Working Paper No. 71, 2024

Theatres of the Proto-Juridical

Jörn Etzold

Mecila: Working Paper Series

The Mecila Working Paper Series is produced by:

The Maria Sibylla Merian Centre Conviviality-Inequality in Latin America (Mecila), Rua Morgado de Mateus, 615, São Paulo – SP, CEP 04015-051, Brazil.

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This working paper series is produced as part of the activities of the Maria Sibylla Merian Centre Conviviality-Inequality in Latin America (Mecila) funded by the German Federal Ministry of Education and Research (BMBF).

All working papers are available free of charge on the Centre website: http://mecila.net

Printing of library and archival copies courtesy of the Ibero-Amerikanisches Institut, Stiftung Preußischer Kulturbesitz, Berlin, Germany.

Citation: Etzold, Jörn (2024): “Theatres of the Proto-Juridical”, *Mecila Working Paper Series*, No. 71, São Paulo: The Maria Sibylla Merian Centre Conviviality-Inequality in Latin America.

http://dx.doi.org/10.46877/etzold.2024.71

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Jörn Etzold

Abstract

The paper examines privately organized peoples' tribunals on ethnocide against the Indigenous people of the Americas sitting over cases of land-grabbing related to infrastructural projects and extractivism. It refers to the tradition of legal criticism that scrutinizes the concepts of conviviality based on the notion of human rights as a right to private property. The paper starts with Claude Lévi-Strauss's distinction between anthropophagic – Amazonian – and "anthropoemic" – Western – societies and then provides a short history of the Russell Tribunals with a focus on the Tribunal "on the Rights of the Indians of the Americas", held in Rotterdam in 1980. In an examination of Milo Rau's Congo Tribunal from 2015, it analyses the epistemic aporias the Tribunal format faces when it is supposed to judge the dispossession of communities in former colonies. The paper is a revised version of a book chapter; the book is planned to appear in 2025 with Routledge.

Keywords: Bertrand Russell Tribunals | Peoples' Tribunals | extractivism

About the author

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Contents

1.	Anthropophagy and Anthropoemia	1
2.	Epistemes of Law and Transformative Justice	9
3.	Theatre Tribunals and their Dialectics: The Works of Milo Rau	14
4.	Extra-Juridical Tribunals as Performance: Further Questions	23
5.	Bibliography	32

1. Anthropophagy and Anthropoemia

The motto of this paper comes from Oswald de Andrade's "Anthropophagic" or "Cannibalist Manifesto" of 1928: "I asked a man what the Law was. He answered that it was the guarantee of the exercise of possibility. That man was named Galli Mathias. I ate him" (Andrade 1991: 41).[1] De Andrade — or Oswald, as the Brazilians say, who generally prefer to be called by their first names — was a writer and poet, and, together with others, he founded that variety of Brazilian modernism that would later find its home in São Paulo, his birthplace and hometown. The manifesto refers in a particular way to a persistent narrative: in his 1557 *True Story and Description of a Country of Wild, Naked, Grim, Man-Eating People in the New World, America,* Hessian foot soldier Hans Staden (Staden 2008 [1557]: 85) recounts how he was captured by the Tupinambá on his second voyage to Brazil between 1549 and 1555 and saved himself from the impending fate of ending up as dinner by convincing them that he was not Portuguese and in league with a very strong god. The same year, the Franciscan priest André Thevet published *Les Singularitez de la France Antarctique* (The Singularities of Antarctic France). Thevet accompanied Nicolas Durand de Villgagnon on his failed attempt to found a French colony around the island of Sergipe in the bay of Guanabara. In his book, he describes in some detail anthropophagic rituals of the Tupinambá. In 1578, Jean de Léry, one of the Calvinist priests that Villegagnon commissioned in France in order to raise the morale of his troops, recounted his time with the Tupinambá in *History of a Voyage to the Land of Brazil, Otherwise Called America* (Léry 2005), a book that Claude Lévi-Strauss called the "breviary of the anthropologist" (Lévi-Strauss 1961: 85). Since then, the idea that South America was inhabited by a population of man-eaters before the arrival of the conquistadors and long after has haunted the European imaginary. While the authors' descriptions are, in many ways, too detailed to be merely contrived, it is clear that anthropophagy, as it was practiced back then, was a ritual act that rarely had anything to do with the need to satisfy hunger.

A very special anthropophagic scenario is now depicted in Oswald's little scene: the first person to speak — it may be Oswald, in any case it is someone from Brazil, as it becomes clear in the context of the manifesto — has a question for a "man" who suddenly appears, maybe from Europe. The question is: What is *direito*? This Portuguese word, like its equivalents in, e.g., French and German, is not very easy to translate into English. Whereas *direito* in Portuguese designates the overall legal order — analogous to *droit* in French and *Recht* in German — and *lei* (*loi*, *Gesetz*) designates a particular norm or text that codifies it, the English opposition between "law" and "right" is different. "Law" can designate both the overall order and a single norm, whereas "right" is conceived in

1 "*Perguntei a um homem o que era o Direito. Ele me respondeu que era a garantia do exercício da possibilidade. Esse homem chamava-se Galli Mathias. Comi-o*" (Andrade 2023: 55).

a more subjective way (cf. Raynaud 2014). Hence, Leslie Bary opted for "law" in the singular in her translation. In any case, the respondent gives a concise and simple definition: law is "the guarantee of the exercise of possibility". This is not completely wrong: since 1789, the European conception of law has defined it more or less in this way, although there is a constraint. The French Declaration of the Rights of Man and the Citizen reads: "Liberty consists in being able to do anything that does not harm others" (Élysée 2023: 108). In any case, whoever is speaking here — Oswald? — immediately applies what they have learned, exercises that possibility, and devours the man. If the narrator has the possibility to eat the man, and the law is the guarantee that said possibility can be exercised, then the man can be eaten in accordance with the law. The legal problem here is obviously that, by eating the man who teaches law, the narrator is keeping that very man from exercising any possibility whatsoever. However, the extent to which the law — and to a greater extent police measures — may restrict the individual's freedom of choice is not so easy to define.

Only after the man has been eaten do we learn his name, in the past tense. He was called "Galli Mathias". This name alludes to *galimatias*, which means something along the lines of "nonsense" and originally derived from French. According to the *Littré* dictionary, its first appearance was in Guez de Balzac's *Socrate chrétien* in 1652: "*Rien n'est si voisin du haut style que le galimatias*" [Nothing is so close to high style as the *galimatias*] (Littré 2023).[2] Eating the man seems to fall somewhat within this definition. What the narrator does is very close to what they have learned is a lawful act, but it does not completely meet the definition they are familiar with. And they do it in a performative way, do not answer, but merely act. This reaction to the definition of law is reminiscent of the famous opening line of Søren Kierkegaard's *Repetition*:

> When the Eleatics denied motion, Diogenes, as everyone knows, came forward as an opponent. He literally did come forward, because he did not say a word but merely paced back and forth a few times, thereby assuming that he had sufficiently refuted them (Kierkegaard 1992 [1843]: 131).

Diogenes does not argue; he simply comes forward. The narrator here does not see any need to speak either, but unlike Diogenes, they do not contradict their counterpart. Rather, what they do resembles what the Slovenian retro-avant-garde will later refer to as "subversive affirmation" or "over-fulfilment" (Monroe 2005): they do exactly what the law clearly tells them to do, but also a little more.

This over-fulfilment is violent — but are legal relations conceivable without violence? Robert Cover analyses the "violence of legal acts" (Cover 1986: 1601) and concludes

2 If possible, I refer to the English editions or translations. Otherwise, the translations in the text are mine. The text has been revised by Lydia White.

that "[l]egal interpretation must be capable of transforming itself into action; it must be capable of overcoming inhibitions against violence in order to generate its requisite deeds; it must be capable of massing a sufficient degree of violence to deter reprisal and revenge" (Cover 1986: 1617). The effective institutionalization of violence is supposed to regulate it and break the chains of revenge often linked to clan structures — a well-known motif since the convening of the Areopagus in Aeschylus's *Oresteia*. The institutionalization of violence is intended to prevent the continuation and escalation of violence elsewhere. Judgments therefore have to be formally correct and intelligible. It is important, then, that "[n]o single individual can render any interpretation operative as law-as authority for the violent act" (Cover 1986: 1628). Oswald — or the narrator of this little story — does not adhere to this motto. They immediately exercise direct violence themselves: isn't law the guarantee for the realization of possibilities? This act of violence lacks any institutional framing: no legislator has prescribed that an intruding jurisprudent must be eaten as soon as they have answered the basic question, nor has any judgment been pronounced, no objection heard. But more importantly, violence here takes a specific form — a form that is only indirectly or secondarily regulated or even addressed by our existing legal systems. The narrator does not simply kill the man, nor do they imprison or fine him: they eat him. What kind of crime is this? A few years ago, the "Cannibal of Rotenburg", who killed and ate another man with the latter's consent, attracted worldwide attention. The perpetrator was convicted of murder: he was aroused by videos of the killing and therefore, in the opinion of the German Federal Court of Justice, the killing was performed "to obtain sexual gratification", which is one possible criterion for murder, pursuant to §211 of the German Criminal Code. In addition, he was found guilty of "disturbance of [the] peace of the dead" pursuant to §168, which forbids "defamatory mischief" with "the body or parts of the body of a deceased person, of a dead foetus or parts thereof, or the ashes of a deceased person" (Federal Ministry of Justice 2013). The laws of the United States and Brazil do not recognize the actual offence of cannibalism either; there, too, criminal liability is constructed via homicide. This is particularly noteworthy in the US, where the ultimate use of state violence — executing a convict — is still legal in many states. Oswald's scene obviously draws its comedy from the fact that it confronts the explanation of what the law is — "the guarantee of the exercise of possibility" — with an action that seems to be an interpretation of this definition, albeit one that can only be indirectly grasped by the established legal system. Anthropophagy seems to escape or perhaps even diametrically oppose it.

The accounts of Hans Staden, Jean de Léry and others established what is now a long tradition in European thought of contrasting the particular form of violence that manifests itself as anthropophagy with European concepts of law and justice, of punishment, and of the "guarantee of the exercise of possibility". Already Léry stated:

> I could add similar examples of the cruelty of the savages toward their enemies, but it seems to me that what I have said is enough to horrify you, indeed, to make your hair stand on end. Nevertheless, so that those who read these horrible things, practiced daily among these barbarous nations of the land of Brazil, may also think more carefully about the things that go on every day over here, among us: In the first place, if you consider in all candor what our big usurers do, sucking blood and marrow, and eating everyone alive — widows, orphans, and other poor people, whose throats it would be better to cut once and for all, than to make them linger in misery — you will say that they are even more cruel than the savages I speak of (Léry 2005: 131f.).

Just a little later, in his essay “On Cannibals” from 1580, Michel de Montaigne, influenced by Thevet and Léry, recounts the tales of “a man who had lived ten or twelve years in that other world which has been discovered in our time, in the place where Villegaignon landed, and which he called Antarctic France” (Montaigne 1993 [1580]: 105). He also talked to Tupinambá who had been brought to France as exhibits. About the Indigenous people of the country, he writes, “I do not believe, from what I have been told about this people, that there is anything barbarous or savage about them, except that we all call barbarous anything that is contrary to our own habits” (Montaigne 1993 [1580]: 110). He rhapsodically continues:

> This is a nation, I should say to Plato, in which there is no kind of commerce, no knowledge of letters, no science of numbers, no title of magistrate or of political superior, no habit of service, riches or poverty, no contracts, no inheritance, no divisions of property, only leisurely occupations, no respect for any kinship but the common ties, no clothes, no agriculture, no metals, no use of corn or wine. The very words denoting lying, treason, deceit, greed, envy, slander, and forgiveness have never been heard (Montaigne 1993 [1580]: 114).

Montaigne’s descriptions are rapturous. He himself never visited the continent that the Europeans called “America” — and that most Indigenous people today call *Abya Yala*, using a Guna (formerly Kuna) word from what is now Panama and northern Colombia. And by no means can this early idyllic picture provide a general description of the infinite number of Indigenous peoples or societies living on the continent — we know of six hundred today, each of which was organized in a completely different way. Highly complex state structures like those of the Inca in the Andes with their capital Cuzco contrasted with semi-nomadic ways of life under precarious material conditions like that of the Nambikwara in today’s Mato Grosso, Brazil. The fundamental gesture of Léry’s and Montaigne’s texts, however, would frequently recur later on, in the Age of Enlightenment. Encounters with differently organized ways of life on the other side of the Atlantic and meetings with Indigenous speakers, negotiators, and intellectuals — in

Montaigne's case, with the middlemen reporting on them as well — changed how some highly influential Europeans viewed the way that their own forms of coexistence or conviviality were organized. Of course, Montaigne's bucolic descriptions of Indigenous life in South America have a dark side as well, for he does not say a word about the enslaved Africans in this part of the world but rather uses the description of the anthropophagic Indigenous people for his own purpose — as an argument in an inner-European conflicts or, more precisely, the French Wars of Religion.

Something that is clearly "contrary to our own habits", to quote Montaigne, is the ritualized consumption of human remains that his middleman reports on in relation to the Tupinambá. In his view, Indigenous people "do not do this, as might be supposed, for nourishment as the ancient Scythians did, but as a measure of extreme vengeance" (Montaigne 1993 [1580]: 113). The violence of cannibalism is thus declared to be directly related to an economy of revenge, and so, according to his narrative, it is soon replaced by another form of violence that Indigenous people have learned from their colonizers: burying the enemy alive. I do not wish to comment further on his interpretation here, although the motif of vengeance will much later play an important role for Eduardo Viveiros de Castro's *Cannibal Metaphysics* (Viveiros de Castro 2014). Here, vengeance in Tupinambá societies appears as "a schematism of social poiesis or mechanism for the ritual production of collective temporality (the interminable cycle of vengeance) through the installation of a perpetual disequilibrium between enemy groups" (Viveiros de Castro 2014: 149). This disequilibrium keeps Tupianambá societies alive; the perpetual wars do not serve the purpose to conquest land or live stocks but are held to capture enemies who are then eaten at some point following a ritual protocol. But what is striking is how Montaigne continues in the spirit of Léry: "I consider it more barbarous to eat a man alive than to eat him dead; to tear by rack and torture a body still full of feeling, to roast it by degrees, and then give it to be trampled and eaten by dogs and swine" (Montaigne 1993 [1580]: 113). These were common practices in Montaigne's time, during the French Wars of Religion and of course, in the colonized territories of South America, with European perpetrators at the helm. Montaigne thus concludes in relation to the "cannibals": "We are justified therefore in calling these people barbarians by reference to the laws of reason, but not in comparison with ourselves, who surpass them in every kind of barbarity" (Montaigne 1993 [1580]: 41). Here we must note that Montaigne's discourses about cannibals migrated via John Florio's English translation into William Shakespeare's *The Tempest* (Fernandez Retamar 2004: 88). While the dark side of cannibalism condensed into the menacing figure of Caliban who does not eat anybody during the play but carries this thread in his very name, Montaigne's hymn of praise of Indigenous societies is taken up as a utopian vision of the island by Gonzalo, wise counsellor to Alonso, King of Naples:

> I’ the commonwealth I would by contraries
>
> Execute all things. For no kind of traffic
>
> Would I admit. No name of magistrate.
>
> Letters should not be known. Riches, poverty,
>
> And use of service, none. Contract, succession,
>
> Bourn, bound of land, tilth, vineyard, none.
>
> No use of metal, corn, or wine, or oil.
>
> No occupation. All men idle, all.
>
> And women too, but innocent and pure.
>
> No sovereignty (Shakespeare 2006 [1623]: 52).

Later on, the sailors Stephano and Trinculo’s conspire with Caliban to dispossess the island’s ruler Prospero, the legitimate and exiled duke of Milan whose reign is restored at the end of the play. For Slivia Federici, this plot expresses the fears of the ruling classes that the nascent European proletariat might ally or unite in revolt with the Indigenous and Black people in the Americas (Federici 2009: 106). But what are Montaigne’s “laws of reason” and how did they develop after his time, given that the torturing and roasting of bodies is no longer a form of legal punishment in any legal system? Let us now take a look at a third author. In *Tristes Tropiques* from 1955, Claude Lévi-Strauss recounts the journeys he made through Brazil from 1935 to 1938, which saw him travel from Santos via São Paulo to the territories of the Mbyá-Guarani/Caduveo, then, via Cuiabá, to the Bororo and the Nambikwara in what is now Mato Grosso, and finally to Amazonia to the Tupi-Kawahib. Here I must add that Lévi-Strauss was accompanied by his then wife Dina Dreyfus, who introduced him to the anthropology of Brazil and played a highly important role on this excursion, although he only mentions her once when she has to leave the group due to an eye infection. Lévi-Strauss concludes his narrative of his journey with a lengthy reflection on the structures of tribal and modern societies and the ambivalent role of the anthropologist. We will return to this later, but in this context, Lévi-Strauss also comes to speak about anthropophagy. The explanation he gives is different from Montaigne’s: “By eating part of the body of an ancestor, or a fragment of an enemy corpse, the cannibal hoped to acquire the virtues, or perhaps to neutralize the power, of the dead man”. But in similar words to Montaigne, he claims that “we must realize that certain of our own usages, if investigated by an observer from a different society, would seem to him similar in kind to the cannibalism which we consider ‘uncivilized’”. He then specifies these “usages” and writes, “I am thinking here of our judicial and penitentiary customs” (Lévi-Strauss 1961: 386). Lévi-Strauss

goes on to concisely juxtapose two forms of society: cannibalistic societies, which neutralize or even absorb the powers of their enemies or the dead by letting them into their members' own bodies, and, in contrast to them,

> those [societies] which, like our own, adopt what might be called anthropoemia (from the Greek *emein*, to vomit). […] They expel these formidable beings from the body public by isolating them for a time, or for ever [sic!], denying them all contact with humanity, in establishments devised for that express purpose. In most of the societies which we would call primitive this custom would inspire the profoundest horror: we should seem to them barbarian in the same degree as we impute to them on the ground of their no-more-than-symmetrical customs (Lévi-Strauss 1961: 386).

Here prisons and other methods of isolating criminals from society come to mind, but so, too, do the people who have always been considered abnormal, different, perverted, or dangerous. The juxtaposition is quite schematic and, as Lévi-Strauss himself underlines, symmetrical, but at the same time instructive: cannibalistic societies are about incorporation and ingestion, whereas anthropoemic societies are based on the concept of isolation: they are exclusionary, they produce isolated subjects, and then have to face the question of what it is that could connect them. What is more, their method is punishment, their legal system is punitive. Anthropoemia takes place in prisons and asylums.

Let us return to Oswald's little scene. It has become clear that it is very dense — so dense that we will come back to it at the very end of the upcoming book (Etzold 2025) as well, as it is even more complicated than I am letting on here. What constitutes it? First, it is just that: a scene. Oswald's engagement with the Western concept of "law" takes place not in a long theoretical treatise, but in a retold mini-drama that is itself part of a manifesto. This manifesto repeatedly turns against European attempts at discipline and sublimation: "Down with every catechism" (Andrade 1991: 30); "Down with all the importers of canned consciousness" (Andrade 1991: 39); "Down with the antagonistic sublimations. Brought here in caravels" (Andrade 1991: 142); "Down with the dressed and oppressive social reality registered by Freud. Reality without complexes, without madness, without prostitutions and without penitentiaries, in the matriarchy of Pindorama" (Andrade 1991: 44). Oswald relates this "reality without complexes" to anthropophagy, which is a cultural strategy within the frame of São Paulo Modernism: Oswald does not propagate a return to long forgotten Indigenous practices and ways of life, but uses the concept of anthropophagy to confront Europe, to confront the former — political or financial — colonial powers that are still extremely powerful and continue to influence Brazil's cultures and cultural elites. What comes to Brazil from Europe is neither repelled — in the sense of preserving an original purity

for which it is too late anyway — nor is it elevated to the norm. It is simply eaten up, whatever the purpose of that consumption may be. With Lévi-Strauss, then, we can read an elementary juxtaposition into this little scene: between inclusive and exclusive strategies, between societies of incorporation and those of isolation, and between their different methods of regulating violence, wherever it may come from — from the others, from the enemies, or else from the dead, for it is precisely the dead who are supposed to stop haunting the living when their remains are incorporated.

The reason for beginning this paper with Oswald de Andrade is certainly not to assert that all Indigenous societies were and are still indulging in cannibalism. However, anthropophagy did take place, and Europeans and their descendants need to stop projecting their own values onto Indigenous people by denying this. In his *Diários Índios* (*Indian Diaries*), Brazilian ethnologist Darcy Ribeiro reports on his travels in Ka'apor territory in the early 1950s, between the present-day states of Pará and Maranhão in north-eastern Brazil. The Ka'apor are descendants of the Tubinambá who had horrified Staden. In the village of Takuá, Ribeiro's interlocutors tell him about the now discontinued custom of hunting down enemies and ceremonially eating them — parts of them grilled, others boiled. Ribeiro concludes:

> It reminds me now of Fernando Carneiro, with his desire that our Indians were not anthropophagous, asking me if I had collected field data to substantiate or refute what the old chroniclers told us about this. Back then, I was only certain of the ethnological compatibility of this practice with the Indians' conception of the world. Now I have more; there they are, recounted by the Indians themselves, one by one, the main elements of the anthropophagic ceremonies described by the chroniclers: taking care of the prisoner, sacrificing him at night by means of club, the grinding, the cooking and the communal feast. In both cases, a whole community, numerous in number, partakes in consuming a prisoner. This does not constitute cannibalism in the sense of eating people as food, but as ritual anthropophagy, where heroes are ceremonially eaten in order to absorb their bravery (Ribeiro 2020: Takuá).

Even if these practices have ended, in any case, many different forms of regulating and containing the threat of violence posed by the dead have been found to have existed among Indigenous societies. But Eduardo Viveiros de Castro states that "cannibalism is an omnipresent motif in their [i.e., Amerindian worlds'] inhabitants' relational imagination" (Viveiros de Castro 2014: 50). In the examples cited here, the authors, white men like me — Europeans or, in Oswald's case, their descendants — contrast anthropophagy with certain "Western" concepts, norms, ways of life, and attempts to exercise or regulate violence. These texts do not just exhibit a suspicious exoticism, they are also scenes of an encounter that, in the case of the Léry and, to an even larger

extent, Montaigne and Lévi-Strauss, causes them to fundamentally question their own epistemes and, in the case of Lévi-Strauss and Oswald, legal practices. In a related sense, Suely Rolnik has focused on anthropophagy following a revival of Oswald de Andrade's concepts during the struggles against the military dictatorships of the 1960s and 1970s. She contrasts "knowledge through vibration and contamination", linked to the "nomad caravan god" — a Deleuze-Guattarian variant of Indigenous goddesses — with "knowledge through representation and imitation", related to the "caravel god", the transcendent deity of Christianism (Rolnik 1998: 142). The caravan god is the god of anthropophagism. He has nothing to do with representation or transcendence.

2. Epistemes of Law and Transformative Justice

This working paper is the revised version of the first chapter of a book that will look at specific and, at first glance, quite different theatres of law and perhaps justice (Etzold, forthcoming). It will examine tribunals that have primarily dealt with expropriation, land grabbing, and environmental degradation in Latin America. The land in question has usually been stolen from the settlements of Indigenous peoples or *quilombos* — formerly enslaved people from Africa who sometimes mingled with Indigenous people. Land grabbing is usually linked to extractivism and to the construction of the infrastructure required to facilitate it. Land that has previously been extensively cultivated is cleared and used for intensive farming and cattle ranching, Indigenous habitats are fragmented by roads, and villages are flooded when dams are constructed to generate electricity. I will primarily examine the Fourth Russell Tribunal "on Indigenous Rights in the Americas", held in Rotterdam in 1980 (with a focus on the Latin American cases), and the tribunals of the organisation Permanent Peoples' Tribunals (PPT), which grew out of the Bertrand Russell Foundation. The Bertrand Russell Tribunal was first held in London in 1966 and then in Stockholm in 1967 to judge the US government's violations of human rights during the Vietnam War, ultimately delivering a verdict of "genocide". Founded by the eponymous British philosopher — who in private used the term "international investigation commission" (Byrnes and Simm 2018: 15) — Jean-Paul Sartre presided over the Vietnam sessions, with intellectuals such as Simone de Beauvoir, James Baldwin, Peter Weiss, and Stokeley Carmichael (represented by Courtland Cox), and the future founder of the PPT, Lelio Basso, serving as members of the jury. In his opening address, Jean-Paul Sartre claimed that the "Russell Tribunal believes [...] that its legality comes from both its absolute powerlessness and its universality. We are powerless: that is the guarantee of our independence" (Sartre 2004: 183). He also stated that the Allies, by condemning the Nazi regime for "genocide" at Nuremberg, were "unaware that they were condemning themselves in this way for their own actions in the colonies" (Sartre 2004: 181).

The Second Tribunal, held in Rome in 1974, Brussels in 1975 and again in Rome 1976, judged violations against human rights under Latin America's military dictatorships, especially in Brazil and Chile, with participants like Hortensia Bussi de Allende (the late president's widow), Noam Chomsky, Pablo Neruda, Gabriel Garcia Márquez, and Julio Cortázar (Bertrand Russell Peace Foundation 1975/76; Jerman 1975; Tulli 2021). After the 1977 tribunal on West Germany's *Radikalenerlass* (Anti-Radical Decree) (Duve and Narr 1978) — a decree forbidding people suspected to be communists from being employed as civil servants, often prospective teachers — the Fourth Tribunal held in Rotterdam in 1980 "on the Rights of the Indians of the Americas" heard cases of land-grabbing, expropriation, and genocide against Indigenous peoples in Latin America under military dictatorships (Hensel 1982). The jury of this tribunal, which is central to this book, was chaired by a prominent Indigenous leader, Mário Juruna, who achieved fame for appearing at President Ernesto Geisel's palace equipped with a tape recorder in the late 1970s, during the Brazilian military dictatorship (Graham 2011). The Xavante people, to whom Juruna belonged, had been relocated from the fertile lands of Mato Grosso to barren areas in the south; Juruna demanded the return of the land and said that he would record the president's answer because he would lie otherwise anyway. Another Indigenous representative on the jury was Domitila Barrios de Chungara, a mother of seven children and the wife of a Bolivian miner, but above all an activist: Domitila was one of the founders of the Housewives Committee of the Siglo XX mine near the village of Llallagua, south of Oruru, the nucleus of the organization. In 1975, she appeared at the United Nations' International Women's Year Tribunal in Mexico and, together with anthropologist Moema Viezzer, subsequently wrote the book *Si me permitten hablar…*, which was published in English translation as *Let Me Speak! Testimony of Domitila, a Woman of the Bolivian Mines* (Barrios de Chungara and Viezzer 1978). The jury also included prominent Latin American intellectuals such as author Eduardo Galeano, who wrote the seminal history of the centuries-long exploitation of labour and raw materials on the subcontinent with *The Open Veins of Latin America* (Galeano 1997); previously quoted Brazilian ethnologist Darcy Ribeiro and his Peruvian colleague Stefano Varese; and European intellectuals like Robert Jaulin, an ethnologist who conducted extensive research into questions of ethnocide, and Karl Schlesier, an expert on the Indigenous nations of the North American plains who, together with Sol Tex, developed the notion of "action anthropology", which also provides practical support to Indigenous people. The cases addressed the concerns of affected Indigenous people from both Americas, with some nations, such as the Sovereign Haudenosauneee Confederation, actually represented by their own spokesmen – Oren Lyons as plaintiff and Johan Mohawk as one of the witnesses. In other cases, such as that of the Nambikwara from Mato Grosso, this was not possible, and ethnographer Vincent Carelli and two other white people spoke on behalf of the

Indigenous people, which raised several epistemic problems that Carelli immediately addressed when he took the stage.

The Fifth Tribunal "on Human Rights in Psychiatry" held in Berlin in 2001 was followed by sessions on Palestine in Barcelona, London, Cape Town, New York, and Brussels, held between 2009 and 2014. PPT cases of interest in Latin America include those on the Brazilian Amazon (Paris, 1990), on "Impunity for Crimes against Humanity in Latin America" (Bogotá, 1991), the "Conquest of the Americas and International Law" (Padua and Venice, 1992), "Violations of Fundamental Rights of Children and Adolescents in Latin America" (São Paulo, 1999), and "Translational Corporations and the Rights of the Peoples in Columbia" (Columbia 2006–2008) (Byrnes and Simm 2018: 276–277). Cases brought before the tribunals have often pertained to *desaparecidos*, the people who were made to disappear under the various military dictatorships. In 2021 and 2022, the Brazilian Cerrado Tribunal met online in four hearings to "judge the crime of Ecocide against the Cerrado and the threat of cultural genocide of the peoples of the Cerrado" (Permanent Peoples' Tribunal 2022). The Cerrado plays an important role in the ecological maintenance of the Amazon rainforest. Similar to the PPT is the Tribunal Latinoamericano del Agua (Tribunal Latinoamericano del Agua n.d.) based in San José, Costa Rica, which hears complaints concerning access to raw water and drinking water, often brought by members of Indigenous groups (Giupponi 2018). Despite the tribunals' lack of standing, the hearings often put pressure on local and national governments and gather documentation that is then used in regular lawsuits.

These tribunals are organized by private individuals, rarely by just one person, even though the world-famous British philosopher initially gave them his name. Without any apparent legal effect, such private events can serve various functions: for example, they may simply be show trials, where the verdict is already fixed and the whole purpose of the tribunal is to attract attention. Show trials of this kind have also been conducted by states and state actors to present people suspected of treason in a merely simulated legal framework. On social media, the tribunalization of everyday life has been apparent for some years now, and in many cases, it is of little bearing that none of the actors have been commissioned in any form by a sovereign to pass judgment on alleged offences. For those who become embroiled in a media furore, it is very difficult to come out unscathed. However, a tribunal can also take place when actors who fundamentally believe that legal systems and international relations work gain the impression that certain cases have not been adequately dealt with, that the law, even if it has already been pronounced, has left a gap, and that no legal resolution can be achieved without that verdict. Even if there is no doubt about the legal system in principle, such tribunals are set up in the conviction that the law has not been adequately applied. In Germany, the tribunal "Dissolving the NSU Complex"

("NSU-Komplex auflösen") has been meeting in various places for several years now, beginning in Nuremberg (3-5 June, 2022). The National Socialist Underground, a right-wing terrorist group whose core consisted of two men and one woman, murdered nine people from migrant backgrounds and one policewoman between 2000 and 2007, and also carried out forty-three attempted murders, three bomb attacks (Nuremberg 23 June 1999; Cologne 19 January 2001 and 09 June 2004), and fifteen robberies. The two male perpetrators killed themselves when police officers approached the trailer in which they were hiding after a bank robbery. The female defendant Beate Zschäpe set fire to the building in which her flat was located but fled. She and a very small group of four other defendants were tried at the Munich Regional Court between 6 May 2013 and 11 July 2018, at the end of which Zschäpe was sentenced to life imprisonment for murder.

The NSU tribunals that came together in the wake of the trial have been held in various city theatres and claim that the judgment made by the Regional Court did not address the larger structures of institutionalized racism that also affect state agencies. The case in the NSU trial was led by the federal Attorney General; since the charge was murder, it was an offence requiring public prosecution (an *Offizialdelikt* in the German legal system). Because it was about the presumed formation of a terrorist organization, the federal public prosecutor was responsible. Relatives of the victims and their lawyers brought the private accessory prosecution that is referred to in German as a *Nebenklage*, which literally means "side prosecution" or "those who lament to the side". But the private accessory prosecution was not given much time or space during the trial, partly due to the sheer number of victims. The theatre tribunals thus made those voices of lamentation audible. They were therefore about individual cases in the sense that each of the murders had extinguished a singular and completely irreplaceable life. At the same time, however, they were about larger contexts that, according to the accusations made by the organizers, had not been addressed by the Munich Regional Court. Particular attention was paid to the presence of Andreas Temme, an employee of the Hessian secret service, who was sitting in an internet café in Kassel's "Holland" district when Halit Yozgat, the owner of the café, was shot there on 21 April, 2016. In a presentation made by the group Forensic Architecture (Forensic Architecture 2017), it becomes clear that it was practically impossible for Temme not to have witnessed the murder as he had claimed. Hence, the individual cases — a series of murders with three main perpetrators — also pointed to a much larger, institutionalized network. In the NSU complex tribunals, the judiciary was accused of at the very least lacking the will to face up to these entanglements.

Tribunals of this kind are not dissimilar to cases of "strategic litigation", which also begin where previous jurisprudence has left gaps. These tribunals, however, are not

theatre events but actual trials held before regular courts on the basis of existing law. Nevertheless, each instance of litigation is not just about a single case but also about the exemplary effect that a judgment could have. Peruvian farmer Saúl Lliuya, supported by lawyer Roda Verheyen and the organization Germanwatch, sued Essen-based energy company RWE for the sum of €17,000 (Germanwatch 2023). The company's climate-harming activities had contributed to the melting of the glacier above Lliuya's village, which not only posed the threat that water for agriculture would run out; there was also a danger that the village could eventually be buried by landslides. In the summer of 2022, judges and experts from the Higher Regional Court of Hamm in North Rhine-Westphalia, Germany, travelled to Huaraz and the Laguna Palcacocha in Peru to collect evidence. Here, it was also a question of addressing an individual case and a singular fate, but this case, too, had an exemplary function. Complex contexts were condensed into a perpetrator-victim relationship that could become the subject of a trial. As was to be expected, the accused corporation RWE invoked the individual polluter-pays principle to counter the claim: "'It is still our position individual emitters cannot be held liable for universally rooted and globally effective processes like climate change', RWE media relations manager Regina Wolter said in a statement" (Kaplan 2022).

Related to but distinct from these tribunals are events that take place because the existing law is perceived to be inadequate or inappropriate — or because it simply does not exist. Here, too, private tribunals try to fill a gap, but, in some cases, less so in the belief that a functioning legal system has not done an adequate job. There are no plaintiffs here filing lawsuits in the regular courts. Rather, these tribunals — and the first of their kind was Russell and Sartre's Vietnam Tribunal — are held because the crimes that have been committed would otherwise go unpunished or even unaddressed by either side. However, there is another level, particularly in tribunals on the theft of Indigenous land: even though the jury of the Fourth Russell Tribunal made a special effort to prove that the defendants were violating current law and international treaties and conventions, these performances called the most fundamental legal right in European legislation into question — like in Oswald's scene, albeit in a different way. And this is the right to privately own things in the world. According to lawyer Katharina Pistor in her book *The Code of Capital*, to which I will later return, these things are coded as capital *qua* law: "Fundamentally, capital is made from two ingredients: an asset, and the legal code" (Pistor 2020: 2). The tribunals I am interested in are intended not only to point out gaps in current jurisprudence but to change the understanding of what is and what is not law, who or what can exercise rights, and what those rights are. They raise complicated questions about the universality of Western legal systems, the hybridization of law in the Americas, and transformative processes that affect notions of what is right and what is wrong, of who or what can claim which rights. The change

they seek is sometimes at least partly subsumed within the legal system and the social presuppositions that guide it. They work toward “transformative justice” in the strong sense of the term: toward the transformation of justice itself. In this sense, however, the tribunals become entangled in a complex relationship to existing law, which I would like to outline by looking at the example of the works of theatre-maker Milo Rau in order to clearly pose the questions that will guide the following investigation.

3. Theatre Tribunals and their Dialectics: The Works of Milo Rau

In European theatre, but also in that of North and South America, intensive examinations of the theatrical format of the court trial have now been taking place for a number of years. The most widely received works have come from Swiss director Milo Rau. Rau has staged or arranged trials that have resembled ordinary court hearings with the crucial difference that the juries, as in the Russell Tribunals Rau also refers to, have not been able to pronounce legally binding verdicts. The series started in 2008/09 with *The Last Days of the Ceaucescus*, which was a re-enactment of the ad-hoc sentencing and execution of the Romanian dictator and his wife. The *Moscow Trials* of 2013, however, were not a re-enactment, but rather a staging of the trial that should have been held against the group Pussy Riot and other dissident Russian artists, i.e., a supposedly fair trial. The tribunal ultimately substituted or replaced a regular trial precisely because the latter had been lacking. The *Zurich Trials* also took place in 2013, anticipating a trial against the magazine *Weltwoche* for unconstitutional racism or showing that such a trial was possible — although it ended with an acquittal. The strongest and most controversial work in the series was the 2005 *Congo Tribunal*: here, Rau convened two quasi-judicial assemblies that primarily addressed the impact of resource extraction in the eastern Congo, expropriations and resettlements, the fuelling of ethnic conflicts, the destruction of nature, and massacres of the civilian population.

This significant yet problematic piece has led me to look more closely at the form of the tribunal as an extra-juridical negotiation. I do not see the Russell Tribunals and the trials that emerged from them as the mere backstory to Rau’s internationally successful projects, and I do not want to dismiss them as a “moral, accusatory format” (Boesch 2023: 72), as a recent dissertation on the relationship between theatre and law has. They are in themselves worthy of in-depth investigation because, in many ways, they are more radical — or partisan, as the critics would say — than Rau’s revival of the tribunal format. This book will address this radicality based on the consideration that, between the 1960s and 1980s, Western countries fiercely debated a whole series of questions and problems with a global scope, which were then more or less forgotten for at least twenty years after what we now call the “fall of the Berlin Wall” — and a lot of the contemporary political situation has to do with this forgetting. However, several

questions that will guide the following analysis first arose during discussions of the *Congo Tribunal*, so I will briefly present it first in order to make these questions clear.

The tribunal took place from 23 to 25 May 2015, at Collège Alfajiri in Bukavu, in the far East of the Democratic Republic of the Congo (DRC), and from 26–28 June of the same year at the Sophiensaele Theater in Berlin — in the city where the Congo Conference of 1884/85 was held, which divided Africa up between the European colonial powers and declared the regions around the Congo River to be the private property of Belgian King Leopold. Rau's documentary film *Das Kongo Tribunal* was released in 2017, as was a book of the same name, the latter bringing together a wealth of material and additional background information by various authors. This tribunal initially ended the series of extra-juridical hearings; however, they were resumed in 2020/21. After preparatory hearings at the Schauspielhaus Zurich, the tribunals were continued from to 11 December 2021, in the Plenary Hall of the Provincial Parliament in Manika, DRC, with some of the same protagonists on the jury as in 2015.

The Congo sessions of 2015 were presided over by Jean-Louis Gilisen, an expert in international criminal law at the International Court of Justice in The Hague and one of its co-founders. The jury in the Congo consisted of Venantie Bisimwa Nabintu, human rights activist; Colette Braeckman, Africa correspondent for Belgian newspaper *Le Soir*; Gilbert Kalinda, member of the North Kivu parliament and lawyer for the company Mining and Processing Congo; Prince Kihangi, land rights lawyer; and Sévérin Mugangu, Professor of Law at the University of Bukavu and cabinet chairman of the provincial governor. Except for Braeckman, all of the jurors were Congolese, as Rau points out very clearly. Sociologist Jean Ziegler, a member of the Advisory Committee of the UN Human Rights Council, was forbidden from attending by the UN. His chair remained empty. In Berlin, prominent intellectuals like Saskia Sassen and Harald Welzer were on the jury, as were Liberian human rights activist Saran Kaba Jones, Edward Snowden's lawyer Wolfgang Kaleck, Congolese politician and artist Marc-Antoine Vumilia, and, again, Braeckman. When the jury appeared, the audience had to stand up — a ceremonial framing — and in the Congo, a clapperboard indicated that filming had started. Miners, villagers, politicians, company representatives, and, particularly in Berlin, political, legal, and economic experts were interviewed. The witnesses swore to Gilissen that they would tell the truth and nothing but the truth.

The tribunal heard three cases. The first of them was "The Banro Case". "Banro" is the name of a Canadian company that bought the mining rights to a gold mine in Twangiza in 1996, during President Mobutu Sese Seko's reign. After nationalization by Laurent-Désiré Kabila and the murder of Banro's opponent Philémon Naluwindja and of Kabila himself, the mine regained its license through the Sun City Free Trade Agreement on 2 April 2003 (with Joseph Kabila, the late president's son and successor representing

the DRC). It then resettled the inhabitants of Luhwindja village, heavily polluted a lake, and chased away the local artisanal miners. A similar conflict was also at the centre of “The Bisie Case”, where the company Magminarals Potasses Congo (MPC) bought the mining rights but encountered strong protest from artisanal miners. The villages around the mine were frequently attacked by militias. The Dodd-Frank Act, passed in 2010, imposed extensive documentation requirements on companies that process “conflict minerals”. This led to the many artisanal miners losing their employment. The entry of a new Swiss company in 2012, which entered into negotiations with the miners’ cooperative, had generated some hope at the time of the tribunal. Finally, “The Mutarule Case” was about the massacre of thirty-five children and women in the village of Mutarule, after which Rau’s camera crew happened to be the first on the scene. The UN’s MONUSCO mission, led by German Martin Kobler, was housed near the site but did not intervene. At first glance, the massacre had to do with an ethnic conflict that had erupted in the wake of the genocide in Rwanda between the Barundi, who supported the Banyamulenge and were thus ultimately associated with the Tutsi — the victims of the Rwandan genocide — and the Bafuliru, who saw themselves as autochthonous, were connected to the Hutu, and were the victims of the Mutarule massacre. The Berlin hearing, however, discussed the role of the German arms industry and the NGOs that make their livings from conflicts like the one in the Congo. The governor of South Kivu sat in the front row during the tribunal held in the Congo, and he also gave a closing speech, during which he castigated “ethnicism” and called on the Congolese to take matters into their own hands.

Both juries reached a verdict, or rather, a conclusion: the Congolese jury stated that ethnic conflicts would be contained if there was a political will and if the state and MONUSCO remained inactive, but that MONUSCO could not be accused of complicity. They also found that industrial mining in its current form did not create any basis for “peace and democracy in the region” and that international corporations had exploited political instability. The Berlin jury called for the creation of institutions to judge the legality of extractive ventures under international law and the Congolese constitution and urged that an investigation be held into the role played by the World Bank and a review carried out of regulations like the Dodd-Frank Act. It also stated that neither the UN nor NGOs were contributing to the security of the Congolese people. In addition, the jury affirmed that the beneficiaries of the situation in the Congo were not just the direct perpetrators but anybody who has access to cheap smartphones.

Three days, three cases: theatre scholar Benjamin Wihstutz has correctly identified a dramaturgy of three acts here that become five acts if we also count the first and the last days, the introduction, and the conclusion. Wihstutz does not, however, address the question of where Rau’s preference for the number three comes from (Wihstutz

2019). The solution seems to be quite simple. In his opening speech, Rau calls for "an open and dialectical progress" and says that the tribunal is supposed to "denounce […] what is generally called 'development'" but that it "will contribute to the development — let's take this word in a positive sense — to the development of this wonderful country […] which is the Congo" (Rau 2017: 58). The structure of the three acts with their introduction and conclusion is dialectical: the cases are worked through, and a judgment is pronounced at the end. The whole process brings "development". Three — and also five — is the number of dialectics, of drama as a dialectical process, or of the dialectical process as drama.

But Rau's relationship to dialectics goes even further. He explicitly refers to a very canonical chapter from Georg Wilhelm Friedrich Hegel's *Phenomenology of Spirit*. In a conversation with journalist Andreas Tobler, he explains: "There are INCOMPATIBLE INTERESTS. International trade law (disguised as the Code Minier) and local land law (protected, among other things, by the Congolese constitution) are INCOMPATIBLE […] — just as in Hegel's famous example the traditional law of Antigone and the legalism of Creon are INCOMPATIBLE, they can engage in as many speech duels as they like" (Rau 2017: 28). To make this incompatibility visible, Rau chooses the form of drama: "What the 'Congo Tribunal' does, then, is to make the TRAGIC quality of this war visible — in character speech. And thus, to bring the admittedly somewhat 'simplistic' format of drama back into a world that has become accustomed to the incoherent presentation of victims and perpetrators" (Rau 2017: 29). Rau thus juxtaposes the two incompatible laws by making them characters on stage — just like Sophocles did, according to Hegel, with the characters Antigone and Creon. For Hegel, however, the whole tragic and dramatic conflict between the old and the new gods leads to the genesis of what he calls, in A.V. Miller's translation, "legal status" (Hegel 1977 [1807]: 290) — but what might more accurately be translated as the "state of law" ("Rechtszustand") (Hegel 1989 [1807]: 355). Antigone buries her brother Polyneices, even though he turned against the city in a fight with his brother Eteocles, who did not abide by the alternation between the two brothers as rulers agreed upon after the death of Oedipus. But Creon, whom Hegel refers to as "government" (Hegel 1977 [1807]: 280), has issued a prohibition against burying political enemies and has Antigone walled up alive for defying his decree. For Hegel, Creon acts in the name of the political community, the Olympian gods above ground, and men. Antigone, on the other hand, represents the laws of the subterrestrial, chthonic gods, who are also the gods of the family, and women. The dead family member must be buried, especially and above all others the brother, as Antigone explains in a much-discussed reply to Creon. As the result of this conflict, the Attic polis, which can only exist through the interlocking of the two orders, falls apart. In Hegel's narrative, this is first followed by comedy, where the protagonists are no longer entangled in a tragic conflict. The

actor dominates over the role and joyfully celebrates his freedom. Later, Jesus Christ appears as God-made-man — just like the comedy actor, he is just one specific person made of flesh and blood, but therefore much stronger than the former gods made of stone, who have to disappear (cf. Hamacher 2001). What brings these human beings together as people after the polis has fallen apart is “legal status” or state of law — that is: Roman law: “The universal being thus split up into a mere multiplicity of individuals, this lifeless Spirit is an equality, in which all count the same, i.e., as *persons*” (Hegel 1977 [1807]: 290). The result of tragedy’s dialectical movement is a society made up of isolated persons, each of whom possesses individual rights. However, this is not the end of Hegel’s Eurocentric history narrative as the person is nothing more than an “empty unit” (Hegel 1977 [1807]: 291). His voyage takes him onward to Spinoza and Kant and, finally, to his own philosophy.

What, then, is the kind of “development” that the tribunal is supposed to promote? There can be no doubt that development is needed in the Congo — in the sense that the situation in the country cannot remain as it is. At the tribunal, and in the film and book, Rau has meticulously documented the current situation in the Congo with great zeal and commitment. Ziegler makes this point in an interview that he gives in the film. Actually, he says, international actors do not desire peace at all; they fuel ethnic conflicts in order to make it easier for the credit-financed international mining companies, which depend on quick successes, to secure the greatest possible profit for themselves. In particular, the book documents how the tribunal in Berlin strove to shed light on underlying infrastructures. Christoph Vogel, an expert from the Conflict Research Group, explains how ethnic conflicts are instrumentalized for the extractive industry, and Frédéric Triest, Deputy Executive Secretary of the Reseau Européen pour l’Afrique Centrale, describes the EU’s policy of preventing countries like the Congo from using “critical minerals” for their own industrialization, instead forcing them to put those minerals on the world market at the cheapest possible prices. Ultimately, Rau outlines a political world order in which conflicts “elsewhere” are accepted in order to safeguard prosperity in Europe. Europe achieves peace in its interior by outsourcing violence to areas of the Global South that Macarena Gómez-Barris refers to as *The Extractive Zone* (2017):

> We have learned to think of the other as part of our own, as long as it is with us. And it becomes apparent what so-called postcolonialism, which forbids any form of intellectual interference in African or Asian conflicts, actually is: European callousness, a kind of appeasement policy for the imperial interior (Rau 2018: 50).

Here, Rau also justifies his own intervention in the Congo as a Swiss activist and theatre-maker helping to inaugurate a new legal order, already showing what it might

look like. "A court must function exactly like the Congo Tribunal, it is in exactly this way that justice is realized, it is in exactly this way that its timing, its court procedure work" (Rau 2018: 46). He concludes:

> In the Congo Tribunal, the future practice of international jurisprudence — that is, mixing different forms of law, traditional and international law, local and European judges, and so on — shines forth, but not as an artistic allegory, not in invented figures, but as a real situation, in the presence of real actors, according to real, valid law (Rau 2018: 47).

Even if the contrasts between traditional land law in the Congo (Antigone) and international trade law (Creon) are simply "INCOMPATIBLE", Rau ultimately envisions a new process of mixing: a form of compromise, a new and hybrid law. In his play *Orest in Mossul*, staged in 2019 in Ghent and other cities, Rau read Aeschylus's *Oresteia* in a similar way. He filmed parts of the production on location in Mosul and brought them to the stage through video projections. The violent terror of the group that calls itself the "Islamic State" was thus associatively linked to the chains of revenge in *Oresteia*, which are ultimately broken by the convening of the human court of the Areopagus by goddess and daughter of Zeus Athena. Orestes has murdered his own mother, who has murdered her husband Agamemnon, who has murdered her daughter Iphigenia. But he is acquitted (not by the humans but by the decisive stone cast by Athena herself). The Erinyes, who seek blood revenge and have been hounding Orestes, are settled as the "well-meaning" (Eumenides) on a hillside near Athens to protect the city. Forgiveness and justice emerge from archaic violence, but it is the justice of the new gods to which the old, chthonic gods must submit. The Erinyes have to give up their desire for blood vengeance.

Rau's staging of *Oresteia* also aims to break the chains of revenge somehow linked to archaic structures. However, the audience does not learn anything about the fact that the actors in this brutal conflict are highly modern or that the Islamic State was born out of US prisons and founded by intelligence officers who had previously worked for Saddam Hussein, who had been long backed by the US. Religious fundamentalism is anything but "archaic" or chthonic like the Erinyes; rather, it is a player in a modern power game that is about oil extraction. The special role played by religion in these political struggles can be understood by looking at Walter Benjamin's book on seventeenth-century German Baroque theatre. With particular interest, Benjamin examines the role of martyrs in the "mourning plays" — the literal translation of the German word *Trauerspiel*, designating an early modern and eminently monotheist form of theatre that does not have much to do with Attic tragedy. The baroque image of the martyr, Benjamin states, "has nothing in common with religious conceptions; the perfect martyr escapes immanence as little as does the ideal image of the monarch"

(Benjamin 2019: 59). The martyr may strive and die for divine justice, but it is not granted; God is far away, and martyrdom remains a mere stage effect. The only thing that the martyrs' endless suffering serves is political interests. In this context, it is significant that Benjamin refers to the even number of acts in most baroque plays: they certainly do not lead to a dialectical resolution in a new "legal status" that is reached at some point. Instead, the "complaint against death — or against whomever it may be issued — is filed away half-finished at the end of the trauerspiel" (Benjamin 2019: 138). Only half processed, the claims and mourning (since this is the double meaning of the German word *Klage*) might be taken up again or they might not, but they ultimately remain unsolved. Rau, on the other hand, draws a hopeful conclusion that can be seen as a promise of a better future: a new court will be convened, just like the Areopagus. But when the proceedings are filed away half-finished, reconciliation, reparation, and repair are nowhere in sight.

In his latest work, Rau has turned back to Antigone once more, and here the Hegelian hopes of reaching some kind of new "legal status" seem to have faltered in the course of the production. Rau staged *Antigone in Amazonia* in collaboration with the Brazilian Association of Landless Workers MST. Against the backdrop of Sophocles' tragedy, this piece deals with extractivism and the theft of Indigenous land. At its heart is the massacre of 17 April, 1996, when some 1,500 MST members blocked a road near Eldorado dos Carajás in order to force negotiations with Governor Amir Gabriel. The latter, however, gave the order to lift the blockade "at any cost" (Dilger 2002). Shelling and stabbings at close range killed nineteen demonstrators. This massacre was re-enacted in the part filmed in Pará. Indigenous actress and activist Kay Sara played Antigone and Indigenous philosopher Ailton Krenak played Tiresias. The Ghent National Theatre website says: "After the productions *Orestes in Mosul* in the former capital of the Islamic State and the Jesus film *The New Gospel* in the southern Italian refugee camps, Milo Rau and his team travel to the Amazon in Brazil to conclude their *Trilogy of Ancient Myths*" (NT Gent 2023). However, Kay Sara seems to be less interested in the ancient myths of Europe than in the situation of her own people. Because of Covid travel restrictions, she was unable to give the opening speech at the 2020 Wiener Festwochen and instead sent in a video, in which she explains:

> For you like to hear us sing, but you don't like to hear us talk. And when you listen to us, you don't understand us. The problem is not that you don't know that our forests are burning and our people are dying. The problem is that you have become accustomed to this knowledge. […] And that is why it is good that I am not on the stage of the Burgtheater. That I am not speaking to you as an actress. Because it is no longer about art, it is no longer about theatre. Our tragedy takes place here and now, in the world, before our eyes (Sara 2020).

She did not travel to the 2023 performances either. Although she agreed to take part in the production, Kay Sara does not seem to believe that "progress" for the Amazonian peoples under threat from ethnocide would be possible through a staging analogous to the *Congo Tribunal*. In any case, there is a danger that casting her as Antigone only reproduces vague attributions: Antigone is female, young, beautiful, but indifferent to her fiancé (Haemon); she fights irreconcilably and accepts her own death. She is, as Jacques Lacan describes her, a martyr, devoid of pity and fear (Lacan 1997 [1965-1960]: 267). Or, even worse, with Hegel we might say that, as a woman, she is fighting for old, chthonic rights and faces an opponent who maybe overdoes it a little with his interpretation of political governance, but who has been simply forced to do so. In the end, however, this conflict will end in a new "legal status" or state of law.

Rau does not commit himself completely to Hegel's reading of the play, as at the end of the conversation with Andreas Tobler cited above, he contradicts himself and admits that the *Congo Tribunal*, "unlike the Moscow Trials, for example, was less about the struggle between two world views that would have been 'tragically' irreconcilable and more about painting a portrait, as multi-layered as possible, of the context of an economic and political crime that has not in itself been called into question" (Rau 2017: 32). But it is unlikely that a "portrait" of a context would be able to take the dramatic form; instead, it would probably find itself confronted with Bertolt Brecht's observation that "[r]eality as such has slipped into the domain of the functional" (Brecht 2015: 164). Juxtaposing an Indigenous resistance fighter with a Sophoclean character under the label of "ancient myth" seems strange. If one accepts it, however, then there is another text that might play a more crucial role as a reference than Hegel's, namely Judith Butler's *Antigone's Claim*, which Rau also mentions in a recent interview promoting *Antigone in the Amazon*. For Butler, according to Rau, "Antigone undermines the existing symbolic order even more radically: namely, from its utopian outside, by creating a fundamentally different design of human coexistence, of the living and the dead, of man and nature" (Rau 2023). In fact, Butler refers very critically to Hegel and states that Antigone "speaks the language of entitlement from which she is excluded, participating in the language of the claim with which no final identification is possible" (Butler 2002: 82).

In Butler's essay, Antigone is not seen as one of two parties in a dialectical model; she does not speak for the family, just as Creon does not speak in the name of the laws of the polis. Jacques Lacan, drawing on a comment by Goethe, points out that Creon in no way appears as a sovereign ruler who has the good of the city in mind. Rather, he acts irrationally and selfishly (Lacan 1997 [1965-1960]: 254). Antigone, daughter of a father who is also her half-brother, who might be entangled in an incestuous relationship with her brother and uncle Polyneices, is probably less able than anyone else to stand for

the bourgeois family and the tasks of reproductive work and care assigned to women that Hegel has in mind. For Butler, Antigone speaks for those who cannot actually appear on the stage dominated by Creon — for those who have no voice there, who find no representation. This reading of *Antigone* is no longer dialectical; instead, Butler refers to the rhetorical figure of “catachresis”, saying that, “If [Antigone] is human, then the human has entered into catachresis: we no longer know its proper usage” (Butler 2002: 82). A catachresis — literally “misuse” — does not need to be an error like in confounding complicated loanwords; it can also be a rhetorical figure that fundamentally questions what the correct usage is. When we listen to Antigone, Butler suggests, we no longer know what the “human” is. The rules of the Lacanian “symbolic order” are no longer set and self-evident but are themselves called into question, whereas for Lacan, they simply reflect the structure of the family as the structure of language. But as Butler underlines, Antigone speaks “the language of the claim”. A claim is not a judgment; a claim does not describe how things are but demands something — although this “something” might not even be defined yet.

On the basis of this critical examination of Milo Rau’s *Congo Tribunal* and his other works, we can already discern some of the questions that will guide my analysis of the Russell Tribunal series and, in particular, the Fourth Tribunal on the situation of Indigenous peoples held in 1980. Rau himself mentions a number of precursors to his event in Bukavu in his opening address, and says that the *Congo Tribunal* is part of “a long tradition of similar tribunals, from the ‘Nuremberg Tribunal’ […] to the ‘Vietnam Tribunal’, the ‘Iraq Tribunal’ or the ‘Palestine Tribunal’” (Rau 2017: 53) — tribunals that, of course, must be carefully distinguished from each other. In the following, Rau continues to mix up the trials that have taken place in the International Court of Justice in The Hague with the Nuremberg Trials and the Russell Tribunals as a matter of course. But the general reproach he makes to all of them is their partisanship. With his own tribunal, on the other hand, he claims to have succeeded in bringing together representatives of the various interest groups. That is why his tribunal, as he has emphasized several times in various places, will pave the way toward a new future.

The artisanal miners in the Congo, the massacre survivors, and the inhabitants of villages on the shores of poisoned lakes are definitively in a different position to that of the internationally acclaimed Swiss theatre director. Maybe, they have no position at all since they have no place on Earth to call their own and no fundamental infrastructure to support them. However, they appeared on the stage Rau set up and spoke because they wanted to be heard. Afterward, the director flew back to Europe. The tribunal did bring about some change at the personnel level. For example, the Minister of the Interior and the Minister of Mines of South Kivu Province were dismissed: the Minister of the Interior said that the police had not been able to get to the site of the Mutarule

massacre because it had taken place at night. And although the tribunal is unlikely to change anything about the structures of international extractivism, it could bring to light the violent material basis of contemporary communication technologies and ongoing coloniality in the Congo.

On the one hand, we could issue a very harsh verdict about Rau's works: that he adds moral extractivism to the economic variant. While multinational enterprises extract raw materials from Congo's soil, multinational theatre productions extract morality from it — generally using German money — to the benefit of the happy few in Berlin's gentrified neighbourhoods. Just like the people of the Congo did not need to wait for the Belgian king, they did not need to wait for a Swiss director to explain to them what the law is either. However, they do not eat him as Oswald might recommend. On the other hand, Rau defends himself against this accusation in the quote above by explaining that non-intervention into the continued exploitation of the Global South is not an alternative either, and he accompanies his production with documentation of his extensive research.

Watching the movie, reading the documentation, and listening to Rau, it is hard to say whether the tribunal will bring about a new "legal status" or if it is about the figure of catachresis: about renegotiating what, in Butler's words, a human being is and what rights they (or any other being) can claim. It remains unclear whether the tribunal will lead to a compromise between very unequal partners or to a real, fundamental transformation — which would then certainly have an effect on the figure of the "committed European theatre director" as well.

4. Extra-Juridical Tribunals as Performance: Further Questions

In any case, Rau certainly believes in compromise to a greater extent than most of the protagonists of the Russell Tribunals did, who were generally more interested in "the language of the claim" (Butler 2002: 82). In this respect, Rau remains a child of the 1990s and 2000s. Although he evokes Butler's reading of Antigone, many of his comments suggest that he hopes for a final and global state of law, albeit adjusted to local needs and customs. He credits his state-financed European theatre production with the task to help install this state of law in a place like Congo — hence, to bring "development". Rau's theatre is a global theatre or a theatre of globalization: There is only one globe for Rau, and even if it is divided in affluent societies and extractive zones, engaged European intellectuals need to care about the places where commodities are mined under severe conditions: with the help of European funding, they need to intervene and support allies. But, as Chilean political scientist Martín Arboleda has it, the notion of the "global" needs to be replaced by the "planetary":

> As opposed to the "spaces of flows" and "liquid modernities" that populated earlier visions of globalization, the notion of the planetary designates a convoluted terrain where fences, walls, and militarized borders coexist with sprawling supply chains and complex infrastructures of connectivity (Arboleda 2020: 15–16).

The planetary also is a contested terrain — but not only economically contested as envisioned by the ordo-liberal theories of the "global", but epistemologically, politically and legally. The insight that the 1990s and 2000s as the heyday of globalization are long gone will now take us back to the precursors to Rau's tribunals, to the questions they raised, and the claims they made.

The following final pages of the working paper give a provisional outline of the forthcoming book that is scheduled to be published with Routledge in 2025 (Etzold forthcoming). The history of the Russell Tribunals can also be read as an account of the development of post-colonial and de-colonial thought in Europe and the "West". Their protagonists were from another generation than Rau is: The European lawyers, anthropologists and writers among them also saw a need to intervene in areas of what is now called the Global South, but their approach was much more confrontative or partisan: they believed much less than Rau and his generation do in a global culture of compromise. Bertrand Russell and Jean-Paul Sartre convened the First Tribunal to rightly accuse the US of genocide in Vietnam — a genocide that remained unpunished. They did not sue a network of enterprises, but one state; and not an enemy state, but a state that de facto lead a military organization their own nations belonged to. The anti-American, anti-imperialist, and critical thrust of the tribunals would remain over the years, culminating in tribunals carried out on the state of Israel and the situation of the Palestinians. In this, the Russell Tribunals were in line with a global left that soon singled out the state of Israel as the sole representative of colonialism. The Palestinians were defined as the Indigenous people of the contested stripe of land and the Israeli as white settler colonialists. On the other hand, Russia's expansionist and imperialist aspirations, which, since Stalin, have included extractivism as well as ethnocide, have never been the subject of any of the assemblies. In the age of the planetary, many of problems and conflicts are re-emerging that in Europe and the US had been drowned out for some thirty years by the long celebration of the fall of the Berlin wall and the apparent global victory of ordo-liberal democracy. But they do so in a different global situation. A history of the Russell tribunal has to value the protagonists' confrontative approach, but also to situate them in their own epoch. They are basically a Western European invention in the age of the Cold War and they primarily dealt with a long, very present history of excessive violence emanating from Western states. But in doing this, they testify to one capacity of Western societies that is also centuries old: the

capacity for radical self-criticism and to confront one's own actions. Despite their sharp, accusatory gestures or precisely because of them, they are simultaneously borne by a kind of optimism: they assume that the rules and epistemes of conviviality can be fundamentally changed. All is not lost as long as injustice is publicly addressed. In all their ambivalence, the tribunals are a plea for democracy and for social transformation.

A historical outline of the Russell Tribunals has to be combined with theories of extra-juridical hearings. A seminar reference here is Cornelia Vismann's book *Medien der Rechtsprechung* (Media of Jurisprudence) (Vismann 2011), a volume that has been widely read and discussed in and beyond the German-speaking world, although it has unfortunately not yet been translated into English. Vismann draws on a distinction made by Florens Christian Rang in a letter to his friend Walter Benjamin between "agon and theatre" (the title of Rang's short text) and uses this to develop the concepts of a "theatrical" and an "agonal" *dispositif* in court proceedings. To put it simply, ordinary court proceedings are subject to the theatrical *dispositif*, while the tribunal is agonal in nature, i.e., partisan, unregulated, and always explicitly public: "The ordinary judiciary has completely adapted to the conditions of the theatre. For special forms of justice, the logic of competition takes hold" (Vismann 2011: 17). Vismann's references to Rang and Benjamin are a little misleading, and she makes a few mistakes with regard to the history of Greek theatre (Menke 2018). My special interest in her study, however, lies not just in the fact that she draws on a clear theoretical background to systematically examine the use of media for the various forms of sitting in judgement and administering justice. In addition to files, these now include photographs and film recordings and, more recently, all kinds of data. Rather, Vismann also focuses on the theatrical dimensions of sitting in judgement, meaning that her book gives rise to questions about the relationship between theatre and jurisprudence. The two editors of the posthumously published volume, Alexandra Kemmerer and Markus Krajewski write: "The transformation of theatrical logic takes place before our very eyes, a drama of transformation whose tragedy Cornelia Vismann describes more pointedly than any of the numerous professional observers of newer forms of tribunal and court who have proven their expertise in international criminal law" (Vismann 2011: 11). But emphasizing this theatrical form of the court so much then raises some questions: What is "drama" or a dramatic character? What is "tragedy"? Who can appear on the stages of law? Who can speak for others? And what happens when a jury, which has no legal standing whatsoever, assembles to judge violent events that have apparently not been adequately covered by existing legal orders and *dispositifs*? Who speaks? Who can speak? Who is invited to the proceedings and who is not? Who stands? Who sits? Who listens? Who is supposed to listen? Which media are used, their effect reaching far beyond the provisional courtroom? And finally, which concepts of law and justice are at stake, are presupposed, questioned, or transformed?

This question is pivotal when regarding the 1980 tribunal, first in relation to the organizers and the jury. This tribunal was a grassroot affair: Theologists and ethnologists, among them Darcy Ribeiro and Stefano Varese, met Indigenous spokesmen at the Symposium on Inter-Ethnic Conflict in South America in Barbados, 25-30 January, resulting in the “Declaration of Barbados: For the Liberation of the Indians” (Bartolomé et al. 1973, 267-270). In 1977, the Indigenous people organized a follow-up conference on their own. Later, they contacted the Russell Foundation to provide a framework for a public and visible tribunal (Hensel 1982: 7). Hence, important intellectuals, who are no longer particularly present in Europe and the US, such as Eduardo Galeano and Robert Jaulin, were involved in this tribunal. But it is important that the tribunal was chaired by Mário Juruna and that activist Domitila Barrios de Chungara was part of the jury. They spoke for themselves. And in statements made by the representatives of Indigenous plaintiffs, other legal epistemes became audible. Especially Oren Lyons as a spokesman for the Haudenosaunee contrasts the legal framework that led to an ongoing expropriation of the Indigenous people with an evocation of the matriarchal organization of their society (Hensel 1982: 114–115). Thus, the tribunal can be used to address the complex questions about “epistemic violence” (Spivak 2010: 249) that Gayatri Chakravorty Spivak succinctly posed in her canonical essay “Can the Subaltern Speak?” in relation to issues of law (specifically, the overwriting of Vedic law by the law of the English colonizers). “The subaltern cannot speak”, Spivak concludes, because they have no access to the stage of political and legal representation. The latter is definitely the case with Oren Lyons as with Domitila Barrios de Chungara, an Indigenous miner’s wife. But she claims that she is being heard and will not accept being silenced: her book is called *Let Me Speak!*. Listening to her, we will find out that she absolutely is able to speak and has keen insights into the macro-structures that determine her position in the world-system (Wallerstein 1974). However, according to Spivak, she had to learn the colonizers’ language (in a broader sense, including epistemes and attitudes) to be heard. The stages she enters are anything but neutral. They mimic juridical theatres where people like her are not expected to appear as jurors or even plaintiffs.

Two of the fourteen cases of the Fourth Tribunal received wide publicity and were generally considered the most serious. The first case was the Guatemalan case concerning the “Spanish Embassy massacre” that took place in January 1980 in Guatemala City, where Indigenous people from the Quiché and Ixil nations were demonstrating and peacefully occupying the Spanish Embassy. Without warning, government forces started shelling the building. Only the Spanish ambassador and one Indigenous person survived; the latter was later taken to the hospital and shot there. The witnesses “Pedro” and Juana were disguised at the tribunal, and Louk Hulsman claims that this was for two reasons: first, they wanted to return to Guatemala and ensure their own safety, and, second, they were constantly performing a masquerade in

everyday life anyway in order to simply survive. In 2012 and 2013, the much-publicized trial of former dictator Efrain Rios Montt for other massacres against the Ixil took place. He was convicted of genocide; the verdict was later overturned. An outstanding thesis by Rocio Zamora Sauma analyses this trial (Zamora Sauma 2021). The other case was that of the Western Shoshones, who alleged that their land had been taken from them by the government in violation of their 1868 treaty with the US. The reason for the governmental takeover was to establish the MX missile system in the area. Soon after the Russell Tribunal, the US government stopped specifying where the MX would be placed.

Many of the cases heard before the tribunal concerned extractivist infrastructure projects. Hence, a reconsideration of the proceedings can also provide insights for the current theorization of infrastructure which has become a much-studied subject, especially in media theory and science and technology studies, since Susan Leigh Star made her famous “call to study boring things” (Star 1999: 377). According to John Durham Peters, alluding to the title of Marshall McLuhan’s famous book, *Understanding Media*, “infrastructural media are media that stand under” (Peters 2015: 33). They are what generate perception and the perceptible in the first place. They furnish the environments of everyday life; thus, they are often almost imperceptible. Infrastructures and what they transport convey the material basis of human life in modern societies; however, they not only provide the necessities of life, such as drinking water, but also generate — to a much greater extent — the needs that they then serve. Like Cornelius Castoriadis’s institutions, they are driven by a “social imaginary” (Castoriadis 1998). But in their history and present, infrastructures are inextricably linked to European colonialism. In Latin America in particular, as Galeano points out, infrastructures serve the extraction of raw materials, energy, and labour, the latter often performed by Black or Indigenous bodies on the “periphery”. In the system involving the planetary division of labour, commodities are then usually processed elsewhere and often sold back to the original territory at much higher prices. That which is extracted has been and is often still understood as a homogeneous and measurable resource that can be exploited until it is exhausted. Since the 1990s, the European theatre scene, when it has not been devoting itself to classic productions, has been primarily concerned with reflecting on its own existence in post-Fordist capitalism and criticizing the conditions that have posed a virtual challenge to “artistic critique” (Boltanski and Chiapello 2007) through sophisticated funding programs established to immanently improve neoliberal capitalism. The critique of the post-Fordist exploitation of emotional and social resources in cultural work is all too justified, and I have contributed a little to it myself (Netzwerk Kunst und Arbeit 2015). However, this critique can only make sense when placed within a global context of extraction, where emotional and social exploitation is a particular problem of Western affluent societies (Galbraith 2010 [1958]). The digital economy

and the virtual lifeworlds of the happy few in the West have a material basis. This basis includes, for example, the lithium mines in Chile, where the West sources materials for the batteries in its smartphones and electric bikes. These mines are largely owned by the Pinochet family through the enterprise SQM (formally Soquimich) — on Indigenous land. In 1980, the tribunal — one of many activist events of the time, but a very big and visible one — heard many cases concerning land-grabbing for the construction of infrastructures, be it hydrogenic dams, roads, or simply mines.

The Russell Tribunals — and the Fourth Tribunal is no exception — try to point out gaps in valid and functioning jurisprudence. The verdicts are based on eleven international laws and conventions, among them, the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1966 International Convention on the Elimination of All Forms of Racial Discrimination and the 1975 Helsinki Final Act/Conference on Security and Co-operation in Europe Final Act. The jurors invest considerable effort to show that the accused states or state organs counteract binding conventions that they had signed themselves. This very serious mimicking can be seen as a subaltern appropriation of the codes and attitudes of law itself. But at the same time, the Fourth Tribunal also questions the very foundations of European law — somewhat like Oswald did, but in a different way. This is done, on the one hand, by confronting those foundations with Indigenous epistemes of law, or rather, of what is right — above all, of what is a good life or a good way to live, *pachamama* or *sumak kawsay*/*buen vivir* (Acosta and Martínez Abarca 2018). It is intrinsic to law that it regulates the way in which life is lived. Its effectiveness — apart from in very rare cases that require judicial clarification and punishment — derives from the fact that it is validated performatively, as it were, by the overwhelming majority of a society in everyday life. The law then seems inappropriate when it no longer corresponds to what the majority feels, believes, and does. Robert Cover writes of a “nomos” that is formed out of “varied and complex materials”: “These materials present not only bodies of rules or doctrine to be understood, but also worlds to be inhabited. To inhabit a nomos is to know how to live in it” (Cover 1984: 6). However, there is also a tradition of legal criticism in European thought that not only criticizes certain laws and concepts but also, more generally, the entire concept of living together that is regulated by explicit or internalized laws and codes of behaviour. In the most general terms, this critique attacks the status of private property as the most important legal right in civil society and all the associated ways of organizing ways of life. At the latest it began with Jean-Jacques Rousseau’s *Discourse on the Origins of Inequality*, where the author, echoing Montaigne, stages this well-known scene:

> The first person who, having fenced off a plot of ground, took it into his head to say this is mine and found people simple enough to believe him, was the true founder of civil society. What crimes, wars, murders, what miseries and horrors would the human race have been spared by someone who, uprooting the stakes or filling in the ditch, had shouted to his fellows: Beware of listening to this impostor; you are lost if you forget that the fruits belong to all and the Earth to no one (Rousseau 1992 [1755]: 43)!

David Graeber and David Wengrow, however, in their spectacular chapter in *The Dawn of Everything* on the origins of the fatal notion of "progress" in the convictions of the European left, claim that it is not so much Rousseau's answer to the question of the Dijon Academy that was groundbreaking as the question itself: "What is the origin of inequality among men, and is it authorized by natural Law?" (Rousseau 1992 [1755]:17). Until then, they say, equality had never played a role in European concepts of society — not even in the Attic polis, which is often held up as a model — including by Milo Rau — although it was a patriarchal slaveholding society. "Ranks and hierarchies were assumed to have existed from the very beginning", they write (Graeber and Wengrow 2021: 32). Their proposal about where the question came from is that "American intellectuals — we are using the term 'American' as it was used at the time, to refer to indigenous inhabitants of the Western Hemisphere; and 'intellectual' to refer to anyone in the habit of arguing about abstract ideas — actually played a role in this conceptual revolution" (Graeber and Wengrow: 35). They tell the story of Kandiaronk, an intellectual and negotiator from the Wendat nation of the Great Lakes region, who became a source of ideas for the European Enlightenment through Conte de Lahontan's *Curious Dialogues with a Savage of Good Sense Who Has Travelled* (1703). In turn, they identify A.J.R. Turgot as the one who captured the fundamental Indigenous critique of the way that European societies are organized by inscribing Indigenous ways of life into a model of development that was then fatally adopted by the European left under the name of "dialectics". According to the logic of development, Indigenous societies are not organized differently to European ones (e.g., more equally or freely); rather, they are nothing more than European societies' primitive, preliminary stage. This stage has to be overcome in order to fully profit from all the benefits modernity has to offer.

From here, the fundamental critique of human rights in Karl Marx's "On the Jewish Question" can be revisited. According to Marx, human rights are the rights of the isolated members of bourgeois society. Conversely, it can be concluded that they do not apply to those who are not, or do not want to become, its members. Simone Weil radically criticizes the idea of human rights as something that is attributed to the isolated individual when she begins her book *The Need for Roots* with the hard-

to-forget sentence: “The notion of obligations comes before that of rights, which is subordinate and relative to the former” (Weil 2002 [1949]: 2). Walter Benjamin points at “something rotten in law” (Benjamin 2003: 286) and examines non-violent means of negotiation like fraud and the general strike. For Benjamin, human legal systems try to freeze time and therefore render history unable to unfurl freely, whereas divine power or force expresses itself as time itself — as a storm of forgiveness. Hannah Arendt analyses how “human rights” that can only be implemented as citizens’ rights produce the “rightless”: humans excluded from humanity (Arendt 1973, Etzold 2018). Extending this line of critique, Werner Hamacher understands human rights as mere rights to private property (Hamacher 2014). Law, then, is a tool used to “code” all the goods on Earth as capital (Pistor 2020). I am interested in how the tribunals themselves perform an active form of legal critique. At the same time, I want to look for European — often pre-modern — similarities with Indigenous epistemes of right and wrong. From a European perspective, new grounds for the “rights of things” and the “property of the Earth” (as a genitive of the subject) are provided by the French jurist Sarah Vanuxem (Vanuxem 2020, 2022). Vanuxem analyses how, for example, in central France and Catalonia, houses are the owners of the surrounding land; people who occupy them only have rights of use. The question of use leads us finally to Giorgio Agamben’s investigations into the monastic way of life (Agamben 2013): the Franciscans were forbidden from owning private property. It is the use (*usofruto*) that the Brazilian constitution, for example, allows and grants in a non-transferable way to Indigenous people in “marked” and thus protected areas. Is this a way out of the right of ownership?

Turning back to the tribunal of 1980, one particular case deserves special attention: the case of the Nambikwara people in what is now Mato Grosso, whose habitat is to be (and has been) dismembered by the construction of the BR-364 federal highway. I have chosen this case because the Nambikwara, despite their very humble way of life, have made a kind of career in continental European theorizing. Lévi-Strauss lived with them for a while and recorded his experience in *Tristes Tropiques*. His encounters with the Nambikwara may also have contributed to the emphatic reference he makes to Jean-Jacques Rousseau in the ensuing (and previously mentioned chapter) “A Small Glass of Rum”. It is precisely the account of his stay with these people (a small group of them) and the chapter reflecting on it that Jacques Derrida takes as the starting point for his very fundamental critique of Lévi-Strauss a good ten years after the publication of *Tristes Tropiques*. The Nambikwara have thus involuntarily found themselves at the intersection of weighty humanities discourses at the same time that their habitat has been under threat from extractivist infrastructure. I certainly do not want to restage academic disputes on the back of a small (although it has grown slightly in recent years), originally semi-nomadic ethnic group in what is now Brazil. If I cite these old,

canonical texts once more, it is to inquire into their historical index and their topicality. In the spirit of Derrida's critique of Lévi-Strauss, Gayatri Chakravorty Spivak has made significant contributions to postcolonial theory and to questions of epistemic violence. These discussions are about the role of anthropology or the anthropologist — the observing intruder. They are also about Western projections of Indigenous life and about the ways in which Indigenous people have in turn come to terms with Western ways of life after "contact". The case of the Nambikwara is an example of the strange European mixture of violence, extractivism, idealization, othering, and displacement that the Indigenous cultures of the Americas have encountered.

The Fourth Russell Tribunal had many successors in Latin America within the framework of the Permanent Peoples' Tribunal. Also, various artistic and theatrical works use the form of the tribunal until today. On the one hand we can speak of the "tribunalization" of everyday life — a diagnosis made by philosopher Odo Marquard some forty years ago (Marquard 1986: 11). Marquard essentially states that modern life is just too comfortable, which means that people need to find something to complain about. On the one hand, and contradicting Marquard, there are still good reasons to convene extra-juridical tribunals. They still present an opportunity to change what is considered legal property and what is grasped and valued by law. Keen to keep the proper juridical process intact as a pacifying practice that she refers to as the "nurturing of things" (*Dinghegung*), Cornelia Vismann also warns of the "tribunalization" of justice. However, I argue that tribunals can also be *proto*-juristic performances that can initiate transformative processes. Zachari Manfredi describes the Russell Tribunals as "rituals" in the sense of Talal Asad: their "'truth' […] lies not in their meaning but rather in their role in transforming the affective lives of their performers through practice" (Manfredi 2018). From here, I will return to what Rüdiger Campe calls the "proto-theatrical" in his discussion of *Oresteia*: he speaks of utterances that preceded the establishment of the Areopagus by Athena. Campe calls them "alloi logoi" — other ways of speaking (Campe 2018). This phrase is taken from Aristotle, who wants to banish these very utterances from dialectical discussion in his *Hermeneutics*. Aristotle only gives the example of the request (*euché*), but the claim and the demand are also non-judgmental speech. They do not state what is, nor do they say in any clarity what should be. They demand an answer or a reaction, even if it probably will not be sufficient. But starting from the "proto-theatrical", one can also speak of the "proto-legal", of an articulation outside of any judgment, which might only become a custom or even a law much later. As I write this paper more than forty years after the Russell Tribunal was held in Amsterdam, the river Laje has been given the status of a legal person in Brazil — the first of its kind in that country, but not in the world. "The non-indigenous people believe that the sky is where they go when they die, but for the Wari' people, it's the river", explains Eva Canoé, an Indigenous leader in Guajará-Mirim in the northern Brazilian state of

Rondônia. “The rivers are their heaven” (Marshall 2023). To ensure it retains its sacred role, the river is now a legal entity. The Laje is, of course, under threat from dams and extensive soy farming, and it is unclear how it will be able to claim its rights. But it is a start.

However, let us return to the first scene, to Oswald de Andrade’s “Anthropophagic Manifesto”. At one point it reads: “The spirit refuses to conceive a spirit without a body. Anthropomorphism. Need for the cannibalistic vaccine. To maintain our equilibrium, against meridian religions. And against outside inquisitions” (Andrade 1991: 39). What is a vaccine? It is the incorporation of a tiny dose of the sterilized Other. Variolation (from scraped pustules, the ground dust of which was inhaled or scratched under the skin) had been practiced in China and India for centuries before it came to Europe. In the middle of the 18th century, France discussed the not inconsiderable danger of inoculating viral pus; the Briton Edward Jenner then discovered in 1776 (around the same time as others) that a disease with cowpox, which is harmless to humans, could also precede true smallpox and developed a vaccine from the pus of a woman infected with the disease (the word vaccine comes from the Latin *vacca*, cow). Vaccination gives rise to a new understanding of the health of the human body and the state, which breaks with the idea of a completely healthy body. This is because the body can be protected by allowing the enemy to enter it in a weakened form. Perhaps Oswald’s main desire was to incorporate the Other into the planetary body of Western societies in order to strengthen that body’s own defences and help it to stay healthy. Extra-juridical tribunals could also serve to vaccinate the global body of capitalism and its epistemes. Lévi-Strauss’s distinction between anthropological and anthropoemic would then no longer hold. Immunization is, as Roberto Esposito has pointed out in two books, an instrument of isolation: “the immunitary principle of law”, Esposito states, “places the person as the sole bearer of rights back into the picture” (Esposito 2011: 23; Etzold 2023).

5. Bibliography

Acosta, Alberto and Martínez Abarca, Mateo (2018): “Buen Vivir: An Alternative Perspective from the Peoples of the Global South to the Crisis of Capitalist Modernity”, in: Satgar, Vishwas (ed.), *The Climate Crisis: South African and Global Democratic Eco-Socialist Alternatives*, Johannesburg: Wits University Press, 131–147.

Agamben, Giorgio (2013): *The Highest Poverty: Monastic Rules and Form-of-Life*, Stanford: Stanford University Press.

Andrade, Oswald de (1991): “Cannibalist Manifesto”, in: *Latin American Literary Review,* 19, 38, 38–47.

(2023): “Manifesto Antropófago”, in: *Manifesto Antropófago e outros textos*, São Paulo: Penguin Classics Companhia das Letras, 43–60.

Arboleda, Martín (2020): *Planetary Mine: Territories of Extraction under Late Capitalism*, New York: Verso.

Arendt, Hannah (1973): *The Origins of Totalitarianism*, San Diego: Harvest HBJ.

Barrios de Chungara, Domitila and Viezzer, Moema (1978): *Let Me Speak! Testimony of Domitila, a Woman of the Bolivian Mines*, San Diego: Monthly Review Press.

Bartolomé, Miguel Alberto; Bonfil Batalla, Guillermo; Bonilla, Victor Daniel; Castillo Cardenas, Gonzalo; Chase Sardi, Miguel; Gronberg, George; Arvelo De Jimenez, Nelly; Mosonyi, Esteban Emilio; Ribeiro, Darcy, Robinson, Scott S.; Varese, Stefano (1973): “The Declaration of Barbados: For the Liberation of the Indians“, in: *Current Anthropology*, 14, 3, 267–270.

Benjamin, Walter (2003): “Critique of Violence”, in: *Selected Writings, Volume 1 (1913-1926)*, Cambridge, MA: Harvard University Press, 277–300.

(2019): *Origin of the German Trauerspiel*, Cambridge, MA: Harvard University Press.

Bertrand Russell Peace Foundation (ed.) (1975/76): *The Spokesman*, 30, Winter 1975/76.

Boesch, Géraldine (2023): *Im Theater—Vor Gericht. Partizipation in theatralen Gerichtsformaten*. Zürich: Chronos Verlag.

Boltanski, Luc and Chiapello, Eve (2007): *The New Spirit of Capitalism*, London: Verso.

Brecht, Bertolt (2015): *Brecht on Film and Radio*, London: Bloomsbury Publishing.

Butler, Judtih (2002): *Antigone´s Claim: Kinship Between Life and Death*, New York: Columbia University Press.

Byrnes, Andrew and Simm, Gabrielle (eds.) (2018): *Peoples’ Tribunals and International Law*, Cambridge: Cambridge University Press.

Campe, Rüdiger (2018): “Flucht und Fürsprache in Aischylos’ Orestie”, in: Menke, Bettine and Juliane Vogel (eds.), *Flucht und Szene. Perspektiven und Formen eines Theaters der Fliehenden*, Berlin: Verlag Theater der Zeit, 75–97.

Castoriadis, Cornelius (1998): *The Imaginary Institution of Society*, Cambridge, MA: MIT Press.

Cover, Robert M. (1984): “Foreword: Nomos and Narrative“, in: *The Supreme Court 1982, Term*, Harvard Law Review 1983–1984, 4–68.

(1986): “Violence and the World”, *Faculty Scholarship Series*, No. 2708, New Haven: Yale Law School.

Dilger, Gerhard (2002): “Schuldspruch wegen Massaker an Landlosen”, in: *Frankfurter Allgemeine*, May 17, 2002, at: https://www.faz.net/aktuell/gesellschaft/brasilien-schuldspruch-wegen-massaker-an-landlosen-160419.html (Last access 19.02.2023).

Duve, Freimut and Narr, Wolf-Dieter (eds.) (1978): *Russell-Tribunal - pro und contra: Dokumente zu einer gefährlichen Debatte*, Reinbek: Rowohlt.

Élysée (2023): *The Declaration of the Rights of the Man and of the Citizen*, at: https://www.elysee.fr/en/french-presidency/the-declaration-of-the-rights-of-man-and-of-the-citizen (Last access 02.06.2023).

Esposito, Roberto (2011): *Immunitas: The Protection and Negotiation of Life*, Cambridge, MA: Polity Press.

Etzold, Jörn (2018): *Flucht.* Hamburg: Textem Verlag.

(2023): *Prävention: Zur Immunisierung von Körpern und Gemeinwesen*, Hamburg: Textem Verlag.

(Forthcoming): *Theatres of the Proto-Juridical. The Russell Tribunals*, London: Routledge.

Federal Ministry of Justice (2021): *German Criminal Code ((Strafgesetzbuch – StGB)*, at: https://www.gesetze-im-internet.de/englisch_stgb/index.html (Last access 08.09.2024).

Federici, Silvia (2009): *Caliban and the Witch. Women, the Body and Primitive Accumulation*. Brooklyn: Autonomedia.

Fernandez Retamar, Roberto (2004): “Caliban: Notes Toward a Discussion of Culture in Our America”, in: Sarto, Ana del; Alicia Ríos and Abril Trigo (eds.), *The Latin American Cultural Studies Reader*, Durham: Duke University Press, 83–99.

Forensic Architecture (2017): *The Murder of Halit Yozgat*, at: https://forensic-architecture.org/investigation/the-murder-of-halit-yozgat (Last access 26.06.2023).

Galbraith, John Kenneth (2010 [1958]): “The Affluent Society”. In: *The Affluent Society and Other Writings*, New York: The Library of America, 345–605

Galeano, Eduardo (1997): *Open Veins of Latin America: Five Centuries of the Pillage of a Continent*, New York: Monthly Review Press.

Germanwatch (2023): *Saúl Luciano Lliuya vs. RWE*, at: https://rwe.climatecase.org/en (Last access 28.08.2023).

Giupponi, Belén Olmos (2018): “Assessing the Contribution of the Latin American Water Tribunal and Transnational Environmental Law”, in: Byrnes, Andrew and Gabrielle Simm (eds.), *Peoples’ Tribunals and International Law*, Cambridge: Cambridge University Press, 230–256.

Graeber, David and Wengrow, D. (2021): *The Dawn of Everything: A New History of Humanity*, New York: Farrar Straus and Giroux.

Graham, Laura R. (2011): “Quoting Mario Juruna: Linguistic Imagery and the Transformation of Indigenous Voice in the Brazilian Print Press”, in: *American Ethnologist,* 38, 1, 164–183.

Hamacher, Werner (2001): “(The End of Art with the Mask)”, in: Stuart Barnett (ed.): *Hegel after Derrida*, London, New York: Routledge, 105–130.

(2014): “On the Right to Have Rights: Human Rights; Marx and Arendt”, in: *The New Centennial Review,* 14, 2, 169–214.

Hegel, Georg (1977 [1807]): *Phenomenology of the Spirit*, Oxford: Oxford University Press.

(1989 [1807]): *Phänomenologie des Geistes, Werke 3*, Suhrkamp: Frankfurt am Main.

Hensel, Gerd (1982): *Der Völkermord geht weiter: Indianer vor dem 4. Russell-Tribunal*, Reinbek: Rowohlt.

Herkenhoff, Paulo and Pedrosa, Adriano (eds.) (1998): *XXIV Bienal de São Paulo: Arte Contemporânea Brasileira: Um e/entre Outro/s*, São Paulo: Fundação Bienal de São Paulo.

Jerman, William (1975): *Repression in Latin America: A Report on the 1. Session of the 2. Russell Tribunal on Repression in Brazil, Chile and Latin America, Rome, April 1974*, Nottingham: Russell Pr.

Jones, Adam (ed.) (2004): *Genocide, War Crimes, and the West: History and Complicity*, London: Zed Books.

Kaplan, Sarah (2022): "A Melting Glacier, an Imperiled City and One Farmer's Fight for Climate Justice", August 28, 2022, at: https://www.washingtonpost.com/climate-environment/interactive/2022/peru-climate-lawsuit-melting-glacier/ (Last access 12.09.2023).

Kierkegaard, Søren (1992 [1843]): *Fear and Trembling/Repetition*, Princeton: Princeton University Press.

Lacan, Jacques (1997 [1965-1960]): *The Ethics of Psychoanalysis: The Seminars of Jacques Lacan, 1959-1960*, New York: W.W. Norton.

Léry, Jean de (2005 [1578]) : *History of a Voyage to the Land of Brazil, otherwise Called America*, Berkeley and Los Angeles: University of California Press.

Lévi-Strauss, Claude (1961): *Tristes Tropiques*, New York: Criterion Books.

Littré (2023): «galimatias», définition dans le dictionnaire Littré, at: littre.org (Last access 20.06.2023).

Manfredi, Zachary (2018): "Shapening the Vigilance of the World: Reconsidering the Russell Tribunal as a Ritual", in: *Humanity Journal,* Spring 2018, 75–91.

Marquard, Odo (1986): "Entlastungen. Theodizeemotive in der neuzeitlichen Philosophie", in: *Apologie des Zufälligen. Philosophische Studien*. Stuttgart: Reclam, 11–32.

Marshall, Euan (2023): "Threatened River in the Amazon Given Rights", in: *The Brazilian Report*, June 28, 2023, at: https://brazilian.report/environment/2023/06/28/laje-river-amazon-rivers/ (Last access 28.06.2023).

Menke, Bettine (2018): "Agon und Theater: Fluchtwege, die Sch(n)eidung der Szene – nach den aitiologischen Fiktionen F. C. Rangs und W. Benjamins", in: Menke, Bettine and Juliane Vogel (eds.), *Flucht und Szene. Perspektiven und Formen eines Theaters der Fliehenden*, Berlin: Verlag Theater der Zeit, 203–241.

Menke, Bettine and Vogel, Juliane (eds.) (2018): *Flucht und Szene. Perspektiven und Formen eines Theaters der Fliehenden*, Berlin: Verlag Theater der Zeit.

Monroe, Alexei (2005): *Interrogation Machine: Laibach in NSK* [*Short circuits series*], Cambridge, MA, London: MIT Press.

Montaigne, Michel de (1993 [1580]): *Essays*, London: Penguin Books.

Morris, Rosalind C. (ed.) (2010): *Can the Subaltern Speak? Reflections on the History of an Idea*, New York: Columbia University Press.

Münkler, Laura and Stenzel, Julia (eds.) (2019): *Inszenierung von Recht*, Weilerswist: Vellbrück.

Netzwerk Kunst und Arbeit (2015): *art works. Ästhetik des Postfordismus.* Berlin: Polypen by b_books.

NT Gent (2023): *Antigone in the Amazon*, at: ntgent.be (Last access 02.07.2023).

Permanent Peoples' Tribunal (2022): "In Defense of the Cerrado Territories (2021-2022)", at: https://permanentpeoplestribunal.org/49-session-in-defense-of-the-cerrado-territories-2021-2022/?lang=en (Last access 10.09.2024)

Peters, John Durham (2015): *The Marvelous Clouds: Toward a Philosophy of Elemental Media*, Chicago: The University of Chicago Press.

Pistor, Katharina (2020): *The Code of Capital: How the Law Creates Wealth and Inequality*, Princeton: Princeton University Press.

Rau, Milo (2017): *Das Kongo Tribunal*, Berlin: Verbrecher Verlag.

(2018): *Globaler Realismus*, Gent: NT Gent.

(2023): „Interview—Milo Rau" (with Jonas Mayeur), at: https://www.mousonturm.de/de/programm/veranstaltungen/7240/antigone-im-amazonas (Last access 10.09.2024)

Raynaud, Philippe (2014): "Law, Right", in: Barbara Cassin (ed.): *Dictionary of Untranslatables.* Princeton; Oxford: Princeton University Press, 550–558.

Ribeiro, Darcy (2020): *Diários Índios: Os Urubus-Kaapor*, São Paulo: Global Editora.

Rolnik, Suely (1998): "Anthropophagic Subjectivity", in: Herkenhoff, Paulo and Adriano Pedrosa (eds.), *XXIV Bienal de São Paulo: Arte Contemporânea Brasileira: Um e/entre Outro/s*, São Paulo: Fundação Bienal de São Paulo, 137–145.

Rousseau, Jean-Jacques (1992 [1755]): "Discourse of the Origin and Foundations of Inequality among Men", in: *Discourse of the Origins of Inequality (Second Discourse). Polemics, and Political Economy. Collected Writings* 3, Hanover, London: University Press of New England, 1–95.

Sara, Kay (2020): *Festwochen 2020 reframed Eröffnungsrede von Kay Sara, notiert von Milo Rau*, at: https://www.youtube.com/watch?v=toYUFTM5mHU (Last access 28.08.2023).

Sarto, Ana del; Ríos, Alicia and Trigo, Abril (eds.) (2004): *The Latin American Cultural Studies Reader*, Durham: Duke University Press.

Sartre, Jean-Paul (2004): "Inaugural Statement to the Russell Vietnam War Crimes Tribunal", in: Jones, Adam (ed.), *Genocide, War Crimes, and the West: History and Complicity*, London: Zed Books, 181–185.

Satgar, Vishwas (ed.) (2018): *The Climate Crisis: South African and Global Democratic Eco-Socialist Alternatives*, Johannesburg: Wits University Press.

Shakespeare, William (2006 [1623]): *The Tempest.* New Haven, London: Yale University Press.

Spivak, Gayatri Chakravorty (2010): "Can the Subaltern Speak?", in: Morris, Rosalind C. (ed.), *Can the Subaltern Speak? Reflections on the History of an Idea*, New York: Columbia University Press, 21–78.

Staden, Hans (2008 [1557]): *Hans Staden's True History: An Account of Cannibal Captivity in Brazil*, Durham: Duke University Press.

Star, Susan Leigh (1999): "The Ethnography of Infrastructure", in: *American Behavioral Scientist,* 43, 3, 377–391.

Tribunal Latinoamericano del Agua (n.d.): https://tragua.org/ (Last access 07.05.2024).

Tulli, Umberto (2021): "Wielding the Human Rights Weapon against the American Empire: The Second Russell Tribunal and Human Rights in Transatlantic Relations", in: *Journal of Transatlantic Studies*, 19, 215–237.

Vanuxem, Sarah (2020): *Des choses de la nature et de leurs droits*, Versailles: Editions Quae.

(2022): *La propriété de la terre*, Marseille: Wildproject.

Vismann, Cornelia (2011): *Medien der Rechtsprechung*, Frankfurt am Main: Fischer.

Viveiros de Castro, Eduardo (2014): *Cannibal Metaphysics*, Minneapolis: University of Minnesota Press.

Wallerstein, Immanuel Maurice (1974): *The Modern World System I: Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century*, Berkeley: University of California Press.

Weil, Simone (2002 [1949]): *The Need for Roots: Prelude to a Declaration of Duties Towards Mankind*, London, New York, NY: Routledge.

Wihstutz, Benjamin (2019): “Zur Dramaturgie von Milo Raus Theatertribunalen”, in: Münkler, Laura and Julia Stenzel (eds.), *Inszenierung von Recht*, Weilerswist: Vellbrück, 164–186.

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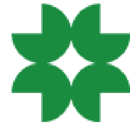

The Maria Sibylla Merian Centre Conviviality-Inequality in Latin America (Mecila) was founded in April 2017 by three German and four Latin American partner institutions and is funded by the German Federal Ministry of Education and Research (BMBF). The participating researchers investigate coexistence in unequal societies from an interdisciplinary and global perspective. The following institutions are involved: Freie Universität Berlin, Ibero-Amerikanisches Institut/ Stiftung Preußischer Kulturbesitz, Universität zu Köln, Universidade de São Paulo (USP), Centro Brasileiro de Análise e Planejamento (CEBRAP), IdIHCS (CONICET/Universidad Nacional de La Plata), and El Colegio de México. Further information at http://www.mecila.net.

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