

Naming the Crime

By Pauline Peretz

Two men, the lawyer Raphael Lemkin and the resistant Jan Karski, realized early on what fate the Nazis had in store for Europe's Jews. Why did their struggle for the political and legal recognition of a crime against an entire people encounter so many obstacles?

*About: Annette Becker, *Messagers du désastre. Raphael Lemkin, Jan Karski et les génocides*, Fayard*

By 1942, the Allies knew of the unique and horrendous fate the Nazis had decided for the Jews. This point is no longer in doubt. They owed this knowledge, consisting of increasingly precise details concerning the modalities and scale of this destruction, to reports from a few men who witnessed the events first hand and who made it their mission to alert those in Great Britain and the United States who were in a position to act. Among these "messengers of disaster" were two Poles—a Jewish lawyer, Raphael Lemkin, and a Catholic resistant, Jan Karski—to whom Annette Becker has devoted two intertwined biographies, in a book that is as potent in its style as in the intensity of its moral and political questioning. In this intellectual history, Becker seeks to find out who these men were before becoming the figures we know them as today: Lemkin, the inventor of the term "genocide," and Karski, who was introduced to the general public by Claude Lanzmann's film, *Shoah*, in which Karski-the-resistance-hero gives way to the Righteous Among the Nations. He also appeared in a 2009 novel by Yannick Haenel.

Conveying the Unthinkable

The two men, whom Becker has chosen to connect by weaving together their biographies and intellectual trajectories, have in common the fact that they both witnessed the atrocities committed against Poland's Jews, grasped early on their unique fate, and refused to remain silent. Lemkin's clear-sightedness was prefigured by his biographical experiences: he was profoundly shocked by the 1915 Armenian genocide and the anti-Jewish pogroms after the war. In 1942, haunted by these massacres, he was quick to see the imminent risk that they might be repeated. After Poland's surrender, he left his country and found, not without difficulty, refuge in the United States, which at the time had placed drastic restrictions on visas. As his family was being massacred in Europe, he decided to devote his life to obtaining legal recognition for the crime of murdering an entire people. As for Karski, he personally witnessed the "annihilation of Lemkin's world" (chapter 2). In the summer of 1942, disguised and accompanied by two Jewish guides, he traveled to the Warsaw Ghetto, then to the selection station at Izbica, where he observed the "spectacle of a dying people." He also witnessed the deaths of human beings piled into freight cars that had been covered in quicklime, which gave him a glimpse of how the systematic destruction of the Jews in gas chambers had occurred.

Profoundly shaken by what they had seen, Lemkin and Karski immediately began to write, to share their knowledge of these atrocities and to argue that intervention was necessary to stop them. Excerpts from their books (*Axis Rule in Occupied Europe*, for the former, *Story of a Secret State*, for the latter) would later be published together in the February 1945 issue of the *Polish Review*. It was through this editorial choice that the two men, who never met, crossed paths. By 1942, they were asking themselves similar questions: how to articulate the unthinkable so as to convince people that it was really happening? What facts should be emphasized to get the allied countries' leaders to act? Was it right to say that the Jews were the victims of a unique fate? Might a non-Jewish witness be more credible in denouncing the Jews' specific fate? The Polish government-in-exile assigned Karski, a Gentile, the mission of bearing witness in the United States—though there is no question that he was also chosen because of the courage he had displayed when arrested by the Gestapo in 1940. In the United States, both encountered what Lemkin in 1943 described as "the conspiracy of silence"—a total lack of reaction, which left them greatly distressed.

Why Inaction?

One of the crucial questions that Becker, like others before her, asks is why the Allies did not respond to the messengers' alert. By July 1941, Churchill knew, after the Enigma code had been broken, that a "crime without a name" was underway, even if he did not

specifically refer to the fate of the Jews. By the summer of 1942, Roosevelt had received reports that left no doubt as to the facts; in the following months, he met the first eyewitnesses. Why didn't the Allies act? Why did they let themselves appear to be complicit in these atrocities?

The first possible answer is that they may have doubted the authenticity of the facts reported to them, even if these testimonials converged with one another and not all the messengers were Jewish. Becker—and herein lies her book's great originality—gives considerable attention to this hypothesis in her central chapter (chapter 3). In her view, the past made it difficult to properly understand the present. In 1942, the Allies were afraid of being manipulated as they believed they had been in 1914 by rumors of German atrocities in Belgium (which might be described today as "fake news")—children whose hands had been cut off, death factories. They were afraid of again being the victims of atrocity propaganda ("*Gruepropaganda*") aimed at increasing hatred towards the German enemy. Since the 1990s, however, historians have shown that these alleged manipulations were no such thing: the Germans did indeed commit atrocities at the outset of the first global conflict. The "myths" of 1914 constitute, for Becker, the primary obstacle to recognizing the atrocities the Nazi regime was committing in 1942. Yet at this date, and unlike in 1914, this barbarism had been preceded by the Nazis' theorization of the Jewish race's inferiority, which at the time was notorious and widely known, as was the discriminatory legislation it inspired. The ideological arsenal of hatred and discrimination having already been formed and activated, could the atrocities reported really be perceived as myths orchestrated by a propaganda campaign, as they had been during the previous war?

A second way of answering the question, one that is more common in the literature, is to maintain that the messengers were heard and even believed, but that those who could have acted didn't want to because they feared the consequences of intervention. Becker explores several clues pointing to this explanation with subtlety and nuance. At the level of principles, intervening on behalf of the Jews meant differentiating between Nazism's victims, and thus endorsing or even reproducing the racial hierarchy advocated by Hitler and which the democracies sought to oppose. The latter thus faced a dilemma. From an operational standpoint, saving the Jews could hurt the broader war efforts, redirecting resources with no guarantee of results and raising the question of where exfiltrated Jews would be hosted, a highly sensitive issue since the Mandatory Palestine had been closed. The Allies were thus convinced that it was first necessary to beat the Nazis before ending the extermination of the Jews. American historiography has often called attention to the role played by several men in shaping this reluctance to intervene, notably Breckinridge Long, the Assistant Secretary of State, who prevented the distribution of information relating to the destruction of the Jews and even went so far as to falsify some documents. Becker refers to his "manifest indifference." More than the role of individuals, the institutional dynamic in the United States should be considered: the rivalries between federal agencies, particularly the State Department and the Treasury Department under Henry Morgenthau, the main actor in the

creation of the War Refugee Board, but also the presidency's continued ascendancy over the Congress, which might well have been sensitive to the Jews' tragic fate, but could no longer perform its duties properly due to the executive branch's failure to pass on information and to the shorter timeframes and exceptional procedures required by the circumstances.

In this refusal to turn the war into a war for the Jews, did the victims' identities not also influence the United States' decision not to intervene? According to a 1938 poll, while the majority of Americans condemned Hitler, they also believed that German Jews were partially responsible for the persecutions they were experiencing. In 1941, when the pilot and pacifist demagogue Charles Lindbergh denounced "war agitators," it was primarily the Jews he had in mind.¹ American anti-Semitism undoubtedly played a role, particularly in the State Department. In emphasizing this anti-Semitism one should not, however, let Jewish organizations off the hook: their responsibility for the American government's inaction has often been noted. Becker mentions the silence of Stephen Wise, a key figure in the organized Jewish community of the period, a great liberal rabbi who was close to President Roosevelt and who apparently understood the State Department's arguments all too well. More generally, the literature shows that American Jewish organizations were split between Zionists and anti-Zionists, establishment groups and newcomers, over what demands to make of the Roosevelt administration and how to go about it. The literature also makes clear that the older or "establishment" organizations were particularly concerned with preserving their reputations as respectable interlocutors and feared that they might fan anti-Semitic sentiment by collaborating with the newcomers, particularly the revisionist Zionists of the Bergson Group.² Consequently, though he would have had much to tell them, Lemkin was never received by these organizations.

Towards the Legal Recognition of the Crime Without a Name

His crusade would thus continue after Germany's defeat through a struggle for the recognition of the crime with no name and the trial of war criminals. Becker offers a fascinating reconstruction of an intellectual process that began in the 1920s, when Lemkin followed the trials of Soghomon Tehlirian who, in Berlin in 1921, assassinated Talaat Pacha, a key figure in what would later be known as the Armenian genocide, and of Shalom Schwartzbard, who, in Paris in 1926, murdered General Simon Petlioura, considered to be the primary perpetrator of the Ukrainian pogroms of 1918-1920. Lemkin was convinced that

¹ See Edward Shapiro, *A Time for Healing, American Jewry since World War II*, Johns Hopkins Press, 1992, chapter one. See, too, Philip Roth's alternate history, *The Plot Against America*, 2004.

² See notably Arthur D. Morse, *While Six Million Died. A Chronicle of American Apathy*, Random House, 1968, Henry L. Feingold, *The Politics of Rescue. The Roosevelt Administration and the Holocaust. 1938-1945*, Rutgers University Press, 1970; David S. Wyman, *The Abandonment of the Jews. 1941-1945*, Pantheon Books, 1984.

the mass extermination that occurred in these instances was no accident, that it was, to the contrary, the very essence of modern warfare to target civilians in their effort to make some peoples and religions homogeneous. This led him to stubbornly seek a legal means to punish crimes against peoples just as one punishes crimes against individuals, as modern crimes require modern laws.

Annette Becker's intellectual history revisits this forgotten moment in which the lawyer hesitated and searched. "Extermination," "cultural," "physical," "genocide": on the yellow, blue-lined pad, of which she has included a reproduction on the book's inside cover, Lemkin's pencil shows the traces of his hesitation, before he finally opted for the term that is used today: this barbarism combined a Greek root—*genos*—with a Latin verb—*occidere*. As a way of referring specifically to the Jews' fate in Nazi Germany, the term took hold in 1943, in chapter 9 of *Axis Rule in Occupied Europe*, which was published the following year. It was, however, immediately used in the plural, so as to encompass the mass crimes that had already occurred by the twentieth century's midpoint. Lemkin understood, moreover, that to justify the term's accuracy and utility, it had to be de-Judaized. In particular, he had to overcome the resistance of legal experts who preferred Hersch Lauterpacht's concept of "crime against humanity," which had been used as a charge at the Nuremberg trials. It referred to crimes against individuals, not groups.³ Some said the term "genocide" was too broad, others that it was too narrow; one sees, in any case, how criticism of this concept has been constant since its adoption by the United Nations in 1948, with the Convention on the Prevention and Punishment of the Crime of Genocide, after an intense lobbying campaign by Lemkin.

Part of the interest of Becker's book lies in the way it reconstructs the problematic circumstances in which the concept of genocide emerged and its "very moderate triumph," though now it has become difficult to control its excessive use and politicization. While it was several decades before the term genocide could be used in a legal setting, due to its non-retroactive character—legally speaking, the term does not apply to the Armenian genocide or to the Shoah, and the first genocide to be characterized as such by the International Criminal Tribunal for Rwanda was the one committed by the Tutsis—one clearly sees, in the book's final pages, the political success to which this term was destined. In the context of the early Cold War, the possibility that the term could be instrumentalized was immediately perceived by ethnic groups that felt persecuted and their allies. Becker offers two particularly powerful examples, which would give rise in subsequent years to intense controversy. In 1951, the Civil Rights Congress, an African-American defense organization, condemned at the United Nations the American government for genocide against the blacks, while in 1954, American elected officials and diplomats (whose government had yet to ratify the 1948 convention) denounced the Soviet Union for the cultural and spiritual genocide perpetrated against the Jews. This accusation would contribute greatly to the success of the international mobilization in favor of Soviet Jewry two decades later. Already one can sense, in the period with which

³ See Philippe Sands, *East West Street*, London, Weidenfeld & Nicholson, 2016 (*Retour à Lemberg*, Albin Michel, 2017).

Becker ends her wonderful book, how this term was summoned to become a highly effective political tool—one that was at times turned against those who had most actively supported making it international law—even if, unfortunately, it has never been as powerful in the legal realm.

Reviewed: Annette Becker, *Messagers du désastre. Raphael Lemkin, Jan Karski et les génocides* (Messengers of Disaster: Raphael Lemkin, Jan Karski, and Genocides), Paris, Fayard, 2018, 288 p., 20,90 €.

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