

The ecocide-genocide nexus: for a 'logics of destruction approach' which definitely overcome liberal definitional legalism and its deceptive bearing on ecocide-genocide prevention

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ABSTRACT: This article is an intervention in a growing scholarly literature and debate on ecocide, genocide and their nexus aimed as much at the teaching of these issues as at their study and research. The context for this debate is what the Permanent Peoples' Tribunal (TPP) has aptly called 'the most persistent war of our time, and the most difficult to win': a war which 'is being waged against nature and the "peoples of nature" by large corporations supported by states and the minority who run them'. The article argues that despite indisputable advances, yet the genocide-ecocide literature still suffers from the same grave flaws that have been at the basis of the disastrous failure of the genocide field (both scholarly and legal-institutional) to give absolute priority to genocide prevention. Many of those flaws lay in the reliance on a legalistic rationality to produce definitions of genocide. The article outlines a very different perspective which, contrary to liberal definitionalism, will be attentive to ecocidal-genocidal processes, logics and structures – a perspective that I name, in the wake of existing scholarship, 'logics of destruction approach'. An examination of a few ongoing ecocides-genocides which exposes the common logics of destruction underpinning each case will show the workings of this perspective. The article concludes with a reflection on the question of justice, true justice, and how it interpellates us, scholars and teachers, and indeed everyone, now that 'the most persistent war of our time, and the most difficult to win' is at its peak and the planet and its denizens risk destruction and extinction.

KEYWORDS: Territory. Non-anthropologising perspective. Logics of destruction. Colonialism. Capitalist expansion.

EL NEXO ECOCIDIO-GENOCIDIO: POR UN ENFOQUE BASADO EN LAS "LÓGICAS DE LA DESTRUCCIÓN" QUE SUPERE DEFINITIVAMENTE EL LEGALISMO DEFINICIONALISTA LIBERAL Y SU ENGAÑOSA RELACIÓN CON LA PREVENCIÓN ECOCIDIO-GENOCIDIO.

RESUMEN: Este artículo es una intervención en una creciente literatura y debate académicos sobre el ecocidio, el genocidio y sus nexos, dirigidos tanto a la enseñanza de estas cuestiones como a su estudio e investigación. El contexto de este debate es lo que el Tribunal Permanente de los Pueblos (TPP) ha denominado acertadamente "la guerra más persistente de nuestro tiempo, y la más difícil de ganar": una guerra que "se está librando contra la naturaleza y los "pueblos de la naturaleza" por parte de grandes corporaciones apoyadas por los Estados y la minoría que los dirige". El artículo sostiene que, a pesar de indiscutibles avances, la literatura sobre genocidio-ecocidio sigue adoleciendo de los mismos graves defectos que han estado en la base del desastroso fracaso del campo del genocidio (tanto académico como jurídico-institucional) a la hora de dar prioridad absoluta a la prevención del genocidio. Muchos de esos defectos residen en la dependencia de una racionalidad legalista para elaborar definiciones de genocidio. El artículo esboza una perspectiva muy diferente que, contrariamente al definicionismo liberal, presta atención a los procesos, las lógicas y las estructuras ecocidas-genocidas, una perspectiva que denomino, siguiendo la estela de los estudios existentes, "enfoque basado en las lógicas de la destrucción". Un análisis de algunos ecocidios-genocidios en curso pone al descubierto las lógicas de destrucción comunes que subyacen en cada caso y muestra de este modo el funcionamiento de esta perspectiva. El artículo concluye con una reflexión sobre la cuestión de la justicia, la verdadera justicia, y sobre el modo en que nos interpela a nosotros, estudiosos y profesores, y en verdad a todo el mundo, ahora que "la guerra más persistente de nuestro tiempo, y la más difícil de ganar" está en su punto álgido y el planeta y sus habitantes corren el riesgo de destrucción y extinción.

PALABRAS CLAVE: Territorio. Perspectiva no antropologizante. Lógicas de la destrucción. Colonialismo. Expansión capitalista.

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SUMMARY: 1. Introduction, 2. Why definitional disputes is the very thing to be avoided, also with regard to ecocide, 3. The ecocide-genocide nexus: the territory and its denizens, 4. The aim, the obstacle and the twofold project, 5. By way of conclusion: 'liberation of territories' – that is justice.

1. Introduction: liberal definitional legalism and its deceptive bearing on ecocide-genocide prevention

That prevention should be the absolutely overriding concern when dealing with genocide ought to go without saying, all the more so for a whole scholarly field constituted in order to study it. However, only lately has the field of genocide studies begun to emerge from the definitional scholasticism in which – with a few most notable exceptions – it has been trapped practically since the early nineteen-forties' discussions leading to the UN 1948 Genocide Convention, and even more so since the nineteen-seventies. Adam Jones (2011, 16-20) provides a list of twenty plus definitions of genocide by prominent scholars going from 1959 to 2009 which does not exhaust the proliferation of definitions throughout these years, a phenomenon now recognised to different extents in the field (see e.g. Moses, 2002; Bloxham and Moses, 2010, which refer to the problem of 'definitionalism'; Verdeja, 2013; and Short, 2016, particularly the chapter entitled 'definitional conundrums'). The chief concern during that time was not genocide prevention, and this despite the full title of the UN Convention, namely, 'Convention on the Prevention and Punishment of the Crime of Genocide', but punishment after the fact, which was predictably approached through a legalistic lens bent on looking at perpetrating individuals, acts (typically of mass killing) and intentions, and at well-defined and clearly delimited groups in what concerns victims, but blind to structures, processes and their logics. This is what Leo Kuper (1994) had to say thirty years ago about the state of the genocide studies field:

'Many definitions of genocide circulate in contemporary discourse and academic analysis, motivated by diverse theoretical perspectives or by ethnocentric preoccupations. They range from at one extreme the objective categorizing of the murder of identifiable groups to the opposite extreme of an exclusionary, ethnocentric emphasis on the unique suffering of one's own group as the target of total annihilatory intent' (p. 31).

A few years later, at the beginning of the new millennium, Dirk Moses' (2002, pp. 8-9) diagnosis was even harsher, as he expounded the deep-seated split in the field of genocide studies regarding the differential treatment given to 'the extermination of so-called native

or indigenous peoples' vis-à-vis that granted to the annihilation of Europeans, above all the Holocaust, that is, the *Destruction of the European Jews*, to designate this catastrophe with Raul Hilberg's sober title. 'The upshot – Moses argues – is that the genocide of European peoples in the twentieth century strikes many American, Anglo-European and Israeli scholars as a more urgent research question than the genocide of non-Europeans by Europeans in the preceding centuries or by postcolonial states of their indigenous populations today'. This diagnosis inevitably brings to mind Aimé Césaire's assertion that the Europeans tolerated 'Nazism before it was inflicted on them, that they absolved it, shut their eyes to it, legitimized it, because, until then, it had been applied only to non-European peoples' (1955) – a fundamental statement which needs however to be supplemented with the equally fundamental avowal that the European oligarchic classes also inflicted Nazism on the European working classes, that, as Linebaugh and Rediker (2012) show, the expansion of modern colonialism and imperialism involved the dispossession, kidnapping, bondage, deportation and transportation of thousands of people (obviously among the poor and working classes) to the colonies, where they were forced to work as indentured labourers.

That such differential treatment stems from and reproduces colonialism goes without saying. More striking is to see the astounding extent to which colonialism is entrenched, including in the scholarly field, where it takes the form of a colonial subjectivity that claims for itself the position of the subject supposed to know while it ignores or rejects something as evident and as central as the link between genocide and colonialism. Indeed, not until 2003 did the first conference on this topic, entitled precisely 'Genocide and Colonialism', take place – Dirk Moses (2008, p. ix), host of the conference, tells us. This subjectivity is at the core, and in my view constitutive, of the aforementioned definitional legalistic approach, a theoretical paradigm which Moses (2002) categorises appropriately as 'liberal'. In effect, among the multifarious manifestations of the liberal doctrine, there is one that stands out: its heavy individualism in what concerns humans, as is well-known, but also – and this is often forgotten – phenomena or processes. It is thus frequent to find liberal scholars, including prestigious ones like Leo Kuper (1981, p. 40), warning against any attempt to contain 'the great variety of historical and social contexts' in which genocides occur within 'a general theory of genocide' – as if the singularity of phenomena were absolute and therefore incompatible with shared background conditions, common processual features and underpinning logics.

Indeed, this fallacious idea is so important in the liberal doctrine that liberal organisations too, including well-reputed ones, often resort to it. Thus, after having provided a kind of list of the dreadful and relentless things that had happened in 2016, Amnesty International does not forget to admonish in advance that 'any overarching narrative seeking to explain the turbulent events of the past year is likely to be found wanting' (2017, p. 12). However, many of the horrors Amnesty International reports involve forced displacements of populations, political-economic processes of dispossession, and dehumanisation of the displaced and/or dispossessed peoples through 'politics of demonization' involving 'powerful narratives of blame, fear and scapegoating' – all standard components of genocidal processes which should put us on the alert that there may be genocides taking place. It is on this basis and in the wake of Macpherson's famous characterisation of liberal political theory as 'possessive individualism' that I think it appropriate to qualify the liberal doctrine in the genocide studies field as the liberal theory of *solipsistic individualism*.

That was the state of the field I encountered a few years into the new century, when I began to teach a course on genocide to undergraduate students (*Human Rights, Genocide and Resistance*, is the current title of the course). If that is the situation of the field, I told the students, then we have to begin elsewhere. But where? Well, in the direction of a radically different theoretical paradigm, one that was gaining ground at the time and which transcends both the liberal paradigm and the one that Moses (2002) considers its opposite and names 'post-liberal' – not a felicitous term which has the added complication that it is also used by contemporary scholars like Alexander Dunlap (2018), but with a rather different meaning and in a positive sense, to designate their own approach – an approach which draws on currents of thought that Moses criticises in that work.

In effect, Dunlap's 'post-liberal or structural approach' (2021, pp. 59-60) is a significant manifestation of the aforementioned alternative paradigm. Yet, I prefer to qualify my own take on the latter as critical criminological and sociological – not very original, certainly, but with the further advantage of avoiding the liberal reference and thereby reminiscent of the beginnings and the nature of sociology as a discipline aimed to unravel and expose, not to legitimise, the capitalist structures and dynamics defining our present. This reference to capitalism is imperative in view of the fact that most ecocides, and the genocides inseparable thereof, are not – contrary to the ordinary way in which we tend to conceive of them – the result of completely abnormal or absolutely exceptional developments, but

part of regular (regularised), normal (normalised) and persistent capitalist undertakings – that is indeed the crux of the matter; things would be much simpler if ecocides-genocides were the consequence of anomalous developments. My own understanding of that emerging theoretical paradigm is that it is essentially concerned with ecocide-genocide prevention and *consequently* attentive above all to processes, logics, structures and their organised agents. It is thus a processual and structural approach which I name – in the wake of Raul Hilberg's extraordinary scholarship, Patrick Wolfe (2008), Dirk Moses (2008), Sheri Rosenberg (2012) and a few other scholars – *logics of destruction approach*.

Ecocide-genocide prevention in this approach is not only the major concern but the overriding point of view. This means that it seeks to contribute, as the whole field of genocide-ecocide (or ecocide-genocide) studies ought to do, to this vital task of preventing such catastrophes from happening. How? Through its truly autonomous and independent scholarship, teaching and public interventions – no mystery here. But this presupposes exiting the cave – yes, the famous Platonic cave. No need to add that this exit has nothing at all to do with the reactionary and devastating 'exits' we have to confront today. For the Platonic gesture is the inaugural philosophical event and in truth the inaugural gesture of all thought. And it is double: exiting the cave and *returning* to it. In reality exit is not a move towards the outside, since there is no outside – the cave apparently being the only abode in town – but an *immanent* exit, that is, a *subjective* move of exit and return, in truth a continuous dialectics, we should describe, in Plato's words, as a subjective '*turning around*' whose radicality can be seen if we recall that the prisoners, for that is the cave-dwellers' condition, are constrained by their chains to stare in one direction alone, 'only ahead of them'.

It is thus imperative to exit the cave – impregnated as it is with liberal legalism and definitional approaches, suffused with colonialism in its multifarious subtle and less subtle forms, imbued with considerable doses of anthropocentrism, and filled with deeply engrained prejudices – and return to it, but now with an unclouded and less prejudiced mind. This article is thus an intervention in the field of ecocide-genocide (or genocide-ecocide) studies aimed as much at the teaching of these issues (genocide, ecocide and the connections between them) as at their study and research. This reference to teaching alongside scholarly work may seem strange. However, students are a reflection of society, at least in part, and through them we can figure out the extent to which they themselves and society at large are intellectually, affectively,

ethically and politically prepared, i.e. subjectively armed, to actively work to prevent these catastrophes.

Indeed, what amazed me in teaching the aforementioned course from the very first year and has since been confirmed to different extents year after year was to see students having very considerable difficulties to overcome a few preconceived ideas they brought to the class which – and that was the major source of amazement – pretty much coincided with some major prejudices underlying the liberal definitional approaches pervading the field. They have to do with the very nature of genocide as something almost impossible to conceive of except as a sudden and monstrous act or event, and the language we use to refer to and think about it, for as soon as we use the G-word, ‘genocide’, something monstrous appears in our mind – and monstrous it is, but perhaps the monstrosity is not something that happens just in an instant. Nor does it take place in a void, without clear background conditions. Clarifying all this in the classroom and beyond is a major aim of this article. But the article seeks to contribute to something more than rising awareness and conveying knowledge, and that ‘more’ has to do with trying to inspire and push people, everyone and anyone, to think and therefore to abide by the consequences of thought.

For ‘it is thought that forbids repetition, not memory’ – a dictum by Alain Badiou (2007) which we now have to widen and add: nor is it liberal definitional legalism that can forbid repetition, that is, prevent genocide-ecocide. Badiou’s dictum was timed against the abuse of the politics of memory in the decades around the new millennium and the misuse of the commemoration of the victims, particularly those of the Holocaust, which had the effect of detracting from and sidetracking the fight against nazism, fascism and other criminal ideologies which were already becoming more and more widespread, including in and from governmental circles.¹ Our addition to Badiou’s dictum may also be timely regarding ecocide and the risk of yet another unhelpful chapter of definitional disputes whose effects would likewise be nothing short of deflecting the discussion from what truly matters:

¹ Let us recall that the World War II Allies, which fortunately won the war, did not fight against Nazism, but against German expansionism; indeed, the Allies were not at all concerned about Nazism – this will surely shock many people among the general public, but is well-known among specialists and indeed anyone who has taken the trouble to look into the problem and seen, among other evidence, Jan Karski’s testimony in Claude Lanzmann’s epic documentary *Shoah*, not to mention Karski’s report of his meeting with the then American President, Franklin D. Roosevelt, which Lanzmann did not include in *Shoah* but published much later in *The Karski Report* (2010) together with most of his recorded interviews (between eight and nine hours) with Karski (see also Badiou, 2006, p. 70, and Winter, 2006, p. 220). I should also refer, to add another piece of most telling evidence, to

accounting for, and thereby provide orientation to fight against, the destruction of ecosystems and their denizens – as we should say from a non-anthropologising perspective.

The first section of the article will therefore deal with the liberal legalism typical of definitional approaches, i.e. the reliance on a legal rationality when trying to account for genocide and/or ecocide and the confidence that this has anything of significance to do with thinking through those phenomena, which once again is becoming quite prominent, as we shall see in some detail, but now in relation to ecocide. That will be followed by a second section on the ecocide-genocide nexus and the crucial concept of ‘territory’ at the heart of that nexus. A third section will try to expound the fundamental logic underpinning most genocidal-ecocidal processes, with its characteristic aim and the obstacle it often finds in the form of peoples and its typical twofold project involving some form of identitarian politics, e.g. nationalism, *and* ‘development’, ‘growth’ or some similar notion. The article will conclude with some reflections on justice, specifically on how we can conceive of justice for the victims, for the targeted peoples and groups, and indeed for all the denizens of the earth.

2. Why definitional disputes is the very thing to be avoided, also with regard to ecocide

The question of ecocide, as I have already said, seems bound to be the object of another futile spell of liberal definitionalism and its corresponding disputes. In effect, as ecocide is not a recognised international crime, a group of jurists and legal scholars convened by the Stop Ecocide Foundation have recently proposed a definition intended to be adopted by the International Criminal Court (ICC) and incorporated in its statute, known as the Rome Statute, as a new crime against peace alongside the four existing ones: genocide, war crimes, crimes against humanity and crime of aggression (see Higgins, Short and South 2013, for the prehistory of this initiative). While it would indeed seem difficult to imagine how making ecocide an internationally recognised and punishable crime can be

what happened in the immediate wake of World War II when, on their return to London, British Jewish ex-servicemen were astonished to see British fascism on the rise and on the streets again, so they organised themselves in ‘The 43 Group’, determined to prevent the monster from rising its head again, now in Britain, something they managed to achieve after nearly five years of struggle. And they did this against the opposition of the British government (Clement Attlee’s) and official Jewish organisations (see Beckman, 2013). Indeed, this official and statist-governmental unconcern and inaction against Nazism and affine criminal ideologies and movements has tragically continued until today, when its catastrophic consequences cannot be ignored any longer.

considered otherwise than as a good and welcome development, all the more so nowadays, when we face impending climate catastrophe, however, things may not be exactly as they appear. For the legal route is driven by aims and logics which have very little to do with those underlying the social scientific endeavour to understand and account for these catastrophic historical phenomena. That difference would not be a problem at all were it not because of the influence of the legal way of approaching these issues, which is such that we risk entering into another cycle of definitional scholasticism, this time concerning ecocide, which not only will not be helpful regarding what above all matters, ecocide prevention, but will make more difficult the properly social scientific endeavour to analyse and explain this phenomenon. Indeed, academic analyses and commentaries have already appeared which are critical of the proposed definition (e.g. Robinson, 2022; Minkova, 2023), but they tend to be done from a largely liberal definitional point of view or strongly influenced by it. For us, however, 'distancing genocide studies from the frame of law', as Jacques Semelin argues (2007, p. 320f), is imperative, inseparable indeed from exiting the cave, if we want to fulfil our social-scientific task of properly conceptualising and thinking through these catastrophic processes.

That definitional approaches to ecocide-genocide are very problematic and essentially useless from the point of view that matters most, prevention, is now recognised by quite a few scholars (see e.g. Bloxham and Moses, 2010; Verdeja, 2013; and Short, 2016). Here I only want to provide a brief overview of the major features of the definitional disputes which have encumbered the field of genocide studies and now threaten to undermine that of ecocide-genocide. But before doing that, and in order to have a clear reference with which to compare the definitions, let me explain in as concise a manner as possible that, when we talk about ecocide-genocide we refer to *processes* (not just *acts*, whether one single act of destruction and killing or a series of such acts) that are driven by an unmistakable *logic* (whether there is *intent* or not) which very often is *colonial*, and are deployed through *stages* that follow a necessary sequence, whether cyclical or recurrent, so that the different stages are repeated a number of times, or in a single deployment.

This understanding – which draws on Hilberg, Wolfe, Moses, Rosenberg and other scholars – also means that genocides and ecocides (and genocides-ecocides) are not random happenings, nor do they take place in a void or out of nowhere. Rather they take place *in the context of distinct historical formations* such as colonialism, imperialism and capitalist expansion,

which implies that the geopolitical and geoeconomic situation is a crucial background condition to consider in accounting for these catastrophic processes. This is in full agreement with Mark Levene's twofold request that genocide, or, in our terminology, ecocide-genocide, 'be placed within a much broader frame of contemporary reference' than is regularly done in the genocide studies field, and that this be done as 'a matter of considerable urgency' (2004, p. 153) – urgency, it goes without saying, exponentially multiplied today.

If we now take the UN 1948 Genocide Convention definition of genocide, we can see, after overcoming the initial impression produced by the use of genocide and other related terms, how little it has to do with the above understanding:

'Article II. In the present Convention, genocide means any of the following *acts* committed with *intent* to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) *Deliberately* inflicting on the group conditions of life *calculated* to bring about its physical destruction in whole or in part;
- d) Imposing measures *intended* to prevent births within the group;
- e) Forcibly transferring children of the group to another group.
- f) Article III. The following *acts* shall be punishable:
- g) Genocide;
- h) Conspiracy to commit genocide;
- i) Direct and public incitement to commit genocide;
- j) Attempt to commit genocide;
- k) Complicity in genocide'. (UN Genocide Convention, UNGC, emphases added)

That the UNGC definition of genocide, of which we have provided here only the central articles, suffers from very serious flaws is no secret. After all the definition has been once and again criticised since its very appearance, although often only to propose more or less similarly problematic definitions. Its fundamental problems are well-known: genocides for the UNGC are 'acts' (not processes which cannot be reduced to acts) of 'killing' or physical destruction (which excludes both cultural genocide, which is inseparable from genocide as killing of human bodies, and ecocide; see Short, 2016) carried out with 'intent' (which actually excludes very many genocides, at least until later stages in the process, which is when intent usually appears) against groups defined in essentialising identitarian terms and thus including national, racial, ethnic and religious but excluding

nothing less than *social* and *political* groups (this would mean, to give just one example, that the 1965 Indonesian genocide was not a genocide).

Indeed, defining the victim groups has probably been the most contested issue in the definitional disputes, with each scholar providing their own essentialising identity categories, as if groups had some permanent and unchanging substance or essence which was inherent to their own being (see Dunlap, 2021, 64). There is also the overall effect the UNGC definition conveys that genocides somehow come from nowhere, for no reason, which neglects and obfuscates the logic(s) of genocidal processes and places these phenomena in the realm of the irrational, thereby approaching this way of conceiving of them to the prejudices of moralism and psychologism, which I have regularly found among undergraduate students, but are more widespread and deep-seated than has been recognised – hence a brief elucidation may be helpful.

Moralism and psychologism in what concerns ecocide-genocide consists in relaying on the prevailing moral dichotomy, *good vs evil* (moralism), or on the chief psycho-pathological opposition, *mad vs sane* (psychologism), in order to try to make sense of, understand and even account for genocide. The implicit or explicit ideas behind these operations state that ‘the perpetrators are evil people’ or ‘the perpetrators are mad’, or ‘such a thing can only be the result of evil’ or ‘only full madness can explain such a thing’, or any other idea along these same lines. But we should not think, as we may be tempted to, that moralism is exclusive to undergraduate students or lay persons, as the theories of radical evil concerning the Holocaust testify – and the same can be said of psychologism. The result of these operations is that both the phenomenon and its ascribed causation are removed from the realm of the regular, the normal, the ordinary, and allocated to the absolutely exceptional, anomalous and monstrous. This is of course reassuring. It is also extremely misleading and disabling. As Raul Hilberg shrewdly put it, ‘wouldn’t you be happier if I had been able to show you that all the [Nazi] perpetrators were crazy?’ That would certainly be very comforting. The truth is not: the perpetrators ‘were educated men of their time. That is the crux of the question’ (Hilberg, 2020, p. 77). And only the truth can help us, if we are up to it, to arm ourselves to fight against these catastrophes and prevent them from happening again.

All the aforementioned flaws of the UNGC definition, and others I have not mentioned (see Shaw, 2015, chapter three, for a more detailed and contextualised critique), risk now being reproduced in what concerns ecocide. In effect, thus reads the definition of ecocide recently proposed, as we

mentioned above, by a panel of experts and intended to be adopted by the International Criminal Court (ICC): “‘ecocide’ means *unlawful* or *wanton acts* committed *with knowledge* that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those *acts*’ (Stop Ecocide International, 2021, emphases added).

It is really difficult to understand how such definition, which is so poor that I prefer not to qualify it further, can be proposed after the endless definitional disputes about genocide. It must be said, though, that with the expression ‘*wanton acts*’ (emphasis added) this definition of ecocide provides what may well be considered as the unsurpassable zenith of legalism and thereby the dullest denial and obfuscation of the logics underpinning ecocidal processes. And the panel of experts’ explanation of how ‘*wanton*’ should be understood only confirms the liberal, in the proper sense of ideologically in favour of capitalism, character of the whole definitional operation: “‘Wanton’ – the panel of experts state – means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated’ (Stop Ecocide International, 2021). We can thus see that a panel of experts proposing to make ecocide an internationally punishable crime believes, first, that ecological damages are acceptable provided that they are compensated by the expected social and economic benefits, and second, that there may be damages that can be considered as ‘excessive’. However, there are no costs or damages that are ‘excessive’ for the system which underpins practically all ecocides going on in the world nowadays and destroying vital ecosystems and the whole planet: capitalism.

This definition is all the more surprising in that in 2010 Polly Higgins, pioneer ecologist and advocate of an international law of ecocide, submitted the following definition to the UN Law Commission as an amendment to the Rome Statute: ‘Ecocide is the extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been severely diminished’ (2012, p. 10; see also Higgins, Short and South, 2013, p. 257). Although this definition is not without problems of its own which Higgins was very aware about, it bears no comparison with the one proposed by the panel of experts in 2021.

But what I find truly remarkable about Polly Higgins is that she was very critical of the legal system, so much so that, in a rare exercise of calling a spade a spade, she sustained that

'Law that is premised on imposed values, such as profit, and ownership leads to short-term gains without examination of the longer-term implications. Currently, our world is predominantly driven by laws that put profit first. So, how do we shift to a new way of being that prioritises intrinsic values?' (2012, p. 9).

Few speak so frankly and truthfully about *the* fundamental problem with a legal system which is intrinsically geared toward capitalism and its requirements, and alien to the protection of the earth and care for its ecosystems and its denizens.

And yet, despite this critique, she did not take it to its ultimate consequences: to the state-supported institutional bodies sustaining and applying international law, that is, the UN International Court of Justice (ICJ, which deals with disputes between states) and the International Criminal Court (ICC, which tries individuals). For it does seem that, given Higgins' critique, it would have been much more apposite to work or collaborate with very different kind of tribunals such as, e.g. the Permanent Peoples' Tribunal (PPT), an international civil society court or tribunal based in Rome recognised as a very active expression of the global struggle for justice, including climate justice, as the case of the Cerrado ecocide-genocide in Brazil, among many others, shows, or otherwise to institute some similar, non-statist or non-official kind of international court, i.e. uncompromising in its devotion to justice and independent with respect to the states and their petty politics *and* gigantic disasters. It is obviously this kind of courts that has real affinity with the social-scientific field of genocide-ecocide, or ecocide-genocide, studies.

The objection that tribunals like the PPT only have symbolic value, but not deterrent power can be easily responded by saying that the same is true of official courts like the ICJ and the ICC – the fundamental difference being that while the deterrent power of the latter is equally negligible, except vis-à-vis very weak states and criminal individuals provided their deeds are not at the service of powerful states, yet, official courts have much less symbolic power and very little credibility. Let us see what the PPT has to say about ecocide and genocide in its final verdict on the ecocide-genocide in the Cerrado, Brazil (for the history, composition, normative frameworks and many other fundamental aspects of the permanent peoples' tribunals, see Byrnes and Simm, 2018).

3. The ecocide-genocide nexus: the territory and its denizens

It is worth quoting in full a core paragraph of the final verdict of the Permanent Peoples' Tribunal Session in Defence of the Cerrado Territories of Brazil:

'The ecocide being perpetrated against the Cerrado and the genocide of the Cerrado peoples are taking place in the context of the most persistent war of our time – and the most difficult to win – which is not between nation states. Rather, it is being waged against nature and the "peoples of nature" by large corporations and the people who run them: the dominant minority, referred to as the "commodities people" by the great Yanomami shaman, Davi Kopenawa. This war is much harder to fight because warlords hide behind the names of conglomerates designed to erase their fingerprints and gain legitimacy day after day by the repetition on the stock exchange trading floors of something intangible called "the market"' (PPT, 2021-2022, p. 38; see also Grain, 2022).

This is different story altogether; let us reflect on some of its main aspects. In my view, the fundamental aspect of this understanding is that, contrary to the prevailing view that ecocides-genocides 'mark a radical rupture with' established 'norms' and are therefore 'aberrant; abnormal; the outcome of sad, malfunctioning polities, usually led by seriously mad or bad leaders' (Levene, 2010, p. 639; Mark Levene criticises this prevailing view, of course), 'the ecocide being perpetrated against the Cerrado and the genocide of the Cerrado peoples' or, as we should say, generalising this initial expression to reflect many other cases, 'the ecocides being perpetrated against multiple ecosystems all over the world and the genocides of their peoples and denizens' are not something really rare or out of the ordinary or abnormal, but *part of ongoing, regular processes*. In effect, they 'are taking place – as the PPT justly states – in the context of the most persistent war of our time', a war which 'is being waged against nature and the "peoples of nature"'. These are the regular, normal workings of capitalism; there is nothing 'wanton' here.

Nor are the agents of these processes unknown or unfamiliar: they are 'large corporations [let us add, supported by states] and the people who run them: the dominant minority'. They know very well what they have to do and what they are doing; only they do not call it war or destruction, let alone ecocide and genocide, but 'development', 'growth', 'innovation', 'progress', 'modernization'. And yet, although well-known, those agents are very difficult to identify and trace (except, of course, the operators on the ground), for they 'hide behind the names of conglomerates designed to erase their fingerprints and gain legitimacy day after day by the repetition on the stock exchange trading floors of something intangible called "the market"' – indeed it is a design feature of these businesses and conglomerates to dress themselves in a variety of mutable organisational forms in order to

create in-built immunities and evade responsibilities, particularly taxation and legal liability (see Frade, 2007). To summarise: ecocides-genocides are regular processes, carried out by well-known agents who are however experts in identity mutation and untraceability.

It is in this context that the nature of the nexus between ecocide and genocide as an extremely violent relation which normally unfolds as a process of growing destructive intensity can be understood. Critical in that respect is the concept of 'territory', which is not just a receptacle for humans, but has its own life, a life that is deeply intertwined with that of humans and other denizens. For the PPT in defence of the Cerrado territories, territory is understood as 'a joint creation between peoples and nature, or rather, as the embodiment of a people's historical fingerprints on the environment' (Grain, 2022, p. 1). This conception is in radical contrast with the notion of 'open' or 'free' space, positive names which really mean available for appropriation and exploitation, underpinning European colonial history. But even land occupied and used by indigenous peoples can be appropriated because, in the purest liberal doctrine as dispensed by Locke, property derives from – in his language – 'improvement', that is – in Ellen Wood's precise formulation – 'from the creation of value, from "improvement" that enhances exchange value' (Wood, 2002, p. 158). Hence, 'land that is left wholly to Nature, that has no improvement of pasturage, tillage, or planting, is called, and indeed it is, *waste*; and we shall find the benefit of it amount to little more than nothing' (Locke, *Second Treatise of Government*, § 42, original emphasis). Such 'waste' land can – indeed, ought to – be appropriated.

This liberal doctrine – an oligarchic class's weapon of legitimisation which, as is often the case with these ideological weapons, is at the core of the spontaneous ideology of our time – was of course applied to the territories of the Cerrado, which – as practically all reports and studies state – were long seen as a wasteland. 'This ecocide-genocide process has only been possible due to the construction of the Cerrado as infertile and ecologically irrelevant, and the Cerrado peoples as backwards and poor. This is used to justify the "clearing" of the land – of its native vegetation and its people – for it to be included in so-called "development" projects (Grain, 2022, p. 2). Actually, the Cerrado is a vast tropical and subtropical biome covering over 20% of Brazil which harbours several ecosystems, from tall, closed forests to marshlands to open grassland (See Hance, 2020), as well as more than 80 indigenous groups (ISPNI undated). Seeing it as a waste land and as a 'No man's land' (*Terra nullius*, land

without a master, as in the old European *Völkerrecht*, right of peoples, known in English as International Public Law) is very convenient to make it available for appropriation. In this way, 'huge swathes of land can legitimately be grabbed for exploitation of grain monocultures, cattle pastures and mining, fundamentally for export'. The consequences of these monocultures, particular soybean, Brazil being its main world producer and exporter, are catastrophic, as 'the soil is stripped of its water and nutrients and a trail of devastation and violence is left in the Cerrado peoples' territories'. No wonder that the PPT has considered 'the spread of transgenic soybean monocultures' as 'a particularly clear case of ecocide and genocide in the Cerrado' (Grain, 2022, p. 3).

Nothing of this is exclusive of the Cerrado. Disqualifying the territory and/or its people is a standard operation in similar cases of ongoing ecocide-genocide, for example, in India, against the Indian indigenous tribal peoples, the Adivasis, about ninety million people, and the territories they inhabit, 'the forest once known as the Dandakaranya, which stretches from West Bengal through Jharkhand, Orissa, Chhattisgarh, parts of Andhra Pradesh and Maharashtra' (Roy, 2011, p. 24). The Adivasis are regularly stigmatised in Indian media and society as backward, savage and brutish. This is in conformity with the upper-caste's or oligarchic class's desires and diktats, the 'citizens of the sky' for whom the Adivasi are – in Arundhati Roy's apposite formulation – 'superfluous people sitting on precious resources' (2009, p. 161). But as is often the case with everything that comes from the oligarchic class, that image of the Adivasi has been deeply interiorised by the urban middle-classes, as is fittingly illustrated by Roy's story of four girls with their puppies in a cool room, one of whom told Arundhati Roy that her brother "'said they're [the Adivasis are] the ones who are holding India back. They should be exterminated. Can you imagine?"' (2009, p. 157).

But there is a fundamental difference between the ongoing ecocides-genocides in the Cerrado and India, aside from the fact that in India it is extractivism, above all the extractive mining of bauxite, what is causing the disaster, namely, the existence of a strong insurgency in India, where there are myriad forms of resistance, armed and unarmed, combatant and non-combatant, although it is the Maoist guerrilla army that undoubtedly constitutes its strongest and most prominent form. The importance of this resistance from the standpoint of prevention admits few doubts when one realises that the ongoing ecocide-genocide has not been consummated.

And yet, some may be tempted to argue, precisely because of the importance of armed resistance, that this is a case of war rather than genocide-ecocide, which would be a deeply mistaken view. Indeed, the idea that defending oneself, as targeted peoples one way or another do to the extent that they can (think of the Herero people, for example), transforms a genocide into a war or into a conflict which can no longer fit the boundaries of genocide, is a deeply engrained prejudice in definitional approaches (for an excellent treatment of the relations between genocide and war, see Martin Shaw, 2015, specially chapter 8). According to this prejudice, targeted peoples have to be passive in order for there to be genocide – indeed, not only are victims required to be passive in order to be victims, but they have to be 'innocent' for this victimary ideology. Actually, there are definitions of genocide that explicitly require innocence, e.g. Horowitz in 1976 and 1996, whose definitions refer to the 'destruction of *innocent* people', or Midlarsky in 2005, which refers to the 'mass murder of *innocent* and *helpless* men, women, and children' (quoted in Jones, 2011, pp. 16 and 19, emphases added). These are good examples of the deleterious moralism I referred to above as a chief hindrance to thought. This seems to be a very widespread and entrenched attitude, at least among higher education students, who often have great difficulties to dismiss the idea of innocence as in any way significant in identifying the victim group in a genocide, including when there is violent resistance.

We have so far mentioned two ongoing genocides-ecocides, the Cerrado (Brazil) and the Indian tribal peoples, the Adivasi, but unfortunately there are many more. Indeed, the cases could be multiplied indefinitely, as the capitalist treadmill does nothing but turn at an ever deeper and more devastating pace. Let me refer here to the indigenous Awaj'un people, from the Peruvian Amazon. In April 2009, the Awaj'un mobilised against the Peruvian President Alan García's 'decrees facilitating the concession of their territories to oil, timber and hydroelectric corporations' (Blaser, 2013, p. 13). The decrees – and this is a most relevant information; Blaser, strangely enough, does not mention it – had been issued in the context of the so-called 'free' trade agreement between Peru and the USA, which had entered into force on February 2009. García's response to the Awaj'un people's protest and demands followed the standard path of dismissing the indigenous demands as irrational and debasing the people as primitive and backward:

'These people are not first-class citizens. What can 400 000 natives say to twenty-eight million Peruvians, "You don't have any right to come round here?" No way, that would be a grave error, and those

who think that way want to lead us into irrationality and a backward, primitive state' (Blaser, 2013, p. 16).

This is what García declared to the press, a press, in case we forget, which is normally, often in large part, in the hands of the same capital that is behind the oil, timber and hydroelectric corporations. Indeed, the Peruvian media 'supported the racist stereotyping of indigenous peoples. Indigenous were routinely portrayed as uneducated or ill prepared and therefore not qualified to participate in any national debate over the future of their country' (Aiello, 2009).

Then, when the protests intensified in early June, García's government, in another standard response, sent militarised police, armed with AKM machine guns, to the Peruvian Amazon region and then the army (López Tarabochia, 2016). However, a significant proportion of indigenous men 'had served as army conscripts who fought in the 1995 war against Ecuador', and there were others who had been trained in 'local self-defence community organizations. These combat veterans were not intimidated by state terror and their resistance to the initial police attacks resulted in both police and Indian casualties' (Petras, 2009). The consequence of the strong resistance and sympathy by a majority of the Peruvian people was that the Peruvian Congress revoked the two most damaging of García's decrees at the end of that same month of June 2009. However, other decrees, e.g. those issued by García the year before in order to prepare the terrain for the 'free' trade agreement with the USA, remain in force and the government has continued its low-intensity war against the indigenous Awaj'n and Wampi peoples, giving concessions to 'investors' in different areas of the indigenous territories and declaring states of emergency on those areas on the basis of – that is the terrible irony – increased conflicts (Peru Support Group, 2024). Thus, as is usually the case, the process continues, whether legally or illegally, or both legally and illegally, bringing more and more devastation to the 'Peruvian Amazon river and communities ... The constant mining activity and presence of the miners has brought violence, crime and sexual exploitation to the Awajún communities and wrought widespread environmental destruction that shows no signs of slowing' (Vera, 2024).

4. The aim, the obstacle and the twofold project

Many aspects of these ecocidal-genocidal processes change from one case to another, depending on the circumstances and the conjuncture, but their pattern and logic are essentially the same. Thus, there is always an aim and there is an 'obstacle' which the aim, so to say, encounters. The aim is the appropriation and plundering of the territory, which obviously involves

the dispossession of the people(s) inhabiting it – people(s) who automatically become an obstacle for those bent on plundering the territory, even a threat for the ‘investors’, and the obstacle has to be removed, displaced or somehow or another reshaped or, eventually, if none of these ways is possible or enough, destroyed. It is often a process of growing intensity which may however take various turns and last many years.

Let us focus on another case, different in many respects, but nevertheless following exactly the same pattern and logic: the Lenca people (Honduras), famous because of a very eminent Lenca, Berta Cáceres, co-founder and coordinator of the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras, COPINH (Civic Council of Popular and Indigenous Organizations of Honduras). Berta was assassinated on 2 March 2016; but she was not the sole one killed, only the most prominent leader and militant. Indeed, ‘at least 109 people were killed in Honduras between 2010 and 2015, for taking a stand against destructive dam, mining, logging and agriculture projects’, according to Global Witness (2016). This same NGO reports that ‘between 2012 and 2022, at least 131 land and environmental defenders were murdered in the country ... A total of 70 of these murders occurred after Berta was gunned down in 2016’ (Global Witness, 2024). These figures in a country often considered among the most dangerous for environmental defenders have to be taken as an underestimate, probably very significant, as environmentalists, land and nature defenders are killed through a method consisting in selective, but regular assassinations of prominent militants and leaders by hitmen and death squads at the service of a set of interests involving the oligarchy, the government and governmental institutions, and multinational corporations.

If killings of this kind were already prominent in Honduras before the *coup d'état* (28 June 2009), they became much more frequent after the coup, which was carried out precisely to eliminate the resistance so as to being able to open up the country and give it over to national and multinational corporations. Behind the coup was obviously ‘the oligarchy and their business interests’, i.e. the ‘eleven families’ that composed the big oligarchy in 2009 plus the ‘1 per cent of the population [who] owns 70 per cent of the wealth’, and, as usual in Latin America, the US government. The oligarchy controls the country through the state, particularly the defence, repression and terror apparatuses, i.e. the army, the police and the judiciary, but also including ‘government departments or ministries which act in favour of the established order and protect the

oligarchy’s economic interests’ (Mowforth, 2014, p. 175, all above quotes).

To those state apparatuses we have to add the corporations’ own security forces, which often act or are like private armies, and the death squads whose violence and killings have intensified since the 2009 coup, as have the criminalisation and dehumanisation of the Lenca, the Garífuna (Afro-descendants) and other groups and indigenous peoples. We thus have a whole genocidal statist assemblage of rather different entities which need not be perfectly coordinated from a central site in order to act in tacit concert according to a shared, very simple logic: selectively but relentlessly eliminating those who oppose the appropriation and pillage of the land and other ‘resources’. The aim is clear: to force the Lenca, the Garífuna, and other targeted peoples and groups to abandon their territories and therefore their way of life.

It is exactly the same in India with the Adivasi. The main differences lay, first, in the prevalence of selective assassinations in Honduras, and then in the fact that in India the government has more control and coordinates much more the Indian apparatuses of war, terror and repression, a lethal constellation composed of the Indian army, one of the most powerful in the world, a special police force which patrols ‘the forest with licence to kill’, police and paramilitary troops like ‘the Central Reserve Police Force (CRPF), the Border Security Force (BSF) and the notorious Naga Battalion [which] have already wreaked havoc and committed unconscionable atrocities in remote forest villages’, the Salwa Judum (Purification Hunt), the antipopular so-called “‘people’s militia” that has killed and raped and burned its way through the forests of Dantewada, leaving 50,000 people in roadside police camps and the rest of the population in the area (about 300,000 people) homeless, or on the run’, and the corporations’ own security armies (see Roy, 2011, pp. 10f).

The logic underpinning these ecocidal-genocidal processes usually involves, tacitly or explicitly, a twofold project. As Arundhati Roy (2009, p. 4 and *passim*) explains, one half is called ‘Union’, the other half ‘Progress’. The union half is always a form of exclusionary union, most often through some variety of identitarian politics, particularly nationalism and its extreme neo-fascist forms, as is the case of Hindu nationalism. The progress half, which also goes under the labels of ‘development’, ‘growth’ (10% annual growth rate, nothing less, was the target in India in the first decade of the century), ‘innovation’ and ‘modernization’, stands for ‘free trade’ or ‘free markets’ or some similar expression whose actual meaning is: freedom to appropriate and plunder the ‘resources-rich’

territories, and therefore, if need be, to displace, and therefore terrorise and eventually kill, its denizens.

In the case of Honduras, the Lenca, the Garífuna and other groups are portrayed as backward and a hindrance to progress, and are therefore excluded from the 'union'. Indeed, as we have seen, this is a general phenomenon, so that peoples or groups opposed to the appropriation and plundering of their territories 'in the Americas and elsewhere, are often cast by governments as a threat to economic development' (Amnesty International, 2017), which means, a threat to 'investments' and profits – apparently the gravest of crimes, an ontological crime. They are also criminalised and labelled as terrorists. One of Berta Cáceres's daughters, Bertha Zúniga Cáceres, described how the churches, and particularly the Catholic Church, major ally and accomplice of the coup regime, "demonised the cultural practices of the Lenca community in Honduras" and other indigenous groups' (Mowforth, 2014, p. 175). And Berta herself, in an interview she gave in 2015, referred to 'the criminalization of human rights defenders, the criminalization of those of us who defend our lands, in laws written to define us as terrorists' (Cáceres, 2020). A variant of this labelling which would be comical were it not tragic can be found in the Adivasi territories in India, where 'a ground-clearing operation, meant to move people out of their villages into roadside camps, where they could be policed and controlled' was put in place. This terroristic method of counter-insurgency, by now well-established, is called 'Strategic Hamleting'. Its result was that Adivasi 'villagers who did not move into camps would be considered Maoists', so that 'for an ordinary villager, just staying at home, living an ordinary life, became the equivalent of indulging in dangerous terrorist activity' (Roy, 2011, pp. 80-81).

'The mining companies desperately need this "war"' – says Arundhati Roy referring to India. We should say, referring now to the whole planet: the capitalist oligarchies desperately need these ecocides-genocides. 'It's an old technique – continues Roy. They hope the impact of the violence will drive out the people who have so far managed to resist the attempts that have been made to evict them' (Roy, 2011, p. 31).

5. By way of conclusion: 'liberation of territories' – that is justice

The standpoint I have considered imperative in ecocide-genocide studies, i.e. prevention, requires us now to pose the question of justice: justice for the victims who will never return; justice for those who are targeted and are fighting to the extent that they can against the destruction of their territory and their own annihilation; justice, finally, for us, for all and everyone.

These different situations seem to demand different contextual responses, although the idea of justice is the same for everyone.

What would justice for Berta be – 'Berta' meaning not only Berta Cáceres, but all those who have been assassinated for defending their territories and way of life in Honduras, as well as their own peoples: the indigenous, black and peasant communities of Honduras. And 'justice' meaning true justice, to the extent that we can approach it, which has nothing to do with legal justice? Actually, as reported by the international press in July 2021, the ex-head of the dam company seeking to construct the Agua Zarca mega-dam in the Lenca territory which Berta and her people were opposing, was found guilty as co-collaborator in ordering murder. This individual was a former Honduran army intelligence officer who had been trained by the US military.

Regarding the trial, COPINH, the association led by Berta, was clear that 'there will be guilty verdicts, but no justice', for 'it is in the interest of the [Honduran] state that there be guilty verdicts, ... but it is a superficial process that is not to shed light on what is behind Berta's killing' (COPINH, 2021a). Indeed, the meaning of punishing the killers on the ground while leaving utterly untouched the whole conglomerate structure behind the killings, killings which continue to take place exactly as before that of Berta, is precisely that such structures, where development banks and big capital as well as the local oligarchy are involved, are the *real* of the legal system, that is, the impossible – in effect, the real is untouchable by definition.

What is, then, justice for Berta? '*Liberation of territories is justice for Berta*', say without hesitation Berta's companions and comrades from the COPINH. They once again 'denounce the model of dispossession and looting that is imposed on communities rich in common goods of nature and who fight for this to be reversed' – a denunciation that 'Indigenous, Black and Peasant-led organizations in Honduras have spent years' making (COPINH, 2021b).

For us too, indeed for everyone, 'liberation of territories' is justice. But there is another question for us, to wit: what can our contribution to justice be now that 'the most persistent war of our time, and the most difficult to win', as the PPT rightly argued, a war that 'is being waged against nature and the "peoples of nature"' – but we all are peoples of nature – is at its peak and the planet and its denizens risk destruction and extinction? That is Berta's answer, which she gave in an interview with the *Guardian*, 20 April 2015, at the time when she was awarded the Goldman Environmental Prize:

‘We must undertake the struggle in all parts of the world, wherever we may be, because we have no other spare or replacement planet. We have only this one, and we have to take action’ (Berta Cáceres).

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