

# Paradox of Recognition: Genocide and Colonialism

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## ABSTRACT (ENGLISH)

The recognition of and desire to prevent genocide are unquestionable social and political necessities. But despite genocide's standardization and codification in international law, understandings and applications of its meaning are still contested. Using Germany's response to the 1904–1908 Ovaherero and Nama genocide and Raphael Lemkin's response to the Civil Rights Congress's 1951 "We Charge Genocide" petition to the United Nations, this paper argues the necessary existence of an anti-Black exception to acknowledgements of genocide, yielding a paradox in our understandings of recognizing genocide that renders Black death necessary.

## FULL TEXT

I Paul Gilroy offers "paralyzing guilt" and "productive shame" as two approaches to state and community engagement after genocide (99). He confers upon shame positive political and psychological qualities, including the collective impulse to repair historical harm. Yet it is paralyzing guilt that compels Germany to commemorate in perpetuity the genocidal wrongdoings it perpetrated against German and European Jews in the Second World War to the preclusion of proper recognition of and restitution for other genocidal crimes for which it is responsible. The specter of the Nazism rightfully drives both national and continental commemorations of lives taken so that such horrors might not be repeated: "*Never again*," goes the maxim. The Nazi Holocaust provides the framework for the definition of genocide under international law. The 1951 United Nations Convention on the Prevention and Punishment of the Crime of Genocide formalizes Raphael Lemkin's definition of mass eliminatory murder first published in his 1944 landmark text, *Axis Rule in Occupied Europe*. The term combines the Greek *génos* (meaning "race" and denoting a group of people with a common origin or descent) with the Latin suffix *-cide* (meaning "killing"). Lemkin's definition revolves fundamentally around colonialism, emerging from his study of the collective annihilation of Armenians in the Ottoman Empire and colonial projects in the Americas. The Convention posits a standard definition for prosecuting "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group," and its passage in 1951 formally criminalizes genocide while implicitly codifying who can and cannot be killed.

In a recent iteration of the enduring debate about historiographic considerations of German genocide (i.e. whether Nazi genocide was a singular phenomenon as opposed to part of a historical arc or relational framework of German racial statecraft), historian Dirk Moses offers a provocation that analogizes dominant German memory culture as religious orthodoxy. This political catechism is governed, most critically, by the twinned ideas that, first, the uniqueness of the Nazi Holocaust arises from the hate-motivated desire to eliminate European Jewry: that "it was the unlimited *Vernichtung der Juden* (extermination of Jews)," which is distinct from the "limited and pragmatic aims of other genocides."<sup>1</sup> Second, the attempted racial annihilation driven purely by this antisemitic ideology thus represents a politically foundational "*Zivilisationsbruch* (civilizational rupture)" for which Germany has a responsibility to atone (Moses).

In the case of the Ovaherero and Nama genocide during and after the 1904–1908 Herero Wars in German South West Africa (present-day Namibia), inertia has forestalled productive shame or even the complete

acknowledgement of violence. We may understand the roots of this denialism—the relative lack of public recognition and acknowledgement in Germany and around the world—as a coupling of anti-blackness with a hesitation to frame the processual and destructive violence of coloniality as genocidal. To recognize it as such would negate the dominant idea that collectivized punishment and community destruction are rare and preventable as opposed to a common aspect of colonial projects. Instead, genocide is understood as singularly event-based per jurisprudential precedents set by post-war prosecutions of Nazi perpetrators at Nuremberg. Culpability for genocide is also informed by the ideological genesis of property rights: a legal subjecthood centered on the singular citizen-subject. It is, therefore, part of the Eurocentric framing of genocide that responsibility for perpetrating acts of mass atrocity resides with guilty individuals and political regimes rather than with entire nation-states and the logics that animate and sustain them. The precedent set by Nuremberg adjudicates that “crimes against international law are committed by men, not by abstract entities, [and] ‘only by punishing individuals who commit such crimes can the provisions of international law be enforced’” (Nollkaemper 621). But in the wake of the Nuremberg and Tokyo trials, and in a jurisprudential moment shaped by subsequent ad hoc tribunals (e.g. the former Yugoslavia and Rwanda) and the creation of the International Criminal Court, new legal attention has been paid to hybridized individual-structural notion of responsibility where acknowledging state responsibility does not preclude that of the individual (Milanovi 554; Gaeta 643). In asking about complicity, international law grapples with the question of whether the real agent of genocide is the state itself or those working on its behalf:

What is the role of each? . . . There is no question that the state can act only through its agents. On the other hand, the agents, if acting within their powers, are acting only for and on behalf of the state. When genocide is committed, upon whom then must the curtain fall? Is the responsibility of one dependent on the other? (Asuncion 1218)

Many of the machinations of the Nazi Holocaust were founded in Germany’s colonizing of South West Africa (Madley 430). Where genocidal antisemitism is an attempted extermination of European Jews following the molecularized distillation of Jewishness to an essential racial quality, Germany’s genocidal practices were first enacted outside of the European continent; necropolitical organizing forms in the metropole were first attempted in the colony, the “site where sovereignty consists fundamentally in the exercise of a power outside the law” (Mbembe 23). After all, Hitler “applied to Europe colonialist procedures which until then [had] been reserved exclusively for the Arabs of Algeria, the ‘coolies’ of India and the ‘niggers’ of Africa” (Césaire 36). Before the Nazi campaign embarked on its “struggle for space,” imperial Germany materialized its conquest of German South West Africa in similar ideological terms (Giaccaria and Minca 20). It strove to create an outpost in its southern African colony “that did not have to shy away from a comparison with the German homeland,” exporting the notion of *Lebensraum* that had captured the German geopolitical imagination to actualize it via a careful “‘scientific method’ in ‘indigenous policy’” (Zimmerer, “In Service of Empire” 69). While “scientific method” may be a metaphor for methodically crafted bureaucracy and policy directed toward the native inhabitants of this conquerable African land, it can also allude to the methodological crafting of spatial management administration: a part of what Bench Anfield describes as “the spatial and bodily *purification of blackness* and the environmental conditions associated with this racial classification” (127). The logics for racial management in both German genocides are rooted in colonial claims to land-based sovereignty defined by bounded territorializations of identity. In considering these two genocides the results of that racial policy, it becomes unnecessary to assert singular causality (i.e. the Nazi Holocaust was motivated solely by antisemitic animus, though it was an overwhelming and significant motivation) or exceptionalism of either event (i.e. the unprecedentedness of Nazi antisemitism, German genocide, or Nazi race science). The varying contexts of genocidal crimes make all genocides unique, but the layered and processual governing logics of race-making co-constitute anti-Black and antisemitic racialization. The horrors enacted in German South West Africa provided the ideological and material scaffolding through which German statecraft unfolded itself in Europe in its management of populations perceived to present existential threats to German sovereignty. Rather than competition for primacy in historical memory, we can recognize how the

genocide of the Ovaherero and Nama brought race war and mass extermination into the arsenal of future German necropolitical possibility and the state's brutal attempt to resolve the ongoing "Jewish question" once and for all.<sup>2</sup> The social Darwinist paradigm of the time informed an organismic view of community interactions within nation-states rooted in the concept of purity. These ideas underpin *Lebensraum*, in which *Raum* ("room") contours oppositional definitions of the self and the other within a regime of biologized state-making that is always already racialized (Heffernan 45). Skirmishes over land and resources were formalized into military strategies like the Herero Wars. General Lothar von Trotha's declaration in October 1904 was decidedly genocidal; in threatening all Ovaherero peoples who did not cede their land with certain death, all indigenous people were transformed into enemy combatants by the mere nature of a blackness that presented an obstacle to German claims to land. War extracted indigenous Namibians, now enemies of the state, from German subjecthood and from any proximity to the realm of the human; "*savage life* [was] just another form of *animal life*," and this animalization of native Africans through eugenicist racial science further nullified African land claims and social orders and enabled Europeans to impose their own notions of ownership and personhood/subjecthood (Mbembe 24; Nhemachena and Dhakwa 73–6).

Von Trotha's "race war" produced racialized and gendered geographies by coupling premeditated extermination with "cleansing" space through internment and labor/prison camp structures (Zimmerer, "The Model Colony" 51). The notion of *Lebensraum* ("living space") is incomplete without a corresponding *Entfernung* ("removal") in whatever manner the specific racialized nation-state project dictates. The shared logics of German racial production within both imperial and Nazi moments are striking. Rather than being unique to the Nazi regime, biologizations of citizenship and territorializations of a racialized nation-state identity are fundamental to the European liberal project that contoured relationships between the [unenslaveable] white European and the racialized and enslaveable non-European "Other." The racial "Other" exists, foundationally, in a subjugated master/slave symbiosis with the dominating force of whiteness grounded in the social death of an African native recognized solely through its subordination by European coloniality. The natives were alienated and socially-dead persons whose own social orders were delegitimized (and eventually destabilized and destroyed), and so had "no socially recognized existence" outside of European subjecthood. This social death of the native—one rooted in eugenicist explanations of inferiority—justified segregation and a ban on racial mixing. The socially-dead person is a polluting person, and mixing would compromise racial purity (Patterson 322).

Since Namibian independence in 1990, the question of reparations has been actively engaged by survivor communities, complicated by the fact that all the perpetrators have long since passed away (Sprenger et al. 132). In 2017, an American federal court heard the first arguments of the descendants of surviving Ovaherero and Nama peoples in a class action lawsuit brought against the German government. A previous suit was filed in 2001; the Herero People's Reparations Corporation made an unsuccessful legal claim, which nevertheless widened the forum of public debate about Germany's obligations for victims of its colonial past. Though the Minister for Economic Development and Cooperation stated in 2004 that the nation accepted its "historical and moral responsibility," Germany has also stated publicly that any court settlement would not include reparations to the communities of survivors even if Namibians were successful in their legal claims. The longstanding line taken by the German state is that only historical events committed after 1951—when the convention went into effect—can be classified as genocide. Yet in 2016 the German Bundestag passed a resolution describing the Ottoman massacre of Armenians (in which Germany was complicit) as a genocide, even jeopardizing diplomatic relations with Turkey in doing so. In May 2021, the German government announced it would officially recognize the atrocities committed in Namibia as genocide. The German government additionally but separately pledged €1.1 billion (USD \$1.3 million) towards existing Namibian development programs to be disbursed over the next thirty years, but has been adamant that this payment should not be understood as reparations for fear that a successful reparations claim would set a precedent for similar demands by other formerly colonized peoples (Oltermann "Germany Agrees to Pay"). Ovaherero and Nama communities and leaders were insulted by the diplomatic gesture: not only were negotiations conducted in their absence (the deal is a bilateral agreement between the German and

Namibian governments), but it is unclear whether any of the pledged aid will be allocated to them. Part of Germany's justification for refusing reparations is the unprecedentedness of restitution being paid more than a century after the event, yet how is it possible to atone for a genocide without pointedly addressing the demands and/or material conditions of affected communities?

The 2017 lawsuit involved Germany's claim to sovereign immunity, which the Ovaherero and Nama delegation contested (as plaintiffs). In appellate court following the original filing, the delegation argued that the human remains included in the sale of Felix von Luschan's teaching collection to the American Museum of Natural History (AMNH) constituted commercial rather than sovereign activity, because "Germany *packaged, shipped, traded, and trafficked* its genocide victims to New York in 1924, within a '[p]urchase'" and that "the skulls were '[r]eceived [f]rom': the 'Museum für Völkerkunde, Berlin, Germany,' the Museum of Ethnology, a German agency and instrumentality" (Plaintiffs-Appellants', *Rukoro*). The international nature of the acquisition, transfer, and sale of the remains underscores the internationalism of geographies of domination, which are "conceptually and materially bound up with racial . . . displacement and the knowledge-power of a unitary vantage point" (McKittrick xvi). Despite having previously acknowledged responsibility for these colonial acts of violence, Germany's legal rebuttal describes the "*alleged*. . . genocide of Ovaherero and Nama civilians and unlawful taking of their property in violation of international law in 1884–1915 in Hereroland and Great Namaqualand, sovereign polities now part of the Republic of Namibia" (Brief for Defendant, *Rukoro*; emphasis added). But while genocide was not specifically a crime until its formalization in the Convention, international customary law nevertheless criminalized "wars of extermination and annihilation against peoples and tribes capable of life and culture" (Plaintiffs-Appellants', *Rukoro*). The plaintiff brief goes on to state:

Germany's logic was that, as the Ovaherero and Nama faced extinction by genocide, samples of these two peoples must be preserved for science and posterity. These takings were thus the souveniring of genocide and so a continuation of the same, which makes the AMNH as much a locus of Germany's crime as [the] Shark Island [concentration camp] itself.<sup>3</sup> [The nature of the taking of human remains] is also reflected by its methods; here, for example, forcing women prisoners to remove the flesh from boiled heads of their own kin. . . . Germany sought to cause maximal loss, extract all profit from its slaves (down to their skulls), and reinforce white supremacy through dehumanization. By taking these skulls, Germany's message was not only that Herero and Nama lives did not matter, but that *they were not really human lives at all*.

(Plaintiffs-Appellants', *Rukoro*; emphasis added)

The lawsuit came to a close in 2020 when the United States Court of Appeals for the 2nd Circuit dismissed the Ovaherero and Nama delegation's appeal, affirming the reality and legitimacy of claims of genocide but finding the "plaintiffs' allegations insufficient to trace the proceeds from property expropriated more than a century ago to present-day property owned by Germany in New York" (Ruling on Appeal, *Rukoro*).

In returning to the idea that the definition of "genocide" effectively codifies who can and who cannot be killed, it is imperative to understand that the application of this international law is constrained by the ideology of the global political system that constructs it. Central to European subjecthood is the idea of property rights and individualism: a racialized regime of ownership that renders some citizens, and others property (Bhandar 3–7). Per Walter D. Mignolo, "the concepts of 'man' and 'human' went hand in hand with the emergence of the concept of 'rights,'" imagined in service of the construction of a colonial world, and so were inextricably linked to state/nationhood ("Who" 7–8). "Human rights law . . . aspires to name, define, call into being, [and] redeem the human" through the transformation of what should be some innate or inalienable condition to a legally informed social-political status, or what Esmeir names "juridical humanity" (1544). The codification of humanity established by human rights conventions is an institutionalization of racial hierarchies and a "narrative privileging of white life/death as the instance through which other peoples' encounters with Western modernity's logics of racial extermination/terror...are to be apprehended, calibrated, and conceptually qualified" (Rodriguez 20). Discussions of African genocide in relation to colonial violence become paradoxical because "the African *anthropos* who exist (not live) in the zone of nonbeing cannot suffer human rights abuses when they are in fact regarded as 'non

humans'. Non-humans cannot suffer human rights abuses" (Benyera et al. 190). Foucault usefully shows that the emergent biopolitical regime equates corporal punishment with a political anatomy: the body is understood as a malleable and manipulatable "docile body" that can be maximized and transformed and treated as a means of social and economic production through racial capitalist systems of enslavement (135). He also describes a modern disciplinary regime inextricably linked to medicalization, demonstrating the emergence of the panopticon from strategies of medical containment during the bubonic plague (195). But he notably fails to account for the centrality of colonization and racialization in this genealogy of Man<sup>4</sup>: he does not connect racial production in the colonial elsewhere to the violence within and by the modern European state, yet this violence animates what Frantz Fanon describes as the "epidermalization of inferiority" (xv), and inscribes the schema of anti-Blackness upon the bodies of people racialized as Black. Race-making is a part of a sociogenic<sup>5</sup> process through which racialization acts as a "biocultural stigmatic apparatus," where desires for dominance are justified through scientific articulations and "assemblages of human flesh that invest human phenomenology with an aura of extrahuman physiology" (Weheliye 51). The scientific logics that justify race, equivalent to biological life itself, become "a master code within the genre of the human represented by western Man," yoked to "species-sustaining physiological mechanisms in the form of a global color line" (Weheliye 27). There is no *a priori* or autopoietic<sup>6</sup> existence for blackness within the realm of humanity: the "human" emerges only through material articulations constructed and propagated by sovereign and other powerful entities able to project their own notion of the "human" and of the "self."

In considering these non-recognitions or even articulated recognitions that attempt to minimize or circumvent responsibility for harm,<sup>7</sup> we find that denial acts not simply as a refusal to acknowledge an event, but also in the truncation of the event's historicization (Moses, "Conceptual Blockages" 9, 12). This form of denial coheres around discursive attempts to put forth a particular kind of legitimate claim to victimhood ultimately rooted in anti-blackness. The Nazi Holocaust was not simply an event carried out by a fascist regime whose genocidal actions were mobilized solely by a contempt for European Jews.<sup>8</sup> The exterminatory process, rather, was part of a trajectory of German coloniality multiply marked by social Darwinist attempts to "purify" its population and its claimed territory.<sup>9</sup> Germany's failure to confront its colonial conquests in Africa, and therefore to contextualize the Holocaust and German antisemitism within this trajectory of racial citizenship, amounts to a kind of genocide denialism.

## II

What exactly does it mean to attempt to recognize a genocide? Is recognition the ultimate practice of empathy, of seeing the humanity of an oppressed and long-suffering people and responding in kind? In a world where our own subjectivity is defined by hierarchal relations—a defining of the self through "Others"—we are individually and collectively able to overcome urgent self-fashioning as dominant in order to truly feel with others. The actualization of empathy demands an equal capacity to humanize, and our performances of empathy through imagined embodiment deny the reality of a moral-material world defined and ordered by those understood to be "fully" human against those for whom full humanity is foreclosed. This reality produces legibility, using testimony via the model of recognition to produce a subject deserving of acknowledgement and maybe even restitution. Ultimately, this so-called empathy demands assimilation into a framework of sameness: one that enables a relation through similarity (or hypothetical similarity) to some fully humanized self. It is a perverse *ubuntu*, a colonial seeing/locating/understanding of the self through others. Recognition by the western episteme is positioned as universal because western-ness is exported as universal. The "human" emerges only through articulations and "enunciations" of humanness constructed and propagated by those with the power to project and impose their own selves onto a universally accepted notion of what is human (Mignolo, "Sylvia Wynter" 108–9). The commonly-held framework for defining and understanding genocide—both popularly and within international law—describes the act as a "predictable but not inexorable" singular event. But rarely does the idea of culpability or prosecutability for the act of genocide intersect with the fact that the destruction of an indigenous population (whether through forcible assimilation, ethnic cleansing, violent depopulation and killing, or some combination of



acts) is by definition part of establishing and maintaining settler states (Wolfe 388). The understanding of genocide as an anomalous, aberrational, and avoidable act forecloses understandings of the ways in which coloniality and state domination require the management and/or destruction of populations (whether through killings or forced assimilation) as a part of the articulation of a state apparatus and its (biologized) definitions of citizenship and belonging. To recognize is to acknowledge the validity, legitimacy, and legibility of a thing; to bring it into the fold of experience and understanding so that it too can become universal (no matter the particular trajectory or consequences of the event). Inherent in the politics of genocide recognition is some ushering into whiteness: the affirmation of genocide is, functionally, an extension of and assimilation into humanity through a frame of uniqueness. The existent discourse of recognition as legibility—as making genocidal process clear enough to morally and ethically grasp and enclose—is antithetical to a Glissantian embrace of difference, which engenders solidarity in opacity as opposed to translation, transmutation, and ordering into hierarchy (Glissant 191, 193–94). To recognize a genocide is not to humanize in any altruistic sense, but to dictate that the goal of any indigenous community is to become assimilated into the anthropocentric project of Man as “human,” as opposed to attaining a recognition that strengthens their own sovereign claims and/or begins to attempt to offer whatever kind of restitution might compensate for the human capital lost to genocide.

The Ovaherero and Nama genocide is unique in its firstness: historians largely agree it is the first genocide of the 20th century. But even this uniqueness or firstness is insufficient to unsettle the foundational nature of indigenous African genocide on the continent (including the transatlantic trafficking and trade in enslaved indigenous African peoples foundational to modernity itself). How can a necessary death constitute an acute crisis of recognition? The Black/Afro-diasporic/African subject suffers the “ontological ‘flaw’” of non-being that bars entry into any dialectic in which it could be recognized as “human” (Ciccariello-Maher 55). The Hegelian dialectic presumes a reciprocity and universality in recognition, and only nurtures the ontological inferiority of the Black/African subject by continually forcing them to self-define through a discursive framework of domination within which it has no epistemic authority. Blackness exists within the sub-ontological realm where being human is impossible to claim. Attempting to recognize the subject—and to understand the trajectory from full indigenous personhood and sovereignty to “native” colonial subject to post-genocide indigenous subject within a postcolonial “native”-ruled nation-state—means we must refuse this presumed universality and an Africanness (as opposed to blackness) that exists solely in its relationship to European coloniality.<sup>10</sup>

It’s useful here to examine the response to the Civil Rights Congress (CRC) petition presented to the United Nations meeting in Paris at the end of 1951. In *We Charge Genocide: The Crime of Government Against the Negro People*, the CRC and its signatories “charge their own government with mass murder of its own nationals, with institutionalized oppression and persistent slaughter of Negro people in the United States on a basis of ‘race,’ a crime abhorred by mankind and prohibited by the conscience of the world” and indeed criminalized by the Genocide Convention (3). There are two main arguments for this charge of genocide. The first is “killing members of the group,” a violation of Article II of the Genocide Convention. As evidence, the CRC offers “killings by police, killings by incited gangs, killings at night by masked men, killings always on the basis of ‘race,’ [and] killings by the Ku Klux Klan,” despite the universal citizenship that ought to have been afforded by the constitution (4). The second is economic genocide or, per the Genocide Convention’s language, “deliberately inflicting on the group conditions of life calculated to bring about its destruction in whole or in part.” The petition outlined the creation and maintenance of conditions so egregious that the “American Negro is deprived, when compared with the remainder of the population of the United States, of eight years of life on the average.” It described how the violence of the transatlantic slave trade and the indignity of the Southern plantation system begot exploitative sharecropping, while Jim Crow segregation forced Black Americans into “city ghettos or their rural equivalents” and “filthy, disease-bearing housing, and deprived [them] by law of adequate medical care and education.” These combined acts of violence are made possible by the “emasculatation of democracy,” the structural prevention of Black Americans from voting and organizing, and by “dividing [of] the whole American people, emasculating mass movements for democracy and securing the grip of predatory reaction on the federal, state, county and city

governments" (CRC 4–6).

The CRC's petition was a seminal articulation of the Black freedom movement's use of the then-new anti-genocide norm,<sup>11</sup> and serves as a useful example of the ontological and analytical limitations of the international definition of genocide (Solomon 130–31). Crucially, the petition used the criminalization of genocide—a crime targeting individuals and communities explicitly because of their group membership—to contest the maintenance of racial hierarchies: "accusations of genocide reprised a vocabulary designed to challenge the suppression and destruction of minority life," which of course presented the particular concern "that an international law against genocide would challenge existing state and nonstate practices designed to maintain white supremacy" (Meiches 23). The petition also had disconcerting international implications (disconcerting to hegemonic powers, at least) because it offered the possibility that the Genocide Convention could contest racial discrimination internationally, a frame articulated by the petition's "solemn warn[ing] that a nation which practices genocide against its own nationals may not long be deterred, it has the power, from genocide elsewhere" (CRC 7). The invoked Du Boisian "problem of the color line" was politicized in such a way that it "link[ed] the racial terror of the lynch mob directly to more organized campaigns of colonial warfare"; a critique of imperialism is conspicuously absent from the United Nations' 1948 Universal Declaration of Human Rights (Meiches 24).<sup>12</sup>

Unsurprisingly, the petition was poorly received in the United States, but the most notable rejection of its legitimacy came from Lemkin himself. In a 1953 letter to the editor of the *New York Times*, Lemkin re-emphasized the rarity and socio-political magnitude of genocide, describing not only the tens of millions of lives lost in the 20th century, but also the gravity and necessity of the "serious mental harm" provisions of the Genocide Convention. Characterizing the petitioners as "opponents of the Genocide Convention" (rather than individuals seeking to broaden its scope beyond its original intent), Lemkin questioned whether "one can be guilty of genocide when one frightens a Negro"; "fear alone cannot be considered as serious mental harm," and the acts of intimidation are not "directed against the [entire] Negro population of the country" ("Nature of Genocide"). In response to Lemkin's op-ed, Oakley C. Johnson, social activist and member of the Communist Party of America, wrote that his characterization of "fright" is insufficient to describe actions intended to incite race hate, terrorize an entire racial group, and maintain the existence of anti-Black racial hierarchies (Elder 42). Lemkin concluded that the conflation of genocide with the injustice of discrimination besmirches "the good name of some democratic societies which might be unjustly slandered for genocide" ("Nature of Genocide").

We can understand Lemkin's trivializing response to the petition primarily through a prevailing anti-blackness, consistent with his writings about the Ovaherero and Nama genocide. While colonialism was foundational to his theorizations of genocide, his writings on African colonization contain substantial contradictions that undermine his ideas. Writing about the genocidal violence against the Ovaherero, Lemkin attributed state cruelty to Germany's improper practice of colonial rule; the British system of "indirect rule," which allowed for indigenous cultural maintenance and complementary administration, would have been more suitable and humane. In line with other historiographic theses that emphasize exceptional German cruelty, brutal suppressions of Ovaherero rebellions were understood as a result of "Prussian militarism," which actually overstates the function and efficiency of the imperial German administration prior to the 1904 war (Schaller 89). While Lemkin does not retroactively apply his neologism "genocide" to the Ovaherero context, his description of the Herero Wars would undoubtedly have fit his own criteria.<sup>13</sup> Yet his analysis of the violence does not hold European colonialism sufficiently responsible for the production of genocide-making/justifying epistemes and practices. Further, he perpetuated the racist myth that the Ovaherero were committing "race suicide," a popular theory promoted by Willem Petrus Steenkamp who claimed the Ovaherero "could not reconcile themselves to the idea of subjection to Germany and thus loss of independence" and so, "having nothing left to exist for as a nation," proceeded to commit "national suicide" (qtd. in Schaller 90). Lemkin believed (and wrote) that Ovaherero women and men alike consumed a particularly strong beer called Kari —"the drink of death" —that "had a most weakening and exhausting effect on their [re]productive powers" (qtd. in Schaller 90). This theory was forwarded to hold the Ovaherero people, especially women, responsible for their declining birthrates rather than the genocidal conditions imposed by imperial Germany. With

regards to the petition, Cold War-era McCarthyism was also a means of discrediting the CRC's claims. Lemkin often discussed the "Russian practice of genocide" saying that antisemitic propaganda under Stalin "matched the efforts of Streicher and Goebbels"; he asserted that Paul Robeson and William L. Patterson, prominent African-American communists and signatories of the petition, were "falsely accusing the United States of genocide to divert UN attention from true genocidal crimes being committed against Soviet-dominated people" ("UN Asked"; Weiss-Wendt 108–9). Lemkin's understanding of genocide complemented the Nuremberg precedent, set just a few years before: genocide was not to be understood as a long-existing structural phenomenon, but rather as an acute flare-up of violence perpetrated by a prosecutable group of people.

The recognition of genocide is caught in a double bind. Where acknowledgement of an ongoing genocidal process unfolds before a spectatorial international community, or where retrospective recognition is circumvented because of its political inconvenience and unsettling potential, inaction is tantamount to denial. But limiting our understanding of victimization by framing it according to the western episteme is also a kind of a denial. It renders and interprets history solely as an attempt to reassert the primacy of imperial humanity: the reinscription of the power to demarcate the killable from those who must not and should not be killed (and the mutable boundary between these non-discrete categories). Whether this is a product of our limited socio-political imagination or of the legal structure's limited capacity for redress (and the destabilizing potential of reparations, particularly if recompense were to be defined by the harmed parties in question), it is certainly reflective of the pitfalls of endeavoring towards "the human."

#### Footnotes

1. On the relationships between genocide and permanent security, see Moses's *The Problems of Genocide: Permanent Security and the Language of Transgression*, Cambridge UP, 2021.
2. With regards to "the tendency of racializing logics to change scales in an effort to resolve contradictions internal to the logics themselves," see Dorian Bell's *Globalizing Race: Antisemitism and Empire in French and European Culture*, Northwestern UP, 2018.
3. On the militarized science produced in/by concentration camps and the exploitation of the war as an opportunity to access human remains for ethnological and anatomical study, see Reinhart Kößler's "Imperial Skullduggery, Science and the Issue of Provenance and Restitution: The Fate of Namibian Skulls in the Alexander Ecker Collection in Freiburg," *Human Remains and Violence*, vol. 4, no. 2, pp. 27–44.
4. Mbembe's "Necropolitics" is instructive as a rebuttal to this end as he notes that the social death to which the colonized and enslaved were subjected and that configured hierarchal racial relations "could be considered one of the first instances of biopolitical experimentation." With the plantation at the core of necropolitical formations, the tripled losses of "domination, natal alienation, and social death" comprise the logics of imperial world-making (21).
5. Sociogeny refers to a Fanonian understanding of socio-historical development. Fanon demands that any naturalization of racial formations as biological reality be grounded in an understanding of social orderings that cast the Black "other" into subjugated relation with the white standard of humanity—this is a central analytical feature of *Black Skin, White Masks* (1952).
6. The term "autopoiesis" refers to a system able to create, reproduce, and maintain itself. The term was introduced in 1972 by biologists Humberto Maturana and Francisco Varela, who used it to describe the self-maintaining capability of living cells.
7. An example of this is the language utilized by state officials. In its motion to dismiss the eventually dismissed legal case, the German state asserted that the "legal concept of genocide does not apply in this case." Despite acknowledging that such violence constitutes genocide over the past several years, the state nevertheless refuses to entertain any legal rebuttals to Ovaherero and Nama accusations because the *alleged* genocide occurred before the passage of the 1951 Genocide Convention.
8. There is a necessity to use the phrase "racialized as white" as opposed to "white" because of a contemporary conditionality of whiteness (as opposed to unequivocal absorption of white Jewish people) into the category of whiteness. Despite many Jews' phenotypical presentation as "white," the racial logics of whiteness have



constructed Jewishness as an essential racial identity. This is the enduring nature and function of antisemitism it is the desire to legitimize centuries of hegemonic Christian *Judenhass* ("hatred of Jews") by using the racist pseudoscientific convention of the mid- to late-19th centuries and designating/derogating Jewish people as a unique and inferior discrete Semitic race (in contrast to the allegedly superior Aryan race). See David Nirenberg's "Mass Conversion and Genealogical Mentalities: Jews and Christians in Fifteenth-Century Spain," *Past and Present*, no. 174, pp. 3–41.

9. Michael Rothberg offers "multidirectionality" as a syncretic framework for understanding "the significance of both genocidal imperialism and the totalitarian Holocaust," which transcends the analytical debate pitting exceptionalism/uniqueness against the idea of genocide continuity; see Rothberg's *Multidirectional Memory: Remembering the Holocaust in the Age of Decolonization*, Stanford UP, 2009.

10. About the limitedness of this binary, Édouard Glissant writes that where "the Western nation is first of all an 'opposite,' for colonized peoples identity will be primary 'opposed to'—that is, a limitation from the beginning. Decolonization will have done its real work when it goes beyond this limit" (17). Wilderson writes, about the Middle Passage's ontological transformation of the racialized figure of "the African," that "Jews went into Auschwitz and came out as Jews. Africans went into the ships and came out as Blacks. The former is a Human holocaust; the latter is a Human and a metaphysical holocaust. That is why it makes little sense to attempt analogy: the Jews have the Dead (the *Muselmann*) among them; the Dead have the Blacks among them" (38).

11. Solomon describes the anti-genocide norm as "an individual or organization's explicit or implicit expressions of opposition to the past, present, or future occurrence of genocide" where "implicit expressions consist of analogies between instances of violence or repression and canonical genocidal events, in particular the Nazi Holocaust" (131).

12. Keguro Macharia, (2019) in contrasting the 1945 Pan-African Congress's Declaration to Colonial Workers, Farmers, and Intellectuals with the 1948 United Nations Universal Declaration of Human Rights, describes how the latter "refused to acknowledge (or contradict) the contemporary distinction between colonizer and colonized," a history of domination that was central to the former. The United Nations and the structure of international [criminal] law was not only "understood to be compatible with imperial ventures," but the anti-Black regime of racialized humanity is an enshrining of racial hierarchies within and through the very structure of human rights. See Macharia's "1945 & 1948," as well as Mignolo's "Who Speaks for the 'Human' in Human Rights?" and Esmeir's "On Making Dehumanization Possible."

13. In his unpublished and uncompleted manuscript, Lemkin writes about the Ovaherero: "After the rebellion and von Trotha's proclamation, the decimation of the Hereros by gunfire, hanging, starvation, forced labour and flogging was augmented by prostitution and the separation of families, with a consequent lowering of the birthrate" (qtd. in Schaller 90).

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