From Genocide to Ecocide.

Essentials of a New Category of International Crime against Humanity

Ewa Nowak

Adam Mickiewicz University in Poznań

ORCID 0000-0002-5722-7711

DOI | 10.14195/2184-9781_2_4

ABSTRACT

The recent legislative initiative for the adoption of an amendment to the Rome Statute on *ecocide* as a new category of crime against humankind has an impressive normative background in the classical doctrine of international criminal law pioneered by Raphael Lemkin, in the prescriptions of the ethics, and in the discourse of an international community aware that the protection of the totality of life together with the ecosphere is currently the most urgent priority. Between 2019 and 2021, the Independent Expert Panel for the Legal Definition of Ecocide at the European Parliament developed a legal definition of ecocide. In the following article, I discuss 1) the nexus between genocide and ecocide, 2) the prescriptions of the ethics of responsibility for the future of all life on earth, further justifying the need to prosecute the perpetrators of ecocide, and 3) the specificities of ecocide as a comprehensive and expectedly effective category of international criminal law in comparison to the human right "to" a healthy, integral and legally protected environment, and in comparison to constitutional ecocentric rights, as more declarative but less effective. When adopted into the Rome Statute, the new category of crimes against humankind may equip the International Criminal Court in The Hague with an effective legal tool to prosecute perpetrators of ecocides.

KEYWORDS

the genocide-ecocide nexus, R. Lemkin, H. Jonas, defining a new crime against humankind, ethical prescriptions, ransom advances in international criminal law.

I. Placing the Issue of Ecocide in the Context of Recent Global Legalism

The existing typology of crimes against humankind covered by the jurisprudence of the International Criminal Court in The Hague[1] since 1998 includes 1) crimes of genocide, 2), crimes against humanity, 3), war crimes, and 4) crimes of aggression against a state or territory. In the last three years, environmental and criminal lawyers, lawyers in international law, the European Parliament and parliaments around the world, international foundations and independent NGOs have resumed[2] their efforts to shape new legislation focused on the crime called *ecocide*[3], which is classed as a fifth category of crime of international concern. In Europe, these efforts were initiated by five member states: France, Finland, Belgium, Luxembourg and Spain. In 2021, the Independent Expert Panel for the Legal Definition of Ecocide at the European Parliament defined ecocide as a legal category adequate to the realities of the 21st century: "If humanity is to reach the 22nd Century with peace and security, we must tame environmental abuse that has plagued the earth for hundreds of years" (Richard J. Rogers, Deputy Chair of the Panel). "By destroying the ecosystems on which we vitally depend, we are destroying the foundations of our civilisation and taking away the basis of existence for all future generations. This is no less serious than war crimes, crimes against humanity, genocide or aggression"[4]. On 3 December 2021, the Belgian Parliament passed[5] a resolution on ecocide, calling, inter alia, for the creation of an expert commission to incorporate this category into the country's penal code, for work to begin on an amendment to the Rome Statute, and finally for the creation of "an international coalition of

[1] See International Criminal Court (1998), established in 2002.

[2] E.g., Human Rights Consortium; Citizens of Europe (2014), Institute for Environmental Security, Stop Ecocide International, United Nations Environment Programme (2022). Work on ecocide has been ongoing for almost five decades, initially under the supervision of the International Legal Commission of the UNO. The need for a transnational judiciary is also regularly discussed, see Daly and May (2019); Murphy (1999/2000).

[3] Optional terminological suggestions: 1) geocide, see Berat (1993, 237–348); 2) eco-slaughter, see Kenig-Witkowska (2017). The term geocide does not clearly indicate that the entire ecosphere, including the biosphere, is involved.

[4] Independent Expert Panel for the Legal Definition of Ecocide Completed (2022)

[5] DOC 57, 1429/2019-2020, CK4067b(T1429)–DP1.

the willing" to identify and prevent this type of crime. Thus, this is not about creating just another Europocentric "nomos of the Earth"[6].

The new law would primarily be a preventative and deterrent measure with by no means a symbolic or rhetorical function, since the institutions of criminal law owe their effectiveness to their broad (though not absolute) competence to prosecute perpetrators and fight their impunity[7]. The implementation of ecocide will necessitate the translation of multilateral agreements (in the UNO, EU, etc.) into real interactions, stresses S. Bock, an expert on criminal law at the University of Marburg[8]. Moreover, it will require active global diplomatic cooperation, as well as the promotion of public understanding of a novel and complex legal category. Understanding is a precondition for the social and public justification of law, as well as for "universal discursive agreement"[9] regarding it, as emphasised by B. Wojciechowski. It seems crucial at all stages of the discussed legislation, including prosecution, jurisprudence and enforcement. Indeed, there is no lack of high quality (including post-conventional) arguments suitable for justifying new legal conventions. S. Cogolati exemplified the rudimentary prescriptions of socioenvironmental ethics as well as the grassroots normative priorities recognised by national and global communities in parallel: "Now we are all victims of climate breakdown, pollution and the collapse of biodiversity. We must protect nature and future generations in much stronger, more enforceable ways. We must recognise the intrinsic value of ecosystems in our penal code. Because without water, without forests, without clean air, we cannot survive on Earth. The planet is our common home. It's time for criminal law to urgently come to the rescue"[10].

---

6 Folkers (2017).

7 According to the Treaty of the European Union (in particular Articles 261, 263, 265), a member state – as well as an institution, legal person or natural person from that state – may bring an action against another state before the Court of Justice of the European Union to the extent that the authorities of the latter State have failed to comply with the treaty agreements, in particular with regard to undertakings. Complaints can also be brought about the failure to act of the European Parliament or the Council of Europe. The legal systems of the Member States usually take account of citizens' environmental rights at constitutional level.

8 See interview with Bock (Schneider 2021). On the urgency of global environmental jurisdiction see Kenig-Witkowska (2017) and White (2017); about bridging the gap especially in the common law and judicial lawmaking see Voigt (2019); Carnwath (2014, 177–187); on the prevalence of the human right to the environment in the related discourse to date see Lee (2000); Gronowska et al. (2018).

9 Wojciechowski (2009).

10 See Ecologist (2020).

II. Collecting Evidence

As Gustav Radbruch argued, law becomes anachronistic as soon as it is established, because social practice always overtakes legislation. Since the modernist intensification of man's technical mastery over nature – and also over human fellows – environmental and war related political justice has also been lagging behind[11]. The term ecocide, pioneered by Arthur Galston, only gained public, political and legal significance at the end of the Vietnam War (1955-1975)[12]. During that war, 45,000,000 litres of Agent Orange were used to devastate nearly 2,000,000 hectares of farmland, poisoning groundwater and the Mekong basin. Poisoning crops and forests became new weapons of mass destruction. Nearly 5,000,000 Vietnamese citizens were affected with acute and delayed impacts. Currently the fourth generation of Vietnamese suffer from 17 types of cancer, birth defects, deformities[13] similar to those caused by radiation. The term *ecocide* was then introduced by Olof Palme at the UN Conference on the Human Environment in Stockholm (1972), who accused the US government of inflicting ecocide on the people of Vietnam. The attendees Indira Gandhi and Tang Ke proposed that extreme environmental devastation connected with warfare should complement the catalogue of crimes against humanity. Five years later, the US adopted the Convention on the Prohibition of Military and Other Technologies for the Devastation or Modification of Ecosystems[14].

The destruction of ecosystems resulting in severe impacts on humans and communities has not been brought to a halt by the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction finally entered into force on 29 April 1997, with reference to the Geneva Protocol of 1928. As recent history shows, acts with obvious ecocide intentions are carried out not only under conditions of ecocidal warfare[15], but also under those of peace as, after all, they themselves disturb the peace[16] which is one of the reasons for treating

[11] It is noteworthy that Frisch (1980) pointed out that it is humans, not nature, who address disasters; as both victims and perpetrators.

[12] Zierler (2011); Stellman and Stellman (2018, 726–728).

[13] von Meding (2017).

[14] Garcia (2020); Bourbonnière and Lee (2007, 873–901); Plant (1991).

[15] E.g., Fried (1973); Smith (2010).

[16] Mehta and Merz (2015); Gauger et al. (2012).

ecocide as not necessarily a war-related but nevertheless genocide-related crime against humanity. In this respect, the nuclear disaster at Chernobyl, the disastrous regulation of the Aral Sea, the deforestation of the Amazon Forest, the pollution of the Pacific Ocean by industrial quantities of plastic and microplastics, the devastation of the Niger Delta by petroleum-based raw materials (with disastrous consequences for the forty tribes living there), the extinction of species and biodiversity by plantations, and the depletion of non-reproductible resources, are the most frequently mentioned cases in the scientific literature[17]. In 2016, a class-action lawsuit before the Hague Tribunal was brought against Monsanto[18]. On 21 January 2022 the Peruvian government appealed to the United Nations for prompt remediation in response to the "worst environmental disaster" in Lima's recent history and for compensation on the part of Repsol. The Spanish oil company said the spill involving 6,000 barrels of oil occurred when a tanker unloading crude was damaged by a tsunami caused by the volcanic eruption near Tonga[19]. Not only business people, but also statesmen will face international criminal liability for ecocides. In December 2021, the AllRise association filed a case with the ICC against the former Brazilian President J. Bolsonaro for ecocides committed in the Amazon forest. On 14 July 2022, the State of Brazil (with the complicity of the European Union and Japan) faced the sentence of the Permanent Peoples' Tribunal (PPT) in Bologna for ecocidal devastation of the Cerrado ecosystem of more than 2 million square kilometers.

As *nullum crimen sine lege*, criminalisation of individual accountability for such acts as crimes against humanity (under articles 25 and 28 of the Rome Statute) was initiated by the Scottish legal scholar Polly Higgins[20]. The discussed issue is one of the most urgent also because international criminal jurisdiction cannot be applied retroactively. Delay at the legislative level seems to work in favour of the perpetrators. "However, the most controversial challenge related to the contemporary ecocide debate is the role of [multinational] corporate actors and their possible criminal liability for environmental destruction", J. Aparac believes. Furthermore, "it is highly

[17] On the social consequences of such processes especially in the post-colonial South, see Parenti (2011).

[18] See International Monsanto Tribunal (2022)

[19] Taj (2022).

[20] Higgins, Short and South (2013, 251–266); Higgins (2010); also Mistura (2018, col. 181, 191, 201); White (2017); Lay et al. (2015); Merz, Cabanes and Gaillard (2014); Johnston (2014); Mégret (2011); Wattad (2009); Sharp (1999); Gray (1996).

unlikely that any prosecutor would venture into investigating, potentially prosecuting corporate directors for the new crime, when the notion of ecocide itself would require the Court's interpretation, at least in initial proceedings"[21], Aparac concludes. This is clearly an appeal for ecocide to be defined as precisely as possible. In 2019 the Republic of Vanuatu and the Maldives issued an appeal for the inclusion of ecocide in the Rome Statute to be considered. In the following sections, the legal and theoretical basis for this initiative, its sociological validity, and its results at present will be discussed (this is at a time when a legal definition of ecocide has already been formulated at the end of 2021 and an amendment to the Rome Statute is expected in 2022).

III. Approaching 'the Genocide-Ecocide Nexus' with Raphael Lemkin

Let us start from the fact that etymologically ecocide refers to genocide (*delicta juris gentium*), as well as to barbarity and vandalism in the sense introduced into the doctrine of international criminal law by Raphael Lemkin when referring to the "propagation of human, animal or vegetable contagions; this offense introduces a general danger, because these diseases can so easily spread and propagate from one country to another and cause serious disasters"[22]. Also, Lemkin anticipated the normative necessity to criminalise deliberate practices resulting in the destruction of the ecosphere as the earthly habitat of man and all other living beings, with further fatal consequences for the survival of the human species, its development, and societal and cultural achievements. "The asocial and destructive spirit" manifesting itself by such practices "by definition is the opposite of the culture and progress of humanity"[23], he insisted. Already in its conceptual framework, the international criminalisation of the implicitly defined ecocide had an advantage over the declarative provisions of the Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and or Bacteriological Methods of Warfare (1925; entered into force on 8 February

[21] Aparac (2021).
[22] See Lemkin (2018).
[23] Lemkin (1933) ; Lemkin (2000).

1928). Unlike the Geneva Protocol which summoned the moral judgment faculty of the signatories ("this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations", as we read in the Geneva Protocol), Lemkin's project offered a model of direct and indirect enforcement. Acts of barbarity and vandalism causing damage to humanity's life, safety, health, living conditions shall be recognized as criminal delicts and "be prosecuted and punished irrespective of the place where the offence is committed and of the nationality of the offender, in accordance with the law in force at the place of prosecution". As Article 1 in the draft international penal code, Lemkin designed the following provision: "Whoever, out of hatred towards a racial, religious or social collectivity or with the aim of extermination destroys such a community commits a punishable act against the life, bodily integrity, liberty, dignity or economic basis of a human being belonging to such a community, is liable to be punished for this barbaric offense". Article 5 stipulated that "Whoever knowingly spreads a human, animal or vegetable pestilence shall be liable to punishment"; Article 6 stipulated that "The instigator and the accomplice shall be punished equally with the perpetrator". According to Lemkin, these crimes were to be "prosecuted and punished regardless of the place where the crime was committed and the nationality of the perpetrator, according to the law in force at the place of prosecution"[24].

According to Lemkin, these offenses clearly belong to the *delicta juris gentium*, especially because "a particularly asocial and destructive attitude of the perpetrator is manifested in acts of such barbarity and vandalism. This attitude is contrary to culture and the spirit of progress. Such acts take mankind back to the gloom of the medieval period, shock the conscience of humanity and raise serious concerns about the future of civilization. For all these reasons, acts of barbarity and vandalism must be considered as *delicta juris gentium*"[25]. Further, having far-reaching destructive effects on interindividual relations, collectivities, the international community, and all humanity,

> "1) They offend in a particularly profound way the sense of justice and humanity;

[24] Lemkin (2000).
[25] Lemkin (2000).

2) In addition, such offenses damage relations between individuals and violate the foundations of social coexistence in general;
3) These offenses create inter-state danger due to the infectious nature of any social psychosis. They can pass from state to state, similar to epidemies;
4) Moreover, the danger posed by such offenses tends to become permanent, since the intent of the perpetrator cannot be achieved by a single act and requires systematic activity for its realization;
5) Furthermore, it is not only the moral interests of the international community that are endangered, but also, and to a lesser degree, its economic interests. Acts of barbarity committed collectively and systematically often result in mass emigration or panic-stricken flight of the population from one country to another, which can have an adverse effect on the economic situation in the countries of refuge due to the difficulties the emigrants have in obtaining work and wages"[26].

In this context, the First International Conference for the Unification of Criminal Law in Warsaw (1927), with its significant and semantically more capacious formulation of "intentional use of any instrument capable of producing a general (transnational) danger" (*l'emploi intentionnel de tous moyens capables de faire courir un danger commun*)[27] also set the tone. Thus in line with Galligan, Crook and Short we may reasonably conclude that Lemkin delivered a pioneering conceptualisation of "the genocide-ecocide nexus"[28].

What emerges from Lemkin's reasoning and anticipates the future advances in international criminal law, is *genos* as a complex concept that goes far beyond classical definitions of ethnic and indigenous[29], national and demographic groups whose intercourse is to be ruled by *juris gentium*. Whilst the ancient Roman legal tradition associated *genos* with kin/kinship between its members, Lemkin's *genos* comprises "ethnic, religious and social collectivities" constituted by choice and not necessarily by birth, kinship or tradition. Further, his *genos* is vitally embedded in, and coupled to, the natural environment and sociocultural landscape. Collectivities belong to the international community, again, not by their kinship but by common

---

[26] Ibidem.

[27] As in the unofficial translation of James Fussell, Acts Constituting a General (Transnational) Danger Considered as Offenses Against the Law of Nations, "Prevent Genocide International" (Lemkin, 2000).

[28] Galligan (2021); also Crook and Short (2014, 298–319).

[29] Crook and Short (2014, 298–319).

rights and duties (*juris gentium*). Combined together, natural embeddedness and international belongingness provide an essential corrector for the content of *juris gentium* as well as for delicts against them. Revised and broadened by Lemkin[30], the semantic scope of genocide connotes the recent categorisation of ecocide, which joins the long array of genocidal practices he identified: "physical-massacre and mutilation, deprivation of livelihood (starvation, exposure, etc. often by deportation), slavery-exposure to death; biological-separation of families, sterilization, destruction of foetus; cultural-desecration and destruction of cultural symbols (books, objects of art, loot, religious relics, etc.), destruction of cultural leadership, destruction of cultural centres (cities, churches, monasteries, schools, libraries), prohibition of cultural activities or codes of behaviour, forceful conversion, demoralization"[31] – many of these categories refer explicitly or implicitly to the criminal acts associated with colonialism, which permanently and often irreversibly appropriated people's communities, together with their socio-cultural and natural environments (in Lemkin's time still reaping its criminal harvest with impunity); others to the related expansion of capitalist exploitation. Thus, the nexus in question marks a normative breakthrough in an era defining itself as modernity "by challenging the unlimited power of man over nature legitimized by the necessity of man's self-reproduction and continuance", and even more by the "the iron law of exponential growth under capitalism"[32].

But this does not yet exhaust *the normative breakthrough*. We will not be able to comprehensively understand its significance if we do not think in parallel of the nexus in the opposite direction, about which authors representing self-critical environmental humanities, richer in the experience of the ecocide already perpetrated by man, write in modern times: namely from ecocide to genocide. It is based on an axiological breakthrough, without which there can be no normative breakthrough, or at least one that would find social (and not only political) legitimacy. It is about expanded axiologies including "the more than human ethics of reciprocity"; "If ecosystems are abused to the point of collapse, then all life in the planetary community is

[30] However, in his later magnum opus (Lemkin, 1944) and in Lemkin (1948), this aspect was overshadowed by WW II related international crimes against humanity.

[31] McDonnell and Moses (2005, 504–505).

[32] Crook and Short (2014, 300).

diminished—in evolutionary terms, in ethical and political terms, and in emotional and aesthetic terms. To admit and embrace that ecocide entails an all-encompassing diminishment would already be a break with modernity"[33] and the powers, axiologies, normativities and ideologies that legitimized its political and economic practices. The new era would be "ecomodernism" in which "to defend the life of the land against state sponsored ecocide and genocide is clearly very different from using the power of the modern state to promote a racialized land bond precisely for the purpose of perpetrating genocide"[34], as Ray concludes. Only when the two nexuses meet halfway can we properly place such implications of ecocides as damage made to social and environmental health of large groups of survivors who face not a literal, but a social and economic death, loss of life worlds and life prospects, forced immigration, homelessness, and other atrocities[35], and the extermination of today's remaining communities, defined in ethnic, indigenous, aboriginal or endemic terms, which populate biolocal areas yet belonging to an indivisible biosphere shared by all living beings: it is at *them*, after all, that ecocides (in their plurality, variance and 'multidirectionality'[36]) are aimed.

IV. On Responsibility for the Destruction of the Planet (Ethical Prescriptions)

It is hard to believe today, but until the end of the 19th century, the pioneers of the theory of evolution, G. Cuvier and J.-B. Lamarck (in Germany: J. F. Blumenbach) clearly enthused by the Revolution 1798 claimed "total disasters", "natural revolutions" (*catastrophes totales, révolutions naturelles*) and "physical, social and political crises" were beneficial (*désastres bienfaisantes*) for life and the planet, for they accelerated the rise of "something new and more noble"[37].

Due to the *moral* agency of the perpetrators, natural disasters with human fingerprints fall into a special category[38] because human perpetrators

[33] Ray (2016, 129); see also Haraway (2015, 159–165).
[34] Ray (2016, 128).
[35] May (2010); Card (2003, 63–79); Bechky (2012).
[36] Woodward (2019, 158–169); Stein (2010, 39–63).
[37] King (1877, 451–470); Grimoult (2019).
[38] E.g., Kolbert (2014); Delord (2010).

have a moral, criminal, political, international, global and cosmopolitan[39] responsibility for the natural habitat of life, as pioneeringly theorized by H. Jonas, the father of environmental ethics: a human being has a "cosmic responsibility" for ensuring the future of mankind and "the heritage of past evolution" as well. "There is something *infinite* for us to preserve in the flux, but something *infinite* also to lose"[40]. "And this apocalypse" – for instance "an atomic holocaust" or "intoxication" with possibly "irreversible consequences" such as a "global mass misery of a failing biosphere" – "waits for our grandchildren"[41]. "An imperative responding to the new type of human action and addressed to the new type of agency that operates it might run thus: 'Act so that the effects of your action are compatible with the permanence of genuine human life', or expressed negatively: 'Act so that the effects of your action are not destructive of the future possibility of such life'; or simply 'Do not compromise the conditions for an indefinite continuation of humanity on earth'; or again turned positive: 'In your present choices, include the future wholeness of Man among the objects of your will'"[42]. From these universal ethical imperatives of responsibility of man for man further emerges the joint (shared) responsibility – primarily of politicians, businessmen, legislators, scientists, parents, teachers, philanthropists, etc.[43]. The term 'emerges' reflects the dynamics of the growing magnitude of responsibility (in proportion to the excessive stunts of power) (*Taten der Macht*) when searching after "power over power"[44] to break the "tyrannical automatism[s]" of "the excesses of his [a human's] own power"[45]. If power expands into space (*das Weltall*), then the normative power of "responsibility expands into the cosmos" (*kosmisch*)[46]. Jonas thus proposed a kind of "expanding circle of morality" based on human responsibility before Singer proposed his "expanding circle" of solidarity[47].

[39] Kantian cosmopolitanism founded on every man's "innate right of common possession of the surface of the earth, and upon the universal will corresponding a priori to it" implies not only the right to dwell in any region of the earth (for instance, Huber 2017), but also the responsible – that is, determined by autonomous and universal legislation – actualisation of the "will" by every homo phaenomenon.

[40] Jonas (1984, 32–33, 37, 99). The radical re-evaluation of the nihilistic treatment of the value of nature and life (also in the life sciences) is an additional merit of Jonas's environmental ethics.

[41] Ibid., 201–202.

[42] Jonas (1984, 11); Jonas (1987, 85).

[43] E.g. Rosół (2017); Buddeberg (2017, 231–256); Coyne (2018, 229–245).

[44] Jonas (1985, 142).

[45] Jonas (1985, 583).

[46] Jonas (1987, 86); Jonas (2015, 517).

[47] Singer (1981, 120, 135).

Emphasizing the particular responsibility of the scientific, professional and political elites[48], Jonas stresses that if there is a deficit in voluntary responsibility, "it must be enforced by coercion if necessary" (*erzwungen, wenn nötig*)[49]. Addressing the entire legal framework of responsibility, Jonas explains the mutual coupling of human rights and the laws of nature, so essential to understanding the essence of ecocide: "But now the entire biosphere of the planet, with all its abundance of species, in its newly revealed vulnerability to the excessive encroachments of man, claims its share of the respect due to all (...) For impoverished extra-human life, impoverished nature, also means an impoverished human life (...) The broadened vision links the human good to the cause of life as a whole (...) and grants extra-human life its own right. To recognise it is to recognise that any arbitrary and unnecessary extinction of species is in itself a crime"[50]. Intertwined vital goods and interests will therefore be violated. Understanding of this coupling "breaks the anthropocentric monopoly of most ethical systems" and provides new ethical legitimacy to responsibility for "the interests and rights of fellow human beings (...) for wrongs done to them that should be righted, for their sufferings that should be alleviated" (cf.). That is why *I* am responsible in the proper sense of the word before an earthly court, in this world, with or without God; and independently in my own conscience, to "being as a whole", concludes Jonas in *The Imperative of Responsibility*[51].

While responsibility "in my own conscience" belongs to the moral virtues or competencies of private persons and citizens[52], legal (criminal) responsibility has a more objective political (or even cosmopolitical) shape. Without the help of objective measures and legal sanctions, the application

---

[48] Jonas was a sceptic about the realization of universal and responsible participation, but not about democratic ideals themselves. He believed that progressive tyranny over nature threatened them no less than the future of the planet. Universal education for responsibility and democracy could make both less elitist and more egalitarian.

[49] Jonas (1984, 323); comp. Apel (2000, 21–50); also in the context of "organising a planetary framework for the responsibility that people have for the consequences (as well as the side-effects) of collective practices on a large spatio-temporal scale", Apel (1988, 42).

[50] Jonas (2015, 516–517).

[51] Comp. also Jonas (1992, 130–131).

[52] There is no private relationship between man and the biosphere and ecosphere as a reality (in the ontological sense) and a good (in the normative sense) which are holistic by definition (Gesamthaushalt der Dinge in Jonas's words), since it is an entity and a good fundamental among those listed as common and public goods. Hence the importance of the development of a communal and public perspective, accompanying in principle all human relations with nature, see Hursthouse (2007); Dobson and Bell (2006); Connelly (2006); Baber and Bartlett (2001).

of the imperative of responsibility may prove to be insufficiently consistent and widespread to effectively prevent further destruction of the ecosphere. For the sake of completeness, it is worth recalling that there is also legal responsibility for the malpractice of denying international crimes[53].

V. A Pathway to the 2022 Amendment

In December 2021 the governing body of the International Criminal Court (ICC) in The Hague held its annual meeting, hosted by the Republic of Vanuatu and the Independent State of Samoa. In its original version, Article 8 meets the preamble of Rome Statute, which recognises as crimes against humankind those threatening "the peace, security and well-being of the world" and is the basis for an amendment to the Rome Statute, currently undergoing widespread (public, political and legal) consultation worldwide. It reads as follows:

> "1. For the purpose of this Statute, "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.
>
> 2. For the purpose of paragraph 1:
>
> a. "Wanton" means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;
>
> b. "Severe" means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;
>
> c. "Widespread" means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;
>
> d. "Long-term" means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;
>
> e. "Environment" means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space".

[53] Grzebyk (2020).

The definition of ecocide adopted in June 2021 assumes, therefore, that it is an ecocentric law (as ecocide shall be *suffered by an entire ecosystem or ecosphere*). The object of protection here are human beings in strict dependence on the consequences resulting from the intentional (*with knowledge*) or reckless (*wanton*), extremely destructive impact of the ecocidal on the ecosystem. It refers to 1) the environmental human right to an integral (i.e. not devastated or modified in this way, therefore healthy, balanced, conserved and maintained) natural environment as a world of life (bios); 2) the ecological human right to a safe and peaceful existence (i.e. free of damage, threats and risks on a scale characteristic of cataclysms) in a natural environment favorable to human and social life, however not only in terms of survival – also in terms of growth, flourishing, intergenerational and species continuity, and undistorted evolution.

A distinctive, relational, interdependent and therefore synthetic feature of this law is that the victim of ecocide here will not simply be a human collective defined in population and demographic terms, but a naturally situated collective (e.g. a population – but not necessarily an indigenous people – settled in a river delta as an ecosystem. In a relational sense, ecocide also extends to the relationship of humans with non-human beings, more specifically, (i) humans, (ii) animals in the sense of individuals and species, (iii) plant species, and (iv) other living organisms. Thus, ecocide is a crime against all life, not only human life[54]. According to Grey, "Ecocide is identified on the basis of the deliberate or negligent violation of key state and human rights and according to the following criteria: (1) serious, and extensive or lasting, ecological damage, (2) international consequences, and (3) waste. Thus defined, the seemingly radical concept of ecocide is in fact derivable from principles of international law. Its parameters allow for expansion and refinement as environmental awareness engenders further international consensus and legal development"[55]. On the other hand, Higgins assumed that

[54] Greene (2019, 4). However, the legal definition of environmentalism includes, in addition to the biosphere, the hydrosphere, cryosphere, lithosphere, atmosphere and outer space (Article 8, paragraph 2e).

[55] Gray (1996, 216). The terms waste and wasting are ambiguous. They do not mean only devastation, annihilation, pollution but also devaluation. Their normative connotation is connected with human behavior which results not only in damaging or destroying an object but also in lowering or depriving of its qualitative values, something that was previously full of value; also, with wasting of what is useful, scarce, unique, non-renewable, etc. Hence the responsibility of the perpetrator of such conduct. J. Locke's well-known argument about the waste of lands belonging to indigenous people, which were

not all acts of ecocide can be attributed to the perpetrator (ascertainable), because natural disasters, such as volcanic eruptions and earthquakes, have no human perpetrators (unascertainable). In addition, it would probably be possible to distinguish intermediate categories, when as a result of human, administrative, etc. negligence and omission (e.g. failure to protect a particular ecosystem despite earlier forecasts and warnings) the elements of nature cause damage that could at least in part have been prevented.

Finally, it is a law equipped with procedures to hold the perpetrators of ecocide criminally responsible. Moreover, the categorisation in terms of "crimes against humanity" means that a large number of incalculable human communities may fall victim to ecocide, together with their descendants, irrespective of the administrative borders of states (*crosses state boundaries*). Because of such severe, permanent or irreversible (*long-term, irreversible*) and wide-spread damage and harm to human life and the natural, cultural or economic resources supporting it, ecocide follows on from the crimes against humankind already identified and applied. As such, it is expected to immediately be the subject of a legislative amendment to the Rome Statute. The inherent values of nature, as well as relational values[56] due to the duration as well as current and prospective flourishing[57] of all life on the planet with particular reference to humanity are fully reflected here. Finally, it is worth considering the question whether the effectiveness of the new legislation will be higher than the human right to protected natural resources and ecocentric rights.

taken away from them 'for the benefit' of agriculture, see Cohen (2010, 233–273). In turn F. Engels gives the example of planters who, by deforestation of the jungle for profitable coffee plantations, wasted valuable soil: it was washed away by the ocean. Furthermore, the terms ecological damage, harm, injury (also: being wronged, Latin laesio), which are used interchangeably in the literature, may have different meanings. Any living and vulnerable, sentient (so violable) being can be harmed; many can be wronged (though none can be aggrieved as certain scholars argue) without necessarily being able to make an explicit moral judgment. It is an illusion to think that our actions towards other beings have no moral significance, Puryear argues on the basis of Schopenhauer who embraced all living beings, see Puryear (2017, 250–269); in Rome Statute: "willfully causing great suffering"; also Greene (2019, 28).

[56] See Mattijssen et al. (2020, 402–410); Barrière et al. (2019); Behrens (2014, 63–82). Perhaps this relational and synthetic understanding poses the most difficulties in cultures and mental landscapes where pre-relational, isolationist ontologies and strongly hierarchical axiologies typical of modernity still prevail.

[57] E.g. Hannis (2015); Behrens (2014); Taylor (1998, 309–397).

VI. The Effectiveness of the Human Right to Protected Ecosystems. Legal Biocentrism vs Ecocentrism

Basically, the new legislation under consideration here is not about improvement, and especially not about replacing or competing with other laws that already exist to protect ecosystems, along with the live and vital interests of all their inhabitants, and their resources (which is a highly inclusive concept). It is more about efficiency in prosecuting perpetrators and prevention, since ecocides are some of the most frequent and damaging crimes; finally, it is about global efficiency, which obviously involves consolidating and coordinating legal practices worldwide once the amendment is in the Rome Statute. The greatest allies (not competitors) of an extra legislative equipped International Criminal Court (ICC) in The Hague will be the International Court of Human Rights and the International Rights of Nature Tribunal. In turn, the allies (albeit at a different level) of ecocide law itself will be basic and constitutional rights. There will undoubtedly be differences in the perception of individuals vs species, populations and collectives; biosystems vs ecosystems, biosphere vs ecosphere, living vs nonliving beings (natural artifacts), as well as relations and hierarchies between them. Some of them (but not all) in different parts of the world (but not everywhere) have already been granted legal protection or even some rights. However, it is the human being – as a being endowed with moral and normative invention, as well as with normative authority (as Habermas says) and administrative power, who is able to ensure the widest realization of even the most comprehensive rights, and to enforce responsibility for their violation. Experts in ecocide are already learning to identify, define and soon to apply the wealth of meanings connoted by the phrasing "being an aggrieved party"[58], and being a perpetrator in the context of ecocide, although it might be challenging from both a normative and an empirical point of view.

When defining the key function of ecocide as an enhancer and catalyst of the effective international protection of human life in its full-scale (primarily natural) habitat by enforcing of accountability for violations of formal or procedural human rights to the environment, it should not be forgotten that the anthropocentric perspective is broken and balanced here by an ecocentric

[58] Mazur (2021, 106–116); Pietrzykowski (2020, 221).

and biocentric perspective. "A biocentric approach places humans on the same level as all living beings, whereas an ecocentric approach considers all that is in the natural world — living beings and nonliving entities – to all be equally valued"[59]. The legal definition of ecocide seeks to balance the three perspectives and so do irrespectively of political, ideological and cultural differences[60]. Although the phrasing 'crime against humanity' would suggest a continuation of anthropocentric legislation, the anthropocentric monopoly is broken here, however, not in the vein of the posthumanist mainstream of the last few decades.

In particular, the above-mentioned balance reflects the already quite frequently applied construction of the human right to a legally protected environment or ecosystem. The anthropocentric perspective intersects with the ecocentric perspective, for example when the interests and welfare of animals are protected by law to a socially acceptable extent[61], where no political consensus (or even coherent concept) can be expected on what the rights of living beings or ecosystems should look like apart from human rights or interests. Some states have recognised the values of nature, especially the importance of life, dignity, welfare, freedom from cruelty[62] at a 'constitutional significance' level, though their constitutions do not explicitly declare the rights of animals or ecosystems.

Two states – Stilt reports – i.e. Ecuador (2008) and Bolivia (2010) pioneered the inclusion in their constitutions of provisions recognising the integral rights of 'Mother Nature' and 'Mother Earth' as fully independent of any rights to which humans are entitled. Their constitutions declare, among other things, the protection of the natural life cycle, natural evolutionary processes (in Ecuador), biodiversity, water, air, balance and freedom from pollution (in Bolivia) by virtue of their inherent values. Nonetheless, neither the constitutionalization of strictly ecocentric laws nor these laws by themselves guarantee as yet the effective implementation and enforcement[63] of the observance that is due to these entities.

[59] Stilt (2021, 277, footnote 6).

[60] See Wojciechowski (2009).

[61] Stilt (2021).

[62] Ibidem.

[63] E.g., Whittemore (2011); Kotze, and Villavicencio Calzadilla (2017); Bétaille stresses that broad access to justice makes it unnecessary to give legal personality to nature, see Bétaille (2019, 35–64).

It is also worth mentioning the practices that are part of the so-called judicial law. In some countries (e.g. New Zealand, Colombia, Mexico, USA, India, Bangladesh) the category of legal personality has been formally extended to provide the most threatened ecosystems with such status[64]. For instance, in Colombia (2016) the Atrato river and in Bangladesh (2019) the Turag river have been granted legal personality by judicial rulings (the Constitutional Court in Colombia and the Supreme Court in Bangladesh) for protection against almost total biological death at the hands of local companies[65].

A number of countries have regulations that correspond in content to ecocide in their domestic codes of criminal law. These include Armenia (art. 394), Belarus (art. 131), Georgia (with the literal use of the term ecocide, art. 409), Kazakhstan (art. 161), Kyrgyzstan (art. 374), Moldova (art. 136), Russia (art. 358), Tajikistan (art. 400), and Ukraine (art. 441). In these countries the perpetrators are usually punished with imprisonment for a minimum of 10 (usually 12) years and a maximum of 20 years[66]. The Polish legislator "unambiguously applies the model of a uniform code of environmental protection"[67]. "Notwithstanding the provisions in force at the place where the offense has been committed, the Polish Criminal Act shall apply to a Polish citizen and to a foreigner who has not been ordered to be surrendered if he commits abroad an offense which the Republic of Poland is obliged to prosecute under an international agreement, or an offense specified in the Rome Statute of the International Criminal Court, drawn up in Rome on 17 July 1998"[68].

However, even the most advanced domestic legal systems will work more effectively if the legal policies and practices of courts of justice are coordinated on an international and even global level. As argued by C. E. Pavel (2021), consensual and coordinated international practice is essentially the only way to strengthen the effectiveness of legislation, jurisprudence and law enforcement in the context of protecting goods of vital importance for all humanity – and the most fundamental of these goods are the ecosphere and

---

[64] The originator of this practice was Stone (1972, 450–501); comp. Stilt (2021). On the legal personality of non-human beings see Pietrzykowski (2017); Kurki (2017).

[65] Stilt (2021, 282).

[66] See EcocideLaw (2022).

[67] Zawłocki (2014, 127; 2010, 726–728).

[68] A particular challenge arises when a state has denationalised a person suspected of committing a crime of international concern by obstructing the law enforcement authorities of any state, see Seet (2021, 247–274).

biosphere, which are increasingly threatened with depletion or irreversible devastation.

References

Aparac, J. (2021, July 9). A Missed Opportunity for Accountability? *Völkerrechtsblog: International Law and International Legal Thought*. https://voelkerrechtsblog.org/a-missed-opportunity-for-accountability/

Apel, K.-O. (1988). *Diskurs und Verantwortung*. Frankfurt am Main: Suhrkamp.

Apel, K.-O. (2000). First Things First. Der Begriff primordialer Mitverantwortung. Zur Begründung einer planetaren Makroethik. In M. Kettner (Ed.), *Angewandte Ethik als Politikum*. Frankfurt am Main: Suhrkamp.

Baber, W. F. and Bartlett, R. V. (2001). Toward Environmental Democracy: Rationality, Reason, and Deliberation. *Kansas Journal of Law and Public Policy*, 11 (1), 35–64.

Barrière, O. et al. (Eds.). (2019). *Coviability of Social and Ecological Systems: Reconnecting Mankind to the Biosphere in an Era of Global Change*. Cham: Springer.

Bechky, P. S. (2012). Lemkin's Situation: Toward a Rhetorical Understanding of Genocide. *Brooklyn Law Review*, 77 (2), 551–624.

Behrens, K. G. (2014). An African Relational Environmentalism and Moral Considerability. *Environmental Ethics*, 36 (1), 63–82.

Berat, L. (1993). Defending the Right to a Healthy Environment: Toward a Crime of Geocide in International Law. *Boston University International Law Journal*, 11, 327–348.

Bétaille, J. (2019). Rights of Nature: Why It Might Not Save the Entire World?. *Journal for European Environmental & Planning Law*, 16 (1), 35–64.

Bourbonnière, M. and Lee, R. J. (2007). Legality of the Deployment of Conventional Weapons in Earth Orbit: Balancing Space Law and the Law of Armed Conflict. *European Journal of International Law*, 18 (5), 873–901.

Buddeberg, E. (2017). Verantwortung nach Hans Jonas: Prinzip, Diskurs und politische Institutionen. In J. Nielsen-Sikora and J.-S. Gordon (Eds.), *Hans Jonas. Zur Diskussion seiner Denkwege*. Berlin: Logos.

Card, C. (2003). Genocide and Social Death. *Hypatia*, 18 (1), 63–79.

Carnwath, Lord CVO. (2014). Judges and the Common Laws of the Environment—At Home and Abroad. *Journal of Environmental Law*, 26 (2), 177–187.

Citizens of Europe. (2014, January 29). *End Ecocide in Europe Campaign: Using the European Citizens Initiative to Have a Real Impact*. Citizens of Europe. https://citizens-of-europe.eu/end-ecocide-in-europe-campaign-using-the-european-citizens-initiative-to-have-a-real-impact/

Cohen, A. J. (2010). A Conceptual and (Preliminary) Normative Exploration of Waste. *Social Philosophy and Policy*, 27 (2), 233–273.

Connelly, J. (2006). The Virtues of Environmental Citizenship. In A. Dobson and D. Bell (Eds.), *Environmental Citizenship*, Cambridge: MIT Press.

Coyne, L. (2018). Responsibility in Practice. Hans Jonas as Environmental Political Theorist. *Ethics, Policy & Environment*, 21 (2), 229–245.

Crook, M. and Short, D. (2014). Marx, Lemkin and the Genocide–Ecocide Nexus. *The International Journal of Human Rights*, 18, 298–319.

Daly, E. and May, J. R. (2019). Exploring Environmental Justice through the Lens of Human Dignity. *Widener Law Review*, 25 (2), 177–194.

Delord, J. (2010). *L'extinction d'espèce. Histoire d'un concept et enjeux éthiques*. Paris : Publications scientifiques du Muséum national d'histoire naturelle.

Dobson, A. and Bell, D. (2006). *Environmental Citizenship*. Cambridge: MIT Press.

EcocideLaw. (2022). *Ecocide Law in National Jurisdictions*. EcocideLaw. https://ecocidelaw.com/existing-ecocide-laws/

Ecologist (2020, July 21). Belgian Green Parties Introduce Ecocide Bill. *Ecologist*. https://theecologist.org/2020/jul/21/belgian-green-parties-introduce-ecocide-bill

Folkers, A. (2017). Resilienz als Nomos der Erde. Earth System Governance und die Politik des Anthropoza¨ns. *DGS Verhandlungsband. Geschlossene Gesellschaften: Die Erde, der Mensch und das Soziale*, 38, 137–160.

Fried, J. H. E. (1973). War by Ecocide. In M. Thee (Ed.), *Bulletin of Peace Proposals*, vol. I. Oslo: Universitetsforlaget.

Frisch, M. (1980, May 19). Man in the Holocene. *The New Yorker*. https://www.newyorker.com/magazine/1980/05/19/man-in-the-holocene

Galligan, B. P. (2021). Re-theorising the Genocide–Ecocide Nexus: Raphael Lemkin and Ecocide in the Amazon. *The International Journal of Human Rights*, 26 (2), 1004–1031. DOI 10.1080/13642987.2021.1994402.

Garcia, B. (2020, February 27). The History of Ecocide, a New Crime Against Humanity. *Science – Environment*. https://www.bbvaopenmind.com/en/science/environment/the-history-of-ecocide-a-new-crime-against-humanity/

Gauger, A. et al. (2012). Ecocide is the Missing 5th Crime Against Peace. *Human Rights Consortium*. https://sas-space.sas.ac.uk/4830/1/Ecocide_research_report_19_July_13.pdf

Gray, M. A. (1996). The International Crime of Ecocide. *California Western International Journal of Law*, 26 (2), 215–271.

Greene, A. (2019). The Campaign to Make an Ecocide an International Crime: Quixotic Quest or Moral Imperative?. *Fordham Environmental Law Review*, 30 (3), 1–48.

Grimoult, C. (2019). Lamarck et Cuvier en re´volution. Ge´ologie, religion et politique entre violence et progre`s (1789-1830). *Arts & Savoir*, 12. DOI 10.4000/aes.2099.

Gronowska, B. et al. (Eds.). (2018). *Prawa człowieka a ochrona środowiskowa. Wspólne wartości i wyzwania* [Human rights and environmental protection. Shared values and challenges]. Toruń: UMK Press.

Grzebyk, P. (Ed.). (2020). *Responsibility for Negation of International Crimes*. Warszawa: IWS Press.

Hannis, M. (2015). The Virtues of Acknowledged Ecological Dependence: Sustainability, Autonomy and Human Flourishing. *Environmental Values*, 24 (2), 145–164.

Haraway, D. (2015). Anthropocene, Capitalocene, Plantationocene, Chthulucene: Making Kin. *Environmental Humanities*, 6, 159–165.

Higgins, P. (2010). *Eradicating Ecocide: Exposing the Corporate and Political Practices Destroying the Planet and Proposing the Laws Needed to Eradicate Ecocide*. London: Shepheard-Walwyn.

Higgins, P., Short, D. and South, N. (2013). Protecting the Planet: A Proposal for a Law of Ecocide. *Crime, Law and Social Change*, 59 (3), 251–266.

Huber, J. (2017). Cosmopolitanism for Earth Dwellers: Kant on the Right to Be Somewhere. *Kantian Review*, 22 (1), 1–25.

Hursthouse, R. (2007). Environmental Virtue Ethics. In R. Walker and P. Ivanhoe (Eds.), *Working Virtue: Virtue Ethics and Contemporary Moral Problems*. Wotton-under-Edge: Clarendon Press.

Independent Expert Panel for the Legal Definition of Ecocide Completed (2021, June). *Commentary and core text. Stop Ecocide Foundation*. https://static1.squarespace.com/static/5ca2608ab914493c64ef1f6d/t/60d7479cf8e7e5461534dd07/1624721314430/SE+Foundation+Commentary+and+core+text+revised+%281%29.pdf

International Criminal Court. (1998, July 17). *Rome Statute of the International Criminal Court*. International Criminal Court. https://www.icc-cpi.int/resource-library/Pages/core-legal-texts.aspx

International Monsanto Tribunal. (2022). *Home*. International Monsanto Tribunal. http://www.monsanto-tribunal.org/

Johnston, I. (2014, October 12). Campaign to Put Ecocide on Part with Genocide. *The Independent*. https://www.independent.co.uk/environment/green-living/campaign-to-put-ecocide-on-a-par-with-genocide-in-attempt-to-curb-environmental-destruction-9789297.html

Jonas, H. (1984). *Das Prinzip Verantwortung. Versuch einer Ethik für die technologische Zivilisation*. Frankfurt am Main: Suhrkamp.

Jonas, H. (1985). *The Imperative of Responsibility: In Search of an Ethics for the Technological Age*. Chicago: University of Chicago Press.

Jonas, H. (1987). Warum die Technik ein Gegenstand für die Ethik ist [Why technology is a subject matter for ethics]. In H. Lenk and G. Ropohl (Eds.), *Technik und Ethik*. Stuttgart: Philipp Reclam.

Jonas, H. (1992). *Philosophische Untersuchungen und metaphysische Vermutungen*. Frankfurt am Main: Suhrkamp.

Jonas, H. (2015). Wie können wir unsere Pflicht gegen die Nachwelt und die Erde unabhängig vom Glauben begründen? [How can we justify our duty towards posterity and the earth irrespectively of religious faith?]. In H. Jonas, *KGA*, vol. I/2, Freiburg: Rombach Verlag.

Kenig-Witkowska, M. M. (2017). Protection of the Environment in Times of Non-international Armed Conflicts – a Gap to Be Filled in. *Studia Juridica*, 78, 184–198.

King, C. (1877). Catastrophism and Evolution, *The American Naturalist*, 11 (8), 451–470.

Kolbert, E. (2014) *The Sixth Extinction: An Unnatural History*. New York: Henry Holt & Co.

Kotze, L. J. and Villavicencio Calzadilla, P. (2017). Somewhere between Rhetoric and Reality: Environmental Constitutionalism and the Rights of Nature in Ecuador. *Transnational Environmental Law*, 6 (3), 401–433. DOI 10.1017/S2047102517000061.

Kurki, V. A. J. (2017). Why Things Can Hold Rights: Reconceptualizing the Legal Person. In V. A. J. Kurki and T. Pietrzykowski (Eds.), *Legal Personhood: Animals, Artificial Intelligence, and the Unborn*. Cham: Springer.

Lay, B. et al. (2015). Timely and Necessary: Ecocide Law as Urgent and Emerging. *The Journal of Jurisprudence*, 28, 431–452.

Lee, R. J. (2000). The Underlying Legal Theory to support a Well-Defined Human Right to a Healthy Environment. *Journal of Environmental Law*, 283.

Lemkin, R. (1933). *Les actes constituant un danger général (interétatique) considérés comme délites de droit des gens par Raphaël Lemkin*. Paris: A. Pedone.

Lemkin, R. (1944). *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*. New York: Columbia University Press.

Lemkin, R. (1948, January 15). Genocide as a Crime Under International Law. *UN Bulletin*, 70.

Lemkin, R. (2000, December 9). *Acts Constituting a General (Transnational) Danger Considered as Offenses Against the Law of Nations by Raphael Lemkin, Lecturer on Comparative Law at the Institute of Criminology of the Free University of Poland and Deputy Prosecutor of the District Court of Warsaw*. http://www.preventgenocide.org/lemkin/madrid1933-english.htm

Lemkin, R. (2018). Przestępstwa polegające na wywołaniu niebezpieczeństwa międzypaństwowego jako delicta juris gentium. *The Voice of Law: Allerhand Law Review*, I (1–2), pos. 9.

May, L. (2010). *Genocide: A Normative Account*. Cambridge: Cambridge University Press.

Mattijssen, T. J. M. et al (2020). Relational Values of Nature: Leverage Points for Nature Policy in Europe. *Ecosystems and People*, 16 (1), 402–410.

Mazur, P. (2021). Status prawny zwierząt pokrzywdzonych w wyniku popełnienia przestępstw stypizowanych w ustawie o ochronie zwierząt z 21.08.1997 r. [Legal status of animals injured as a result of crimes specified in the Act on the protection of animals of 21.08.1997]. *Prawo w Działaniu. Sprawy Karne*, 4 (47), 106–116.

McDonnell, M. A. and Moses, A. D. (2005). Raphael Lemkin as Historian of Genocide in the Americas. *Journal of Genocide Research*, 7 (4), 501–529.

Mégret, F. (2011). The Problem of an International Criminal Law of the Environment. *Columbia Journal of Environmental Law*, 36, 195–255.

Mehta, S. and Merz, P. (2015). Ecocide – A New Crime Against Peace? *Environmental Law Review*, 17 (1), 3–7.

Merz, P., Cabanes, V. and Gaillard, E. (2014). Ending Ecocide – the Next Necessary Step in International Law, *18th Congress of the International Association of Democratic Lawyers*, 4.

Mistura, A. (2018). Is There Space for Environmental Crimes Under International Criminal Law? The Impact of the Office of the Prosecutor Policy Paper on Case Selection and Prioritization on the Current Legal Framework. *Columbia Journal of Environmental Law*, 43 (1). DOI 10.7916/cjel.v43i1.3740

Murphy, S. D. (1999/2000). Does the World Need a New International Environmental Court?. *George Washington Journal of International Law & Economics*, 32 (3), 333–349.

Nowak, E. et al. (2022). Challenging Habermas' Practical Discourse to Justify the Rights of Animals. In W. Kazimierska-Jerzyk, M. Gensler and K. Kędziora (Eds.), *Practica et Speculativa. Studies Offered to Professor Andrzej M. Kaniowski*. Łódź: Łódź University Editions, 605–626.

Parenti, Ch. (2011). *Tropic of Chaos*. Bold Type Books.

Pavel, C. E. (2021). *Law Beyond the State. Dynamic Coordination, State Consent, and Binding International Law*. New York: Oxford University Press.

Pietrzykowski, T. (2017). The Idea of Non-personal Subjects of Law. In V. A. J. Kurki and T. Pietrzykowski, *Legal Personhood: Animals, Artificial Intelligence, and the Unborn*. Cham: Springer.

Pietrzykowski, T. (2020). Prawo ochrony zwierząt – między praktyką a teorią nowej gałęzi prawa. Artykuł recenzyjny dotyczący książki Prawa Zwierząt. Praktyczny przewodnik [Animal Protection Law – between Practice and Theory of a New Branch of Law]. *Krytyka Prawa*, 2.

Plant, G. (Ed.). (1991). *Environmental Protection and the Law of War: A Fifth Geneva Convention on the Protection of the Environment in the Time of Armed Conflict*. London: Belhaven Press.

Puryear, S. (2017). Schopenhauer on the Rights of Animals. *European Journal of Philosophy*, 25 (2), 250–269. DOI 10.1111/ejop.12237

Ray, G. (2016). Writing the Ecocide-Genocide Knot. *Colophon: South as a State of Mind*, 6, *Documenta*, 14(4).

Rosół, P. (2017). *Hans Jonas o etycznej odpowiedzialności nauki i techniki* [Hans Jonas on the ethical responsibility of science and technology]. Kraków: Universitas.

Schneider, L. K. (2021, August 4). Strafrecht gegen Umweltsünden? *Welt-Sichten*. https://www.welt-sichten.org/artikel/39142/umweltsuenden-zu-verhindern-ist-sache-der-politik-nicht-des-strafrechts

Seet, M. (2019). 'Cosmopolitan Citizenship', Territorial Borders, and Bringing Denationalized Terrorists to Justice. *Journal of the International Criminal Justice*, 19 (2), 247–274.

Sharp, P. (1999). Prospects for Environmental Liability in the International Criminal Court. *Virginia Environmental Law Journal*, 18 (2), 217–243.

Singer, P. (1981). *The Expanding Circle. Ethics, Evolution, and Moral Progress*. Princeton: Princeton University Press.

Smith, G. (2010). Ecocide, the Fifth War Crime?. *Earth Island Journal*. https://www.earthisland.org/journal/index.php/magazine/entry/ecocide_the_fifth_war_crime/

Stein, S. (2010). Geno- and Other Cides. A Cautionary Note on Knowledge Accumulation. *Journal of Genocide*, 4 (1), 39–63.

Stellman, J. M. and Stellman, S. (2018). Agent Orange During the Vietnam War: The Lingering Issue of Its Civilian and Military Health Impact. *American Journal of Public Health*, 108 (6), 726–728.

Stilt, K. (2021). Rights of Nature, Rights of Animals. *Harvard Law Review Forum*, 134, 276–285.

Stone, Ch. D. (1972). Should Trees Have Standing? Toward Legal Rights for Natural Objects. *Southern California Law Review*, 45, 450–501.

Taj, M. (2022, January 24). Oil Spill Triggered by Tsunami Devastates Coast of Peru. *New York Times*. https://www.nytimes.com/2022/01/21/world/americas/peru-oil-spill-tonga-tsunami.html

Taylor, P. E. (1998). From Environmental to Ecological Human Rights: A New Dynamic in International Law? *Georgetown International Environmental Law Review*, 10, 309–397.

United Nations Environment Programme. (2022). *Home*. UNEP. https://www.unep.org

Voigt, Ch. (Ed.). (2019). *International Judicial Practice on the Environment*. Cambridge: Cambridge University Press.

von Meding, J. (2017, October 4). Agent Orange: How U.S. Chemical Warfare in Vietnam Unleashed a Slow-moving Disaster. *The Conversation - University of Newcastle*. https://theconversation.com/agent-orange-exposed-how-u-s-chemical-warfare-in-vietnam-unleashed-a-slow-moving-disaster-84572

Wattad, M. S. A. (2009). Rome Statute & Captain Planet: What Lies Between Crime Against Humanity and the Natural Environment. *Fordham Environmental Law Review*, 19 (2), 265–285.

White, R. (2017). Carbon Criminals, Ecocide and Climate Justice. In C. Holle and C. Shearing (Eds.), *Criminology and the Anthropocene*. London: Routledge.

Whittemore, M. E. (2011). The Problem of Enforcing Nature's Rights under Ecuador's Constitution: Why the 2008 Environmental Amendments Have No Bite. *Pacific Rim Law & Policy Journal*, 20 (3), 659–691.

Woodward, N. (2019). Eternal Mirroring: Charles Patterson's Treatment of Animals and the Holocaust. *Journal of Animal Ethics*, 9 (2), 158–169.

Wojciechowski, B. (2009). *Interkulturowe prawo karne. Filozoficzne podstawy karania w wielokulturowych społeczeństwach demokratycznych* [Intercultural criminal law. Philosophical foundations of penal justice in multicultural democratic societies]. Toruń: Adam Marszałek.

Zawłocki, R. (2010). Karnoprawna ochrona środowiska naturalnego. *Przegląd Prawa Karnego*, 1, 127–146.

Zierler, D. (2011). *The Invention of Ecocide. Agent Orange, Vietnam, and the Scientists Who Changed the Way We Think About the Environment*. Athens: University of Georgia Press Fund.