

## ARTICLE

# Why an atmosphere of transhumanism undermines green restorative justice concepts and tenets

Gema Varona \*

## Abstract

*Arising from the notions of green criminology and green victimology, green restorative justice can be defined as a restorative justice focused on environmental harm. Harm in this case is understood as criminalised and non-criminalised, and as individual and collective behaviours damaging the ecosystems and the existence of human and non-human beings. Impacts of environmental harm affect health, economic, social and cultural dimensions, and will be experienced in the short, medium and long term. Within this framework, after linking restorative justice to green criminology and green victimology, I will argue that the current weight of the cultural and social movement of transhumanism constitutes an obstacle to the development of restorative justice in this field. The reason is that it fosters individual narcissism, together with the idea of an absence of limits in what is considered technological progress. This progress is seen as inevitable and good per se, and promotes the perception of a lack of social and moral accountability. This reasoning will lead to some final reflections on how restorative justice has to constantly reinvent itself in order to keep creating a critical and inclusive justice of 'otherness'. By doing so, restorative justice must join the current interdisciplinary conversation on biopolitics and bioethics.*

**Keywords:** green restorative justice, transhumanism, technological progress, animals, bioethics.

## 1 Introduction

*Those Bodies, where loose Atoms most move in,  
Are Soft, and Porous, and many times thin.  
Those ... Bodies never do live long,  
For why, loose Atoms never can be strong.*

\* Gema Varona is a Senior Researcher at the Basque Institute of Criminology, University of the Basque Country, Donostia/San Sebastián, Spain.  
Contact author: gemmamaria.varona@ehu.eus.

Gema Varona

*There Motion having power, tosses them about,  
Keeps them from their right places, so Life goes out.*  
Lady Margaret Cavendish (1653: 693-698)

If green criminology might offer relevant knowledge in the age of the climate crisis (Lynch, 2019; Sollund, 2015), green restorative justice could also contribute with critical knowledge and practice, not only on environmental crimes, but also on how to conceive of violence and harms against ecosystems and non-human beings, and how to respond to them. Arising from the notions of green criminology and green victimology, green restorative justice can be defined as a restorative justice focused on environmental harm. Harm in this case is understood as criminalised and non-criminalised, and as individual and collective behaviours damaging or putting at risk ecosystems and the existence of human and non-human beings. The impacts of environmental harm affect health, economic, social and cultural dimensions, and will be experienced in the short, medium and long term.

The proposal for a green restorative justice evokes challenging epistemological and methodological questions, particularly because it introduces a non-anthropocentric, non-individualistic and non-short-sighted standpoint within the spheres of justice, rights and interests. These challenges revolve around the questions of what life, risk, harm and environmental crimes are, who the implicated stakeholders are, who the victims are and how the criminal justice system (and other alternative or complementary interspecies and ecological justice systems) might respond to environmental harm (Lynch & Pires, 2019).

Within this framework, after linking restorative justice to green criminology and green victimology, I will argue that the current weight of the cultural and social movement of transhumanism, to be understood as life expansion through biological and non-biological systems, constitutes an obstacle to the development of restorative justice in this field. The reason is that transhumanism fosters individual narcissism, together with the idea of an absence of limits in what is considered technological progress. This progress is seen as inevitable and good *per se*, and promotes the perception of a lack of social and moral accountability. This reasoning will lead to some final reflections on how restorative justice has to constantly reinvent itself in order to keep creating a critical and inclusive justice of 'otherness'. In doing so, restorative justice must join the current interdisciplinary conversations on biopolitics and bioethics.

Restorative justice refers to a broad set of practices and principles united by a critical standpoint and a normative framework. It is critical because it questions premises on crime, harm, victimisation and social control. By being critical of the current criminal justice system, it stresses what is valued or devalued in that system and society at large, proposing alternatives in terms of human rights and social justice. Restorative justice as a social and cultural proposal clashes with the ideas emphasised in the transhumanist movement. However, both restorative justice and transhumanism allow us to think about the present conditions of individual and collective life, and vulnerability (Fineman, 2013), harm and death.

This article will not offer concrete examples of how to create and navigate restorative processes involving non-humans. It aims instead to contribute to understanding some cultural conditions brought about by transhumanism that hinder the imagination of the possibilities and potentialities of engaging in restorative justice projects for environmental and animal harms. Those conditions end up making green restorative justice weaker at the base because they contribute to a certain moral, social and academic blindness (Bauman, 2013). Therefore, only by being aware and questioning those conditions will we be able to encourage meaningful projects in this area. The metaphor of ‘atmosphere’ (Brown, Kanyeredzi, McGrath, Reavey & Tucker, 2019) used in the title refers to the cultural and social ambience in which the concepts used in this article arose and are being used. The article describes how the assumptions and values of transhumanism are embedded in today’s society in a way that contrasts with the humanistic values and principles of restorative justice. By analysing the socio-structural and cultural conditions that underpin the idea of progress (Bouveresse, 2017) in transhumanism, by contrast, we can see better the innovative character of restorative justice to augment the perception of restoration in temporal, collective and non-human terms.

## **2 The concept of green restorative justice: is it all about human legal and ethical duties towards non-human beings and ecosystems?**

In this article a common understanding of the terms ‘restorative justice’, ‘environmental restorative justice’, ‘green criminology’ or ‘green restorative justice’ is not assumed, and hence, some preliminary basic explanations have to be given for reasons of clarity. First, and notwithstanding academic and activist discrepancies, let us remember the definition given by the United Nations’ Basic Principles (2002) of restorative processes:

any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator.

### **2.1 *Environmental criminal law, green criminology and green justice***

Environmental criminal law considers environmental crimes and regulations, both at the national and international levels. With a classical legal mindset, it concentrates on defining criminal behaviours and their sanctions, mainly in the sphere of illegal taking or trading of flora and fauna, waste and pollution offences and the transportation of banned substances (Hall, 2018). In contrast, green criminology and green victimology concentrate on the notion of harm understood as damage or potential damage to ecological (human and non-human) well-being, including broadening notions of climate change (through deforestation or global warming) and biodiversity threats (species extinction and genetic modifications). The notion of ecological well-being appears in the UN Environment Programme

(w.d.) where the ecological imperative is mentioned for human survival, even though a certain holistic understanding of the interdependency between species and the ecosystems is also present (White & Heckenberg, 2014). Other international standards take a more anthropocentric perspective, for example, the 1992 UN Framework Convention on Climate Change, the 1998 UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters and the EU Directive 2008/99/EC on the Protection of the Environment through the Criminal Law.

With regards to non-human animals, apart from international and national legislation pertaining to scientific research ethics, the 1976 Council of Europe Convention for the Protection of Animals Kept for Farming Purposes was followed by the 1998 EU Council Directive 98/58/EC of 20 July 1998 of the same name. This legislation pertains to the EU agencies of health, food and transport. Even if the debate on animals' rights continues (see Francione, 2020), the EU legislation recognises the so-called five freedoms: freedom from hunger and thirst, from discomfort, from pain, injury and disease and from fear and distress, and freedom to express their own behaviour. In 2009, based on neuroscience research, Article 13 of the Lisbon Treaty introduced the recognition that animals are sentient beings. Despite the approval of these minimum standards, Article 13 also states that those norms will be applied, 'while respecting the legislative or administrative provisions and customs of the EU countries relating in particular to religious rites, cultural traditions and regional heritage' (European Union, w.d.).

That remark expresses the limited and conflictive character of the protection granted. In any case, it reflects the change from the understanding of farm (and domestic) animals as just things or objects of property to advancing the possibilities of enhanced ethics of consideration (Pelluchon, 2015). Domestic law also goes in this direction. For example, in 2015, the Spanish criminal code was amended to punish the ill-treatment of non-wild animals with penalties ranging from three months up to one year in prison, with the possibility of alternative programmes to prison for those found guilty of 'mistreating animals unjustifiably in any manner' or else inflicting injury on them or submitting them to sexual abuse. Legally, animals cannot be granted the status of 'victim' (only possible to be applied to natural persons, according to the 2029/12/EU Directive on the rights of victims). Moreover, in 2017, a reform was initiated to change the Spanish civil code to de-objectify animals, defined as 'movable property'. However, this legislative process was interrupted due to the succession of general elections in the country at that time (Giménez-Candela, 2019).

These fragmented and very diverse interests protected by environmental, criminal and administrative law finally lead to divergent comprehensive proposals for environmental, ecological, interspecies or green justice, all of them with a critical character towards the *lex lata* and the *lex ferenda*. According to Walters (2020: 54):

a Green Justice seeks to embrace the intellectual exchange between Green Criminology, environmental sociology, ecophilosophy, environmental law

and environmental science that has created an exciting, evolving and dynamic blend of discourses that critique political ideologies and environmental policy on local, national and global scale.

## ***2.2 Naming green criminology and victimology: the victim 'other'***

Criminology has been defined as the science of the 'other' because it has traditionally considered 'the criminal' as a distinct category from 'the normal'. In a parallel fashion, it is possible to think of the victim as the 'other' in order to grasp the victimisation that environmental crime and harms, including the notion of potential risks, are producing to ecosystems and animals. The key question is why, until very recently, harm has been discarded as victimisation and, therefore, as an intervention sphere for restorative justice. We are confronted with the challenge of relying upon criminology, defined by creating 'otherness', as a platform for helping restorative justice become an ecologically inclusive justice.

Although this special issue is about 'environmental restorative justice', at least three reasons justify the use of the term 'green restorative justice' in this article. First, it allows alignment with studies in green criminology and victimology. Second, it does not have to deal with the critique of reductionism by using the notion of 'environment', neglecting others like 'ecosystems' and 'human and non-human beings'. Third, it might be better to evoke the colour or intangible atmosphere of those ecosystems, and the life within them, as frameworks to think about justice and also as subjects for restoration.

Green criminology started being developed mainly by Anglo-American criminologists in the 1990s. As mentioned before, it can be broadly described as the study of environmental harm, environmental laws and environmental regulation by criminologists (White, 2018), although there are certainly different green criminologies (Hall, 2017). According to Gibbs, Gore, McGarrell and Rivers (2010), some might be more legalistically focusing on the violation of criminal laws that protect the health and safety of people and the environment. Other approaches situate themselves in the realm of socio-legal studies where the frontiers between crimes, administrative offences, civil damages and unethical behaviours are blurred. Finally, we can think of biocentric or 'deep green' standpoints with a much broader worry about 'any human activity that disrupts a biotic system' (Gibbs et al., 2010: 127).

For some authors, the adjective 'green' entails activist or political commitments inappropriate for the need for calm reflection, consistency and objectivity in academia (Halsey, 2004). However, as long as scientific methodology is respected, the presence or absence of those commitments might not seem relevant at all. According to Hall (2018), there have been other proposals for naming this branch of knowledge, but all of them seemed less accurate and less clear. For example, environmental criminology was already covered by situational crime prevention and analysis, following Quetelet's pioneering steps in the 19th century. Groombridge (1991) proposed the term 'eco-criminology' drawing on ethics, religion, politics, economics and feminism. Years later, Lynch (2019) added an adjective to be more precise ('eco-critical

criminology'). Halsey (2004) contends that the adjective 'green' might not correctly capture the intersubjective, intergenerational or inter-ecosystemic costs. Finally, Gibbs et al. (2010) prefer using the words 'conservation criminology', based on criminal justice and criminology, risk and decision analysis and natural resource conservation and management.

We agree with Hall (2018) and Ruggiero and South (2010) in that green criminology is not a bad naming option in comparison to the others presented above. It is short, illustrative, clear and has been adopted in most research papers in English and other languages, even if, as in the case of Spain, 'green' might have other non-related meanings, such as those connected to sex. Therefore, almost 30 years of green criminological studies can cast some light on what green restorative justice might consist of. Moreover, green criminology through its disciplinary link with green victimology draws our attention to the meaning of being a victim in this field (of environmental harm).

### ***2.3 What might be the contribution of green restorative justice?***

Arising from green criminology, green restorative justice can enlarge the traditional notions of victim, victimisation, reparation and the categories of harm and risk (with the opportunity to rethink the categories of causality and accountability in restorative processes), including ecocide, defined as large-scale harm that destroys and diminishes the well-being and health of ecosystems and species (White & Heckenberg, 2014). What is radical in green restorative justice is its understanding and value of life as interdependent, global and intergenerational, beyond anthropocentrism. These elements are precisely what we cannot find in the idea of transhumanism, as will be explained below.

To be coherent, restorative justice has to open itself to political ecology and environmental ethics. Only at this interdisciplinary intersection, welcoming other forms of knowledge, can we be less blind to the many invisible and unconsidered harms produced with diffuse victimisation, lack of awareness, a dynamic and long-term impact and intangible cascade effects, including corruption or legitimisation of illegal or unethical activities in a globalised world. By glocalisation we understand a compound process of local, national and international scale (Swyngedouw, 2004).

### ***2.4 Limitations considering rights, needs and interests: healing and transformation of unbalanced power relationships on a glocalised scale***

Among the setbacks to the enlargement of the categories for restoration, we can wonder whether social, ecological and animal harms are excessively broad concepts, in a climate of empiricist criminology (Hall, 2018; Hillyard & Tombs, 2017). For example, in another article (Varona, 2020c), I have questioned how far the concepts of large-scale human rights abuses, practices of memorialisation and social reconstruction can be applied to green restorative justice. Other authors have concentrated on the difficulties of restorative justice for criminalised violence against domestic animals (Bernuz, 2020).

In short, can green restorative justice, created and done by humans (and usually just for humans), be non-anthropocentric? This is a complex challenge



because we are asked to think about the autonomy, interdependence and vulnerability of non-humans. Moreover, in restorative justice programmes we have to give voice to non-human forms of life. For those forms of life, the concepts of voice, justice, rights, needs or reparation might not have much meaning. Again, it implies a different cultural understanding of victimisation from which restorative justice might make possible the conditions for physical and symbolic redress (Hall, 2018).

Healing is a word that is usually deployed in restorative justice to describe its impact on participants' well-being. Its application to the ecosystems and animals as victims might be problematic, not only because of epistemological difficulties, but also because it might entail a general critique of restorative justice – that of prioritising a therapeutic vision instead of a more holistic justice in terms of individual and social accountability. Animals and plants can neither talk nor exercise rights. Besides, they are not moral agents, although, until the mid-19th century in many places in Europe, Brazil, the United States and Canada, they were subject to criminal justice to be held responsible for misdeeds against human and non-human animals (Beirne, 1994). This usually led to their cruel execution, as the historian and linguist Edward Payson Evans has documented (1906). The relevant lesson to draw from these practices is the human tendency to mete out punishment in a senseless way. The deliberate inflicting of pain on animals and ecosystems today remains, outside the realm of criminal offences, present in their constant ill-treatment. Within a carceral logic, Morin (2018) argues that the commercial and industrial captivity of animals holds parallelism to the pains of human incarceration.

If we consider beings other than animals, like ancient olive trees in Spain or other species of very old trees on planet Earth, they are protected by state legislation as part of cultural and historical heritage, but they do not have a recognised right to their life as beings. It is usually argued that legal persons, as juridical fictions, can hold rights whereas mountains and rivers cannot, with some recent exceptions in certain countries (Cano Pecharroman, 2018). Let us not forget that the reasons for granting rights to corporations and institutions are commercial or economic ones. The state as a fictional entity also has certain rights or prerogatives like the *ius puniendi*. In contrast, the fundamentals for debating the granting of rights to non-human beings are radically different; it is about not discarding and not devaluing other forms of life. Even if some authors compare this situation to the protection of minors and disabled persons, the problem for restorative justice remains; is it possible to bring the voices of animals or ecosystems to a restorative process, and how? In this special issue (see Notes from the Field) some examples have been presented and further developments will be necessary to assess how this challenge can be met. Meanwhile, we can try to learn from other branches of knowledge which, despite their limits, offer us, for example, the observation of and listening to trees from biology and narrative, as Richard Powers (2019) shows us in *The Overstory*. With their different understanding (Kipnis, 2015), agency, voices and storytelling for non-human beings are part of that 'overstory' as a metaphor for a global and

long-term interdependence beyond human lives (Masiero, 2020). That insight corresponds with Braidotti's (2014: 6) words on the need,

to develop modes of inter-relation and representation of the 'others' in an affirmative and empowering manner, rather than in an exploitative and consumeristic manner. Nomadic subjects are subjects in process, that have relinquished the dialectical mode of relation to others by giving priority to the critique of the formerly dominant model of subjectivity and thus putting on the spot the discourse of the master subject.

Apart from that, let us not forget that, within the foundations of green criminology, ecofeminism (Puleo, 2011; Hall & Varona, 2018; Varona, 2020a; Varona, 2020b), ecological socialism (Harvey, 1996), environmental justice and criminological studies on race, criticisms have been formulated that the effects of ecological harm, although being global and universal, have a greater impact on poor and already discriminated against human populations. In a different sense, concerning different sectors of human activity, animal and ecological victimisation are also unequally distributed.

This inequality has to do with the context of offending and victimisation. Often offenders are powerful entities, as classical white-collar crime literature shows us. They include big companies and states. Their power influences decisions on the use of criminal law and the options for sanctions. Imposing sanctions on these powerful offenders might 'endanger the core values underpinning economic development and therefore be damaging to the collective well-being' (Ruggiero & South, 2010: 246). Moreover, how to identify the responsible or accountable agent for restorative justice when causality is not clear or cannot be clearly stated in court, particularly if one has a very crafty lawyer? How to repair the individual, collective and social harm whose impact might only be seen in the long term with lasting social effects?

For some environmentalists and animal activists, restorative justice might entail the risk of allowing the downgrading of the seriousness of this kind of victimisation by it not being criminalised or by permitting impunity with no severe sanctions, perhaps via the use of compliance systems supposedly based on prevention, or imposing too lenient sanctions in comparison to other kinds of crimes. Once more, facing the fear and risk of impunity, we can observe how emancipatory movements might fall into the temptation of claiming the use of symbolic and promotional criminal law in line with punitivism.

For this very reason, perhaps the best contribution of restorative justice might be to provide a balanced space for debating harm and accountability (Hall, 2018). For White (2008: 24), the debate is 'about processes of deliberation in the 'real world' and of conflicts over rights and the making of difficult decisions'. Notwithstanding all its limitations, restorative justice might offer a more coherent response to harming behaviours where humane and proportional criminalisation does not preclude restorative processes under the assumption of reparation as a present opportunity and concrete step to create better futures in terms of green justice (Biffi & Pali, 2019).



### 3 The idea of transhumanism concerning the categories of time, harm and reparation: the utopia of 'killing death' by biotechnological power

Green restorative justice proposes considering uncommon victims as interrupters of accelerated and consumerism time (Wajcman, 2008) in the social reconstruction of the culture of progress. It opens the current philosophical, biological and sociological debate on life and its value as bare (Agamben, 1995), precarious (Butler, 2004) and unequal (Fassin, 2018). It is in this complex arena where it encounters the idea of transhumanism.

#### 3.1 The dystopia of transhumanism

Among the promoters of the transhumanist movement, we can find very prominent names from Silicon Valley and very well-known companies working in artificial intelligence and in the IT business (Pérez-Lanzac, 2020). In 1998, the World Transhumanist Association (WTA) was created and renamed Humanity+ ten years later. Other important institutions and organisations collaborating on transhumanist projects are the Singularity University in California, the Future of Humanity Institute at the University of Oxford and Google, with American inventor and futurist Ray Kurzweil arguing that in 2045 it will be possible to transfer memory, mind and consciousness to a computer in order to escape from biology. Nick Bostrom, co-founder of WTA talks about a 'paradise engineering' to reach a permanent state of pleasure and happiness. For the Institute for Ethics and Emerging Technologies, if access to equality in the use of technology is achieved, we can think of better futures (Rey, 2019). For some philosophers, transhumanism represents the opposite of a dangerous bioconservatism (Hottois, 2016).

Although some authors trace the origin of the term 'transhumanism' to Dante's *Paradiso of the Divina Commedia* and Eliot's *The Cocktail Party*, as well as some science fiction writings, they generally see its birth in a biology essay of Julian Huxley in 1957 (Vita-More, 2019). Vita-More, current director of Humanity+, wrote in 1983 the *Transhuman Manifesto* to transcend the limits of our bodies and our minds, arguing for the idea that the biological human is not the final stage of evolution (Vita-More, 2019). It could be said that coming from the field of literature (poetry and science fiction novels), transhumanism has entered into the fields of bioethics, biopolitics and biohermeneutics, and welcomes a technological embodied theory of justice (Conill, 2019). Its influence is limited, but transhumanist ideas are culturally omnipresent.

Transhumanism presents itself thus as life expansion through biological and non-biological systems. If we consider the definition of transhumanism given by Vita-More (2019) as a philosophy, a worldview and an intellectual and cultural movement in support of the ethical use of technology to improve the human condition beyond its current human limitations, in principle, we all would support the idea. With the aim of transcending the human condition, transhumanism responds to the very human state of not accepting the idea of being just mortal animals. Moreover, it finally appears as a consequence of how humans have treated and treat nature. Even if transhumanism is a minor and not

very well-known social movement, expressions of its assumptions can be recognised in the quotidian practices of global society.

Transhumanism promises human improvement through technology. However, for some critical authors (O'Connell, 2017), it might end up offering different forms of high-tech domination instead of emancipation. It can even be argued that transhumanism is a technique of neutralisation of the guilt felt for what we have done to the world, proposing that we could only survive via the technology that will allow our bodies and minds to be better, and that it might also replace the life of other beings and the understanding of ecosystems, in search of other planets if necessary. As Preston (2018: 4) contends:

We are reassembling the species composition of ecosystems, while experimenting with bringing extinct animals back from the dead [...] humanity is learning how to replace some of nature's most historically influential operations with synthetic ones of our own design.

Finally, Lasalle (2019) finds that transhumanism might bring dystopian risks as it affects our subjectivities and our perceptions of the world that cannot be understood beyond our bodies because we construct our political, moral and aesthetical categories around bodies capable of feeling from the sensory perception. For example, having felt pain helps us to imagine and understand torture. Technology might bring certain improvements, but with no empathy and with dehumanisation. For that reason, Lasalle (2019) argues that we require an enhanced and augmented humanity (including towards other beings) rather than augmented reality.

### ***3.2 Biology, biography ... and technology***

Transhumanism, understood as the fragmentation of the body and its functions, to be improved by technology, is in line with the production of artificial intelligence and different symbioses between machines and the human body and mind. Future transhumans or post-humans might recall the idea of the cyborg, a term used in astronautics coined in the 1960s, a blend of 'cybernetic' and 'organism'. It is a human-machine system to survive beyond normal scenarios of life (Rey, 2019). Transhumanism presents itself, incoherently, as natural human progress through the technological imperative, and as a necessary transformation to survive in an overpopulated world that has destroyed nature. In this line of thought, transhumanism is a way of thinking about beings, mainly humans, as assemblages of pieces to be augmented in their capacities. For Rey (2019), transhumanism is the result of a certain logic, the consequence of how humans think of nature and themselves not as vulnerable, but as never-ending projects for transhuman improved survival. This means politics dissolved in technology, based on big data surveillance and management to improve machines.

Rey (2019) makes it clear that criticising transhumanism is a difficult enterprise because humanism itself is infiltrated by principles favouring transhumanism. Transhumanism aims at improving physical and cognitive capacities, creating new ones, eliminating disabilities, aging and even death for

potential post-humans, who would supposedly be more intelligent, stronger, happier and long-lived, almost immortal. Although Rey (2019) rejects the animalist movement's claims as conflicting with wildlife and environmental interests, according to this author, transhumanism imagines some humans more as gods rather than animals. In this linear path, there might be collateral costs, but progress itself is a stoppable future fact. In the transhumanist dream or nightmare, upgraded humans would separate themselves from simple humans. The ambition is not to be human, but to have more power, which could be used against other beings in a sort of eternal fight for supremacy (Rey, 2019).

### ***3.3 Biopolitics or biopolitical power beyond euphoria or panic***

This is not to say that the technology should not be recognised as part of the process of humanisation. However, the evaluation of its use will depend on the scale and on the vision and purpose of those uses that may be authoritarian, nationalist, anthropocentric, individual and non-intergenerational.

Beyond Foucault's interpretation, biopolitics means the use of biotechnological power to take decisions affecting other beings and ecosystems (White & Heckenberg, 2014). It can be a framework to think of the use of nature as a commodity in capitalism which implies contests over space and resources. In today's world of exhausting capitalism, the promise of more and more is never-ending (usually for fewer segments of the global population, at the cost of more affected beings). It is an egoistic and unrealistic promise, taking into consideration the reality of the limitation of life and the limited resources on a limited planet. Biopolitics also allows us to think about hegemony, that progress is not for all but mainly for some humans, without thinking about the conditions and consequences for a broad concept of life.

Moreover, biopolitics can help us to think in intersectional terms, bringing in ecofeminist, anticolonial and Southern criminology perspectives (Montford & Taylor, 2020). Postcolonialism and feminism have, among others, challenged the cosmology of the world from a white, Western, heterosexual, able-bodied man's perspective. A nomadic theory which is open to 'otherness' permits others, particularly if radically different, to be considered as political subjects (Braidotti, 2013). As Braidotti (2014: 2) states,

ecological disaster has spelled the end of the anthropocentric drive towards mastery of what we used to call nature and of the naturalised others: not only animals, insects, but also plants and in fact the whole earth have emerged as political subjects in their own terms. Humans nowadays have to negotiate with planetary earth forces in the framework of the climate change and of recurring environmental disasters.

#### 4 Clashing cultural values in biopolitics: victimisation, harm, restoration, progress and interdependency

Fassin (2018) quotes Eduardo Kohn's (2013) ontological proposal for anthropology beyond the human, as a radical epistemological 'decentring of the humanist perspective', to understand the world we live in. However, he advises that this ontological project should not miss the historical and political analysis. Restorative justice should also de-centre the humanist perspective recalling the ecological connection with the etymology of *humus*.

Transhumanism is a cultural pattern that influences the development of a potential green restorative justice. The two parallel avenues of transhumanism and restorative justice might meet at the crossroads of green criminology when asking how we perceive others and ecosystems at large, and how we connect to them in our limited lives. However, their answers to those questions are different. The purpose of this article was to pursue an interrogation of the impact of the cultural embeddedness of transhumanism in the quest for environmental or green restorative justice. However, we should recognise that the aim of looking for ways in which the humanist vision of restorative justice can be expanded to non-humans might be anthropocentric.

Restorative justice's logic can oppose the values of individualism, materialism, discrimination and determinism infused in society and clearly expressed in the logic of transhumanism. It can do so by re-elaborating its principles to be applied to non-humans. We need different scales for the measurement of harm and its reparation in green restorative justice. This means facing up to interdependency, cultural, ethical, emotional and spiritual issues touching the concepts of inclusiveness and accountability. This endeavour questions several central concepts of criminal law, such as free will, wrongdoing, blameworthiness and agency, by introducing the centrality of reparation for the conditions of the unjust treatment to victims in a larger sense. Without waiting for legal changes, restorative programmes can work coherently with that logic showing that complexity does not mean impossibility (Burford, 2018), that autonomy is not self-sufficiency or supremacy and that lives are limited, precarious and vulnerable. It is in this understanding that solidarity and the perception of 'otherness' might arise.

The quest is not so much to adapt the green perspective to the already existing restorative justice epistemology, methodology and praxis. We have to allow the influence of new critical ideas and practices coming from green criminology and victimology, even if they are in tension. After all, in restorative justice, we value life as a permanent learning conflict, with openness towards the different others. Green restorative justice has to be open – before, during and after restorative encounters – to free the voices and lives of non-human beings, for example, through restorative walks in nature or other spaces; through contact with animals and ecosystems or through the voices of people who work to protect them or do research to comprehend this sort of victimisation (Williams, 1991; Natali & de Nardin Budó, 2019). Green restorative justice can offer spaces for the perception of the non-human, for a relationship of resonance with the world, and

not of alienation (Rosa, 2019). Alienation happens when we cannot connect with people and places. The will for a relationship of resonance means affect, emotion and transformation as something to be done with the cooperation of all involved in the context of crime and harms. It cannot happen individually. For Rosa (2019), the notion of the good life is different from the current mindset of growth based on anything being available, accessible and attainable. Reparation brings attention to the notion of limits; restorative justice is limited by its principles of free will during the whole process, by rejecting accelerated times and scripted and inevitable procedures that do not respond to the needs and interests of those affected by the victimisation. It is also limited because it requires the collaboration of the community and the authorities to break power imbalances.

In an environment of supremacy, competition and acceleration, an honest and respectful relationship with different forms of life simply cannot occur. The quest for green restorative justice is to look for ways of creating cultural conditions to amplify the restorative conversation beyond humans, on environmental and animal harms and their reparation. To do so, transhumanist ideas, among others, have to be challenged, as they are assumed in many quotidian thoughts and practices. Cultural values are a precondition for the practice of restorative justice dealing with ecosystemic harms and harms to animals. In other words, how to restoratively repair damaged life understood without exclusionary binarisms, both as human and non-animal life, and both as 'fact of nature' and a 'fact of experience' (Fassin, 2018)?

Restorative justice could transcend the pejorative sense of biopolitics as a hegemonic authoritarian social control over bodies and life in general. We could think of positive and affirmative biopolitics for the care of life, human and non-human, where interdependence, and not hegemony, could be the most relevant element for a more inclusive and restorative social control, that is, a democratic social control informed by the principles of restorative justice. This might be close to what Fassin (2018: 123) calls the ethics and politics of life moving 'from expressing compassion to recognising injustice'.

Fassin (2018), one of the most prominent authors on victimhood and punishment, explains the reality of the inequality of lives as a degraded mode of existence; this mainly involves ethical, economic and political issues. According to this author, who draws from the critical social theory of the Frankfurt School, the sphere of consumption offers no more than an appearance of life hiding what a good and right life might be in terms of the ethical relationship to the self and to others. Fassin refers to human life and its relationship to consciousness and language to produce a story of an event, a biography. However, that biography can be written by humans for other beings as well. It might even be told in other ways beyond consciousness and human language. Thus, even if with great complexity, non-human life could be simultaneously thought of as biology and biography for restorative programmes breaking the weight of fragmented technobiology in transhumanism values.

In the end, restorative justice is about the possibility of change not based on eternal improvement of a certain life through technology, but on attempts to repair through complex conversations and beyond legal formats.

## 5 Towards an ecosystem-inclusive restorative justice: no more punitivism. Challenging the determinism between hubris and nemesis

*Any discrepancy or any contradiction between the evaluation of life in general and the devaluing of certain lives in particular then becomes indicative of a moral economy of life in contemporary societies (Fassin, 2018: 2)*

Green restorative justice is determined by the absence of a legal framework. It is being proposed precisely because of discontent with the present legal rationales in this field where punitive and reactive visions prevail and other forms of victimhood, beyond human beings and legal persons or companies, are discarded. Many questions confront the proposal of green restorative justice, such as: can we apply the notion of criminal justice as a moral order concerning non-humans (Boutellier, 2019)? Is green restorative justice defined as environmental justice or, taking into account a larger perspective, as ecological justice, animal or species justice? How can a vision of green restorative justice take into account environmental rights, ecological citizenship or animal rights?

In this article, considering current sociocultural conditions, I have tried to relate and contrast green restorative justice with the transhumanism movement beyond futurist fictions, as today real money is being invested in different transhumanist projects and its assumptions influence the social climate and our mindsets on thinking about victims and offenders in relation to harms against animals and ecosystems.

In Greek mythology, *nemesis* can personify the idea of retribution, something that might follow after an act of excessive self-confidence and pride against the gods. That excess can be represented with the notion of *hubris*. According to Wong (2012: 1): 'For example, in Critias' myth of Sisyphos, he relates the *nemesis* idea to punitive justice to those who display signs of *hubris*.'

In the abuses, harms or crimes against the ecosystems and beings committed by states, white-collar criminals or corporations, some values of transhumanism can be identified, like for example, the craving for and the excessive confidence in the inevitable technological progress at any cost. However, precisely because we have to take these harmful behaviours seriously, keeping in mind what we already know thanks to restorative justice about punishment, we cannot choose *nemesis* as a response to environmental crimes and harms. That might only bring more harm without accountability and reparation. Reparation has to go beyond classical risk assessment, situational prevention and compensatory models used in most corporations' and firms' compliance systems. Classical criminal justice is usually about individual confrontation framed by judicial top-down decisions in a binary code language (professionals/users; victims/offenders; guilty/not guilty, etc.). Public interest as something collective is supposed to play an important role in the criminal justice system, but those most affected cannot express the harm and its consequences in their own voice or through honest interpreters, using this last term metaphorically for non-human lives. Classical criminal justice promotes disconnection, whereas restorative justice might allow getting involved in the reinvention of the conditions that support an inclusive ethics of life.



Green restorative justice, in the context of administrative and criminal law, can offer physical spaces for the awareness of our own vulnerability, responsibility and interdependence, to face the intergenerational, collective, dynamic and hidden consequences, on human and non-human beings, of the harms or crimes committed. Green restorative justice will have the same limitations as restorative justice in general and it should respect international standards, notwithstanding necessary adaptations for the consideration of non-human victims and corporate offenders.

There is a beautiful word in Spanish with no translation into English – *desmesura* – meaning a lack of restraint or modesty. According to some scientists, the so-called *hubris* syndrome can be individually and collectively attached to the contexts of abuse of power (Asad & Sadler-Smith, 2020). Hans Jonas' (2013) principle for responsibility for humankind can be read in bilateral and community terms as reparation through acknowledging and putting into practice limitations on individual and collective behaviours damaging ecosystems. Here, restorative justice can be read as a limitation or containment. It does not mean isolation but keeping human actions and ideas within limits to prevent the expansion of a hostile power or ideology, making domination contrary to interdependent emancipation.

To make a tangible proposal at the end of this article, I suggest a legal reform of the 2008 EU Directive on the protection of the environment in order to include, among its minimum standards, the use of restorative justice to protect the environment from human and non-human victimisation in order to achieve proper implementation of environmental law, which means taking into account already existing research in the field and testing means for further independent interdisciplinary studies and evaluations. We can thus reinterpret the content of the 2008 EU Directive when it says that countries should implement 'effective, proportionate and dissuasive criminal sanctions', and that 'for legal persons the sanctions can be of a non-criminal nature' (EU, w.d.).

Tangible restorative justice programmes can also work in the field of prevention with potential perpetrators and victims through awareness. As Preston (2018) explains, neither the atmospheric warming attributable to the burning of fossil fuels nor the mass extinctions were deliberate. In general, 'global change has been far from the minds of perpetrators' (Preston, 2018: 4). But according to this author, things have changed, and we have to be more aware. Some technologies will allow more humans to live better lives, but 'within the promises of the technologies lurk some dangerous seductions. They often involved exaggerated fantasies about control' (Preston, 2018: 6). These crucial decisions about limits and control cannot be left to a select few elites.

To change our view of the world it is necessary to change the world itself, including making space for critical green restorative justice. According to Ketcham (2020: para. 14),

We have to start thinking now – right now, today, as you read this – about a liveable, equitable future for our children, and for that future to be realised we must embrace a world that the coronavirus, perversely, is laying out for

us. It is a world of less travel, less consumption, one not pathogen-determined but instead created by our own collective self-restraint, humility and altruism.

Green restorative justice is not about surviving through technology in another hostile planet, but it is about being aware and changing the conditions we have created to allow a more diverse and just way of inhabiting this planet Earth that we have damaged. The culture of transhumanism is not interested in stopping and listening to the voices of diverse victims. It is not interested in repairing the conditions of the Earth, that it tries to leave behind and surpass. Like Walter Benjamin's angel of history (1969), it seems driven by a harmful idea of progress that can be described as an accelerated storm.

Restorative justice must join the politics for a 'new green deal' (Tejero & Santiago, 2019) to avoid the opposition between three demobilising responses mentioned under different names or ideas throughout this article: a) catastrophism (ecological and social nihilism); b) ecological neoliberalism via techno-utopias (Snyder, 2019) and c) extreme-right integral ecologies talking about the 'natural order of things', usually founded upon exclusions.

It is time for another change of lens, this time by amplifying the lens of restorative justice itself.

## References

- Agamben, G. (1995). *Homo sacer: sovereign power and bare life*. Stanford: Stanford University Press.
- Asad, S. & Sadler-Smith, E. (2020). Differentiating leader hubris and narcissism on the basis of power. *Leadership*, 16(1), 39-61. doi: 10.1177/1742715019885763.
- Bauman, Z. (2013). *Moral blindness: the loss of sensitivity in liquid modernity*, with L. Donskis. Cambridge: Polity.
- Beirne, P. (1994). The law is an ass: reading EP Evans' the medieval prosecution and capital punishment of animals. *Society & Animals*, 2(1), 27-46.
- Benjamin, W. (1969). *Illuminations*. New York: Schocken.
- Bernuz, M.J. (2020). ¿Castigos (eficaces) para delitos contra los animales? Repensando la respuesta al maltrato animal. I. *Indret: Revista para el Análisis del Derecho*, (1), 1-14.
- Biffi, E. & Pali, B. (eds.). (2019). *Environmental justice. Restoring the future. Towards a restorative environmental justice praxis*. Leuven: European Forum for Restorative Justice. Retrieved from [www.euforumrj.org/sites/default/files/2020-02/DIGITAL%20booklet%20%282%29.pdf](http://www.euforumrj.org/sites/default/files/2020-02/DIGITAL%20booklet%20%282%29.pdf) (last accessed 30 December 2020).
- Boutellier, H. (2019). *A criminology of moral order*. Bristol: Bristol University Press.
- Bouveresse, J. (2017). *Le mythe moderne du progrès*. Marseille: Agone.
- Braidotti, R. (2013). Nomadic ethics. *Deleuze Studies*, 7(3), 342-359. doi: 10.3366/dls.2013.0116.
- Braidotti, R. (2014). *Metamorphic others and nomadic subjects*. Retrieved from [www.artforum.com/uploads/guide.002/id30563/press\\_release.pdf](http://www.artforum.com/uploads/guide.002/id30563/press_release.pdf) (last accessed 22 March 2020).

- Brown, S.D., Kanyeredzi, A., McGrath, L., Reavey, P. & Tucker, I. (2019). Affect theory and the concept of atmosphere. *Distinktion: Journal of Social Theory*, 20(1), 5-24. doi: 10.1080/1600910x.2019.1586740.
- Burford, G. (2018). Keeping complexity alive: restorative and responsive approaches to culture change. *The International Journal of Restorative Justice*, 1(3), 356-371.
- Butler, J. (2004). *Precarious life: the powers of mourning and violence*. London: Verso.
- Cano Pecharroman, L. (2018). Rights of nature: rivers that can stand in Court. *Resources*, 7(1), 13. doi: 10.3390/resources7010013.
- Cavendish, M. (1653). *Poems and fancies*. London: T. R. Retrieved from <https://github.com/digicavendish/plain-modernized-EEBO-TCP-MargaretCavendish/blob/master/Poems%20and%20Fancies%20A53061.headed.txt> (last accessed 22 March 2020).
- Conill, J. (2019). *Intimidación corporal y persona humana*. Madrid: Tecnos.
- European Union (w.d.). *Animal welfare*. Retrieved from [https://ec.europa.eu/food/animals/welfare\\_en](https://ec.europa.eu/food/animals/welfare_en) (last accessed 22 March 2020).
- Evans, E.P. (1906/1987). *The criminal prosecution and capital punishment of animals*. London: Faber and Faber.
- Fassin, D. (2018). *Life. A critical user's manual*. Cambridge: Polity Press.
- Fineman M.A. (2013). Equality, autonomy, and the vulnerable subject in law and politics. In M.A. Fineman & A. Grear (eds.), *Vulnerability: reflections on a new ethical foundation for law and politics* (pp. 25-40). Aldershot: Ashgate.
- Francione, G.L. (2020). Some brief comments on animal rights. *Animal Frontiers: The Review Magazine of Animal Agriculture*, 10(1), 29.
- Gibbs, C., Gore, M.L., McGarrell, E.F. & Rivers III, L. (2010). Introducing conservation criminology: towards interdisciplinary scholarship on environmental crimes and risks. *The British Journal of Criminology*, 50(1), 124-144. <https://doi.org/10.1093/bjc/azp045>.
- Giménez-Candela, M. (2019). Animals in the Spanish civil code: a reform interrupted. *Derecho Animal (Forum of Animal Law Studies)* 10 (2). doi: 10.5565/rev/da.438.
- Groombridge, N. (1991). Masculinities and crimes against the environment. *Theoretical Criminology*, 2(2), 249-267.
- Hall, M. (2018). Environmental victimisation: corporate villainy or state connivance?. *Radical criminology*. Retrieved from <http://eprints.lincoln.ac.uk/15918/> (last accessed 22 March 2020).
- Hall, M. (2017). Exploring the cultural dimensions of environmental victimization. *Palgrave Communications*, 3, 17076. doi: 10.1057/palcomms.2017.76.
- Hall, M. & Varona, G. (2018). La victimología verde como espacio de encuentro para repensar la otredad más allá de la posesión. *Revista de Victimología/Journal of Victimology*, 7, 107-128.
- Halsey, M. (2004). Against 'green' criminology. *British Journal of Criminology*, 44(6), 833-853.
- Harvey, D. (1996). *Justice, nature and the geography of difference*. Oxford: Blackwell.
- Hillyard, P. & Tombs, S. (2017). Social harm and zemiology. In A. Liebling, S. Maruna & L. McAra (eds.), *Oxford handbook of criminology* (pp. 284-305). Oxford: Oxford University Press.
- Hottois, G. (2016). *¿El transhumanismo es un humanismo?* Bogotá: Universidad El Bosque.
- Jonas, H. (2013). *Ethics of responsibility: from ontology to ecology*. New York: State University of New York.
- Ketcham, C. (2020). Op-Ed: Coronavirus has something to teach us about how to save the planet – by staying put. *Los Angeles Times*, 14 March 2020. Retrieved from

Gema Varona

- www.latimes.com/opinion/story/2020-03-14/coronavirus-travel-ban-air-travel-climate-change-carbon-emissions (last accessed 22 March 2020).
- Kipnis, A.B. (2015). Agency between humanism and posthumanism: Latour and his opponents. *HAU: Journal of Ethnographic Theory*, 5(2), 43-58. doi: 10.14318/hau5.2.004.
- Kohn, E. (2013). *How forests think: toward an anthropology beyond the human*. Berkeley: University of California Press.
- Lasalle, J.M. (2019). *Ciberleviatán. El colapso de la democracia liberal frente a la revolución digital*. Barcelona: Arpa & Alfil.
- Lynch, M.J. (2019). Green criminology and environmental crime: criminology that matters in the age of global ecological collapse. *Journal of White Collar and Corporate Crime*. doi: 10.1177/2631309X19876930.
- Lynch, M.J. & Pires, S.F. (eds.). (2019). *Quantitative studies in green and conservation criminology: the measurement of environmental harm and crime*. New York: Routledge.
- Masiero, P. (2020). "The tree is saying things in words before words": form as theme in Richard Powers' *The Overstory*. *Deportate, Esuli, Profughe. Rivista Telematica di studi sulla memoria femminile*, 41-42, 135-150.
- Montford, K.S. & Taylor, C. (eds.). (2020). *Colonialism and animality: anti-colonial perspectives in critical animal studies*. New York: Routledge.
- Morin, K. (2018). *Carceral space, prisoners and animals*. New York: Routledge.
- Natali, L. & de Nardin Budó, M. (2019). A sensory and visual approach for comprehending environmental victimization by the asbestos industry in Casale Monferrato. *European Journal of Criminology*, 16(6), 708-727.
- O'Connell, M. (2017). *To be a machine: adventures among cyborgs, utopians, hackers, and the futurists solving the modest problem of death*. Doubleday: Anchor.
- Pelluchon, C. (2015). *Elementos para una ética de la vulnerabilidad. Los hombres, los animales, la naturaleza*. Bogotá: Universidad Javeriana, Universidad del Bosque.
- Pérez-Lanzac, C. (2020). Entrevista a Mark O'Connell. "No hay nada más humano que el deseo de no ser humano". *El País Ideas*, 1 de marzo, p. 5.
- Powers, R. (2019). *The overstory*. New York: Norton and Company.
- Preston, C.J. (2018). *The synthetic age. outdesigning evolution, resurrection species, and reengineering our world*. London: The MIT Press.
- Puleo, A. (2011). *Ecofeminismo. Para otro mundo posible*. Madrid: Cátedra.
- Rey, O. (2019). *Engaño y daño del transhumanismo*. Madrid: Homo Legens.
- Rosa, H. (2019). *Resonance: a sociology of our relationship to the world*. Cambridge: Polity Press.
- Ruggiero, V. & South, N., (2010). Critical criminology and crimes against the environment. *Critical Criminology*, 18(4), 245-250.
- Snyder, T. (2019). And we dream as electric sheep. On humanity, sexuality and digitality. *Eurozine*, 6 May, 1-30.
- Sollund, R. (ed.). (2015). *Green harms and crimes: critical criminology in a changing world*. Basingstoke: Palgrave Macmillan.
- Swyngedouw, E. (2004). Globalisation or 'glocalisation'? Networks, territories and rescaling. *Cambridge Review of International Affairs*, 17(1), 25-48.
- Tejero, H. & Santiago, E. (2019). *¿ Qué hacer en caso de incendio?: Manifiesto por el Green New Deal*. Madrid: Capitán Swing.
- UN Environment Programme (w.d.), www.unenvironment.org/ (last accessed 22 March 2020).

- United Nations (2002). *Basic principles on the use of restorative justice programmes in criminal matters*. E/2002/INF/2/Add.2. Retrieved from [www.unicef.org/tdad/basicprinciplesuseofrj.pdf](http://www.unicef.org/tdad/basicprinciplesuseofrj.pdf) (last accessed 22 March 2020).
- Varona, G. (2020a). The contribution of critical ecofeminism to the criminological debate in Spain: debating all rules of all tribes. In S. Walklate, K. Fitz-Gibbon, J. Maher & J. McCulloch (eds.), *The Emerald handbook of feminism, criminology and social change* (pp. 119-136). London: Routledge.
- Varona, G. (ed.). (2020b). *Caminando restaurativamente. Pasos para diseñar proyectos transformadores alrededor de la justicia penal*. Madrid: Dykinson.
- Varona, G. (2020c). Restorative pathways after mass environmental victimization: walking in the landscapes of past ecocides. *Oñati Socio-Legal Series*, 10(3), 664-685. doi: 10.35295/osls.iisl/0000-0000-0000-1044.
- Vita-More, N. (2019). *Transhumanism. What is it?* (Epub).
- Wajcman, J. (2008). Life in the fast lane? Towards a sociology of technology and time. *The British Journal of Sociology*, 59(1), 59-77.
- Walters, R. (2020). Green justice. In P. Carlen & L. Ayres França (eds.), *Justice alternatives* (pp. 42-59). London: Routledge.
- White, R. & Heckenberg, D. (2014). *Green criminology: an introduction to the study of environmental harm*. London: Routledge.
- White, R. (2008). *Crimes against nature: environmental criminology and ecological justice*. Cullompton: Willan.
- White, R. (2018). Green victimology and non-human victims. *International Review of Victimology*, 24(2), 239-255.
- Williams, T.T. (1991). *Refuge: an unnatural history of family, and place*. New York: Vintage Books.
- Wong, R. (2012). Hubris & Nemesis: a correlational analysis. Prandium: *The Journal of Historical Studies*, 1(1). Retrieved from <https://jps.library.utoronto.ca/index.php/prandium/article/view/16280/13249> (last accessed 17 February 2021).