Words describing rights and rights themselves are deeply related. Can we make sense with the avalanche of wording and phrasing around genocide or at least with the main recent predominant usage? Among a real abundance of words and consequent confusion of meanings (humanicide, linguicide, classicide, domicide, ecocide, egocide, gendericide, homocide, urbicide, politicide, ethnicide, indigenocide, patrimomicide, animalicide, autogenocide, culturicide, libricide, democide, and many more as we know), we may need to avoid most of them and welcome some new ones. Can we make sense of the entire array in the end? It is worth the effort. This is up to the readers. Let me just offer some last hints.

Insofar as *Shoah* is likely to become the definitive proper noun for the entire Nazi genocide through the withdrawal of the restricted religious approach and hence *holocaust* appears able to serve as a common term for any genocidal murderous action (all this pace Eli Wiesel), other genocidal acts and processes are badly in need of being distinguished by their unique denominations too, such as *Porrajmos*, *Majda*, and *Pachakuyuy*. Things are more easily remembered when they count on a first name, Christian or rather otherwise. Crimes with no name, however blatant, may be concealed even when voiced (242). As we know, even the G-word may be genocidal.

effects, I agree with S. Wright, *International Human Rights, Decolonisation and Globalisation: Becoming Human* (n. 214), p. 3: "Although I believe it is necessary to place human rights within the socio-political context of European colonial history it is not my intention to denounce or destroy the deeply transformative effect human rights or a belief in their efficacy can have." I am even certain that the former — critical historiography — is most helpful for the latter — human rights potential.

(240) Freeman Dyson, *Rocket Man*, in "New York Review", 55-1, 2008, pp. 8-12, commenting on Michael J. Neufeld, *Von Braun: Dreamer of Space, Engineer of War*, New York, Alfred A. Knopf, 2007, p. 12: "In my [F. Dyson's] work for the RAF Bomber Command, I was collaborating with people who planned the destruction of Dresden in February 1945, a notorious calamity in which many thousands of civilians were burned to death. If we had lost the war, those responsible might have been condemned as war criminals, and I might have been found guilty of collaborating with them. After this declaration of personal involvement, let me state my conclusion: no other than the complete exonerations of Wernher von Braun on the grounds that he used "his God-given talents to achieve his visions, even when this required him to make a pact with the devil," Nazism of course, and after, we may guess, with the angel who never commits genocide, America. Rationalization helps: "In my opinion, the moral imperative at the end of every war is reconciliation." Thus, we may guess once again, even the Holocaust

Furthermore, insofar as it goes unnamed, genocide may be committed with the best of consciences, out of love regarding children and through citizenship-building by constitutional states, as we also know. The *Shoah* may instead be in full sight and in a blinding light, so much so that it may cast an impenetrable shadow over all other cases. The *Shoah* — the Nazi Holocaust — is the sole genocidal incidence for histories of citizenship and the like (240). The


(240) Pace, on this regard, the practical denial from O. Brunner, W. Conze and R. Koselleck (eds.), *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (see n. 226). Check Pietro COSTA, *Civiltà. Storia della cittadinanza in Europa*, Roma, Laterza, 1999-2001, vol. 4, pp. 392 and 355-356, referring to Nazi fundamentals on citizenship: "una strategia che utilizza la testa di la disuguaglianza radicale (antropologica e giuridica) dei soggetti, per un verso per render 'assoluta' l'omogeneità del popolo, per l'altro per predisporre meccanismi di espulsione degli elementi estranei, per creare un 'nuovo' che punga 'definitivamente' al riparo della chiara comunità razziale dall'invasione dei 'parassiti', dalla contaminazione degli estranei e degli inferiori. [...] E quindi del tutto coerente con la logica profonda del discurso nazionale/socialista della cittadinanza il fatto che [...] si prende a coltivare l'idea di una deportazione in massa degli ebrei, per separarli non solo simbolicamente e giuridicamente ma anche 'realmente' del corpo del popolo." These are not-constitutional discourses and murderous practices of citizenship-building by exclusion, yet there are also available and practicable constitutional doctrines and non-bloody policies of similarly genocidal citizenship-building by inclusion. For an analysis of regimes that does not identify genocidal policies as such either, Rogers *Brubaker, Citizenship and Nationalism in France and Germany*, Cambridge, Harvard University Press, 1992, *Nationalism Reframed: Nationhood and the national question in the New Europe*, Cambridge, Cambridge University Press, 1996 (translated into Polish, Warsaw, Naukowe, 1998), and earlier, R. *Brubaker* (ed.), *Immigration and the Politics of Citizenship in Europe and North America*, Lanham, University Press of America, 1989. The point is missing in the best
abundance of common nouns may actually cover up the lack of proper ones.

Let us strive to return helpful meaning to the main set of accepted words; the remainder could be spared or rather reduced to mere elements of the relevant crime. Then we would perhaps be able to add the needed new names for old, unnamed criminal policies and actions. As common nouns with lower case letters, genocide (pace Raphael Lemkin, the later Lemkin) might seriously mean the entire array and any application of disparaging policies against groups — genocide would be genocide in this sense, period — while ethnocide and holocaust might in their turn signify, as this difference between life and death is always important, the non-murderous kind and the murderous kind respectively. Not just the latter but also the former turn out to be crimes against human rights — non-murderous genocidal policies as well. Genocide would be still the family name in any case. Or maybe instead, provided that people definitely appear to assume that genocide is only fully intentional mass murder, the sweeping concept of the G-word is definitely irretrievable and therefore ought to be dismissed right away (244).

In any event, this last realization may not be the end of the story. Today it is the common ground for even contradictory contentions. At this stage, the G-word itself is misleading even when it means the murderous kind. The very current restrictive understanding of genocide as mass killing neither only comes from nor always applies to the Shoah or the entire Holocaust (245). Its range is both broader and exterminating extent. If you search for germane words, this is the kind of message you get: "La palabra etnocidio no está en el Diccionario", "La palabra lingüicidio no está en el Diccionario", and so on. Any need to remember that Spanish, along with English, is a leading linguisical language all around the Americas and beyond? The Dictionary itself is still a genocidal tool or rather weapon. Check definitions of indigenous languages; for instance: "Quechua. (Quisá del nombre de una tribu peruana) [...] 4. m. Lengua hablada por los primitivos quechuas, extendida por los incas a todo el territorio de su imperio, y por los misioneros católicos a otras regiones." No comment on tribes of primitive people and helping Catholic missionaries. Quechua is the most extended indigenous American language nowadays (nm. 106 and 122). Add n. 266.

(244) Reed Dickerson's Fundamentals of Legal Drafting (1985, quoted at Federal Plain Language Guidelines: http://www.plainlanguage.gov/howto/guidelines/bigdoc/writeDefs.cfm) gives a good piece of advice not only for legislators and other draftpersons: "It is important for the legal draftsmen not to define a word in a sense significantly different from the way it is normally understood by the persons to whom it is primarily addressed. This is a fundamental principle of communication, and it is one of the shame of the legal profession that draftsmen so flagrantly violate it." Tobias O. Dorsey, Legislative Drafters Deskbook: A Practical Guide, Alexandria, TheCapitolNet, 2006, p. 222: "Do not define a term to mean something it does not ordinarily mean. Do not, for example, define dog to include cat" or — let me add — genocide to include ethnocide as its non-murderous kind, since — T.O Dorsey adds — "it is at best confusing and at worst unethical. What if the mainstream wording is at best confusing and at worst unethical? Verify this in Spanish as an official body for linguistic accuracy exists here: Diccionario de la Lenga Española, Madrid, Real Academia Española, 22nd ed, 2001 (online: http://buscon.rae.es/draes), the relevant entry: "Genocidio. (Del gr. γένος, estirpe, y- cid) 1 [and only]. m. Exterminio o eliminación sistemática de un grupo social por motivo de raza, de etnia, de religión, de política o de nacionalidad", no mention of either the children's item or the very intent in any case, and with such an
and narrower. For a pervasive common use, genocide means more and less than genocide since on the one hand it is extended to serial killing with no intent to destroy groups as such, and on the other hand it does not reach to non-murderous policies which instead do have with such a target. This is the current meaning of genocide since it is the common use.

Today does the G-word mean what it means; is this what the people mean, and period? Is that all indeed? Are words only words? Is law only law? Are synonyms synonymous? Do both culturicide and ethnocide mean cultural genocide? Does either of them? Does neither of them? Are they not encompassed by genocide? Does ethnocide by no means match genocide? Does culturicide not amount to them? As according to the common use, the constant negative is a linguistic rather than legal answer nowadays. Cultural mentacide comes before and is stronger than open denial, be this either legal or historical. The latter turns out to be unnecessary when the former is achieved. Language, in sum, is in force over historiography and law (246).

The members of a group": the outright murder of all the members of an identified descent group”) is exclusively framed for the case of extinguished indigenous “groups”, not even for the sake of existing peoples still suffering genocidal policies. (246) On mentacide, nn. 48 and 261. For a nonsensical comparison and a preposterous generalization, T.R. Fehrenbach, Lone Star: A History of Texas and the Texans (1968), updated ed., New York, Da Capo, 2000, pp. 9 and 165: “The Spaniards, on arrival, did not commit genocide, but something probably worse: culturicide”, “The specter of Jewish genocide, which haunted many other people, never impinged strongly on the Texan mind.” Regarding the tandem of concepts, even the alternative minus the comparison makes no sense at all, even if the worse option does not seem then to be such a bad thing: T.R. Fehrenbach, Fire and Blood: A History of Mexico (1973), updated ed., New York, Da Capo, 1995, pp. 162 and 182: “The Spaniards in Mexico, did not commit genocide; they committed culturicide”, Hernán Cortés “planned no genocide. He did plan culturicide, however, and this is probably why the modern age, with its enormous biases toward self-determination, cannot forgive him. All the major dimensions of civilization […] have been in some sense crimes against humanity. In the broadest perspective, it is impossible to apply criminality or morality across ethnic lines.” Check the specifically Texas genocide as the denied and blocked background of Lone Star, Fire and Blood and, if it somehow exists, Texan Mind: n. 131; for a light sign of American rather than Texan genocide along with the reference to Spanish policy “of stifling alien cultures, not genocide”, T.R. Fehrenbach, Comanches: The Destruction of a People (1974), New York, Da Capo, 1994, pp. 155 and 483-484. Contrast now B. Lennard, Beyond Genocide? Away from Denial?

That is not all, far from it. Certainly, law and legal construction are not just different but they are also more important than language and linguistic history, if only the latter were not necessary for the former — words for rights. Language is in force through law as well as vice versa. Only naked force may go without words. In the end, law is effectively built and may be torn down — constructed, deconstructed, and reconstructed — by the performance of words — by their performative force. By their works you shall know them (247). Denial may be embedded in words, even in those that try to mean otherwise. Genocide is prevented through words too. Given the nature of the link between crimes and rights, there is something that can be taken for granted. Whatever the names are — proper or common nouns, European wording and spelling or otherwise — the pangs of genocide shall pass as human rights will rise. All forms of genocide will surely pass away just as human rights on an equal

footing will at last rise. Yet the itinerary is paved by words. Words are means for rights as they may be also for crimes.

Pay heed to the 2007 Declaration on the Rights of Indigenous Peoples. As we know, a former draft included the banning of "ethnocide and cultural genocide" or rather the right not to be a victim of any kind of genocide at all, yet such an explicit reference has been finally cancelled. For that matter, though non-murderous policies are not named by a word that implies a crime, the relevant cultural rights — above all rights to your own culture and polity — are properly registered through a phrasing in the negative that comes from the consideration of the respective violations as serious crimes and strengthens the recognition: "Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture" (art. 8.1). And in any case, regarding mass murderous acts, the Declaration on the Rights of Indigenous Peoples refers to genocide, not extermination, which may be significant after the consolidation of this distinction in 1998 by the Statute of the International Criminal Court — a distinction coming from the Nuremberg Trials on the grounds that genocide was not taken into consideration (248).

Let me insist. Rights and only rights — not any other grounds or other devices for policies however humanitarian — are the basis and the route, defining principles and determining proceedings, for the eventual eradication of the crime of genocide both cultural and murderous. Rights' law on an equal footing is the only way (249). Otherwise, the logic of supremacism leads to a final turn of the screw whereby, for both history and law, executioners are transformed into victims as the victims are deemed to be the executioners (250). If denial is the major problem not just for historiography

Indigenous Issues, with the monitoring role. Furthermore, the "full implementation" of human rights law by international bodies in cooperation with states is the rule now, since the establishment of the Human Rights Council. See Appendix, Texts XII and XIV, especially arts. 3.e and 42 respectively.

(249) As it consists of a critical comment on virtual law rather than factual history and besides apropos of my Genocidio y Justicia (n. 11), let us check A. Moreiras, On Infinite Decolonization (n. 220), concluding: "[T]he law of infinite restitution destroys itself as law and is no defense against genocide, and no appropriate tool for decolonization" (in his language, the law of infinite restitution refers to both the indigenous right to self-identification as the starting point for self-determination and the non-indigenous responsibility for past policies and acts of genocide, though the review focuses on the most limited and even figurative depiction of the former: "the restitution of the proper name" as the "right to the property of the proper"); p. 22. "There can be no restitution. The thought of infinite restitution is merely delusional, when not sheer ideology", then demanding: "[S]hould we not at least refuse to be colonized by the pretense of its opposite?", and conveying his answer through the criticism of Genocidio y Justicia: "[T]he book might show, contrary to its best intentions, how infinite or radical decolonization is not really decolonization but rather a curious form of recolonization: an aporias decolonization, which only decolonizes in order to better colonize." For a more extensive version, A. Moreiras, Beyond the Line: On Infinite Decolonization, in "American Literary History", 17-3, 2005, pp. 575-594. Let me add a quotation from both versions, On Infinite Decolonization, p. 27, and Beyond the Line, p. 591: "The right to full subjectivity is the right to infinite restitution, which is the infinite right to the property of the proper, which is the right to infinite subjectivity. Anybody can see that we are in the middle of a vicious circle here." No doubt the critic is absolutely right about his approach rather than mine or any other that is based on rights. Circular verbosity helps to cover the implied denial of colonial genocide and to practical effects, to hinder polities' accountability: "[S]hould we not at least refuse to be colonized by the pretense of its opposite?" (the shocking question also duplicated by the latter version: Beyond the Line, p. 592).

(250) N.A. Robbins, Native Insurgencies and Genocidal Impulse in the Americas. Bloomington, Indiana University Press, 2005, pp. 2-3: "[T]his work identifies a genre of social uprising in Latin America, that of indigenous exterminatory millenialism,
but also for justice, for both representation and redress, this reversal is the most perverse form (231). Massacred peoples are labeled as perpetrators of genocide, no need then to scrutinize the record of

through examining the links that may sometimes be found, but are not inherent, between genocide, millenniumism, and nativist movements", the caveat of non-inherence being immediately reversed by the very last turn of the screw: "(Genocide was a tool for the rebirth of native ways and rules, for the establishment of a native state, and for ensuring that the threat of alien domination would not return?", for another caveat likewise inoperative, p. 7: "[T]his study recognizes that the Indians were victims of genocide as well as ethnocide — or the effort to eliminate a culture, but not its people — committed by the Hispanics"; on the contrary, p. 11: exterminatory "[g]enocide was not only consistent with rebel [indigenous] actions, it was among their objectives", thus the introduction being concluded (relate narrative to law, n. 47; then, by Schabas' standard, only indigenous peoples qualify as genocide's perpetrators in America). For Robins' earlier elaboration on a single case, *Genocide and Millenniumism in Upper Peru: The Great Rebellion of 1789-1782* (n. 131), p. 1: "The focus on the Indian as victim of varying forms of genocide, and its related debate, has evolved with the times [...]. Despite its importance, this debate continues to obscure the fact that the native peoples experienced genocide not only as victims, but also as perpetrators. "The suspension points spare Robins' mean hints about past and present debate. For a fine contrast to the marked bias of *Genocide and Millenniumism's* assumptions, Sinclair Thompson, *We Above Will Rule: Native Andean Politics in the Age of Insurgency*, Madison, University of Wisconsin Press, 2002; Sergio Sternokon, *Subverting Colonial Authority: Challenges to Spanish Rule in Eighteenth-Century Southern Andes*, Durham, Duke University Press, 2003; Ward Stavig and Ella Schmidt (eds.), *The Tupac Amaru and Catarista Rebellions: An Anthology of Sources*, Indianapolis, Hackett, 2007. For the usual outright denial of genocide's colonial roots, this time by an expert on Sub-Saharan history, Alessandro Tranquilli, *La colonia come spazio di esclusione*, p. 363, in "Quaderni Fiorentini per la Storia del Pensiero Giuridico Moderno", 33-34, 2004-2005, vol. 1, pp. 359-378. Add n. 268. (231) A. M. Denhoffitz, *The Case for Israel* (n. 236), pp. 140-153: Has Israel Engaged in Genocide against Palestinian Citizens?, the negative answer leads to the reversal of the blame, pp. 152-153: "[I]n part has attempted genocide during the Arab-Palestinian-Israeli conflict. The self-proclaimed Arab War of Extermination in 1948, the targeting of Israeli cities by Arab armies during the 1948, 1967, and 1973 wars, and the continuous terrorist attacks that have killed thousands of Israelis, Jewish, and other civilians can be characterized as attempted genocide. Israel's effort to protect its citizens from these mass murders by attacking Arab military targets can only be labeled as genocide by a bigot willing to engage in Orwellian turn against a people that was truly victimized by the worst form of genocide."

For the debate on Denhoffitz' positions, besides N.C. Finkestein, *Beyond Chutzpah* (n. 236 too; and at his webpage: http://www.normanfinkestein.com/article.php?pg=4&ar=1), Michael Neumann, *The Case against Israel*, Petrolia, CounterPunch, 2005, bearing a point of comparison between Israel and another polity, p. 90: "The mere fact that, say, the United States is

the alleged victims. Thus even people who fight genocide may become deniers (252). This has to do with something other than some particular authors. The mainstream standards for accurate representation of relevant history concerning both the past and the present directly lead to misrepresentation, which means denial (253).

founded on genocide, massacre, and exploitation is not sufficient reason to destroy the United States." Check no. 127 and 213.

(252) I.W. Cronin, foreword to *Genocide and Millenniumism in Upper Peru* (n. 131), p. X: "Dr. Robins is reminding us that the evil of perpetration of genocide is, tragically, available everywhere in the human species", his italics, as if this were the question at stake when victims of colonial genocide are turned into willing executioners (n. 250). Israel Cronin, the former executive director of the Institute on the Holocaust and Genocide in Jerusalem and editor-in-chief of the *Encyclopedia of Genocide* (n. 59), a professor of psychology at the Hebrew University of Jerusalem and expert in family therapy after traumatic experiences, has been committed for half a century to the cause of studying and preventing genocide, especially by fighting denial: I.W. Cronin, *Anatomia do Genocidio: Uma Psicologia da Agressão Humana*, Rio de Janeiro, Rosa dos Tempos, 1998; 'Innocent Deniers' of known genocides: a further contribution to a psychology of known genocide (revisionism), in "Human Rights Review", 1-3, 2000, pp. 15-39; A classification of denials of the Holocaust and other genocides, in "Journal of Genocide Research", 5-1, 2003, pp. 11-34, on both malevolent and innocent deniers (the honest deniers of being deniers, deniers "who profess standards of human rights and historical justice and are not driven by any tangible rewards"); My Background Both as a Psychotherapist and as a Peace Researcher Studying Genocide, in his *Fascism and Democracy in the Human Mind: A Bridge between Mind and Society*, Dexter, Thomson-Shore, 2006, pp. 371-378. Aware and vigilant as he is (A classification of denials, p. 15, one of the forms of denial: "it was the victims who really did the genocidal killing"), how could he come to endorse a work loaded with a negationist scope by blaming the victims of colonial genocide, namely the Pachakuyu? (He insists: A classification of denials, p. 16, drawing on *Genocide and Millenniumism* and disparaging as well as inaccurately referring to the alleged perpetrators as "underdog peoples"). This might have something to do with not just the sophistication of Robins' approach but also the raveled atmosphere surrounding the issue in the bosom of Israeli society stuck between religion and politics, namely Shoa's sacred memory and colonialist state policy. Add the supremacist and ignorance implied by the references to indigenous peoples. Regarding Africa, Lenkin himself tended to charge the victims. At the present stage, the reader is surely acquainted with the set of notes dealing with all these most troubling facts.

(231) David Himler, *Numbers from Nowhere: The American Indian Contact Population Debate*, Norman, University of Oklahoma Press, 1998, p. 8: "In the circumstances, disputants are forced to take liberties with the evidence and presentation, for to maintain rigorous standards would be to abandon the contest as unwinnable"; Angela Cavender Wilson, *American Indian History or Non-Indian Perceptions of American Indian History?, in Devon A. Mikesiah (ed.), Natives and Academics: Researching and
In the face of all kinds of denial, let us never forget the numerous pending cases, a very long set indeed since genocide has been pervasive and past acts of genocide may still be present through either standing policies or stubborn ignorance. Denial may be a way of keeping genocidal offenses alive. The impunity of crime fosters crime. In fact, denial goes together with both perpetration and acknowledgment. Cases multiply even regardless of present intent. Genocide was there before genocide. Genocide is here beyond genocide — cultural genocide besides murderous genocide. The former must be prevented both by itself for rights’ sake and for the prevention of the latter. The better they are identified, the better they are prevented. Cultural genocide evolves.

Writing about American Indians, Lincoln, University of Nebraska Press, 1998, pp. 23-26; Linda Tuhiwai Smith, Decolonizing Methodologies: Research and Indigenous Peoples, London, Zed, 1999, particularly referring to the Maori people in Aotearoa (a.k.a. New Zealand), p. 140: “This [research] domain is dominated by a history, by institutional practices, and by particular paradigms and approaches to research held by communities and like-minded scholars [...].” [R]esearchers are trained to conform to the models provided for them.” For a most illustrative case about contested standards between oral history and written records, political concern and scholarly work, in relation to acts of genocide in America, 2006 Report of the Investigative Committee of the Standing Committee on Research Misconduct concerning Allegations of Academic Misconduct at the University of Colorado at Boulder against Professor Ward Churchill (online: http://www.colorado.edu/news/reports/churchill/download/WardChurchillReport.pdf). There is no need to further illustrate misrepresentation since a number of previous notes may be helpful.

(234) Jerzy LOMA, Genocide and Ethnic Cleansing: [The Fate of Russian ‘Aliens and Enemies’ in the Finnish Civil War in 1918, in “The Historian”, 69-2, 2007, pp. 254-274 (including as victims — along with Russians — Estonians, Latvians, Lithuanians, Poles, and Ukrainians), on p. 263: ‘Is it possible to commit genocide before the term existed?’ Yes and no. Historical justice for contemporary people does not require a researcher to ‘condemn’ them according to later laws, technical terms, or knowledge that did not exist at the time. A historian mainly tries — from a particular point of view and set of questions — to find out what has happened on the basis of sources. Apart from this role and the ethics of historical research, legal penalties and condemnation have been imposed, for example, at Nürnberg and The Hague. The methodological and ethical anarchism notwithstanding. I consider it acceptable to compare this action and these norms with later actions and norms. This assumes historical continuity and perhaps historical interconnection.” Add the legal connection and the approach excels for all cases, not only Russia versus Finland, conversely (just remember the “ethnic cleansing” of Karelia by Russia; add Dovleti BATTYE, “We Call It Genocide”: Soviet Deportation and Repression in the Memory of Lithuanians, in K.S. Frey (ed.), The Genocidal Temptation: Atrocities, Hiroshima, Rwanda, and Beyond, n. 111, pp. 79-100, and another case in which Russia and Finland would stand together as defendants, along with Sweden and Norway, with the Sami people (a.k.a. Laplanders) as claimants. Check Rein TAGIERA, The Finno-Ugric Republics and the Russian State, New York, Routledge, 1999; “International Journal on Minority and Group Rights”, 8-2/3, 2001, special issue; Semi Rights in Finland, Norway, Russia and Sweden; Clive Archer and Perri Joenniemi (eds.), The Nordic Peace, Aldershot, Ashgate, 2003.


more easily into murderous genocide when identifying names or distinguishing descriptions are lacking or unheeded. Just to exist, language needs speakers, listeners, and interface between them all (257).

(257) Revisit the Sudan case: no. 50 and 195. Add Wole Soyinka, Climate of Fear: The Quest for Dignity in a Dehumanized World, New York, Randon House, 2005, pp. 135-136: "The black freedom fighters of Southern Sudan, locked in a brutal war of over three decades against an Islamic regime — a genocidal war that has claimed at least a hundred thousand times more lives and overseen a thousand times greater destruction of a people, an environment and a culture than in the Middle East — have not resorted to accusing the Islamic or Arab world of a conspiracy against the black race. They are focused on their quest for liberation from a specified, localized, thoctocratic, and often racist order, against which they have raised charges of an ongoing ethnic cleansing that remains largely ignored by the Western world. [...] We do not hear from the leaders of that struggle any proposition of the division of the world into the African world against All Others. The combatants have not moved to set the bazaar and monuments of Medina on fire or burn Japanese infants in their cribs. Not even the historic — still ongoing in places — denigration of African religions and cultures, or indeed the memory of both European and Arab enslavement of the African peoples, has elicited this inflammable legacy." In a previous edition of this chapter on Internet, genocide appears in the place of ethnic cleansing (http://www.bbc.co.uk/radio4/reith2004/lecture5.shtml); Soyinka changed the wording after United Nations reports (the ellipsis refers to this). The author is mainly known as the winner of the 1986 Nobel Prize in Literature. Add Biduoy Jeyifo (ed.), Conversations with Wole Soyinka, Jackson, University Press of Mississippi, 2001, p. 61, on " tacit approval by default" of genocide in Africa. The title of his memoir as a political prisoner, The Man Died: The Prison Notes of Wole Soyinka (1972), New York, Noonday, 1988, refers to both the death of a man, Segun Sowemimo, and the death of humanity — the act of genocide then tacitly accepted by default; see Robert W. July, The Artist's Creed: The Political Philosophy of Wole Soyinka, in "The Journal of Modern African Studies", 19-3, 1981, pp. 477-498.

X.

AND SO FORTH AND SO LONG?

As regards genocide's core, let us first and foremost bear in mind the darkest side of a historical experience with no bright side at all for humankind, namely colonialism: "The crimes charged against many men now in the employ of the Peruvian Amazon Company are of the most atrocious kind" (258). In the heart of darkness of the Maafa, the Pachakuyuy, and all the like, such is "The horror! The horror!" — the sheer horror beyond description or any form of representation (259).


The cry refers to colonial genocide and no other, but it ought to be extended whenever and wherever such horror occurs. We must learn to construe genocide as an including genus rather than a variety of species headed by the Shoah, not even by the case that helped to coin the word, not just the Nazi Holocaust but the entire cluster of *denationalizing* Nazi policies. This construction, the first of the two proposed by Lemkin, could lead the whole series of species as it really encompasses all of them, non-murderous as well as murderous and the link between them, yet this is not what is commonly assumed when the Nazi genocide is referred to.

There are other applicants for the leading place, even bloodier candidates than the Shoah, such as the Maafa and the Pachakuyuy, but insofar as they are only cases, however serious, the qualification is also missing. And what do we need a leader for? Hierarchy itself may entail denial or at least increased blurring and eventual fade-out for the long list of successive cases. Any sense of uniqueness, even in the welcome company of then minor cases, may imply denial. One cannot put the blame on the surviving victims of either physical or cultural genocide if they focus on their particular cases. The only guilt always lies entirely with the perpetrators, just as the responsibility, regarding repatriation, falls to their descendants or beneficiaries and not others of course (260). We — I, my fellow citizens in Europe, and other people of the European stock — are still seriously indebted.

Let us hope that the pervasive cultural presence of the Nazi Holocaust against Jews in Western Europe, the Americas, and Israel is at least shared on an equal footing with the Maafa, the Pachakuyuy, and the Porrajmos, or that these words just gain their own consistent currency. Remember the M-word, *mentacide*, a term coined to mean the disregard for the Maafa past and present. It may be extended to ancient and current Pachakuyuy, Porrajmos, and other genocidal policies and actions (261). All this could be a relative, Churchill (n. 222). For a contested attempt to construct genocide as a genus, Simon Gikandi, *Theory, literature, and moral considerations*, in “Research in African Literatures”, 32-4, 2001, pp. 1-18, at pp. 11-13 and 16: “It is indeed telling that in a world dominated by stories of terror and genocide, stories that defy interpretation, intellectuals, having renounced meanings, rules, and moral judgments, have not proven to be of much practical use. [...] While I will not claim that theory has an inmanent relation to evil, I want to explore the possible embedment of the abstract idea in the performativity of such evil events as slavery and genocide,” thus the Maafa also included, “all the way from African slavery to the Jewish genocide”; [c]onsidered to be the greatest threat to cultural authenticity and racial purity, difference was simultaneously the justification and explanation for the evil actions directed at those that would not fit.” Kenneth W. Harrow, *Ethics and difference: A response to Simon Gikandi’s Theory, literature, and Moral Considerations*, in “Research in African Literatures”, 33-4, 2002, pp. 154-160, on pp. 158 and 159: “It is no less the problem of cultural difference for the translation of genocide, and for the translation of the ethics of genocide in its act of narration. The problem is not one of relativity; that would return us to the metaphysics of presence, the notion of simply a different site of cultural identity. The issue here is enunciation, since, like culture, ethics requires a discourse [...]”. The ethics of the translation of genocide [...] depend upon an interpretative process that marks the production and performance of all cultural statements of identity [...] and it is at the site of enunciation that we can challenge the deployment of genocide’s claims to difference. [...] If we are to agree upon the appeal to ethics, it need not be by negative difference, as long as it is understood that difference represents a splitting of the very claims to unity and identity that sustain the logic of diversity, the logic of genocidal repudiation of otherness.” (261) See n. 48; *mentacide* was coined by an African-American psychiatrist in an unpublished and influential manuscript: Bobby E. Wurgt, *Mentacide: The Ultimate Threat to the Black Race*, 1979. D. Diner, Beyond the Conceivable: Studies on Germany, Nazism, and the Holocaust (n. 103), p. 4: “Perceptions and patterns” set by “representations and evaluations of the Holocaust” have become “of utmost significance for the relationship between Christians and Jews. Questions about the singularity and comparability of the Holocaust seem, in other words, to be narrowly tied to models of theological discourse, distinguished by their centering on topoi of election and univer-
transitional remedy to the G-concept’s failure. Otherwise, shortage of proper nouns together with the lack of a general category will continue to imply poor memory and involve poor justice. There are no words at hand since legal evasion is the rule (260).

Evidently, language still fails. Law is not bound, however, to follow suit. Good law may be available through current descriptive language, even if the G-word only means mass killing. When it comes to the crunch, momentous policies rather than accurate words make the difference. The former will engender the latter; genocidal commitments produce the broad genocidal concept (260). If they are not at the beginning, good words will be there, after good policies, at the end. And the latter will need their help. Pay attentions to words if you are concerned for policies.

Does such goodness of words and policies bring the horizon into sight? Let me doubt it at least for the moment. Even classical — I mean colonial — genocidal policies are still among us. Observe the

is that they feel uneasy, even sickened, to the point that, in order to save themselves and their sense of being decent, generous, easygoing, etcetera, they have to close their eyes and ears.” No argument like this one or any other is conceived on behalf of people first entitled to rights — over yours, I mean Coetzee’s and other settler offspring’s. Nevertheless, for a more sensitive display from the same author: J.M. COETZEE, *Waiting for the Barbarians* (1980), London, Vintage, 2004.

(260) Check James Guett, *Monologic and Dialogic Wittgenstein, Heart of Darkness*, and *linguistic skepticism*, in John Gibson and Wolfgang Huemar (eds.), *The Literary Wittgenstein*, London, Routledge, 2004, pp. 251-266, at 263: “The continuous expression of the ‘self’ [...] can yield no self. But to recognize such a catastrophe may make it even more difficult to understand why one might incline toward it. This is not just a question, once more, of any circumstantial lack of resistance, in the form of other speakers or grammars, because even if the former were absent, the latter need never be.

Thus what *Heart of Darkness* may show is how much has to be done to, and even against, language.” This appears right, yet let me ask whether the self cannot be represented through law, namely the warranted practice of the right to self-determination on an equal footing along with the whole set of human rights? As *Heart of Darkness* itself could show (J. Guett tackles the void self of only European characters as if the other selves no longer existed), even the thus-perceived human predicament may just be a colonialist condition. By the way, notice that conceptual genocide — in other words, denial of people’s presence, dead or alive — precedes and succeeds factual genocide. No need to coin an unseemly name-sake since complicity is always available. For a more recent narrative on European selves not allowing room enough for African selves despite the important role of African characters, see the first novel after the fall of apartheid regime by 2003 Nobel Prize in Literature J.M. COETZEE, *Disgrace* (1999), New York, Penguin, 2000 (add n. 262); for an insightful criticism on these grounds, Rachel Donadio, *Out of South Africa*, in “The New York Times Sunday Book Review”, December 16, 2007 (http://www.nytimes.com/pages/books/review/index.html). Extending to intercultural negotiated selves, check Geoffrey V. Davis et al. (eds.), *Towards a Transcultural Future: Literature and Society in a Post-Colonial World*, Amsterdam, Rodopi, 2005.
Pachakuyuy. The Peruvian Amazon Company is long gone, but its lurking ghost stands for both colonialism and postcolonialism—the bad old days previous to human rights international law and our alleged age of rights (264).

If only genocide no longer belonged to the history of the present... I mean the G-deed since the G-word and even its less deadly but also bloody twin, the E-word, would be still most helpful as pieces of law for reported and neglected, murderous and non-murderous cases. Now, especially after the Declaration on the Rights of Indigenous Peoples, ethnocide may reliably mean cultural genocide, thus distinguishing and relating. Lemkin’s twins are back in town as the two sides of the same coin. In the end, murderous genocide and cultural genocide are the two sides of the same bloody coin. Of course, the former is a more serious offense than the latter, yet they are an identical kind of crime. They are not two different crimes but two degrees of the same crime. Furthermore, non-murderous, cultural genocide is the breeding ground for murderous genocide. Let us insist. Despite present prevailing approaches, the best way to prevent the latter is to fight the former. Rafal Lemkin was right and Raphael Lemkin went wrong. The distinction between them is not drawn here from his subscriptions or locations but his utterances. Rafal, not Raphael, was the author of Axis Rule. Raphael, not Rafal, was the father of the Genocide Convention and its concept of the crime, if the instrument and its conception could be one-parent creatures (265).

Genocide as a criminal description in international law continues to amount, despite the very Convention, to only murderous acts and, in theory at least according to it, some non-murderous policies regarding children. Genocide also amounts to both present, past and even, for non criminal accountability, far past cases. For the respective claims, there is no statutory limitation or repose, which does not entail either a breach or an exception of rule of law. It is rule of law itself (266). Where does the consistency of such a regime

(264) For updating information on the last illustration (no. 256, 258, and 259), Intermón Oxfam, Pueblos sin derechos. La responsabilidad de Repsol YPF en la Amazonia peruana, 2006, executive summary: ¿Peoples without Rights? The Responsibility of Repsol YPF in the Peruvian Amazon (dossier online: http://www.intermonoxfam.org/page.asp?id=2880&idioma=1), pp. 2-3: “Repsol YPF, a Spanish [oil and gas] multinational company and major energy player in Latin America, has been operating in Peru since 1995. From 2001, it has been carrying out exploratory activities directly in four blocks within the Peruvian Amazon, on land belonging to indigenous peoples, protected areas and regional reserves. Shockingly, Repsol YPF works in this multiethnic and multicultural environment without having developed a policy covering relations with indigenous peoples in which their rights are taken into account. [...] Repsol YPF has an internal procedure governing its relations with indigenous peoples, a procedure which, according to the company, is still to be finalized. But no consultation has been carried out with indigenous communities themselves (and it is therefore highly unlikely that such procedures will meet their concerns and aspirations).” Contrast the Spanish company’s Peruvian webpage without a trace of the indigenous issue as of April 2008: http://www.rcpsolypf.com.pe-en (“Resultados: 0 encontrados”, though the company emphatically rejected Oxfam’s findings; the “internal procedure governing its relations with indigenous peoples” is still the mystery of the lurking ghost). On related cases, Martin Scurrah (ed.), Defendiendo Derechos y Promoviendo Cambios. El Estado, las Empresas Extractivas y las Comunidades Locales en el Perú, Lima, Oxfam Internacional — Instituto de Estudios Políticos, 2008.

(265) J. COOPER, Raphael Lemkin and the Struggle for the Genocide Convention (no. 15), p. 276: “Yet Lemkin’s ideas on cultural genocide which were dropped from the convention at the insistence of the Western powers [...] perhaps should be re-examined; for the abuse of the cultural rights of a group often precedes their mass murder; there is often a slippage from the excitation of a group’s culture and the destruction of its historic monuments to ethnic cleansing and genocide.” This biography makes no significant distinction regarding the conception of genocide between Lemkin in private and Lemkin in public after the Convention, even if it was a partly forced schizophrenia as he vainly longed for getting published his History of Genocide that elaborated the broad concept (no. 46, 86, and 274); yet, contradicting Lemkin and all other biographers or, let us add, dramatists (no. 32, 34, 61, 152, and 167), John Cooper stresses the gap between early Lemkin — the reader of Qiao Vidas and the failed panelist of the Madrid Conference — and post-war Lemkin — the author of Axis Rule and the lobbyist for the Convention. As for the self-invention of the one-dimensional character, J. COOPER, Raphael Lemkin and the Struggle for the Genocide Convention (no. 15), p. 233: Lemkin “regard[ed] himself as a cause rather than a person.” Along Axis Rule, he refers to himself as the author; when dedicating a copy to a German-speaking friend, namely the Swiss politician Hans Oprecht, he signs the handwritten inscription just as Verfasser (United Nations Library at Geneva, 355, L25), and so on. Roughly half a dozen mourners attended his burial. General oblivion followed. Apart from Jewish remembrance, there also came some tribute from Catholic Poland’s media: Sacrum Poloniae Millennium. Rozprawy, Słowa, Materiały, Historyczne, Rome, Pontificia Universitas Gregoriana, vol. 7, 1960, p. 184 (“the author of the Genocide Convention”).

(266) Since the 1998 Statute of the International Criminal Court has produced the descriptions of international crimes and the rules for prevention and punishment, international criminal law is at last able to come to terms with the principle and practices
is the very set of rights protected by the description of the crime. Remember that the G-word itself and thus the law on genocide could be genocidal. Needless to say, the International Criminal Court must abide by the terms of the relevant Statute as regards both strict description of the crime and criminal law’s principle against retroactivity of criminal statutory law, yet the legal and jurisdictional world is much broader even in the international field, not to mention domestic — state or otherwise — courts and policy-making bodies. Over the entire institutional constellation and throughout all its layers, human rights are in force (267).

The human right to one’s own culture and polity may be the clue together with the human right to life. To make this apparent, acts violating the right not to be subjected to forced assimilation or destruction of culture need a name, the shorter, the better. As according to given international law it cannot be strictly genocide, may we now take the twin, ethnocide? Insofar as this would not mean a substitute or a palliative, such as ethnic cleansing undoubtedly does, it would be a good choice at this stage, when the human

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(267) The traditional distinction in human rights international law between non-legally binding Declarations, such as the selfsame Universal Declaration of Human Rights, and binding Conventions, such as — in theory — the Convention on the Prevention and Punishment of the Crime of Genocide, since the latter and not the former may be ratified by states that so submit themselves to human rights treaty bodies (the Human Rights Committee; the Committee on the Elimination of Racial Discrimination; the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Discrimination against Women; the Committee against Torture; the Committee on the Rights of the Child, and so on), no longer holds. See Appendix, Text XI, for the new terms of the Declaration on the Rights of Indigenous Peoples; heed art. 42: "The United Nations [...] and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration", full application and effectiveness regarding a mere Declaration, still not a Convention. This, however, does not entirely represent a new stage since it is not unprecedented (Appendix, Text VIII, art. 9, with a weaker formula and not a real precedent anyway as it is a Declaration that develops a Covenant; for a similar case, the 1993 Declaration on the Elimination of Violence against Women, here Text IX; add Text II for a true legally binding General Assembly Declaration), and above all, the human rights bodies themselves tend to transparently comply with not only Conventions but also Declarations other than their respective one: check references with n. 247. As for the International Criminal Court, see n. 266 and Appendix, Text X, art. 11.1: "The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute."
rights law has just being so significantly improved (268). The drafting process of the Declaration on the Rights of Indigenous Peoples (269)

(268) Let us go back for a moment to the Seventies when the E-word was recuperated mostly by anthropologists with the aim of fighting genocide. Gerald Weiss, The Problem of Development in the Non-Western World, in “American Anthropologist”, 79-4, 1977, pp. 887-893, reviewed some publications on "cultural contact" showing a benign approach to colonialism that led to the responsibility for "underdevelopment" on the resistance from the colonized people. There was a response stressing this charge: Arthur E. Hippler, Comment on 'Development in Non-Western World', in "American Anthropologist", 81-2, 1979, pp. 348-349. The title of the retort from the former was telling, much more since the latter did not refer to this: G. Weiss, The Tragedy of Ethnocide: A Reply to Hippler, in "American Anthropologist", 83-4, 1981, pp. 899-900, at 889: "What troubles me most about Hippler's comment is that it gives no indication that he is familiar with the growing literature on the genocide and ethnocide practiced against tribal peoples and cultures in our time. [...] Without reference to this body of literature, an intelligent discussion of the issue is impossible." Weiss then critically referred to HIPPLER'S Some Alternative Viewpoints of the Negative Results of Euro-American Contact with Non-Western Group, 76-2, 1974, pp. 334-337, at 336: "Culture contact has and usually does involve suffering for the contacted people. But a great deal of the long-term suffering seems to be related, at least in part, to indigenous psychocultural factors." This was not only denial but support of genocide blaming the victims for it. In the face of such contentions, the anthropological use of the E-word makes full sense. Among historians, add the debate between D. E. Stannard, the author of American Holocaust (n. 51), and genocide (except the Shoah) denier and recognized scholar John H. Elliott in "The New York Review", 40-17, 1993, Letter to the Editors, the latter finally resorting to also blaming the victims so to conclude with a leading lesson in clearing method: as everybody has committed genocide in history, nobody did.

(269) Check this Declaration once again (nn. 2, 83, 84, 186, 196, 198, 223, 224, 248, and 267). Recall the relevant wording of the 1994 Draft, the one elaborated with the advise and consent of indigenous representatives, lacking in the final version: "Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide" (pay heed to the strengthening appearance of both ethnocide and cultural genocide in the drafting process), yet the respective right being always there: "Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture." Obviously, an important bulwark is lost, that of the criminal kind, since the latter — forced assimilation through destruction of culture — is not deemed genocide by the Declaration, but there is a more significant safeguard thanks to the rationale of the entire instrument, that drawing on the right of self-determination by virtue of which indigenous peoples "freely determine their political status and freely pursue their economic, social and cultural development"; therefore, the safeguard now lies with empowerment and self-help rather than state or international protection. The new language had been brewing not only through the proceedings leading to that Declaration. See the 1997 General Recommendation on Indigenous

and this fresh Human Rights Declaration itself, registering rights actually shared by all peoples and persons such as the right to one's culture and polity, turn out to be most meaningful.

The future is here yet the past has not left. Recall genocidal times of yore because genocide is not gone and does not even seem to be leaving. Insofar as most disparaging policies are here in the present, genocide will be there in the future. History does not need to qualify as prophecy to make forecasts. Because genocidal policies existed in the past, murderous acts of genocide can still be with us and further in the future. The breeding link is just the reason why, just to prevent genocide, we are badly in need of a history of the present as a bridge between the past and the future on behalf of the present itself or rather living people ourselves (270).

Peoples of the Committee on the Elimination of Racial Discrimination (n. 65), Annex V, par. 4: "The Committee calls in particular upon States parties to: a) Recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation; b) Ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity [...]." The UNESCO 2001 Universal Declaration on Cultural Diversity, when it comes to the crunch with the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, stresses cultural powers of states rather than cultural rights of peoples (see no. 84 and 183).

(270) M.S. ROTH, Foucault's "History of the Present" (n. 6), pp. 43-46: "Writing a history of the present means writing a history in the present," this rather is "writing a history of the present in order to make that present into past," a history that "can be portrayed as antihistory because it is attempting to make a present into a past which we leave behind, and not into a history which tightly embrace as our own." Thus, "[w]riting a history of the present is a challenge to some of our basic ideas about writing a history at all." In short, if we can feel "aware of what a future anything will be like," all the same, we may get a "diagnosis of what the history of the present contains."" Frederick COOPER, Colonialism in Question: Theory, Knowledge, History, Berkeley, University of California Press, 2005, p. 235: "To counter a linear view of progress marching ever onward with a two-century view of Post-Enlightenment rationality obscures the moments and contexts in which political choices were made [...]. It deflates to an abstraction the responsibilities of those individuals and collectivities who chose to support brutal acts of occupation, who found reasons to condone forced labor and land seizures, and who responded to political mobilization with repression and torture. [...] And genocide, physical genocide after cultural genocide, we may add. In fact, T. Garnot Asin, History of the Present (n. 6), however sensitive on human rights, stands for the so-deemed "two-century view of Post-Enlightenment rationality," the one that keeps
To forget is to deny. To remember is to acknowledge. To name is to blame and may be to claim. Upon observing — as a legal historian or otherwise — genocide and ethnocide, genocidal acts and ethnocratic or rather likewise genocidal policies, never let self-serving amnesia become final amnesty (271). Nie wieder in Europe? Nooit meer in Africa? Nunca más in Latin America? Nunca más in leading to cultural genocide, unwillingly of course, more unwillingly than Christian rationality before. See n. 144.

(271) Against not just amnesia but also poor memory and prejudice on genocide, let me drop a hint about the far longer career of crimes against humanity. Since the latter is not a contrived neologism, it is hard to find out when and where, how and what for, it first appeared (likewise, Volksverdömmung, which is not exactly a German translation for genocide, has a longer story too), yet listen to Maximilien Robespierre addressing the National Convention on the king’s trial in 1792: “Il n’y a point ici de procès à faire. […] Vous n’avez point une sentence à rendre pour ou contre une homme, mais une mesure de salut public à prendre […]”. Proposer de faire le procès à Louis XVI, de quelque manière que ce puisse être, c’est rétrograder vers le despotisme royal et constitutionnel; c’est une idée contre-révolutionnaire. […] C’est une contradiction trop grossière de supposer que la Constitution puisse présider à ce nouvel ordre de choses. […] Les peuples n’jugent pas comme les cours judiciaires; ils ne rendent point de sentences, ils lancent la foudre. […] Louis doit mourir, parce qu’il faut que la Patrie vive. […] Je demande que la Convention Nationale le déclare dès ce moment traître à la Nation française, criminel envers l’humanité”. The 1789 Déclaration des Droits de l’Homme et du Citoyen had established the principles of rule of law and due process in criminal justice. Then a Penal Code entered into force contemplating “crimes et attentats contre la chose publique” and excluding the “crime de Lèse Nation” or any rephrasing of Lèse Majesté against the commonwealth. Try to tie up the loose ends. Along with the offense against the French Nation, the charge of crimes against humanity helped to cancel principles, circumvent procedures, and even to select and plant evidence so as to show some politicians up and cover up others. “Peoples do justice by launching lightnings.” “Louis must die, so that the Nation may live.” “I ask of the National Convention to immediately resolve that he is a traitor to the French Nation and a criminal against humanity.” Terror followed indeed. This is not the whole history of course, but just an early appearance. See Michael Walzer (ed.), Régicide and Revolution: Speeches at the Trial of Louis XVI, New York, Cambridge University Press, 1974; Ruth Sachs, Fatal Purities: Robespierre and the French Revolution, New York, Owl, 2006, pp. 218-254, and Roberto Martucci, Logiche della transizione penale. Indirizzi di politica penale e codificazione in Francia della Rivoluzione all’Impero, 1789-1810, in “Quaderni Fionzenti per la Storia del Pensiero Giuridico Moderno”, 36, 2007, vol. 1, pp. 131-274, the special issue on Principio di legalità e diritto penale. Robespierre’s address is available online: http://www.royet.org/nea1789-1794/archives/journal-debats/an1792/convention-1792-12-03.htm.

Asia? Never again in the United States, Canada, and Australia? (I do not know how to say this in non-European languages). Enough is enough? So long, genocide? Then let us say goodbye but never forget. Let us instead learn to be alert and waiting on the bench so that other people may remember among themselves and, if they so choose, share with us and act together (272).

Begin with jointly contemplating “how many memories congeal in the sun’s evening blood”. Let us not forget other post-genocide — regarding other aftermaths of other genocidal policies — poetry: “The hearts of my people fell to the ground, and they could not lift them up again. After this nothing happened”. People dying while living join people living after dying (273). Sixty million and more,

(271) Recuerdalo tú y recuerdáselo a otros is the relevant Spanish title (Barcelona, Grijalbo, 1979; I repulse) for Ronald Fraser, Blood of Spain: An Oral History of Spanish Civil War, New York, Pantheon, 1979; Carol Ritten, John K. Roth and James M. Smith (eds.), Will Genocide Ever End?, Saint Paul, Augs-Paragon, 2002; Lane H. Montgomery, Never again, again, again… Genocide: Armenia, the Holocaust, Cambodia, Rwanda, Bosnia and Herzegovina, Darfur, New York, Ruder Finn, 2008. On the troublesome remembrance of the Nazi Holocaust precisely when it has become omnipresent throughout the United States and Western Europe (but Spain and Portugal “for understandable reasons”, he says), Tony Judt, The Problem of Evil in Postwar Europe, in “The New York Review”, 55-2, 2008, pp. 33-35, a lecture delivered in Bremen on occasion of the award to the author of the 2007 Hannah Arendt Prize (free online: http://www.nybooks.com/articles/21031); p. 35: “They [Western young people today] know all about these [the genocide of the Jews, the historical consequences of anti-Semitism…]. But I have been struck lately by the frequency with which new questions are surfacing: Why do we focus on the Holocaust? Why is it illegal (in certain countries) to deny the Holocaust but no other genocides? Is the threat of anti-Semitism not exaggerated? And increasingly, Doesn’t Israel use the Holocaust as an excuse? I do not recall hearing those questions in the past.” Nevertheless, they were asked, not just, for instance, in Arabic or in Farsi, but also in African-American English when remembering the Maafa (see n. 48). Tony Judt, a Jew himself, knows furthermore: “If we ransack the past for political profit — selecting the bits that can serve our purposes and recruiting history to teach opportunistic moral lessons — we get bad morality and bad history.” Needless to say, among wrongs, the former is certainly worse. Yet, the latter really behaves as a good servant of moral evil. The Präsidentum of the Bremen Jewish community formally objected the ground on grounds of Judt’s alleged antisematische Haltung (“Jüdische Zeitung”), 28, December 2007: http://www.j-zeit.de/archiv/artikel.833.html.

(272) For this last remembrance, that of Alaxchitaahush’ words, n. 210; add the collection of Colin Gordon Calloway (ed.), Our Hearts Fell to the Ground: Plains Indian Views of How the West Was Lost, Boston, St. Martin’s Press, 1996. For memories at
much more to be sure. Before such deep melancholic feelings, wonder what set of overwhelming events could have occurred. Heed the respective background, not yours (274).

Then be honest and tell the tale you get to learn. Do not let suprampist doctrine continue to reverse human rights law. Do not allow linguistic predicaments to bring your commitment to a helpless standstill. Through information and reflection right words will present themselves to our minds.

sunset, William Heyen, To the Onlookers, in his Erika: Poems of the Holocaust, New York, Vanguard, 1984, ed. St. Louis, Time Being Books, 1991, poem 20 (p. 44), lines 11-12. Charles Aids Fishman (ed.), Blood to Remember: American Poets on the Holocaust, Lubbock, Texas Tech University Press, 1991, revised ed., St. Louis, Time Being Books, 2007, selecting other Heyen's poems, pp. 193-197; from Fishman's preface to the latter, p. 31: "Holocaust poetry is a bridge between that which can be known and expressed and that which cannot," C.A. Fishman, Counting the Holocaust, in his Chopin's Piano, St. Louis, Time Being Books, 2006, poem 14 (p. 48), last lines: "He was counting the Holocaust... and he kept counting", all the more so if one keeps counting holocausts and other acts of genocide in the plural: "Our Hearts Fell to the Ground" and so forth. Once and for all, let us be honest and tell the tale. Do I mean that the mainstream legal doctrine is dishonest or that honesty is just a poetic virtue? The verdict is up to you. You are the trial jury.

(274) Finally, to put it in other words especially for legal experts and other keen people, do not take Lemkin's way to self-serving history and sectarian judgment as an example to follow: "Bartolomé de las Casas, Vitoria, and humanitarian interventions, are all links in one chain leading to the proclamation of genocide as an international crime by the United Nations," naming Hugo Grotius, Theodore Dwight Woolsey, Johann Caspar Bluntschli, Henry Wheaton, John Westlake, August Wilhelm Hoff, and Karl von Botten as further authorities of the humanitarian chain that leads to the landmark of the Genocide Convention: History of Genocide, vol. 1, Introduction to the Story of Genocide, unpublished as we know (nn. 46 and 86), quoted by J. Cooper, Raphael Lemkin and the Struggle for the Genocide Convention (n. 15), p. 237; add nn. 38, 46, 86, and 89. See just M. Lerner, The Rise of the West and the Coming of Genocide (n. 85), p. 19: "[A] leading ally of Las Casas position was the leading Dominican jurist, Francisco de Vitoria, usually acknowledged as the principal founder of the study of international law, and in many respects a prototype for Raphael Lemkin, who sought to internationally outlaw genocide." Check B. Claudio, Genocidio y Justicia. La Destrucción de las Indias Ayer y Hoy (n. 11), pp. 17-32. As members of the trial jury, the readers will surely obtain further information, as a piece of evidence against complicity, on the prevalent historiography of international law that is still developing on self-serving and sectarian foundations. As for more or less millions, the question is never about numbers of course: Daniel Hendelrown, The Lost: A Search for Six of Six Million, New York, HarperCollins, 2006.

POSTSCRIPT:
INDIGENOUS ISSUES
AND CULTURAL GENOCIDE

On April 24, 2008, the United Nations Permanent Forum on Indigenous Issues dedicated a half-day plenary session to a discussion on indigenous languages. Lars-Anders Baer, from the Saami people (vulgarily known as Lapps) and a member of the Forum, took the floor as a panelist in order to present the conclusions of a study he has authored together with Ole Henrik Magga (the founding president of the Permanent Forum on Indigenous Issues; Sámi Allaskuvi — Saami University College), Tove Skutnabb-Kangas (the coiner of linguicide in English as we know; Åbo — Turku Akademi University, Finland), and Robert Dunbar (University of Aberdeen, Scotland): Forms of education of indigenous children as crimes against humanity? (E/C.19/2008/7) (*).

The study claims that the standard set of state policies on indigenous schooling and tutoring — policies that can be accurately described as forms of subtractive education — "constitute international crimes, including genocide, within the meaning of the United Nations 1948 Convention on the Prevention and Punishment of the Crime of Genocide". Legally, the contention mainly draws on Lemkin, the Secretariat Draft Convention and of course, the Convention itself. The key conclusion reads as follows:

"We have considered the extent to which such education can be considered to amount to genocide or crimes against humanity. In spite of the

narrowing of the Genocide Convention during the process of its negotiation and conclusion, it still makes reference to acts which, we have argued, certainly describe the experience of indigenous children subjected to various forms of subtractive education. In particular, we have argued that such education can result in “serious mental harm”, is often accompanied by “serious bodily harm”, and can involve the “forcible transfer” of indigenous children to another group. Thus far, however, the interpretation of the mental element is also necessary for these acts to amount to genocide has been limited to the intent to accomplish the physical or biological destruction of the group, and this has so far posed significant obstacles to a genocide claim in respect of the forms of education of education considered here.

The Permanent Forum’s discussion on indigenous languages, on April 24, 2006, can be found at the webpage of the Economic and Social Council, of which the Permanent Forum is a subsidiary body (**). The report bears the heading Permanent Forum speakers say violation of language rights constitutes “cultural genocide.” During the discussion, several speakers made reference to specific instances of this serious crime through citizenship-building policies with an impact on indigenous languages. These references may be fully quoted, since they were a small number:

Language rights should be implemented as a collective and individual right since they were integral to self-determination, a member of the Permanent Forum on Indigenous Issues said today during a half-day debate devoted to indigenous languages. Implementation of language rights must be viewed from a holistic perspective, Lars Anders Baer, the Forum member from Sweden, continued, saying it could not be enjoyed in the absence of other human rights. Some States were promoting the use of indigenous languages, but programmes were under-funded. He called for the drafting of a convention to protect indigenous languages, identities and cultural rights and for the creation of an authoritative body on the matter. A special rapporteur on language rights and a commissioner on “language discrimination” should be named. He added that violation of language rights was a form of cultural genocide and the Forum should consider appropriate action. Other speakers also made the connection between loss of language and loss of culture. A second panelist, Richard Grounds, Director of the Euche Language Project, said the boarding school system forced on Native Americans had caused a kind of physical and cultural “genocide”. Similarly, the President of the Saami Parliament of Finland, Klæretti Naikkaläärvi, said research indicated that language influenced the way people thought and was a tool for thinking. It was not only a means of communication, but a specialized part of culture [...].

Mr. Baer said Governments tended to be highly unaware of the effects had by the loss of language [...]. He said the international community should begin to view the violation of language rights as a crime against humanity. Many indigenous children were not getting access to education. Most State education policies forced indigenous children to learn in the dominant State language, causing a “language shift”. It encouraged a change in attitude towards indigenous languages, in that those languages were thought to be less “worthy” than dominant language. Losing their language meant children became socially dislocated, ultimately leading to economic and social marginalization. Indigenous children tended to have the lowest level of educational attainment. They also suffered high rates of depression and teen suicide. Violation of language rights was a form of cultural genocide, or “ethnocide”, and amounted to a crime against humanity. [...] Mr. Grounds took the floor to deliver a greeting in the Euche language, which he later translated to mean “Languages were gifts from the Creator. The Euche would exist so long as the language was alive”. [...]. He said be valued his language as a way to pass down Native American ceremonies to young people, noting that the boarding school system that was forced upon Native Americans had caused a kind of physical and cultural “genocide”. [...]. Mr. Clavero [...] recalled that panelist Lars Anders Baer had used the term “genocide” to describe the outcome of certain language policies. Indeed, the Convention on Genocide, itself, said that the term “genocide” also applied to methods used to make groups disappear without there necessarily being any death. Policies that impaired the retention of indigenous languages could, therefore, be described as tools of genocide, and it would seem that defects in the linguistic policies of some countries was indeed resulting in genocide. For instance, the forced transfer of children from one community to another had robbed entire generations of their culture. It would be a good idea to emphasize the genocidal tendencies of such policies, and compensation should be made to victims of those policies. Bilingual education might be genocidal, too. [...].

Leghorsie Saro Pyagbara, the Movement for the Survival of the Ogoni People, expressed concern about the actions of the Nigerian Government to decimate the languages of indigenous communities in the country, while at the same time providing State support for the development of three majority languages of the Yoruba, Igbo and Hausa. Those languages had been made part of the national education curriculum, which could not be said of the Ogoni language. For the Ogoni, it was like a passport to extinction. The policy amounted to cultural genocide.

My intervention was repetitive to be sure. Against all odds, including the current approaches of other United Nations bodies and agencies, there are things that deserve to be repeated again and again. No wonder that the comprehensive approach to the crime of
genocide is produced by a forum where indigenous people have a say. In this environment, from an indigenous perspective, the same rationale applies to both kinds of genocide, physical and cultural (***)

See Appendix, Text XV, for the final reference of the Forum's Recommendations to "linguistic genocide." There are a couple of precedents from the Permanent Forum itself, but referring to physical genocide. Third Session (2004), Recommendations on Health, par. 89: "The Forum [...] recommends that all relevant United Nations entities [...] (a) Fully incorporate the principle that health is a fundamental human right in all health policies and programmes, and foster rights-based approaches to health, including treaty rights, the right to culturally acceptable and appropriate services and indigenous women's reproductive rights, and stop programmes of forced sterilization and abortion, which can constitute ethnic genocide." Fifth Session (2006), Recommendations on Human Rights, par. 83: "The Permanent Forum reiterates its recommendation on indigenous peoples living in voluntary and semi-voluntary isolation [...] and urges Governments, the United Nations system, civil society and indigenous peoples' organizations to cooperate in immediately ensuring effective prohibition against outside encroachment, aggression, forcible assimilation, and acts and processes of genocide. Measures of protection should comprise the safeguarding of their natural environment and livelihood and minimally invasive, culturally sensitive mobile health-care services."

The recommendation from the Fourth Session (2005) on "peoples in voluntary association" (Recommendations on Human Rights, par. 73) made no reference to genocide. The Seventh Session (2008) abides by the new Declaration; Recommendations on the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples, par. 17: "The Permanent Forum, in accordance with article 26 of the United Nations Declaration on the Rights of Indigenous Peoples (the right to the lands, territories and resources which the indigenous peoples have traditionally owned, occupied or otherwise used or acquired), requires States, United Nations agencies, churches, non-governmental organizations and the private sector to fully respect the property rights of indigenous peoples in voluntary isolation and initial contact in the Amazon and the Paraguayan and Bolivian Chaco." Add nn. 11, 224, and 248.