in conferences of the Association: the 38th Budapest (September 1934) and the 40th in Amsterdam (the turn of August and September 1938). Participation by Lemkin in the VII Conference for the Unification of Criminal Law in Cairo (January 1938) and the I Criminological Congress in Rome (August 1938). The proposal of paper topics that was presented by Lemkin for the VIII International Conference for the Unification of Criminal Law planned for December 1939.

Chapter VI THE OUTBREAK OF WORLD WAR II. RAPHAEL LEMKIN LEAVES WARSAW AND POLAND FOREVER. HIS STAY IN SWEDEN. TRAVEL TO THE UNITED STATES

1. German aggression on Poland on September 1, 1939, and Lemkin's evacuation from Warsaw towards Eastern Poland on September 6–7. **2.** Soviet aggression against Poland of September 17, 1939, and his temporary detention by the Bolsheviks; escape routes: Wolkowysk, Wilno, Kowno and Riga. **3.** Stay in Sweden (February 1940 – March 1941); lectures at the University of Stockholm and the commencement of work on Nazi German legislation in occupied Europe. **4.** Spring – Summer of 1940 – efforts to secure an academic position in the United States for Lemkin, that would ensure his immigration visa for him. **5.** Travel through the USSR, Japan and Canada to the United States; arrival at Durham, North Carolina, in April 1941.

Chapter VII A POLE DISCOVERS AMERICA1

1. Friendly welcome at Duke University in Durham; first meetings and impressions. **2.** Visit to Washington; paper read at the annual Convention of the American Bar Association in Indianapolis (September and October 1941); adoption – probably on Lemkin's initiative – of a resolution condemning the illegal activities of the Axis powers in occupied Europe, and expressing sympathy for their "European brothers", and hope for the speedy liberation of their countries; meeting Robert Jackson, probably without a chance of establishing personal contact with him. **3.** Lectures at Durham and renewed intensive work on Nazi German legislation in occupied Europe; paper read at the 44th Session of the North Carolina Bar Association in May 1942. **4.** Acceptance of an offer of work in the Federal Administration in Washington, D.C., June 1942.

Chapter VIII RAPHAEL LEMKIN IN WASHINGTON D.C. (THE YEARS FROM MID – 1942 TO MID – 1945)

1. The situation in the United States, forced into World War II. 2. Position in the Federal Administration; attempts to alert the Vice-President and President of the United States on the genocidal situation in occupied Europe. 3. Unsuccessful efforts to gain an academic position in 1944, before the publication of his *Axis Rule...* 4. *Axis Rule in Occupied Europe* (published November 1944) and the concept and term of "genocide" presented in it; Lemkin's concept still not fully appreciated; not very positive review note by Hersch Lauterpacht (1945) and opinion of Hans Kelsen (1946). 5. Other activities of Raphael Lemkin in that period.

Chapter IX RAPHAEL LEMKIN'S ACTIVITIES FOLLOWING WORLD WAR II (BEGINNING OF 1945 – OCTOBER 1946)

1. Lemkin without paid employment probably from the summer of 1944 rill May 1945. **2.** Lemkin's employment from the end of May 1945 to Judge Jackson and is given, by end of May 1945 in the War Department in Washington; his study on the activities of Professor Karl Haushofer – which earns praise. **3.** First delegation to Europe (late summer – early autumn 1945); the inclusion – in October of 1945 – of "genocide" of in the indictment of the main German War criminals before the International Military Tribunal at Nuremberg. **4.** Return to Washington, D.C. and participation in the preparation for the trial of the Main Japanese War Criminals in Tokyo. Lemkin's memo on genocide

¹ The title of this chapter comes from Lemkin himself in his unfinished autobiography.

to UN Secretary General Trygve Lie, dated May 20, 1946. **5.** Second delegation to Europe (1946); the position of advisor on foreign affairs in the War Department; inspection tour of American Military Tribunals in Germany; June 1946 in Nuremberg; health problems; speech at the conference International Law Association w Cambridge in August 1946; lack of success in connection with peace treaties being prepared in Paris and the Nuremberg judgment (omission of *genocide*); return to the United States in October 1946. **6.** *Excursus* from the Polish scene – "genocide" used in the judgements of the Supreme National Tribunal in the cases of three important Nazi criminals in the summer of 1946 – the cases of Greiser and Goeth (1946) and Hoess (1947).

Chapter X RAPHAEL LEMKIN AS INITIATOR AND CHIEF ARCHITECT OF THE UN CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE OF 9 DECEMBER 1948

1. I Session of the UN General Assembly, fall of 1946: Lemkin's initiative, and auspicious beginning – Resolution 96 (I) of 11 December 1946. **2.** The year 1947: leaving his position at the War Department, expert's work at the UN Secretariat on the first draft convention; work in the UN Commission for the Progressive Development of International Law and its Codification, and in the Economic and Social Council; Lemkin's unsuccessful memorandum on genocide sent to the International Conference on Unification of Criminal Law in Brussels in July; II Session of the UN General Assembly, fall of 1947: decision to continue working on the Convention. **3.** The battle for the possibility of academic work and gaining regular source of income; from the Spring of 1948 at Yale University. **4.** The triumphant year 1948: Lemkin in the summer in Geneva (Session of the Economic and Social Council); Lemkin at the III Session of the UN General Assembly in Paris, fall of 1948: unanimous adoption of the Convention on 9 December 1948 – "Lemkin's Convention"; hospitalization and return to the United States. *Excursus* on Raphael Lemkin and Hersch Lauterpacht.

Chapter XI THE YEARS FOLLOWING THE ADOPTION OF THE "LEMKIN CONVENTION": THE PERIOD 1949 – 1958/1959

1. Expressions of deep appreciation and feeling of success during the first year after his return to the United States; first nominations to the Nobel Peace Prize in January 1950. Successful didactic activity at Yale University, but a conflict arising from late 1949 with the dean of the Law School, and the "financial crisis", still under control, in the first half of 1950. **2.** Lemkin's incomprehensible unethical behavior towards Prof.

RAFAŁ LEMKIN

V.V. Pella, who had always been exceptionally helpful. 3. The successful "crusade" to gain twenty ratifications of the Convention on Genocide (the years 1949–1950), and its entry into force in January 1951; unsuccessful efforts to gain ratification of the Convention by the United States; the case of the advisory opinion of the International Court of Justice concerning reservations on the Genocide Convention, 1950–1951. 4. Leaving Yale University in 1951 and the two periods of unemployment that followed that followed (the years 1951–1955, 1956–1959); refusals from publishing houses. 5. Lemkin's fight for as big a number of ratifications (the years 1951–1959), illustrated by the case of ratification by Belgium and the impressive lobbying with relation to the Federal Republic of Germany; words of appreciation and gratitude expressed to Lemkin at a plenary assembly of the Bundestag on July 8, 1954, and the order awarded him (the Bundesverdienstkreuz). 6. Lemkin's critical stand against manifestations of genocide in the Soviet Union and his accusations of genocide with relation to criminal events in Asia (Korea) and Africa (Algeria). 7. Lemkin's wide-ranging studies in the sphere of the history of genocide, not completed because of lack of funds and premature death; appreciating of the value of his legacy in manuscript only several decades later, and the beginning of its partial publication.

Chapter XII LAST YEAR OF LIFE AND SUDDEN DEATH IN NEW YORK IN THE SUMMER OF 1959

1. Penury in his final years; loneliness, partial escape into poetry. 2. Successive, and final, turning down of his application for a considerable research grant in the United States, this time by the Rockefeller Foundation; persistent lack of success as regards any publication agreements. 3. Unfulfilled hopes of the Nobel Peace Prize; *Excursus* re two Nobel candidates: Raphael Lemkin and René Cassin, unsuccessful and successful candidates. 4. Unexpected death on 28 August 1959, and an edifying obituary in the "New York Times", always benevolent towards Lemkin.

FINAL

Raphael Lemkin after his death – from fairly deep oblivion for many years to a wide re-awakening of international reknown and deepening high esteem in the early 21st century of his work. Lemkin emerging as the most recognizable, "most popular" international lawyer of the last century and the beginning of the present one on a global scale

ANNEXES SOURCES AND LITERATURE LIST OF ABBREVIATIONS INDEX OF NAMES