Norwegian University
of Life Sciences

Master's Thesis 2020 60 ECTS
Faculty of Landscape and Society

Nature's Rights in Colombia: an Exploration of Legal Efforts to Secure Justice for Humans and Nature

Whitney Richardson
International Environmental Studies

The Department of International Environment and Development Studies, Noragric, is the international gateway for the Norwegian University of Life Sciences (NMBU). Established in 1986, Noragric's contribution to international development lies in the interface between research, education (Bachelor, Master and PhD programmes) and assignments.

The Noragric Master's theses are the final theses submitted by students in order to fulfil the requirements under the Noragric Master's programmes 'International Environmental Studies', 'International Development Studies' and 'International Relations'.

whitney.richardson@nmbu.no

Noragric
Department of International Environment and Development Studies
The Faculty of Landscape and Society
P.O. Box 5003
N-1432 Ås
Norway
Tel.: +47 67 23 00 00
Internet: https://www.nmbu.no/fakultet/landsam/institutt/noragric

Declaration

I, Whitney Richardson, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature: 

Date: June 2, 2020

Table of Contents

Abstract ⋯ vi
Acknowledgments ⋯ vii
List of tables & figures ⋯ viii
1. Introduction ⋯ 1
2. Methodology ⋯ 6
    2.1 Case study and comparative approaches ⋯ 6
    2.2 Data collection ⋯ 8
    2.3 Data analysis ⋯ 11
    2.4 Limitations and justifications ⋯ 13
3. Theory: to secure justice for humans *and* nature ⋯ 16
    3.1 Environmental justice ⋯ 16
    3.2 Ecological justice ⋯ 18
    3.3 Comparing environmental and ecological justice theories ⋯ 20
4. Background and case study: Colombia ⋯ 23
    4.1 Emergence of nature's rights in Colombia ⋯ 23
    4.2 Colombia's government structure & the armed conflict ⋯ 29
    4.3 The Atrato River Basin, 2016 ⋯ 39
    4.4 The Colombian Amazon, 2018 ⋯ 44
5. An examination of Colombia's Atrato and Amazon nature's rights approaches ⋯ 48
    5.1 Dimensions of justice in the court rulings ⋯ 48
        5.1.1 Justice dimensions in the Atrato ruling ⋯ 48
            5.1.1.1 Recognition ⋯ 50
            5.1.1.2 Participatory justice ⋯ 57
            5.1.1.3 Distributive justice ⋯ 58
            5.1.1.4 Shortcomings of the ruling ⋯ 61
        5.1.2 Justice dimensions in the Colombian Amazon ruling ⋯ 63
            5.1.2.1 Recognition ⋯ 65
            5.1.2.2 Distributive justice ⋯ 66
            5.1.2.3 Participatory justice ⋯ 67
            5.1.2.4 Shortcomings of the ruling ⋯ 68
    5.2 Contributing and impeding factors following the issuance of the rulings ⋯ 72
        5.2.1 Following the Atrato ruling ⋯ 72
        5.2.2 Following the Amazon ruling ⋯ 83
6. Relationship between efforts to secure justice for humans and nature ⋯ 97
    6.1 Balance between justice for humans and nature in the Atrato ⋯ 97
        6.1.1 Compatibility ⋯ 97
        6.1.2 Tensions ⋯ 98
    6.2 Balance between justice for humans and nature in the Amazon ⋯ 99
        6.2.1 Compatibility: take one ⋯ 100
        6.2.2 Tensions ⋯ 101
        6.2.3 Compatibility: take two ⋯ 105
7. Comparative analysis ⋯ 109
    7.1 The Atrato approach as a promising blueprint, if actualized ⋯ 109
    7.2 Today's Colombian Amazon approach as a mongoose problem ⋯ 112
8. Discussion ⋯ 115
    8.1 Justice for humans and nature bound in a politics of neglect ⋯ 115
    8.2 Theoretical limitations ⋯ 122
    8.3 Further limitations and future research required ⋯ 125
9. Conclusion ⋯ 129

Works cited ⋯ 136
Recommended readings ⋯ 168
Appendix A: Epilogue ⋯ 180
Appendix B: Consent forms ⋯ 183
Appendix C: Semi-Structured Interview Guide ⋯ 191

Justice with nature must be applied beyond the human scenario, since society is capable of worrying about and dealing with the near and the distant, and of questioning ourselves about environmental deterioration – beyond the benefits that are procured for us – and of recognizing a value to the natural world.

Presiding Colombian Constitutional Court Judge,
Jorge Iván Palacio Palacio, T-622/16, 2016

Abstract

Nature's rights approaches are being developed as an alternative legal means to secure justice for nature and, oftentimes, for humans, too. As a nascent phenomenon, most studies examine nature's rights as an eco-centric legal theory. This study fills a gap in academic literature by examining nature's rights governance approaches which seek to secure justice for both humans and nature.

This study examines Colombia's two seminal court-ordered nature's rights approaches to determine to what degree they have satisfied their aims to secure justice for humans and nature simultaneously. Each case recognizes an ecosystem – the Atrato River Basin (est. 2016) and the Colombian Amazon (est. 2018) – as a legal subject with the rights to be *protected, maintained, conserved*, and *restored*. Developed as a remedy for human rights violations, both cases provide an opportunity to explore variations in nature's rights approaches and the relationship between efforts to secure justice for humans and nature.

To meet the overall objective, I have conducted a qualitative analysis, using comparative, narrative, and thematic approaches to examine available research materials. Materials include primary data collected from interviews with those involved in the formation and implementation of the Atrato and Amazon court rulings. I also examined official progress reports and transcripts from Public Audiences reviewing compliance, additional government documents and gray literature (i.e., media coverage). Analysis was supported by reference to two fields of academic enquiry, environmental justice (justice between humans in nature) and ecological justice (justice for nature) theories. As such, I have sought to consider the strength of nature's rights approaches as a means to secure justice for humans and nature.

Drawing from evidence regarding implementation efforts, I argue that the Atrato River Basin and Colombian Amazon nature's rights approaches currently fall short of their aims to secure justice for both humans and nature. While both rulings contained some essential elements of both environmental and ecological justice theories, interpretation and implementation of the rulings have yet to enable justice and, in some cases, have perpetuated injustices.

Examination has identified some of the impeding factors influencing justice outcomes, characterized as a politics of neglect. Low levels of compliance in both cases evidences a permeating disregard for the significant, ongoing threats imposed on both humans and nature in the Atrato and Amazon regions. Both approaches emerged within an incompatible culture of impunity, noncompliance, and a militarized extractive complex, which remain the prime barriers to securing any justice.

Analysis of both approaches also suggests that efforts to secure justice for humans and nature may be ultimately compatible, as they share common opportunities (i.e., secure pathways to protect nature's ecological health and interdependent human rights) and adversaries (i.e. militarized extractive complex). I conclude that environmental and ecological injustices are co-occurring symptoms of a broader injustice and, thus, require an intersectional justice approach to help overcome adversarial factors. This argument is supported by evidence gleaned from analyzing the approaches within their historical and contemporary contexts, against their aims to secure justice for both humans and nature.

Keywords: Atrato River Basin, Colombia, Colombian Amazon, eco-centric law, ecological justice, environmental justice, environmental law, justice, nature's rights

Acknowledgments

Thank you doesn't feel like an adequate means to express the gratitude I feel for this opportunity, but it will have to suffice. My first thank you goes to 'Norway' and the Norwegian Ministry of Education for investing in my education as an international student. I'm infinitely grateful to have had the opportunity to call Norway home for this period of time. Next, I'd like to thank NMBU and the Department of International Environment and Development Studies (Noragric) for providing so many opportunities to learn, develop and grow – not only through formal coursework but also the additional hours you put into helping me grow as a student, professional, and person.

A special thanks goes to my advisors, Erik Gomez-Baggethun and John Andrew McNeish, for being both personal and professional guides in this process. Thanks for your expert feedback and insights but also for your emotional intelligence – an especially important quality when working in tandem. In particular, thank you for allowing me to develop this thesis in accordance with my complicated interests, despite the fact that my insistence on the dual cases and dual theories probably contributed to your eyes crossing at least as much as they did mine.

Ahora, quiero ofrecer el más enorme agradecimiento a cada persona con que conocí durante mis semanas en Bogotá. A cada participante en esta investigación y cada amigo que me ayudaba por la vía, su generosidad de tiempo y espíritu queda conmigo. Agradezco totalmente para la oportunidad para escuchar a sus perspectivas y experiencias, igual para pasar un rato con ustedes. En particular, quiero dar un mil gracias al Observatorio, 'R' y 'C', 'A' y 'S' que sería mi familia allá.

Next, I'd like to thank Earth Law Center, the Global Alliance for Rights of Nature, and the United Nations Harmony with Nature program for creating networks through which I could engage and learn. To all the lawyers, legal scholars, and judges who I have gotten to know and who have guided me in this process, thank you for your incredible contributions to the field and personal contributions to helping me (a novice), navigate the complex maze of 'the law' and legal system. A special thank you to those who also took the time to review this thesis throughout its development.

I'd like to end with personal acknowledgments. To my almost-husband, Matt, thank you for not jumping ship when I declared I was moving to Norway. Mom, when I told you I was going to Norway, you let out an expletive, but you quickly recovered. Thank you both for encouraging me to follow my dreams and intuition, although it often involves me wandering far from both of you. Dad, thank you for your readiness to help at the drop of a hat, and for always having a corny joke on hand. Shout-out to the remainder of my immediate family (by birth year) – Maribeth, Robert, Wendy, Christen, and Sarah – and to the Baron's (with special attention to Rhonda and Jack but includes the whole extended family) for your unwavering support.

Friends, I cannot list each of you here, but I'm winking at every single one of you and holding back tears knowing how much I will miss you until we meet again somewhere. To those in Norway, thank you for being like family and making me feel at home. To the fjords and forests, thank you. To all of my other mentors and friends in all corners of the globe, thank you for filling my mailbox and my days with a lifetime supply of love and encouragement. I can't wait until we can all (safely) hug again.

Sincerely,
Whitney

List of tables & figures

Tables

Table 1. Procedure for data analysis ⋯ 12

Table 2. Colombian ecoregions recognized as rights-holders ⋯ 25

Table 3. What's the same and what's different after the Atrato ruling? ⋯ 82

Table 4. What's the same and what's different after the Amazon ruling? ⋯ 96

Figures

Figure 1. Map of the Atrato River and Colombian Amazon ⋯ 7

Figure 2. Map of the Atrato River Basin, Chocó, Colombia ⋯ 40

Figure 3. Map of the Colombian Amazon region ⋯ 45

Figure 4. Justice dimensions of the Atrato ruling ⋯ 50

Figure 5. Justice dimensions of the Colombian Amazon ruling ⋯ 64

1. Introduction

This study investigates the design and implementation of Colombia's two seminal nature's rights court rulings – the Atrato River Basin (est. 2016) and the Colombian Amazon (est. 2018) – against their aims to secure justice for both humans and nature (*STC4360-2018*, 2018; *T-622/16*, 2016). In doing so, this study contributes to growing research on nature's rights approaches as an experimental legal alternative – acknowledging that there is no single nature's rights approach, some approaches will be more successful than others, and that examining variant approaches can present valuable lessons (Barcan, 2019).

Around the globe, experimental legal approaches are being enacted to combat environmental degradation and resolve insufficiencies in mainstream environmental law (Barcan, 2019). Nature's rights approaches serve as one example (Barcan, 2019; Chapron, Epstein, & López-Bao, 2019), and they have a few characteristics in common – namely, positioning nature as a legal subject with rights and asserting that nature's interest in maintaining vital ecological functions is a valid concern of the broader political community (Stone, 2010). These contrast with mainstream approaches that position nature solely as an object with anthropocentric value, disregarding nature's interest in maintaining ecological health (Villavicencio, 2019).

Alternative legal approaches to protect nature have developed out of a sense of urgency and because most environmental legislation worldwide has been deemed insufficient to tackle ongoing environmental deterioration (Barcan, 2019; United Nations Environmental Programme [UNEP], 2019; Earth Law Center, 2016; Voigt, 2013; Falk, 2009). In 2019, the UNEP concluded that most existing legislation was insufficient because: 1) it lacks political will, funding, provisions, and incentive for adequate enforcement; 2) contains structural flaws (for example, they haven't been

adapted to context) and/or 3) is subject to conflicts of interest (for example, foreign investor protection clauses that allow investors to sue states) (UNEP, 2019, p. 3 & 8). Many scholars also identified another flaw - suggesting that mainstream environmental law has given (some) humans the right to exploit nature to their sole advantage while deliberately ignoring ecological realities and nature's own interests in maintaining ecological health (Gordon, 2018; Voigt, 2013; Burdon, 2012; Stone, 2010; Wood, 2007; Emmenegger & Tschentscher, 1994).

In 1972, legal scholar Stone developed nature's rights as an alternative legal theory to address some of the cited insufficiencies and to legally heighten consideration for impacts against nature itself (Stone, 2010). According to the theory, by recognizing nature (whether it be all of 'nature', parts of 'nature', or a distinct natural entity, like a river, a forest, or animals) as a legal subject of rights, nature's interests 1) should be considered in all proceedings with environmental implications and 2) could be defended in court. Furthermore, 3) if courts have determined nature's rights to maintain ecological health have been violated, remedies could be sought to restore nature (Gordon, 2018; Stone, 2010).

The original theory frames nature's rights as a legal means to heighten consideration for how human actions unfairly impact nature itself – in particular, high-impact development projects (Stone, 2010). However, it also positions nature's rights as a complement to human rights, where considerations for nature's ecological health are meant to be considered alongside human interests in a healthy environment. Where nature's rights protect nature's interest in maintaining its vital cycles against anthropogenic harms, human rights are predicated upon the notion that humans have an equal right to exist without gross anthropogenic harms (Atapattu & Schapper, 2019; Quataert & Wildenthal, 2019; Earth Law Center, 2016).

Nature's rights proponents argue that until nature's right to *exist and evolve according to its vital life cycles* is legally recognized, human rights tied to a healthy environment will continue to be threatened (*STC4360-2018*, 2018; Earth Law Center, 2016; *T-622/16, 2016*; Burdon, 2012; Stone, 2010). As a primary line of reasoning, nature's rights proponents suggest that all human rights stem from the fundamental right to life. The right to life depends upon nature's integral functioning, and a growing number of human rights violations occur as a result of anthropogenic actions which contribute to a degrading environment (Atapattu & Schapper, 2019). The nature's rights argument goes that there is nothing that requires authorities to even consider protecting this interest, let alone protect it, until nature's interest in maintaining its ecological functions are legally recognized and defensible (Earth Law Center, 2016; *T-622/16*, 2016; Burdon, 2012; Stone, 2010).

The argument follows that this is problematic, as authorities make many decisions with environmental impacts on a fragmented, case-by-case basis, and these small decisions have cumulative socioecological impacts (Voigt, 2019; Bugge, 2013). Furthermore, evidence suggests that environmental rights remain somewhat vague, and are also left to be interpreted at the discretion of authorities on a piecemeal case-by-case basis *and* in relation to the other rights-bearing entities (like corporations), who are often responsible for environmental degradation (UNEP, 2019; Gordon, 2018; Voigt, 2013).

These conditions overshadow the need to protect nature's ecological health as an indivisible whole. Thus, proponents of nature's rights argue that nature's interest in maintaining its ecological health must be legally voiced and defensible in all decision-making processes which may impact it (Abate, 2019; Gordon, 2018; Earth Law Center, 2016; Voigt, 2013; Stone, 2010). In this way, nature's rights (when implemented) require that authorities seek to maintain nature's integral functions in every decision,

consider how these decisions may have cumulative impacts and, thus, operationalize precautionary and prevention principles (Stone, 2010; Low & Gleeson, 1998).

Since 2006, nature's rights have evolved from legal *theory* into a practiced governance approach. Today, some form of nature's rights has been adopted at various levels of government in 15 countries[1], expanding the body of environmental law from regulating nature's use as an *object* to recognizing nature as a *subject* of rights (Richardson et al., 2019; Gordon, 2018; United Nations [UN], n.d., b). In examples involving ecosystems, nature's rights have been recognized in response to some injustice against humans – such as, toxic contamination causing widespread ecological devastation and harming human health, or as a remedy for colonial harms against indigenous groups (Macpherson, 2019; Richardson et al., 2019; UN, n.d., b).

In this way, nature's rights approaches have emerged to 1) combat the ecological crisis by keeping humanity within safe operating spaces for human existence, 2) tune society towards harmony with nature, securing justice for *both* humans and nature, and 3) to protect nature itself (Gudynas, 2015; Stone, 2010; UN, n.d., b). To help accomplish these aims, nature's rights approaches must be designed in a context-appropriate manner to address ecological realities and the needs of affected human communities (UNEP, 2019; Voigt, 2013).

Since the Atrato River Basin ruling (est. 2016) and Colombian Amazon ruling (est. 2018), several more Colombian courts have issued nature's rights rulings as a remedy for human rights violations, linked to a severely degrading environment – including the fundamental right to life, the right to a healthy environment, and less

[1] These include: the United States (since [s.] 2006), Ecuador (s. 2008), Bolivia (s. 2010), Mexico (s. 2014), New Zealand (s. 2014), Brazil (s. 2015), Colombia (s. 2016), France (s. 2016), Australia (s. 2017), Belize (s. 2017), India (s. 2017), Argentina (s. 2018), Bangladesh (s. 2019), Uganda (s. 2019) and Pakistan (s. 2020) (Choplin, 2020; UN, n.d., b).

obvious but interdependent rights to territory, freedom from forced displacement, culture, and more. Each ruling, however, has developed a unique approach to realize nature's rights in order to guarantee interdependent human rights (UN, n.d., b). So, these cases offer an opportunity to examine variant approaches to secure justice for humans and nature concurrently. Further, nature's rights approaches in Colombia have emerged within difficult sociopolitical contexts of historic and ongoing armed conflict, which pose significant challenges to securing justice for humans and nature. These dimensions will be explored in the examination.

To meet the overarching aim of examining how the Atrato and Amazon cases measure against their aims to secure justice for both humans and nature, I pursued the following objectives:

1. Identify which dimensions of environmental and ecological justice theories the court rulings contain and/or lack.
2. Examine implementation efforts by identifying factors which may contribute to or impede justice outcomes – including known advances and opportunities, barriers and risks, and uncertainties which have emerged since the rulings were issued.
3. Examine the relationship between efforts to secure justice for humans and nature concurrently. Are these efforts compatible? What imbalances or tensions between efforts have arisen?
4. Compare findings from both cases to determine strengths and weaknesses regarding how each approach measures against its aim to secure justice for humans and nature.

2. Methodology

The research relies on qualitative methods to meet its objectives, employing a flexible research design (Nygaard, 2017). Each objective seeks to analyze nature's rights governance approaches by "finding patterns, trends, or causal mechanisms" (Nygaard, 2017, p. 22), and some analysis is "based on using old theory in a new context" (Nygaard, 2017, p. 22).

The research employs environmental and ecological justice theories to analyze both cases, following a deductive logic. It also takes a critical methodological approach, following an "inductive logic that attempts to generate propositions about social phenomena" (Nygaard, 2017, p. 27). As a justice inquiry, the research "consider[s] the larger social structures and distribution of power behind them" (Nygaard, 2017, p. 27). Using this approach, the research "aims to explain the world as it is now, but also [reviews tools that enable] social change" (Nygaard, 2017, p. 27) – in this case, as it relates to "justice in and to the environment" (Low & Gleeson, 1998, p. 1). I used the approaches, methods, and materials described below to meet the objectives, with security precautions in mind (Nygaard, 2017, p. 27).

2.1 Case study and comparative approaches

The research used a case study and comparative approach, drawing on two cases (Atrato and Amazon approaches) to ground two theories (environmental and ecological justice theories) in relevant real-world scenarios.

A case study approach anchors the exploration of phenomena in a defined subject of study which, in turn, allows for grounded, comprehensive data collection and analysis (Creswell, 2013; Gerring, 2004). The aim of a case study approach "is to shed light on a question pertaining to a broader class of units" (Gerring, 2004, p. 344)

– in this case, nature's rights governance approaches. Interested in examining the phenomenon of nature's rights approaches for their attempts to secure justice for humans and nature, a comparative method allows for greater generalization regarding said phenomena than a single-case study (Rihoux & Ragin, 2008, xviii).

I chose two cases as my research subjects, the Atrato River Basin and the Colombian Amazon nature's rights approaches (Fig. 1) (*STC4360-2018*, 2018; Mayan, 2016; *T-622/16*, 2016). These are similar because they are both nature's rights approaches which were mobilized by Colombian courts in response to human rights violations and environmental crimes; however, the approaches vary by design and context (Rihoux & Ragin, 2008). By limiting comparison to two case studies, the comparative approach still permits some in-depth analysis of the subjects in their complexities (Rihoux & Ragin, 2008, xviii).

Figure 1. Map of the Atrato River and Colombian Amazon

Figure 1. The blue line represents the Atrato River and its main tributaries. Its basin is roughly defined as the terrain surrounding the river. The Colombian Amazon region is demarcated by the green line (STC4360-2018, 2018; *T-622/16,* 2016*).*

These cases are particularly well-suited for generalizations regarding nature's rights approaches in Colombia. As Colombia's seminal nature's rights approaches, they have inspired additional nature's rights approaches. They may also be used to generalize certain aspects about nature's rights approaches worldwide, as they all have certain conditions, features, and arguments in common (Bustos & Richardson, in press; *STC4360-2018*, 2016; *T-622/16*, 2016; UN, n.d., b).

Comparison also involves two theories – environmental and ecological justice theories. Environmental justice theory helps identify attempts to secure justice for humans in nature while ecological justice theory helps identify attempts to secure justice for non-human nature (Gudynas, 2015; Low & Gleeson, 1998). While my direct comparison of the theories themselves is limited, I have used both theories in a relational manner to compare efforts to secure justice for humans against efforts to secure justice for nature. In the next chapter, I will explore both environmental justice and ecological justice theories. In the chapter following theories, I will introduce the Atrato River Basin and Colombian Amazon case studies.

2.2 Data collection

Data was collected through a *literature review*, *primary data collection*, and *secondary data collection.*

The literature review focused on official government texts and scientific articles; however, it included some gray literature (Bryman, 2016, p. 98). Government texts refer to the court rulings which enabled the nature's rights approaches, as well as laws, action plans, and compliance updates. Court rulings contain background information on the lawsuits, the courts' decision-making processes and the mandates (or remedies) to guarantee rights. Additional government texts provide insight into the implementation process of the approaches. Scientific articles offered insight on

nature's rights theory and approaches, environmental and ecological justice theories, and the social-economic-ecological-political-cultural-legal contexts within which Colombia's nature's rights approaches have emerged. Lastly, gray literature provided cultural insights and up-to-date information regarding the approaches and surrounding phenomena, including NGO articles and related media coverage.

Primary data was primarily collected in Bogotá, Colombia, in July and August 2019, mainly through semi-structured interviews conducted in Spanish. In total, I conducted 20 in-person interviews in Bogotá with 30 relevant sources. Prior to conducting interviews, participants received a form with information regarding the investigation[2], and they consented to participate in the study. Most interviews took place in private and lasted approximately one hour.

To prepare for each interview, I prepared an interview guide with a tailored set of questions based on the known role of the participant. A sample of semi-structured interview questions can be found in the Appendix, though all interviews employed a custom version of the sample. Most interviews began with a prompt to discuss the participants' roles in relation to the nature's rights approaches. All interviews provided ample space for participants to guide the conversation; though, the guide helped ensure key questions were answered.

Participants were selected using both purposive and snowball sampling approaches (Bryman, 2016, p. 408). A purposive sampling approach allowed me to target those with relevant expertise to provide insight on the investigated phenomenon. I also used a snowball sampling approach, asking participants to refer relevant contacts to inform the research (Bryman, 2016, p. 408).

[2] See Appendix

Using these approaches, I focused on connecting with 'target affiliates' and 'supplemental sources.' 'Target affiliates' included attorneys and NGOs involved with the cases, lead judges behind the rulings, and others tasked with implementing the rulings. 'Target affiliate' interviews focused primarily on firsthand knowledge of the nature's rights approaches – focusing on their roles, experiences, use of terminology, interpretations, discourse regarding the subject, and the implementation process. 'Supplemental sources' included advocacy groups (human rights, civic organizers, environmental defense, etc.), judges in other cases, lawyers, academics, Colombian State officials, international environmental functionaries, and natural scientists informing environmental protection strategies in Colombia. Data collected from 'supplemental sources' provided background on the broader context in which nature's rights approaches have emerged.

I also attended regional conferences hosted in Bogotá during the field work period, including the 3-day *Third International Forum for the Rights of Mother Earth*, 2-day *Cumbre Ambiental*, and 1-day *Transition Magazine* series on afro-descendent and indigenous movements in Latin America. Attendance at these events provided additional information regarding: the implementation process of nature's rights approaches in Colombia and abroad, firsthand experience from those living and working in Chocó and the Colombian Amazon, and environmental and social movements in the larger region.

Following field work, primary and secondary data was continuously collected from relevant sources by phone and email, according to the participants' wishes. Ongoing communication with research participants and relevant contacts generated access to secondary data, including official progress reports and directives on both approaches, and transcripts from the 10-day Public Audience reviewing compliance

with the Amazon ruling. These provided key insight into the implementation process and expressed views of many groups involved.

2.3 Data analysis

Data was analyzed using narrative and thematic methods. Narrative analysis of available materials helped generate a story about the approaches and their implementation, while thematic analysis allowed me to draw out themes and patterns from the case studies individually and comparatively (Bryman, 2016).

To meet objective one, I examined the court rulings which mobilized the Atrato River Basin and Colombian Amazon nature's rights approaches. The study views court rulings as living documents, produced to remedy conflicts in the real world (Mayan, 2016). Therefore, a ruling's design can influence how nature's rights approaches are interpreted and implemented. Deductive analysis of the rulings sought to identify the environmental and ecological justice dimensions the rulings contain and/or lack. Using a thematic approach, I also sought to identify repetition within the texts, social categories, analogies, transitions between topics, and missing data (Bryman, 2016, p. 585-586). This step paved the way to meet the following objectives.

To meet objective two, I examined primary data, secondary data, and available literature on each case individually, using a twofold narrative and thematic analysis approach. First, the narrative approach allowed me to piece together and present details regarding what has happened since the rulings were issued, resulting in a descriptive account. Second, the thematic approach also allowed me to identify patterns and themes regarding the general interpretation of the rulings and implementation of the approaches, especially against their aims to secure justice for humans and nature (Bryman, 2016). In this way, the thematic approach resulted in an

analytical account to help ascertain to what extent these approaches have been meeting their aims to secure justice for humans and nature.

To meet objective three, I analyzed findings generated by meeting the first two objectives to examine the relationship between efforts to secure justice for humans against efforts to secure nature. Again, thematic analysis sought to identify themes and patterns regarding how the rulings were constructed and have been implemented, in order to elaborate on the compatibility and tensions between efforts to secure justice for humans and nature in both cases.

To meet objective four, I conducted a cross-comparative analysis of findings from the two cases to identify strengths and weaknesses of both approaches against aims to secure justice for humans and nature. Using the thematic analysis method, I also sought to identify similarities and differences between themes and patterns drawn from both cases (Bryman, 2016, p. 585-586).

Table 1 summarizes the step-by-step data analysis process.

Table 1. Procedure for data analysis

Step 1. Individually analyze the Atrato ruling (*T-622/16,* 2016) and the Colombian Amazon ruling (*STC4360-2018,* 2018) – both *deductively* using environmental and ecological justice theories and *inductively* for key patterns and themes.
Step 2. Analyze primary data, secondary data, and available literature regarding the implementation process of the Atrato River Basin approach and the Colombian Amazon approach individually – both *deductively* using environmental and ecological justice theories and *inductively* for key patterns and themes.
Step 3. Analyze findings drawn from Steps 1 & 2 according to the individual cases – looking at how each approaches' efforts to secure justice for humans compare to its efforts to secure justice for nature itself.
Step 4. Compare and interpret findings drawn from Steps 1, 2, & 3 – starting by comparing findings from analysis of the Court rulings, proceeding by comparing findings regarding implementation of each approach and how each case balances efforts to secure justice for humans and nature, and, lastly, by identifying the primary barriers to securing justice for both humans and nature in both cases.

Table 1. Summary of the entire data analysis procedure used to meet objectives.

With that said, the research acknowledges that: 1) it is too early to fully analyze implementation, requiring more time, resources, and field work than a thesis allows, and 2) analysis does not intend to imply absolute cause-and-effect between the rulings and what has occurred since their issuance – for example, the study recognizes there are a variety of complex factors involved when creating a ruling and does not intend to blame judges for a ruling's shortcomings (Cepeda-Espinosa, 2004). Also, at this time, available implementation updates can only paint a partial picture of how approaches succeed in or fall short of securing justice for humans and nature. By identifying some advances, shortcomings, and barriers to securing justice for humans and nature, I can only hope to inform how nature's rights approaches and impeding factors may be modified toward this aim.

2.4 Limitations and justifications

Security considerations determined the research design and resulted in some limitations. As a new researcher traveling alone without previous experience in Colombia, primary data was collected over a 6-week period in the Federal District of Bogotá, Colombia. As a centralized federal republic, many 'target affiliates' reside there. Therefore, remaining in Bogotá provided access to many 'target affiliates' and 'supplemental sources' while reducing potential complications and security risks.

First, Bogotá is accessible, whereas the Atrato River Basin and Colombian Amazon regions are vast and in remote, opposite areas of the country with limited transportation and infrastructure. Within Bogotá, I could travel with minimal security concerns under the guidance of nearby contacts. Second, both Chocó (where the Atrato River Basin resides) and the Colombian Amazon regions continue to experience especially high rates of violence, posing significantly more security risks

than Bogotá. Multiple travel advisories strongly discourage travel to Chocó (Government of Canada, 2020; Gov.uk, 2020; US Department of State, 2019).

However, high levels of ongoing organized crime and armed conflict, compounded by a lack of security and State presence, continue in both Chocó and the Colombian Amazon (Procuraduría General de la Nación, 2019; *T-622/16*, 2016; Defensoría del Pueblo de Colombia, 2014b). Both regions are also characterized by high risk of assassination and violence, especially for those suspected to be involved with human rights and environmental protection (Alsema, 2020; Gigova, 2020; Alsema, 2019; Botero-García, López, Ospino, Ponce de León-Chaux & Riveros, 2019; Global Witness, 2019; Human Rights, 2019; Oxfam International, 2019; Redacción Colombia2020, 2019; Vivanco, 2019; Volckhausen, 2019; Volckhausen, 2018).

While I followed the required Norwegian Center for Research Data (NSD) precautions to protect participant identities, I was advised by a trusted, experienced personal contact that, in light of the severe and documented dangers against many individuals and groups relevant to the study, adequate precautionary measures would require significantly more resources than the thesis permits. Recommended resources included a budget that allows participants to be interviewed in anonymous regions, additional personnel, and a more developed awareness of the nuanced security threats. These are significant concerns for any researcher, let alone a new researcher traveling alone and for the first time to the region.

Due to these security restraints, individuals and communities in the Atrato River Basin and Colombian Amazon regions were not directly interviewed for this thesis. For the Atrato River Basin case, the Atrato River Guardians were contacted using available means and in a manner that sought to avoid divulging any of their personal identities. Though, I did not hear back after the pandemic began in March 2020. By contrast, no established local group has been formed to inform and

implement the Colombian Amazon approach, complicating efforts to connect with residents impacted directly.

Interviews with lawyers and NGOs working with affected communities sought to fill these gaps as best as possible, as they continue to work with local residents and seek to guide implementation in both regions. I also consulted many environmental and human rights NGOs and attended events visited by some residents who provided more insight. The use of secondary data (which includes multiple perspectives and direct feedback from local, impacted communities) also helped fill in these gaps.

Limited feedback from local resident communities is undoubtedly the thesis's most significant weakness. Firsthand feedback from those immersed in the day-to-day realities of environmental degradation, conflict, and the ongoing implementation of governance approaches is critical to painting a more accurate, clear, and comprehensive picture. Lack of firsthand feedback from resident communities also poses an ethical dilemma. How can I talk about ethical issues and justice without directly consulting those seeking to defend themselves against injustices? Still, due to strong precautions, security considerations were prioritized in the design and process of collecting data.

3. Theory: to secure justice for humans and nature

Justice theories are at the core of all rights issues. As nature's rights approaches seek to secure justice for both human and non-human nature, my analysis will employ both environmental and ecological justice theories. Both theories are *anthropogenic*, meaning that they review how human actions have justice outcomes for human and non-human nature, respectively (Houston, 2013, p. 443; Walker, 2009, p. 358). However, environmental justice is an anthropocentric theory, while ecological justice is an eco-centric theory (Washington et al., 2018; Gudynas, 2015; Baxter, 2005; Schlosberg, 2004; Low & Gleeson, 1998).

3.1 Environmental justice

Environmental justice theory – or a *justice between humans in nature* – is ultimately concerned with the equitable distribution of environmental '*goods'* (benefits) and '*bads'* (burdens, risks) across human society (Gudynas, 2015; Low & Gleeson, 1998), suppressing any factor of discrimination across time, space, and societal dimensions – i.e., current and future generations, race, class, gender, etc. (Rodríguez, 2018, p. 16; Yang, 2006, p. 32; Schlosberg, 2004).

Distributive environmental justice demands that any unequal distribution of environmental loads must first be justified, and any humans subjected to environmental 'bads' due to a project's execution must be fairly compensated (Rodríguez, 2018, p. 16). Distributive environmental justice relates to the substantive element of *environmental rights*, defined as the human right to a healthy environment, where human impact on the environment directly impacts the realization of these rights (UN Environment, n.d.).

Equitable *distribution* of environmental benefits and burdens requires both "*recognition* of the diversity of participants and experiences in affected communities,

and [their] *participation* in the political processes which create and manage environmental policy" (italics my own, Schlosberg, 2004, p. 517). Recognition promotes both distributive and participatory justice and is considered a “precondition of membership in the political community” (Schlosberg, 2004, p. 521). Recognition usually stems from historical disenfranchisement, and it requires the investigation of the “social, cultural, symbolic, and institutional conditions underlying poor distributions” to inform the design of distributive remedies (Schlosberg, 2004, p. 518).

Participatory environmental justice requires creating opportunities for those potentially affected by a project with environmental implications to represent their interests in decision-making processes (Gellers & Jeffords, 2018; Wesselink, Paavola, Fritsch, & Renn, 2011). Participatory environmental justice relates to the substantive element of human’s *access rights,* intended to improve justice outcomes (UNEP, 2019; Gellers & Jeffords, 2018; Ebbesson & Okowa, 2009; Senecah, 2004).

Access rights refer to three interdependent rights, i.e. the right to access information relevant to decision-making, the right to participate in decision-making processes regarding potential projects which may threaten rights, and the right to defend one’s interests through the justice system (UNEP, 2019; Rodríguez, 2018, p. 16; Yang, 2006, p. 32). To determine the degree of efficacy of access rights, evaluation of participatory environmental justice should also include participants’ *influence* in decision-making processes. *Influence* here refers to a state where participants have been granted access to decision-making processes and their interests have been accounted for alongside other stakeholder interests (Senecah, 2004).

3.2 Ecological justice

More recently, claims that there is an ecological crisis have motivated justice theory to expand and develop ecological justice theory, which seeks justice *for nature* itself (Low & Gleeson, 1998). Ecological justice focuses on how human actions have unfairly distributed environmental benefits and burdens to non-human nature. It attempts to heighten human's ethical consideration to prevent further anthropogenic damage against nature (Washington et al., 2018; Baxter, 2005; Low & Gleeson, 1998).

Arguments[3] for increased ethical consideration for harms against nature tend to follow overlapping yet distinct existentialist and rationalist lines of reasoning. Existentialist reasonings often suggest that non-human nature is a free agent and its intrinsic value is based on its existence and innate capacities (Tsing, 2013). Existentialist arguments also seek to account for the fact that many ecological injustices can be committed without directly impacting human well-being (Houston, 2013; Baxter, 2005). Rationalist arguments, like those primarily employed by the Atrato and Amazon cases, tend to emphasize the *need* to consider what is in nature's best interest. From a rationalist lens, respect and consideration for 'nature' – as the grantor of life - is of paramount concern for humankind's survival (*STC4360/2018,* 2018; *T-622/16,* 2016; Roelvink, 2012; Stone, 2010).

Ecological justice theory has been adapted from environmental justice theory to apply to non-human nature. It seeks the fair *distribution* of environmental 'goods' and 'bads' across non-human nature, suppressing any factor of discrimination across time, space, and ecological dimensions – including current and future generations, species, natural elements (i.e., atmospheric, hydrologic, etc.) (Stone, 2010; Low &

[3] It's important to note that there are many academic, ethical, and philosophical arguments which aim to justify the expansion of justice theory to apply to non-human nature. These justifications will not be explored in detail.

Gleeson, 1998). To be considered ecologically just, responsible actors must exercise "precautionary and restrictive measures to prevent human activities from causing species extinction, the destruction of ecosystems or the disruption of ecological cycles" (Global Alliance for the Rights of Nature [GARN], 2010, Art. 3i).

Distributive ecological justice demands that any unequal distribution of environmental loads across non-human nature must first be justified, and any nature subjected to environmental 'bads' due to a project's execution must be fairly compensated (Rodríguez, 2018, p. 16; Stone, 2010). Distributive ecological justice relates to the substantive element of *nature's rights*, generally defined as nature's right to exist and evolve according to its vital cycles, where human action can directly impact realization of these rights (GARN, 2010; Stone, 2010).

As Schlosberg (2004) emphasized, equitable distribution cannot occur without the *recognition* or *participatory justice* elements. Therefore, ecological justice requires that nature first be *recognized* as a member of the political community (Gudynas, 2015; Burdon, 2012; Baxter, 2005; Low & Gleeson, 1998; Emmenegger & Tschentscher, 1994). Again, recognition often stems from historical disenfranchisement and requires examining the "social, cultural, symbolic, and institutional conditions underlying" (Schlosberg, 2004, p. 518) ecological injustices to inform the design of distributive remedies.

This has occurred in nature's rights approaches, which criticize purely anthropocentric approaches for making nature's interest in maintaining ecological health invisible. As a legal subject, nature's interests become valid concerns of the political community and validate nature's 'membership' in said political community (Tanasescu, 2016; Stone, 2010; Schlosberg, 2004). Membership paves the way for *participatory ecological justice.* Nature cannot defend its own interests, so participatory ecological justice requires designated representatives to voice nature's

interests – for example, through a guardianship or trusteeship (Tanasescu, 2016; Stone, 2010; Emmenegger & Tschentscher, 1994).

Regardless of how representation occurs, ecological justice requires that nature's representatives are able to exercise access rights – where those representing nature's interest have the right to access information, the right to participate in decision-making processes, and the right to access the justice system to defend nature's interest (Stone, 2010; Schlosberg, 2004; Emmenegger & Tschentscher, 1994). Again, evaluation of participatory ecological justice should also review to what degree nature's interest may *influence* decision-making processes and the degree of nature's representatives' decision-making power (Senecah, 2004).

3.3 Comparing environmental and ecological justice theories

From a macro perspective, environmental and ecological justice are two sides of the same coin. "[P]eople, animals, and ecologies are [together] bound up in environmental politics of care and neglect" (Houston, 2013, p. 443). *Both* human and non-human nature have an interest in a healthy environment, and human actions and inactions have justice outcomes for both (Houston, 2013; Low & Gleeson, 1998).

Also, the root causes of injustices against human and non-human nature may be linked (Houston, 2013; Weiss, 2013; Dorling, 2010; Chape et al., 2008; Low & Gleeson, 1998; Morris, 1964). For example, toxic chemicals poured into a river basin harm humans who depend on that water supply *and* the ecosystem's ecological functioning, including other natural entities that depend on the basin. This contamination can threaten the survival of both communities. Therefore, preventing and remediating these causes may benefit and help secure justice for both human and non-human nature (Houston, 2013; Low & Gleeson, 1998; Morris, 1964). For this reason, a sense of solidarity can be detected among some environmental and

ecological justice concerns. Houston (2013, p. 443) explained that, “The idea that people are environmentally endangered as a consequence of cultural and economic disregard of particular places evokes ‘togetherness’ with other endangered creatures in the survival of ecological communities.”

From a micro perspective, one theory implicitly favors one group over the other. While environmental justice theory makes human interests in a healthy environment visible, ecological justice theory makes the interests of non-human nature in maintaining ecological health visible (Washington et al., 2018; Baxter, 2005). On the one hand, there are analytical benefits to their separation – for example, to recognize how anthropogenic harms against human and non-human nature compare when, especially when extinction of certain non-human species doesn’t inherently risk harming human health or survival (Kopnina, 2012; Baxter, 2005).

On the other hand, if consideration for one is prioritized over the other, environmental justice and ecological justice interests become imbalanced. Then, human or non-human nature may suffer disproportionately (Martin, 2018; Washington et al., 2018). For example, vulnerable human communities may unjustly suffer in the name of ‘conservation’, as has been historically demonstrated by certain exclusionary conservation practices (Bocarejo & Ojeda, 2016; Chape et al., 2008). Alternately, nature may continue degrading if contemporary human interest in high-impact development models continues, sidestepping considerations for and/or discounting ecological health or protection of non-human species entirely (UNEP, 2019; Martin, 2018; Crook & Short, 2014; Bugge, 2013; Kopnina, 2012; Stone, 2010).

Further, many argue that anthropocentric environmental justice theories alone have placed too much attention on utilitarian valuation of nature, sidelining important ecological realities (Washington et al., 2018; Voigt, 2013; Emmenegger & Tschentscher). Since some modern human interests and nature’s interests may not

be compatible, an ongoing dialogue and compromise between both interests must be initiated to try and strike a balance (Washington et al., 2018; Stone, 2010).

All laws and justice considerations require a balancing act (Bugge, 2013; Stone, 2010). Because any one person exercising their rights can jeopardize another's rights, there are no absolute protections. Instead, rights law requires that any limitation on one's rights must be necessary and proportional to protect the rights and interests of another legal subject and/or the general public (Bugge, 2013, p. 7). So, limitations are required to enable a balanced justice (Bugge, 2013, p. 8).

Stone (2010, p. 24-25) suggests that, to secure justice for humans *and* nature, a reduction in "our standard of living as measured in terms of our present values" is required – in particular, overconsumption and overproduction, perpetual economic growth, and certain comforts and luxuries afforded high-consumption populations (International Panel on Climate Change [IPCC], 2014; Bugge, 2013; Stone, 2010; Matsuyama, 2000). Stone, however, emphasizes that the rewards are worth the transition. Stone says that humans must recognize that their own well-being relies on nature's integral functioning, so an understanding of human progress must evolve to account for nature (Burdon, 2012; Stone, 2010, p. 24-25).

Nature's rights discourse often alludes to promoting harmony with nature, "in order to achieve a just balance among the economic, social and environmental needs of present and future generations" (UN, n.d., a). Taken together, both theories are necessary to inform and foster a more just society in an embedded nature-human reality – where nature's interests are not discarded for short-term human interests, and where long-term and comprehensive human interests are taken into account.

4. Background and case study: Colombia

This chapter provides background on Colombian nature's rights approaches. It will first introduce nature's rights in the Colombian context. Then, it will discuss Colombia's governance structure and the influence of the armed conflict. Lastly, it will present essential background of the Atrato River Basin and Colombian Amazon cases.

4.1 Emergence of nature's rights in Colombia

Colombia's emerging nature's rights approaches stand out as unique cases for a number of reasons. Prior to explicitly recognizing natural entities as legal subjects, Colombian law has *personified* nature for years. The 2011 Victims and Land Restitution Law named the *land* as a victim of the armed conflict, granting it the right to restitution alongside human rights to restitution. As such, the law framed nature as analogous to a legal person (Cortés, 2013; Congreso de Colombia, 2011). Though, reports indicate that restitution has hardly been actualized (Zulver, 2018; Velez, 2014). The Special Jurisdiction for Peace continues to refer to nature as a silent victim of the war, calling for action plans to restore nature (Catorce6, 2019).

Later, the 2016 Peace Deal named territorial peace as an objective (Cairo et al., 2018). At that time, the Colombian government requested support from the UN Environmental Program [UNEP] to help achieve environmental peace, as an element of territorial peace (UN Environment, n.d.). Many civil society organizations also called for an Environmental Truth Commission as an integral part of the reconciliation process, arguing that nature has its own 'memory', evidenced by the accumulation of toxins left behind by war (Martin, 2018).

In this way, nature has been framed as both a subject deserving of restitution and a tool for restitution (Cairo et al., 2018; Martin, 2018; Rojas-Robles, 2018;

Congreso de Colombia, 2011). However, while courts have not explicitly characterized nature's rights as a form of restitution for the armed conflict or as an environmental peace-building initiative, Colombian nature's rights approaches emerged following the 2016 Peace Deal and as a corrective measure in response to ongoing armed conflicts and related environmental violence (*STC4360-2018*, 2018; *T-622/16*, 2016).

One year prior to formally recognizing nature's rights, the Colombian Constitutional Court called for a shift toward eco-centricism in a lawsuit over the protection of Colombia's Tayrona Park. The ruling states that nature must be protected because of its intrinsic right to exist – not solely for its limited instrumental value (*T-606/15*, 2015). Thus, the seed of an eco-centric line of reasoning was planted within Colombia's Constitutional Court. One year later, it reemerged in the Constitutional Court's 2016 Atrato River Basin ruling, marking the first instance a Colombian ecosystem was recognized as a legal *subject of rights* (*T-622/16*, 2016).

The Court intermingled this eco-centric concept with human rights frameworks, drawn from both Colombian jurisprudence and many international conventions, decisions, laws, and treaties (Macpherson, 2019; *T-622/16*, 2016, p. 27-78, 104, 107-109). In particular, New Zealand's Whanganui River Settlement – which recognized the river as an 'environmental person' – strongly influenced the Court's Atrato decision (Gordon, 2018). A Court clerk at the time had conducted research on New Zealand's indigenous rights, including the Whanganui Settlement (Macpherson, 2019), which came as a form of restitution for long-term government injustices against local Maori tribes (Macpherson, 2019; Gordon, 2018; O'Donnell & Talbot-Jones, 2018).

Accordingly, there are many similarities between the two cases. Both were conceived as a form of restitution for injustices against 'ethnic'[4] communities. Both crafted co-management schemes between said communities and the government. Both indicated that local communities have a history of protecting nature while using it to meet their needs. So too, both framed distinct ecosystems as legal subjects (Macpherson, 2019; O'Donnell & Talbot-Jones, 2018; *T-622/16*, 2016).

Within the scope of nature's rights frameworks worldwide, Colombian courts have played a unique role in the creation of nature's rights. In 2018, the Colombian Supreme Court followed suit by recognizing the Colombian Amazon as a legal subject of rights (*STC4360-2018*, 2018). The Atrato and Amazon rulings by two Colombian High Courts signaled to other Colombian courts that legally recognizing ecosystems as rights-holders is an appropriate remedy for environmental conflicts (UN, n.d., b).

As a result, today there are 14 Colombian ecoregions[5] recognized as rights-holders, making Colombia the country with the most distinct rights-bearing ecoregions recognized at some level of governance (Table 2) (UN, n.d., b). In one instance, plaintiffs filed on behalf of the River Pance's *inherent* rights – citing the Atrato case as precedent (*N.U.R. 2019-00043-00*, 2019). Since then, two governors have also pledged to uphold nature's rights in their respective departments – Nariño and Boyacá – in their administrative proceedings (UN, n.d., b). Today, additional proposals for nature's rights approaches remain under active consideration – including a proposed constitutional amendment to recognize all of nature as a subject

[4] 'Ethnic' categorization is a common feature of governance structures, usually with colonial roots. It generally refers to indigenous groups but, in many countries, may include afro-descendent groups, as is the case in Colombia (Macpherson, 2019; *T-622/16*, 2016; Tuck & Yang, 2012; Offen, 2003).

[5] In Colombia, courts have also recognized animals, such as the Andean Bear "el Chucho" and bees as rights-holders. However, these cases recognizing animal rights are substantively distinct from those which recognize ecosystems as rights-holders. For this reason, they have not been examined in this study (*Radicado 13001-31-04-001-2018-00077-00*, 2018; *AHC4806-2017*, 2017; UN, n.d., b).

of rights at the national level, which would make it the first official 'law' in Colombia to recognize nature as a rights-holder (Bustos & Richardson, in press; Earth Law Center, International Rivers, & RIDH, 2018; Neopolitanos, n.d., para. 2; Lozada Vargas, n.d.).

Table 2. Colombian ecoregions recognized as rights-holders

#	Since	Ecosystem	Prompted by
1	11/2016	Atrato River Basin	Tutela, Court Ruling
2	4/2018	Colombian Amazon	Tutela, Court Ruling
3	8/2018	Páramo de Pisba	Tutela, Court Ruling
4	3/2019	La Plata River	Tutela, Court Ruling
5-7	5/2019	Coello, Combeima, & Cocora Rivers	Acción Popular, Ruling
8	6/2019	Cauca River	Tutela, Court Ruling
9	7/2019	Pance River	Tutela, Court Ruling
10	7/2019	'Nature' in Nariño	Administrative Pact
11	7/2019	'Nature' in Boyacá	Administrative Pact
12	9/2019	Otún River	Tutela, Court Ruling
13	10/2019	Magdalena River	Tutela, Court Ruling
14	12/2019	Quindío River	Acción Popular, Ruling

Table 2. Summary of all of the eco-regions which have been recognized as subjects of rights at some level of government. Though, these do not indicate there is a nature's rights 'law' which has passed in Colombia (Gobernación de Boyacá, 2019; Judicial, 2019; Justicia, 2019; UN, n.d., b).

Importantly, Colombia's court-ordered nature's rights have sought to remedy human rights violations generated by severe, anthropogenic ecosystem degradation. As a justification, the courts argued that nature's interest in maintaining ecological health must be legally protected to guarantee human rights that depend on a healthy environment. Each ruling demands the degraded ecosystem be recognized as a subject of rights, in order to restore the ecosystem's integral ecological functioning and hold actors responsible for its degradation accountable (UN, n.d., b).

In this way, the courts provided a clear motive for recognizing nature's rights and a corresponding roadmap toward their realization (Bustos & Richardson, in press;

STC4360-2018, 2018; *T-622/16*, 2016). As courts exist to secure justice, court rulings are appropriate subjects for justice inquiries. Since these seminal nature's rights rulings aim to guarantee human rights, they make appropriate subjects to investigate efforts to secure justice for humans and nature simultaneously.

It is evident that what happens in Colombia has global ecological significance. Colombia hosts 10%-14% of the world's biodiversity, making it the second most biodiverse country worldwide (Convention on Biological Diversity, n.d.). The remaining ecosystems in Chocó (home of the Atrato River Basin), the Colombian Amazon, and the Andes are Colombia's "last repositories of a highly diverse and endemic biota" (Álvarez, 2003, p. 47). This is especially important because global biodiversity has significantly declined and continues to be threatened (Intergovernmental Panel on Biodiversity & Ecosystem Services [IPBES], 2019).

New frameworks that protect nature in its own right could theoretically protect remaining biodiversity, advancing ecological justice regionally and globally. If the justification for nature's rights proves to be true, these approaches could also advance environmental justice from the resulting protection of life-supporting ecosystem services (Earth Law Center, 2016; Stone, 2010; Low & Gleeson, 1998).

However, high biodiversity rates have also been linked to high conflict rates (Castro-Nunez, Mertz, Buritica, Sosa, & Lee, 2017; *STC4360-2018*, 2018; McNeish, 2016; Hanson, 2011; McNeely, 2002). In Colombia, armed groups have a long history of occupying biodiverse regions, often in remote regions lacking State presence. In some cases, the presence of armed groups has contributed to higher conservation rates, by prohibiting entry by other actors (Castro-Nunez et al., 2017; McNeish, 2016). However, many cases indicate that armed groups' occupation of forests has contributed to rapid land conversion – by extracting natural resources, converting forests to ranchland, and generating illicit supply chains (Castro-Nunez et al., 2017;

McNeish, 2016; Rodríguez Goyes, 2015; Sánchez-Cuervo, 2013; Álvarez, 2003). As McNeish (2016, para. 10) explained, “The remaining geographical areas of armed conflict largely coincide with areas of fertile lands of interest … that are especially attractive to… [extractive] interests.” Ongoing conflicts pose major threats for both humans and nature (*STC4360-2018*, 2018; McNeish, 2016; *T-622/16*, 2016).

Nature’s rights approaches in Colombia have clearly emerged within a difficult sociopolitical context. Colombia’s range of environmental conflicts are embedded within armed conflict scenarios. These have resulted from a list of crucial factors, i.e. a long history of marginalization, corruption, geographical isolation, high-impact extractive economies, high levels of political regionalism, lack of state presence, land grabs and dispossession, organized crime, territorial disputes, as well as ongoing assassinations and violence against environmental and human rights defenders (Bustos & Richardson, in press; Alsema, 2020; Gigova, 2020; Botero-García et al., 2019; Human Rights, 2019; Oxfam International, 2019; Procuraduría General de la Nación, 2019; Vivanco, 2019; Cairo et al., 2018; Martin, 2018; Castro-Nunez et al., 2017; LeGrand, van Isschot, & Riaño-Alcalá, 2017; McNeish, 2016; *T-622/16*, 2016).

The Atrato River Basin and Colombian Amazon cases have emerged within these contexts. Both cases highlight a theme with Colombia’s environmental conflicts, i.e. environmental crimes, often conducted by armed actors and organized criminal networks. Where the Atrato case targets problems due to illegal mining, the Colombian Amazon case targets problems from illegal deforestation (*STC4360-2018*, 2018; *T-622/16*, 2016). These multidimensional conflicts pose serious challenges to implementing nature’s rights approaches and securing justice.

While Colombia's issues are complex, severe, and often rank amongst the worst in the world[6], problems occurring in Colombia today are not unique to Colombia. A closer examination of Colombian approaches with a mind toward Colombia's socioecological issues may reveal commonalities among nations – chief among them being shared problems and injustices resulting from dominant development and economic models, and legislation and governance supporting these models (UNEP, 2019; McNeish, 2018; McNeish, 2016; Bocarejo & Ojeda, 2016; Natural Resource Governance Institute, 2015; Pinedo et al., 2014; Bugge, 2013; Wood, 2007). So too, a nature's rights approach is not unique to Colombia. While nature's rights may not be a panacea for socio-ecological ills, an investigation of their emergence in Colombia may highlight strengths and weaknesses of current approaches that are relevant beyond Colombian borders (Barcan, 2019).

4.2 Colombia's government structure & the armed conflict

Discussion around the Atrato and Amazon nature's rights cases requires a basic understanding of Colombia's government structure and relevant history. This section presents a general overview of: 1) Colombia's government system and rights, laid out by the 1991 Constitution; 2) its economic and development structure; and 3) background on the armed conflict in relation to environmental governance.

The 1991 Constitution defines the role of government and outlines the rights of all citizens. The Constitution is built on the social rule of law concept and characterizes human dignity, social justice, and general welfare as the underlying

[6] For example, the longest running civil war in the Western hemisphere, the second highest number of internally displaced people, the second highest rate of assassination of rights defenders, high rates of environmental crime, and high rates of mercury contamination (Alsema, 2019; Colombia Reports, 2019; Global Witness, 2019; Internal Displacement Monitoring Centre [IDMC], 2019; Amnesty International, 2018; Melamed & Espitia, 2017; United Nations Environmental Programme [UNEP] & Interpol, 2014; Güiza & Aristizabal, 2013).

principles it aims to serve (Macpherson, 2019; *T-622/16*, 2016). The Constitution names the State responsible for actualizing these principles (*T-622/16*, 2016).

The Constitution defines the Colombian State as a federal republic. At the national level, there is an executive branch, legislative branch, and judicial branch (Artículo 113 de la Constitución Política de Colombia, n.d.). The President is elected for one limited 4-year term to lead the executive branch (Artículo 197 de la Constitución Política de Colombia, n.d.). Among other responsibilities, the President leads the Armed Forces, appoints Ministerial heads which oversee different national interests, and creates the National Development Plan (Artículo 115 de la Constitución Política de Colombia, n.d.; Título 7 de la Constitución Política de Colombia, n.d.).

The legislative branch is led by a bicameral congress, comprised of elected officials at the national level. Both the executive and legislative branch have legislative authority. In other words, they are solely responsible and authorized for creating and amending laws (Título 6 de la Constitución Política de Colombia, n.d.). Congress is also responsible for approving the National Development Plan (Artículo 150 de la Constitución Política de Colombia, n.d.).

The judicial branch (or the justice system) is comprised of national, regional, and municipal courts which serve a public function. Traditionally, courts mitigate conflict according to the country's existing body of law within their jurisdictions. Courts may hold the State accountable to their legally defined responsibilities and secure justice (Título 8 de la Constitución Política de Colombia, n.d.).

The Constitutional Court and Supreme Court are two of Colombia's High Courts. Their judges are appointed for one limited 8-year term (Artículo 233 de la Constitución Política de Colombia, n.d.). The Constitutional Court is responsible for maintaining the integrity and supremacy of the Constitution (Artículo 241 de la Constitución Política de Colombia, n.d.). The Supreme Court is the final court of last

resort and the highest court of ordinary jurisdiction (Artículo 234 de la Constitución Política de Colombia, n.d.).

As a civil law country, Colombian courts primarily interpret *existing* laws. However, Colombian courts have deviated slightly from Latin America's civil law tradition, adopting some characteristics of common law (Taylor, 2018). This evolution was cemented by an influential 1992 Constitutional Court decision which determined that the Court must sometimes create new rights to guarantee existing rights in an evolving society – making it a guarantor *and* creator of rights (Macpherson, 2019; *T-622/16*, 2016, p. 28-29; *T-406/92*, 1992). However, new rights can only be issued on a case-by-case basis, as remedies for conflicts they review, and, while these rulings have legal significance, they do not indicate the adoption of a new law (Taylor, 2018).

The Colombian government also has Control Organisms who serve a public function. These include the Comptroller of the Republic (*La Contraloría*) and the Public Ministry (*Ministerio Público*). The Comptroller of the Republic administers sanctions in the event of noncompliance or misconduct within public agencies. The Public Ministry monitors and guides public authorities to meet their legally defined obligations (Función Pública, n.d.).

The Attorney General of the Nation (*La Procuraduría General de la Nación)* and the Ombudsman (*la Defensoría del Pueblo)* are part of the Public Ministry and both exist to protect rights (Función Pública, n.d.). The Attorney General has three main objectives: 1) prevention, 2) intervention, and 3) disciplinary action. As a preventative measure, the Attorney General monitors public administration and issues recommendations prior to a violation. They may also intervene as attorneys for public cases (i.e., presenting amparo actions, petitions, or appeals) and take disciplinary action (i.e., issuing sanctions against public administrators) if a violation occurred (La Procuraduría, personal communication, April 2020). As the national public defender,

the Ombudsman monitors and protects civil and human rights in Colombia (Caycedo, 2001). They weigh in on legal matters over rights violations and make recommendations (Public Audience for *STC4360-2018*, personal communication, October 23, 2019; *T-622/16*, 2016; Defensoría del Pueblo Colombia, n.d.).

National government entities are concentrated in the Bogotá Federal District and do not have a regional presence (Aguilar-Støen, Toni & Hirsch, 2016; Capítulo 4 de la Constitución Política de Colombia, n.d.). Although national authorities remain highly centralized, the Colombian government as a whole is highly decentralized. Colombia has the most decentralized government structure in Latin America, and over 40% of government spending comes from subnational authorities (Aguilar-Støen, Toni & Hirsch, 2016, p. 215). Subnational authorities operate at regional, municipal, and territorial levels. While the national government has legislative powers, subnational authorities are granted administrative powers (Aguilar-Støen, Toni & Hirsch, 2016).

At the subnational level, Colombia is divided into 31 regions (*departamentos*) run by elected governors. Governors design and administer policies aligned with the National Development Plan (Artículo 305 de la Constitución Política de Colombia, n.d.). For example, governors can grant permissions for projects in their zone and allocate resources for them. Departments are further divided into municipalities (*municipios*), which are run by elected mayors with comparable administrative authorities (Artículo 311 de la Constitución Política de Colombia, n.d.). Subnational authorities are also meant to administer resources to meet the needs of residents (Capítulo 4 de la Constitución Política de Colombia, n.d.).

In addition to defining government roles, the 1991 Constitution outlines the rights of all Colombians. It divides rights into two primary categories – *fundamental rights* and *collective rights*. Fundamental rights are characterized as the most essential human rights required for a dignified life. These include the human right to

life and protection from disappearance, torture, and degrading treatment (Capítulo 1 de la Constitución Política de Colombia, n.d.). Collective rights are interdependent constitutional rights listed in the chapter with environmental protections (Capítulo 3 de la Constitución Política de Colombia, n.d.). These include the human right to a healthy environment and the right to participate in processes that may impact this right (Artículo 79 de la Constitución Política de Colombia, n.d.).

It's important to note that special protection for 'ethnic' groups falls under both categories. For example, the State is expected to protect the 'cultural richness' of the nation, referring to the nation's diverse 'ethnically' recognized communities (Artículo 7 de la Constitución Política de Colombia, n.d.; Artículo 8 de la Constitución Política de Colombia, n.d.). When recognized as a specially protected 'ethnic' group, for example, groups have the right to their collective territories and self-governance, and to live according to their cultural traditions (Artículo 63 de la Constitución Política de Colombia, n.d.; Artículo 68 de la Constitución Política de Colombia, n.d.; Artículo 246 de la Constitución Política de Colombia, n.d.). In Colombia today, these protections apply to afro-descendant and indigenous groups across Colombia (*T-622/16*, 2016, p. 23-27; Artículo 1 de Ley 70 de 1993, 1993). However, the Constitution as a whole has supremacy; so, these 'special' rights, for example, to self-determination are not absolute (Macpherson, 2019; Artículo 246 de la Constitución Política de Colombia, n.d.; Constitución Política de Colombia, n.d.).

The 1991 Constitution also administers tools for citizens to defend these rights. Where fundamental rights can be protected through *tutela* actions, collective rights can be protected through *acciones populares*. Both can be filed without the need for a lawyer (Taylor, 2018; Páez-Murcia, Lamprea-Montealegre & Vallejo-Piedrahíta, 2017).

Tutelas are like the *amparo* mechanism in other Latin American countries and are meant to redress violation of fundamental rights (Uprimny Yepes, 2007). Any citizen can file a tutela when they feel their individual fundamental rights are threatened; though, they are expected to seek other remedies first (Taylor, 2018; Decreto 2591 de 1991, 1991; Artículo 86 de la Constitución Política de Colombia, n.d.). Tutelas must be filed shortly after identifying threats or violations to fundamental rights, and Courts are expected to process tutelas swiftly to guarantee them (Taylor, 2018; Artículo 86 de la Constitución Política de Colombia, n.d.). Tutelas are also considered a transitional tool to prevent irreversible harm (Brewer-Carías, 2009, p. 315).

By contrast, *acciones populares* (like class action lawsuits in the US) protect collective rights pertaining to public goods and common interests, including the environment (Páez-Murcia, Lamprea-Montealegre & Vallejo-Piedrahíta, 2017; Bruch & King, 2002, p. 36). Acciones populares may be filed against a defendant or several defendants, who are alleged to have caused harm to a group of individuals. The action aims to regulate and prevent activities that cause harm to a collective, while allowing individuals to defend their own rights through other means (Páez-Murcia, Lamprea-Montealegre & Vallejo-Piedrahíta, 2017; Bruch & King, 2002; Capítulo 4 de la Constitución Política de Colombia, n.d.; Class action, n.d.).

Both defense tools qualify as *access rights*, by enabling access to justice. The Constitution has also consecrated other access rights, including access to information, the right to prior consultation (*consulta previa)*, and access to participate in decision-making processes (Rodríguez, 2018; Bruch & King, 2002).

With that said, both the 1991 Constitution and other legislation pose some potential conflicts between public and private interests. For example, the Constitution allows the privatization of public goods under government discretion, including natural

resources (like water) and conservation programs (Macpherson, 2019; Aguilar-Støen, Toni & Hirsch, 2016). Also, the Constitution names the State the owner of the subsoil (*subsuelo*) and nonrenewable resources, giving the State discretionary power over resource extraction (Artículo 332 de la Constitución Política de Colombia, n.d.).

Furthermore, trade agreements contain protection clauses which allow foreign investors to sue States if they feel the State has 'violated' their ability to gain returns on their investments (UNEP, 2019). It's also important to note that figures from the last ten years suggest increased growth in Foreign Direct Investment in Colombia's extractive projects (Diaz Parra, 2019; Pardo, 2019; McNeish, 2016). Therefore, multinational enterprises, foreign investments, and corporate interests also significantly influence environmental governance and quality, not to mention social conditions (Bleckman, 2018; McNeish, 2016; Rodríguez Goyes, 2015).

There are further connections to make between Colombia's economic and development structure and environmental governance. Again, the incoming President issues a new National Development Plan every four years. The Plan reflects the administration's economic interests and defines how national resources will be allocated, including between various ministries (Aguilar-Støen, Toni & Hirsch, 2016). This influences ministerial capacity and division of power. Recent National Development Plans have prioritized extractivist interests over environmental protection, influencing ministerial capacity to meet environmental goals (Diaz Parra, 2019; Pardo, 2019; Paz Cardona, 2018; Morales, 2017).

These dueling agendas are also apparent at the subnational level, where many administrative authorities design and administer policies aligned with the National Development Plan. Regional Autonomous Corporations (*Corporaciones Regionales Autónomas* or CARS) manage and administer natural resources within the regions. Some of their budget comes from the national government, while other revenue is

generated by taxing projects within their regional jurisdiction (Public Audience for *STC4360-2018*, personal communication, October 23, 2019; Aguilar-Støen, Toni & Hirsch, 2016; Sánchez-Triana, 2007). Again, governors, mayors, and local mining authorities may also grant permissions to development projects in their regions in exchange for royalties. So, subnational interest in maintaining development projects may be prioritized over interests in environmental protection (Botero & Galeano, 2017; *T-622/16, 2016*; McNeish, 2016; Abadía et al., 2014).

Many actors at different levels pursue environmental protection. At the national level, the Ministry of the Environment (*Ministerio del Ambiente & Desarrollo Sostenible* or MADS) is responsible for coordinating environmental protection efforts and advancing the sustainable development agenda (Sánchez-Triana, 2007). Among many other efforts, MADS oversees the National System of Protected Areas to help fulfill Colombia's conservation goals. Environmentally protected areas may be managed by national, regional, or private authorities. For example, National Natural Parks are overseen by the National Parks Department and are the only fully protected areas because they don't permit extractive projects (Aldana & Mitchley, 2013).

At the international level, REDD+[7] was introduced to the Colombian Amazon in 2009 through the UN, and it is funded primarily by the governments of Norway, Germany, and the United Kingdom (Moloney, 2019; Aguilar-Støen, Toni & Hirsch, 2016). REDD+ sought to halt deforestation to reduce greenhouse gas emissions by issuing payments for ecosystem services. When established, its goal was to achieve net-zero deforestation by 2020 (Aguilar-Støen, Toni & Hirsch, 2016).

[7] For more information about Reducing Emissions from Deforestation & Degradation (REDD+) in Colombia, see Carrillo Cubides, 2017; Aguilar-Støen, 2015.

Toward this end, Colombia expanded its environmentally protected areas and developed low-deforestation land use initiatives, including *Visión Amazonía* (KfW Development Bank & Deutsche Gesellschaft für, 2015). These initiatives report their successes to REDD+ to receive payment (Bernal, 2019, p. 62). In Colombia, REDD+'s facilitators act more like subnational authorities and have some regional presence, and REDD+ is led by the private sector, including "business-friendly NGOs" (Aguilar-Støen, Toni & Hirsch, 2016, p. 215).

With that said, holdovers from the armed conflict continue to have socioenvironmental impacts and influence environmental protection outcomes (Castro-Nunez, 2018; Hoffman, García-Márquez, & Krueger, 2018; *STC4360-2018*, 2018; Castro-Nunez et al., 2017; *T-622/16*, 2016). The contemporary Colombian armed conflict has gone on for more than 60 years, resulting in approximately 260,000 deaths (mainly civilians) (Rodríguez Goyes, 2015), and millions becoming "victims of forced displacement, sexual aggressions, extrajudicial executions, forced disappearances, [and] torture…" (Melamed & Pérez, 2017, p. 138).

The beginning of the armed conflict can be traced back to Colombia's long history of social marginalization and inequitable distribution of wealth, power, and resources (*T-622/16, 2016*; Sánchez-Cuervo & Mitchell Aide, 2013). Struggles over competing ideologies, land, and the State led to the rise of several guerrilla groups in the mid-nineteenth century. This period is generally referred to as the beginning of the armed conflict, marked by the convergence of multiple armed conflicts with overlapping roots (Melamed & Pérez, 2017, p. 138; Sánchez-Cuervo & Mitchell Aide, 2013). It's important to acknowledge that ideological and resource wars were also raging outside of Colombia during this time, as well (Ramírez, 2019; Clark, 2017; Storey, 2008).

While the Colombian armed conflict began with political motives, motives shifted in the 1980s as armed groups vied for territories and natural resources to gain control and accumulate wealth (Melamed & Pérez, 2017; Rodríguez Goyes, 2015; Sánchez-Cuervo & Mitchell Aide, 2013). From the 1990s onward, the left-wing *FARC-EP* and the right-wing *Autodefensas Unidas de Colombia* were the principal armed groups (Sánchez-Cuervo & Mitchell Aide, 2013).

Armed groups fostered illegal economies through the cultivation of illicit crops and the drug trade, and illegal extraction of raw materials (Ramírez, 2019; McNeish, 2016; Sánchez-Cuervo & Mitchell Aide, 2013). Some armed groups have also been known to cooperate with foreign and private interests, including wealthy landowners, drug traffickers, and multinational corporations (Ramírez, 2019; Rodríguez Goyes, 2015; Sánchez-Cuervo & Mitchell Aide, 2013; Beder, 2002; Forero, 2001).

One element of the armed conflict 'ended' with the signing of the 2016 Peace Agreement between the FARC-EP and the Colombian State (Ramírez, 2019; Cairo et al., 2017; Melamed & Pérez, 2017, p. 142). However, this agreement only reduced some elements of the armed conflict. Post-conflict scenarios have enabled new armed groups to enter areas that were previously considered off-limits (Graser et al., 2020; Botero-García et al., 2019; Ramírez, 2019; Hoffman, García-Márquez, & Krueger, 2018; Castro-Nunez et al., 2017; McNeish, 2016; Sánchez-Cuervo & Mitchell Aide, 2013; Dávalos et al., 2011). Today, ongoing armed conflict and social marginalization continues alongside persisting risk of assassination and threats of violence (Alsema, 2020; Graser et al., 2020; Sánchez-Garzoli, 2020; Alsema, 2019; Colombia Reports, 2019; Botero-García et al., 2019; Hernández Reyes, 2019; IDMC, 2019; Vivanco, 2019; Acosta et al., 2018; Amnesty International, 2018; Guego, 2017; Bocarejo & Ojeda, 2016; Padilla & Bermúdez, 2016).

Histories of marginalization, displacement, and threats of violence overlap with historic green militarization and criminalization, and environmental crime (Graser et al., 2020; Botero-García et al., 2019; Volckhausen, 2019; Morales, 2017; McNeish, 2016; Bocarejo & Ojeda, 2016; UNEP & Interpol, 2014). A further combination of weak State presence, fragmented governance structures, conflicts of interest, and lack of transparency has contributed to an institutional culture of noncompliance, further exacerbating conflicts (García-Villegas, 2019; Peña Huertas, 2018; *T-622/16*, 2016; Langbein & Sanabria, 2013). These entanglements set the stage for Colombia's nature's rights approaches.

4.3 The Atrato River Basin, 2016

In November 2016 (shortly after the signing of the 2016 Peace Agreement with the FARC), Colombia's Constitutional Court ordered that the Atrato River Basin, its tributaries, and surrounding territories (Fig. 2) be recognized as a legal subject with the rights to be *protected, maintained, conserved*, and *restored* – making it the first Colombian rights-bearing ecosystem (*T-622/16*, 2016, p. 161). The decision came in response to a tutela filed by social justice research center *Tierra Digna* on behalf of an alliance of Chocó-based organizations.

The tutela was filed against 26 government agencies for failing to stop well-documented illegal mining in the region, leading to a systematic violation of plaintiffs' rights. These included the rights to a dignified life, health, a healthy environment, freedom of movement, water, food security – and those of specially protected ethnic groups to culture, territory, and autonomy (*T-622/16*, 2016, p. 1 & 86; Defensoría del Pueblo de Colombia, 2014a; Defensoría del Pueblo de Colombia, 2014b).

Figure 2. Map of the Atrato River Basin, Chocó, Colombia

Figure 2. *The Atrato River Basin is primarily located within the Colombia's northwestern Chocó department, running through the entire department from the Caribbean Sea (to the north) and into the Pacific Ocean (to the southeast). The river borders Antioquia department toward its center (Internacionalistas.net, n.d.).*

The Atrato River Basin (Fig. 2) is located within the megadiverse northwestern Chocó department. Ninety percent of Chocó is specially protected forest area – with a diverse range of ecosystems, watersheds, and endemic species (Macpherson, 2019; Palacios-Torres, Caballero-Gallardo, & Olivero-Verbel, 2018; *T-622/16*, 2016). The Atrato River Basin spans 60% of Chocó, or 40,000 square kilometers (Macpherson, 2019, p. 141). The Atrato River is Colombia's longest and the third most navigable, containing one of the world's highest water yields (*T-622/16*, 2016). It runs from the Andean mountains to the Caribbean gulf of Urabá, and over 15 rivers and 300 streams run through it (Macpherson, 2019).

The Chocó department is home to 500,000 residents (sometimes referred to as 'Chocoanos') (Tierra Digna, 2019; Medina-Rivas et al., 2016; *T-622/16*, 2016). Eighty-seven percent of 'Chocoanos' are afro-descendent, 10% indigenous, and 3% mestizo farmers (*T-622/16*, 2016, p. 6). As specially protected ethnic communities, residents primarily reside in collective territories *(territorios colectivos)* under common ownership (Macpherson, 2019; *T-622/16*, 2016).

These territories are protected under the 1991 Constitution to allow ethnic communities to exercise and maintain their cultural heritage without substantial outside interference (Macpherson, 2019; *T-622/16*, 2016). Ninety-seven percent of Chocó's continental surface is made up of collective territories, including collective territories of 600 afro-descendent communities governed by 70 community councils and 120 indigenous reserves where, for example, indigenous Embera-Chamí, Embera-Dobida, Embera-Katío, Tule, and Wounan communities reside (Macpherson, 2019, p. 143; *T-622/16*, 2016, p. 6).

With that said, the Atrato's indigenous and afro-descendent residents have suffered from disenfranchisement since Spanish colonial times (Macpherson, 2019; *T-622/16*, 2016, p. 81). Prior to the arrival of the Spanish, indigenous communities had a long history of traditional gold mining for subsistence. In the 1500s, Spain colonized Chocó, trafficking Africans as slaves and forcing indigenous to extract gold for the Spanish crown. At this time, Chocó was the largest gold producer in the world, yet none of the resulting wealth was reinvested in Chocó (*T-622/16*, 2016, p. 81-82).

In the mid-nineteenth century, Colombia became independent from Spain and abolished slavery. Afro-descendants settled along the basin's coastal regions alongside many long-term indigenous groups (*T-622/16*, 2016, p. 82). Mining continued as the primary economic activity. Administrative authorities continue to receive royalties for mining concessions without reinvesting socially or

environmentally, evidenced by Chocó's high rate of unmet basic needs and deteriorating ecological conditions (*T-622/16, 2016*, p. 8-9, 83-84, 89, 93, 118, 128).

Today, there are four categories of mining occurring in Chocó. These include: 1) *artisanal mining*, which occurs on a small scale using manual methods, simple materials and techniques passed down ancestrally; 2) *semi-mechanized mining*, which build from artisanal forms, incorporating small equipment such as motor pumps, hydraulic elevators, and small dredges; 3) *mechanized mining*, which uses backhoes, dredges, bulldozers, hoses, dump trucks, high-capacity motor pumps and toxic chemicals like mercury and cyanide; and 4) *mega-mining* (including open pit mining), which requires a lot of land, water, and electricity (*T-622/16*, 2016, p. 96-97).

While mega-mining can also pose grave problems, the third type is considered the most dangerous (*T-622/16*, 2016, p. 96-97). It began in the 1980s, when an influx of foreign actors and armed groups began illegal mining operations. These foreign and illegal armed actors sought to extract gold buried in the river using high-impact equipment and toxic chemicals, like mercury and cyanide, which are cheap, portable and ease the process of extracting gold (*T-622/16*, 2016, p. 96; Güiza & Aristizabal, 2013). Since then, high-impact illegal mining in the region has increased exponentially. According to 2011 data, 99.2% of the 527 registered Mining Production Units in Chocó had no mining titles, making it the area with the highest concentration of illegal mining operations (*T-622/16*, 2016, p. 146-147).

The onslaught of illegal and highly mechanized mining has had severe socioecological impacts. High-impact mining has forcibly displaced traditional livelihoods and subsistence methods – resulting in the severe loss and contamination of food and water supplies. A resident cited by the court ruling said that, "…before mechanized mining, the river was crystalline, healthy, with clear waters, and that local populations were dedicated to fishing, agriculture and artisanal mining. These were

core subsistence activities for local residents and at the center of cultural life" (*T-622/16*, 2016, p. 70).

No longer able to rely on these methods, many local residents have had to rely on illegal mining themselves, renting land to foreign miners, and sex-work (*T-622/16*, 2016, p. 70, 89). Contamination due to high-impact, illegal mining has also generated serious health consequences – including the deaths of over 30 children, children's impaired physical development, miscarriages, cutaneous diseases, malaria outbreaks, malnourishment, and dehydration (Comité de Seguimiento, 2018a; *T-622/16*, 2016, p. 10, 115-119).

Illegal mining has also generated severe environmental degradation. Its use of high-impact machinery and toxic chemicals has destroyed water sources – leading to increased sedimentation and impaired hydrological cycles. In some areas, there is no longer an identifiable flow of water. It has also destroyed habitat – resulting in the loss of biodiversity, deforestation, and genetic erosion (*T-622/16*, 2016). Even after mining has ceased, toxic contamination can persist for long periods of time, spreading to whatever it comes in contact with (*T-622/16*, 2016, p. 72-73).

By the time the Constitutional Court ruling was issued in 2016, ecological damages to the Atrato River Basin resulting from illegal mining covered hundreds of thousands of hectares, the extent of which still remains unknown (Delgado-Duque, 2017; OECD, 2017; *T-622/16*, 2016). Reports suggest that a third of the total 180 tons of mercury and cyanide used in illegal mining ends up in the Atrato River (*T-622/16*, 2016, p. 101). The Constitutional Court produced the Atrato nature's rights approach as a remedy for all of these aforementioned and interdependent issues.

4.4 The Colombian Amazon, 2018

In April 2018, Colombia's Supreme Court ordered the Colombian Amazon (*la Amazonía Colombiana, la región Amazónica de Colombia*) to be recognized as a legal subject with the rights to be *protected, maintained, conserved*, and *restored,* making it Colombia's second ecosystem with this set of rights. The decision came in response to a tutela filed by social justice research center *Dejusticia* on behalf of 25 young plaintiffs. The tutela was filed against many government authorities for failing to stop rampant deforestation of the Amazon. The plaintiffs argued that deforestation worsens the problems of climate change and, thus, threatens their *intergenerational* rights (the rights of future generations) to a healthy environment, including the rights to life, health, food, and water (*STC4360-2018*, 2018).

In this case, plaintiffs' intergenerational rights to a healthy environment were *supralegal*, because intergenerational rights are not explicit in the Colombian Constitution. As supralegal rights, their defense was argued by analogy to comparable rights and interpretations of existing laws worldwide (*STC4360-2018*, 2018). This is uncommon in Colombian judicial proceedings (Alvarado & Rivas-Ramírez, 2018).

The plaintiffs also argued that government inaction indicated their failure to deliver on the myriad of national and international climate and ecological commitments to protect the region (*STC4360-2018* Translation, 2018, p. 21-22). Some examples include the Paris Climate Agreement, REDD+, Law 1753 of 2015, and the transnational Leticia Pact (Pacto de Leticia por la Amazonía, 2019; Procuraduría General de la Nación, 2019; *STC4360-2018*, 2018, p. 2, 25, 31-32; Aguilar-Støen, Toni & Hirsch, 2016).

The Amazon is the world's most extensive rainforest. It covers 6% of the world's surface and 40% of the Latin American-Caribbean region, spanning 9 countries (*STC4360-2018* Translation, 2018, p. 20; Kehl, Todt, Veronez, & Cazella,

2015). “Its rivers contribute ~20% of the planet’s freshwater in the ocean… Its basin has 25,000 kilometers of navigable rivers. The Amazon River… is the largest in the world, with more than a thousand tributaries and around 220 thousand cubic meters of water discharged per second” (*STC4360-2018* Translation, 2018, p. 21). It hosts approximately 25% of global biodiversity, and at least 2,000 species are recognized as important sources of food and medicine (*STC4360-2018* Translation, 2018, p. 21).

Figure 3. Map of the Colombian Amazon region

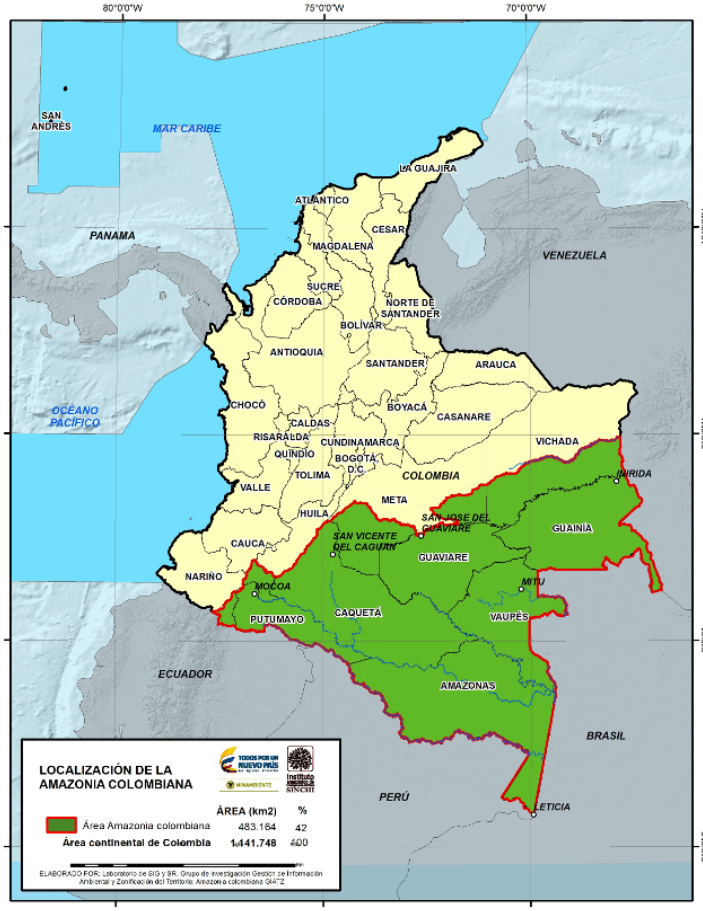

Figure 3. *The Colombian Amazon region is marked in green. It spans approximately a third of the country, covering six departments. The Amazon extends into the bordering nations of Ecuador, Peru, and Brazil, and beyond (Sistema de Información Ambiental Territorial de la Amazonia Colombiana [SIATAC], n.d.).*

While Colombia claims only around 6% of the total Amazon, the Colombian Amazon region covers over one third of Colombia’s total land area (Fig. 3) (World

Wildlife Fund Colombia [WWF-Colombia], 2014; Gaia Amazonas, n.d., b). Located in Colombia's southernmost region, it spans six departments – the Amazonas, Caquetá, Guainía, Guaviare, Putumayo, and Vaupés (*STC4360-2018*, 2018).

The region contains a mosaic of overlapping specially protected areas, including several national parks, nature reserves, and flora and fauna sanctuaries, as well as collective territories of ethnic communities (CEPAL, Patrimonio Natural, Ministerio del Ambiente de Desarrollo Sostenible, Parques Nacionales Naturales, & Gordon and Betty Moore Foundation, 2013; Corpoamazonia, n.d.; Gaia Amazonas, n.d., a).

Compared to national population statistics, the Colombian Amazon region has a low population density. Available data suggests there are 1,125,582 registered inhabitants in the region, or about 2% of the national population (Departamento Administrativo Nacional de Estadística, 2017). Despite the vast number of indigenous reserves, indigenous groups are a minority population (CEPAL et al., 2013; Sistema de Información Ambiental Territorial de la Amazonía colombiana [SIATAC], n.d.). There are over 60 different indigenous groups living in 183 distinct indigenous reserves which cover over 50% of the region (Moloney, 2020; Gaia Amazonas, n.d., a).

Over the last several centuries, waves of migration have led to the colonization of new territories due to a combination of factors, including forced displacement in other regions, the draw of new economic opportunities, and colonization by missionaries and foreigners (CEPAL et al., 2013; Santoyo, 1987). During the 1980s and 1990s, more land in the Amazon was cleared for settlements due to violence-induced migration, the FARC insurgency, and forced displacement (Ramírez, 2019; Castro-Nunez et al., 2017). As a result, there is a large peasant (*campesino*) population across the region today (Castro-Nunez et al., 2017; Álvarez, 2003; Santoyo, 1987). So too, the armed conflict and illicit economies in the Amazon have

often encouraged the expansion of the agricultural frontier (Graser et al., 2020; Hermann, 2019; Castro-Nunez, 2018; Álvarez, 2003).

By 2018, the Colombian Amazon had the highest rate of deforestation in the country, at 66.2% of the total. After the 2016 Peace Agreement with the FARC, deforestation in the Colombian Amazon increased 44% - occurring in areas they previously controlled (*STC4360-2018*, 2018, p. 3). The FARC left behind illegal roads and airstrips – inviting features for illegal operations (Botero-García et al., 2019; Regjeringen, 2017). Deforestation in the region is tied to illegal land grabbing (60-65%), illicit crops cultivation (20-22%), illegal mining (7-8%), timber removal and extraction, building infrastructure (i.e., oil exploration and roads for agroindustry), and agroindustry crop and livestock production (Yale School of Forestry and Environmental Studies, 2020; Botero-García et al., 2019; *STC4360-2018*, 2018, p. 22).

Massive deforestation in the Colombian Amazon has reduced the forest's capacity to act as a carbon sink, increasing greenhouse gas emissions and contributing to climate change. Deforestation has also impaired hydrological cycles, reduced groundwater capture, increased flooding, degraded water supplies which have provided water to the plaintiffs' cities, and resulted in the loss of habitat and sharp decline in endemic biodiversity (*STC4360-2018*, 2018, p. 3).

Plaintiffs were motivated by a sense of urgency when filing the tutela to prevent potentially irreversible damage. Deforestation rates had rapidly increased despite Colombia's many anti-deforestation commitments, and scientific reports emphasize that actions to mitigate climate change must occur within a short timeframe (IPBES, 2019; Intergovernmental Panel on Climate Change [IPCC], 2018). The tutela sought to swiftly hold government authorities accountable to their commitments and minimize the impacts of climate change. As a remedy, the Supreme Court initiated a nature's rights approach (*STC4360-2018*, 2018).

5. An examination of Colombia's Atrato and Amazon nature's rights approaches

The following chapter is organized into two subchapters that correspond with objectives one and two. To meet objective one, I examine both court rulings using environmental and ecological justice theories. To meet objective two, I present details regarding what has occurred since both rulings were issued, by identifying factors which may contribute to or impede justice efforts for humans and nature.

5.1 Dimensions of justice in the court rulings

To meet objective one, the following subchapter will examine both court rulings – first the Constitutional Court's 2016 Atrato River Basin ruling, followed by the Supreme Court's 2018 Colombian Amazon ruling. In each subsection, I will first present how the Court positions the relationship between environmental and ecological justice in the ruling. Next, I will identify which dimensions of environmental justice and ecological justice theory each ruling contains and/or lacks.

5.1.1 Justice dimensions in the Atrato ruling

The Constitutional Court's 2016 Atrato River Basin ruling contains a total of ten mandates designed to remedy the socioecological crisis and, thus, secure justice for humans and nature. Mandates 1 through 3 are formalities that declare the Court affirmed that violations against plaintiffs had occurred due to government inaction over the proliferation of illegal mining in the region (*T-622/16,* 2016, p. 161). The remaining seven mandates outline the ongoing actions required of government authorities to remedy the conflict. These require that named government authorities:

> Mandate 4) recognize the Atrato River Basin as a legal subject with the rights to be *protected, maintained, conserved*, and *restored*; and

- establish a co-guardianship management model between the Colombian state and local communities, including a Commission of River Guardians with 14 appointed local representatives from the collective territories;
- include the Panel of Experts to assist the River Guardians with their efforts and help ensure that their participation is guaranteed in all processes;

Mandate 5) collaboratively develop and implement short-term, medium-term, and long-term plans to decontaminate and restore the Atrato River Basin;

Mandate 6) collaboratively develop and implement a comprehensive plan to neutralize and eradicate illegal mining in the region within six months;

Mandate 7) collaboratively develop and implement a comprehensive plan to recuperate the traditional livelihood and subsistence models of plaintiff communities within six months;

Mandate 8) design and conduct epidemiological and toxicological studies of the Atrato to inform action plans, allowing three months for design and nine total months for execution;

Mandate 9) establish a Follow-Up Committee responsible for evaluating and informing implementation of the ruling; and

Mandate 10) for the State to ensure that the Intersectoral Commission for Chocó complies with the Ombudsman's 2014 Resolution 064 (Macpherson, 2019; *T-622/16,* 2016, p. 161-165).

Each mandate names all actors responsible, mandatory measures, and timeframes required for compliance. Also, each mandate is collaborative in some way, requiring inter-institutional articulation across regions and sectors and the direct involvement of local communities (*T-622/16,* 2016, p. 161-165).

As its primary aim, the ruling explicitly states that it sought material justice for both humans and non-human nature (*T-622/16,* 2016, p. 21, 25-35, & 108).

Accordingly, it contains key elements of all three environmental justice and ecological justice dimensions – *recognition, participatory justice* and *distributive justice* (Fig. 4).

Figure 4 *presents the primary justice dimensions – and corresponding considerations – contained within the Constitutional Court's 2016 Atrato River Basin ruling (Images: Somos Guardianes del Atrato, 2019; Produce1895, n.d.).*

5.1.1.1 Recognition

As a fundamental basis, the ruling *recognizes* both Atrato communities and the Atrato River Basin, while affirming that Atrato communities have presented valid concerns in the tutela lawsuit. As a vehicle to enhance environmental justice, the Court recognized that the plaintiffs' rights had been violated and designed remedies to restore and guarantee their rights. In this way, the Court emphasized that Atrato communities are integral members of the political community and component of Colombian identity (*T-622/16*, 2016). As a vehicle to enhance ecological justice, the Court recognized the

Atrato River Basin as a legal subject – implying that the Atrato has intrinsic value and is worthy of protection in its own right (*T-622/16, 2016*, p. 161; Stone, 2010).

To advance both, the Court declared the ruling *inter pares* (Spanish: *inter comunis)*, meaning that anyone in a predicament that resembles the plaintiffs' is subject to the guarantees promised by the ruling (*T-622/16*, 2016, p. 109; Cepeda Espinosa, 2005, p. 103; Inter Pares, n.d.). This implies that individuals and/or communities (likely but necessarily local) may use the ruling to defend and guarantee their rights threatened by environment degradation. It may also permit others to call on authorities to recognize other ecosystems (most likely river basins) as rights-holders (Tierra Digna, 2019; Comité de Seguimiento, 2019; *T-622/16*, 2016, p. 109). Therefore, recognition for humans and nature goes beyond the plaintiffs and the Atrato and could advance environmental and ecological justice more broadly.

As it relates to the conflict targeted by the lawsuit, the Court also recognized a special, symbiotic relationship between plaintiffs and the Atrato River Basin – a central component of the Atrato nature's rights approach. Leading up to the ruling, the Court's investigation sought to determine why the high concentration of environmental bads in the Atrato River Basin had occurred in the first place, which also included a trip to the region to see the situation firsthand. The investigation concluded with a rationalist argument, determining that justice for the Atrato was a precondition for justice for Atrato communities (*T-622/16*, 2016).

The Court emphasized two interwoven lines of reasoning as a basis for this argument. The first line of reasoning indicated that the plaintiffs rely on the Atrato River Basin to meet their essential material and immaterial needs – as a source of water for drinking, bathing, and food; a habitat for shelter, traditional livelihoods, and subsistence; and for cultural, social, and spiritual connection. Evidence reviewed by the Court suggested both these material and immaterial needs were being

systematically destroyed along with the Atrato River Basin by illegal mining and government inaction, thus violating the plaintiffs' rights (*T-622/16*, 2016, p. 161-162).

So, the Court determined that, in order to restore the Atrato to conditions that guarantee the corresponding rights of plaintiff communities, the river's interest in maintaining its own ecological functions and identity must be protected (*T-622/16,* 2016, p. 24 & 108). The Court justified this decision, stating that,

> Justice with nature must be applied beyond the human scenario and allow nature to be a subject of rights. It is with this understanding that the Chamber considers it necessary to take a step forward in the jurisprudence towards constitutional protection of one of our most important sources of biodiversity: the Atrato River (*T-622/16*, 2016, p. 108).

The Court saw the Atrato conflict as a manifestation of a much larger problem emanating from the anthropocentric reasonings favored by dominant governance approaches and reflected by law, emphasizing these have failed to sufficiently protect nature and, consequently, humans. "By recognizing nature as a rights-holder, we are visualizing a bigger problem and legally measuring damage to repair the environment. [This is what nature's rights do legally]. And I repeat, does it not move the needle for current generations but also those who come in the future?" (Presiding Judge Jorge Palacio, personal communication, August 2019). So, too, the Court recognized a long-term need to ensure nature's ecological health is protected for future generations.

The Court reasoned that, by prioritizing the value of the Atrato River Basin as a productive resource, government authorities and illegal mining operations have effectively discounted the health and well-being of both local Atrato communities and the Atrato River Basin. Therefore, the Court demanded that the Atrato River Basin be recognized as a legal subject, emphasizing that its interests in maintaining its vital ecological functions are a paramount concern of the broader political community not

only today but on an ongoing basis (Presiding Judge Jorge Palacio, personal communications, July 2019; *T-622/16*, 2016).

As a second line of reasoning, the Court perceived the Atrato River Basin as an extension of the plaintiff communities (Tierra Digna, 2019; *T-622/16*, 2016, p. 24). This interpretation may have been drawn, in part, by the plaintiffs' emphasis on their special relationship to the Atrato, but it also resembles the relationship projected by the New Zealand Maori tribe in the Whanganui River Settlement – 'I am the river, and the river is me' – which influenced the ruling (National Library of New Zealand, n.d.).

As specially protected ethnic communities, the plaintiffs have the right to operate according to their own worldviews. So, the Court appears to have understood the legal subject framework as a judicial means to reflect this worldview and protect their culture and modes of being. By recognizing the Atrato as a living being with intrinsic value based on its existence, this line of reasoning resembles an existentialist argument. However, it's been applied in a rationalist way – by indicating that, until the Atrato is recognized as a legal subject, ethnic Atrato communities' cultural rights which depend on the river's integral functioning will be violated (*T-622/16, 2016*, p. 24; Tanasescu, 2016; Título 1 de la Constitución Política de Colombia, n.d.).

Tied to this primarily rationalist argument, the Court advanced another new-to-Colombia legal conception, i.e. *biocultural rights* (*T-622/16*, 2016, p. 47). While other countries have their own biocultural rights frameworks (Bavikatte & Bennett, 2015), the Court drew its own from Colombia's existing legislation which protect biological and cultural diversity. By drawing the two forms of legislation together, the Court framed them as mutually enhancing (*T-622/16, 2016*, p. 47).

This framing of 'ethnic' communities reflects a view that Atrato ethnic communities not only contribute to the nation's cultural diversity, but that their cultures also protect and enhance regional biodiversity (*T-622/16*, 2016, p. 47). In this

way, the ruling projects some reductionistic, essentialist attitudes onto Atrato's ethnic communities (Macpherson, 2019; McNeish, 2012; Offen, 2003). Therefore, essentialist arguments will be explored a little further for their corresponding political potentials and risks; though, these cannot be fully unpacked in this study (Barcan, 2019; McNeish, 2012; Tuck & Yang, 2012).

To begin, categorization of 'ethnic' communities often derives from essentialist attitudes projected by dominant colonial governance structures (Barcan, 2019). Due to the indoctrination of essentialist thinking within said governance structures, however, many communities have relied on this 'ethnic' framing to gain political recognition and secure social justice goals. For example, under Colombia's current 'ethnic' banner, coalitions of indigenous and afro-descendent groups have organized to advocate for common interests (Ojulari, 2015; Hooker, 2005).

As a part of the Atrato tutela, the plaintiff alliance of indigenous and afro-descendent groups wanted the Constitutional Court to understand that the 'ethnic' communities represented in the tutela have an indivisible relationship to the Atrato River Basin, and that they have a shared interest in both protecting and using the Atrato for their needs (Lawyer for Tierra Digna, personal communication, July 2019). They emphasized that this interest was being threatened by common adversaries – namely, illegal mining operations and government inaction. Therefore, this essentialist attitude *could* have, in part, been reflected by the alliance between the afro-descendent and indigenous plaintiffs, as well as Tierra Digna, as a political tool. Many nature's rights movements also reflect essentialist arguments, which may have also played a role (Movement Rights, Indigenous Environmental Network, & Global Exchange, 2015).

In kind, the Court may have felt that a nature's rights approach could provide these communities with greater political agency while affording nature and their

cultures greater protection (Barcan, 2019; Macpherson, 2019). On the one hand, these tools could be used for more stringent socioecological protections against outside, private, extractive and colonial-holdover influences, if respected (Alvarado & Rivas-Ramírez, 2019; Macpherson, 2019; *T-622/16*, 2016). On the other hand, "a badly drawn [nature's rights approach] could sidestep Indigenous interests and overshadow the perspective of anthropogenic [environmental degradation] as an outgrowth of colonial violence" (Barcan, 2019, p. 4; Ramírez, 2019; Whyte, 2017).

It's important to acknowledge that the politics of ethnic identity stem from a history of dividing individuals into social categories, framing ethnic communities as more primitive and, thus, distinct from other groups. There are many overlapping and reinforcing problems which derive from this understanding – the reductive problem of 'purifying' the image of indigenous communities (where few groups are then seen as being 'truly' indigenous), framing indigenous groups as 'pre-modern', diverting attention from ongoing problems of colonial politics (i.e., State extracting resources from stolen land), and so on (Tuck & Yang, 2012).

This essentialist attitude could run the risk of romanticizing and, therefore, 'other-ing' ethnic communities, projecting an unrealistic fantasy of human-nature relations. It could also contribute to erasing the complex, varied web of perspectives, motivations, ideas, practices, etc. unique to each individual and/or community (Barcan, 2019; Ramírez, 2019; Blaser & de la Cadena, 2018; Ojulari, 2015; Tuck & Yang, 2012; Hooker, 2005; Bicker, Ellen & Parkes, 2003). It can also risk making protection of 'ethnic rights' contractual – a common criticism of territorial divisions of ethnic communities; for example, ethnic groups are made responsible for stewarding the environment in exchange for land rights (Offen, 2003).

This imagery of 'ethnic' communities as land stewards can also risk a problem of 'branding' agendas and activities as indigenous-friendly, while sidestepping or

subverting indigenous interests entirely. For example, the supposedly 'indigenous-friendly' mission of Bolivian President Morales (which often spoke of the rights of Mother Earth) has hardly operationalized a truly 'indigenous-friendly' agenda for indigenous groups nationwide. To the contrary, an onslaught of high-impact extractive projects continued to violate and threaten sought-after indigenous 'rights' (McNeish, 2015, p. 272). Furthermore, donor-seeking NGOs often claim they'll support conservation efforts via indigenous cultures (again, 'branding' themselves as 'indigenous-friendly'); though, there may be no follow through with or direct influence by indigenous groups (Bicker, Ellen & Parkes, 2003; Chapin, 2003).

It could also project the unfair assumption that indigenous communities will 'save' colonial descendants, or those from 'modern' society, from ecological catastrophe (Ødemark, 2010). So, these essentialist arguments may inevitably run counter to the goals and interests of the diverse and complex body of 'indigenous' and 'afro-descendant' communities. In this way, essentialist arguments and ethnic identity politics can backfire (Ramírez, 2019; Ng'weno, 2008).

It's also important to acknowledge that the Court also framed the region's anthropogenic degradation as a form of ongoing colonial violence, and the ruling took strides to afford residents greater political agency to start undoing some of these colonial influences (*T-622/16,* 2016, p. 80). While the decision does not enable comprehensive reparations for the ongoing social ills perpetuated against afro-descendant and indigenous groups by historic and modern forms of colonial governance, the ruling could increase the potential to enable 'justice' for afro-descendant and indigenous communities.

With that said, if justice for afro-descendant and indigenous communities are to be served by the approach, they must have direct and material *influence* in all decision-making processes concerning their own distinct and collective interests, as

well as their representation of the Atrato River Basin. This influence must be so to the degree that they may effectively disrupt harmful extractive projects and enable initiatives that effectively and wholly re-invest back in their communities and nature itself (Barcan, 2019; Macpherson, 2019; *T-622/16*, 2016; Senecah, 2004).

5.1.1.2 Participatory justice

The ruling sought to enhance participatory environmental and ecological justice by requiring the *participation* of the Atrato communities to represent their own distinct and collective interests, as well as the interests of the Atrato River Basin. To advance *participatory justice,* the ruling mandated a co-management scheme whereby both the State and local communities serve as legal representatives and guardians of the Atrato River Basin. This scheme sought to strengthen the political agency of Atrato ethnic communities by generating a new platform for them to directly influence all decision-making processes (Macpherson, 2019; *T-622/16*, 2016).

The Colombian State and plaintiffs were ordered to select a local representative to be the official co-representatives. The ruling also required plaintiffs to appoint additional representatives, representative of the Atrato River Basin's various ethnic communities, to the body of River Guardians. The State and local communities are conceptually framed as equals in this co-management process; however, it is the State's role to coordinate efforts between the government authorities and ensure community recommendations are central to all plans (Macpherson, 2019; *T-622/16*, 2016).

To advance both participatory environmental and ecological justice, the ruling requires that Atrato communities have a central influence in all planning and decision-making processes. To be considered compliant, all plans must evidence that Atrato ethnic communities must have played a key role in their development, and must

center around their proposals, interests, and recommendations (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16*, 2016).

Further, the Atrato's representation by local communities may be necessary to enable more just outcomes for the Atrato, as they have the strongest interests in maintaining its vital ecological functions and their relationship with the Atrato has been direct and developed over time (*T-622/16*, 2016; Stone, 2010).

5.1.1.3 Distributive justice

Both recognition and participatory justice serve as a gateway for *distributive* justice (*T-622/16, 2016*, p. 109). To prepare, the Court first investigated factors behind the inequitable distribution of environmental 'bads' (and other related social 'bads', such unmet basic needs) across ethnic communities (*T-622/16*, 2016).

The Court's investigation detailed many factors behind environmental and ecological injustices, including a colonial history of gold extraction which relied on the slave labor of afro-descendants and indigenous groups. It also connected this history to modern forms of corruption, where authorities can grant mining concessions for royalties without reinvesting in local communities (*T-622/16*, 2016, p. 80).

The investigation also pointed to insufficient procedural and legal means to secure justice, as well as power imbalances between government authorities and criminal networks against both plaintiff communities and the Atrato River Basin itself. Therefore, *participatory* measures were enabled to guide ongoing redistributive efforts, allowing local communities to represent and determine what is in their own best interest and the Atrato's (*T-622/16*, 2016).

Identification of these factors further influenced how the Court designed remedies to *redistribute* environmental loads and secure environmental and ecological justice. Several mandates seek to *redistribute* environmental loads and enable conditions for the well-being of plaintiff communities and the Atrato River Basin itself

– initially, by eradicating illegal mining and, ultimately, by restoring the Atrato and recuperating traditional livelihoods (*T-622/16*, 2016).

The tutela defined illegal mining as the prime driver of environmental injustice in the Atrato River Basin. So, as a primary distributive objective, the ruling ordered select government authorities, led by the Ministry of Defense, to design and implement measures to eradicate and neutralize illegal mining within 6 months of its issuance (*T-622/16, 2016*, p. 163). The defense sector is primarily tasked with this effort, as illegal mining is primarily conducted by armed actors. By eradicating and neutralizing illegal mining in the region, the approach seeks to prevent more environmental and social burdens and risks (*T-622/16*, 2016).

It's also important to acknowledge, however, the potential risks this may impose. First, defense authorities are expected to plan and execute efforts swiftly. This is the nature of the tutela remedy, but it's a large undertaking that requires a sustained and coordinated effort. Second, it's important to recognize that defense authorities can impose further risks onto local communities. Eradication and neutralization of illegal mining activities matters must be implemented without imposing further harm on residents. So, the manner of implementation will influence short-term and long-term impacts of the efforts (*T-622/16*, 2016).

Other redistributive efforts – in particular, Mandates 5 and 7 – depend on the successful and swift eradication of illegal mining. Where Mandate 5 seeks to decontaminate the Atrato River Basin, Mandate 7 seeks to recuperate traditional forms of livelihood and subsistence. Both seek to restore the Atrato's health and, consequently, the physical and cultural health of local communities, allowing them to remain in their territories, access life-supporting ecosystem services, and practice traditional livelihoods. Also, recuperation of livelihoods is meant to restore economic alternatives to illegal mining and enable sustainable use models (*T-622/16*, 2016).

While the ruling's mandates target illegal mining, the ruling also suggests legal mining projects may also be problematic (*T-622/16*, 2016, p. 96-97). As a wholesale effort to secure justice, the Court *recommends* that government authorities weigh all mining projects against how they might violate, threaten, or guarantee the rights of the local Atrato communities and the Atrato River Basin (*T-622/16*, 2016, p. 96-97, 113, 147-148, 153). While the ruling doesn't *obligate* government to review legal mining projects, these references could inspire future investigations into how legal mining impacts the rights of the Atrato and local Atrato communities.

The final three mandates (Mandates 8 through 10) were designed to help achieve the ruling's redistributive goals and ensure compliance with the other mandates. Mandate 8 requires a full toxicological and epidemiological investigation to inform redistributive efforts (*T622/16,* 2016, p. 164), while Mandates 9 and 10 enable mechanisms to support implementation efforts. Mandate 9 orders a Follow-Up Committee – including the Attorney General of the Nation (*La Procuraduría*) as Committee leader, the Comptroller of the Nation (*la Contraloría*), and the Ombudsman (*la Defensoría del Pueblo*) – to guide and monitor the ruling's implementation and progress toward compliance, and to form a Panel of Experts to inform this goal. The Committee assesses progress by weighing all plans and procedures by government agencies against the ruling's requirements as well as national and international norms. They also design and distribute sanctions in the event of noncompliance (*T-622/16*, 2016, p. 159-160, 164-165).

Mandate 10 requires the President to notify the Interinstitutional Commission of Chocó to execute the recommendations contained in the Ombudsman's 2014 Resolution 064 and verify its compliance in order to resolve the "grave humanitarian, social and environmental crisis facing… Chocó" (*T-622/16*, 2016, p. 165; Defensoría del Pueblo de Colombia, 2014a; Defensoría del Pueblo de Colombia, 2014b). While

these final three mandates guide re-distributive efforts, they also integrate the dimensions of *recognition* and *participatory justice*.

In sum, it's worth acknowledging that the set of mandates are more than the sum of its parts. They work in tandem to guarantee the newly established rights of the Atrato River Basin in order to guarantee the rights of the Atrato communities.

5.1.1.4 Shortcomings of the ruling

Although the above dimensions evidence that there are strengths to the Atrato River Basin ruling, a few environmental and ecological justice considerations are lacking. First, the ruling does not explicitly contain provisions to remedy the negative health consequences suffered by Atrato residents. While the ruling recognizes that Chocó has the country's highest rate of unmet basic needs (*T-622/16*, 2016, p. 8-9), no mandate requires authorities to ensure residents can swiftly access necessary health services for physical impairments due to illegal mining.

Second, despite making important references to the conflict's armed nature and security needs (*T-622/16*, 2016, p. 8), the ruling doesn't explicitly acknowledge the national crisis of legal impunity the approach is embedded within. Colombia continues to have the world's second highest rate of assassinations against environment and human rights defenders despite calls for decisive action, and some of the highest rates of assassination occur in Chocó. Further, Chocó lacks State presence and a sustained security presence (Alsema, 2020; Betancur-Restrepo & Grasten, 2019; Global Witness, 2019; Human Rights, 2019; Oxfam International, 2019; Restrepo, 2019; Diócesis de Quibdó, Diócesis de Istmina, Diócesis de Apartadó, FISCH, & Mesa Indígena, 2018; Friedman, 2018; Volckhausen, 2018; Defensoría del Pueblo de Colombia, 2014a; Defensoría del Pueblo de Colombia, 2014b).

Keeping the above in mind, election of local representatives to voice concerns on behalf of the Atrato River Basin and communities could increase dangers against

them. These factors may negate other attempts to secure justice in the following ways: 1) risk increased threat of extinction of local marginalized residents, despite efforts to relieve environmental damages which threaten their survival; 2) without sustained security measures to deter illegal armed actors and eradicate illegal mining over the long-term, illegal armed groups will likely continue illegal mining operations; and 3) ongoing threats of violence can disrupt participatory justice and its desired outcomes due to the negative influence and pressures on local communities. Many fear talking openly because of the risks imposed (Tierra Digna, 2019; Redacción2020, 2019).

Further, Mandate 4 simply allows the River Guardians to receive public and private funding (*T-622/16, 2016*, p. 161-162). It does not explicitly *require* authorities to allocate resources for the Guardians' initiatives. This evidences a power imbalance between the River Guardians and government authorities. Guardians have inadvertently become elected officials without the guaranteed resources (i.e. financial resources and security measures) afforded elected officials and other government agencies (Public official, personal communication, August 2019).

Also, the ruling does not define parameters around the Atrato River Basin's legal identity. This identity includes the river, its tributaries, and surrounding areas and its corresponding rights. However, there is no firm indication regarding where the Atrato River Basin begins and ends nor whether the identity includes animals, air, soil, inanimate natural entities, etc. Also, this legal figure does not seem to be analogous to the defined concept of legal or juristic personality (Macpherson, 2019). These parameters are key features of other established rights-based frameworks, to help operationalize the figure (Gordon, 2018; Marshall, 2014; Burdon, 2012; Stone, 2010).

However, this lack of pre-defined identity could also enable local communities and/or responsible authorities a greater role in establishing a working definition,

under the guidance of the Follow-Up Committee. This could increase participatory justice, buy-in as well as input and output legitimacy (Vatn, 2015). Alternately, it may also enable authorities with contrary interests a greater political agency in the process, potentially disabling the ruling's effectiveness (Hogl, Kvarda, Nordbeck, and Pregernig, 2012).

On a final note, while the ruling appoints a Follow-Up Committee to monitor compliance (*T-622/16*, 2016, p. 159-160, 164-165), it doesn't include more developed measures to hold government authorities accountable for potential noncompliance. For example, there are no established benchmarks or recommendations to help determine how and when to begin to issue sanctions.

5.1.2 Justice dimensions in the Colombian Amazon ruling

In 2018, the Supreme Court's Colombian Amazon ruling confirmed the argument presented by plaintiffs, making it one of the first successful climate litigation suits worldwide (Abate, 2019; Setzer & Byrnes, 2019; Alvarado & Rivas-Ramírez, 2018; Clarke, 2018). As a remedy, the Court first mandated the Colombian Amazon be recognized as a legal subject – making it the second Colombian ecosystem with the rights to be *protected, conserved, maintained,* and *restored* (Villavicencio, 2019; Alvarado & Rivas-Ramírez, 2018; UN, n.d., b). The ruling charged 94 local and national authorities with the task of halting deforestation to guarantee the plaintiffs' intergenerational rights and the Colombian Amazon's new rights, and to mitigate the impacts of climate change (*STC4360-2018*, 2018).

To accomplish this, the ruling contained four primary mandates to guarantee the rights of plaintiffs and the Colombian Amazon, requiring authorities to: 1) within four months, submit short-term, medium-term, and long-term action plans to achieve net-zero deforestation in the Colombian Amazon by 2020; 2) within five months,

establish an *Intergenerational Pact for the Life of the Colombian Amazon* with the active participation of plaintiffs, affected communities, scientific and environmental organizations, and the interested public to adopt measures to achieve net-zero deforestation and reduce greenhouse gas emissions; 3) within five months, submit municipal-level land management action plans to achieve net-zero deforestation and mitigate climate change; and 4) within five months, create a comprehensive action plan with policy, judicial, and administrative measures to confront deforestation problems (*STC4360-2018* Translation, 2018, p. 31-32). As such, the ruling contains a few key environmental and ecological justice dimensions (Fig. 5).

Figure 5 *presents the primary justice dimensions – and corresponding considerations – contained within the Supreme Court's 2018 Colombian Amazon ruling (Images: Dejusticia, 2018b; Iubasi, 2009).*

5.1.2.1 Recognition

As a primary consideration, the lawsuit sought to secure intergenerational environmental justice – recognizing that the plaintiffs' future rights to a healthy environment were threatened by rampant deforestation and government inaction. Like the Atrato ruling, it aimed to do this by recognizing the Colombian Amazon as a legal subject. This signaled that the interests of the plaintiffs and the Colombian Amazon in maintaining their health are valid concerns of the broader political community. Again, ecological justice was understood as a precondition for environmental justice (*STC4360-2018* Translation*,* 2018, p. 12-15).

The lawsuit involved an investigative process to identify underlying causes behind the distribution of environmental 'bads' onto the youth plaintiffs and Colombian Amazon. To do this, the Court primarily reviewed government-issued scientific evidence supplied by the plaintiffs – such as "their greenhouse gas emissions inventory, the Early Deforestation Warning Systems" – but also "scientific papers on the relation between deforestation and climate change" (Investigator Gabriela Eslava, personal communication, May 2019). These sources demonstrated causal links between the projected impacts of climate change on future generations and deforestation in the Colombian Amazon, discussing the ecosystem's climate regulatory functions as a carbon sink (*STC-4360-2018*, 2018, p. 21).

The Court's investigation also reviewed the industrial different drivers of deforestation in the region (*STC-4360-2018* Translation, 2018, p. 23). Like in the Atrato case, the Court identified insufficient protection for nature in its own right. The Court explained, "Without a healthy environment, subjects of law and sentient beings in general will not be able to survive, much less protect those rights for our children or future generations" (*STC4360-2018* Translation, 2018, p. 10). "Therefore… to

protect this ecosystem vital for our global future… the Colombian Amazon is recognized as a 'subject of rights' …" (*STC4360-2018* Translation, 2018, p. 29).

It's also worth noting that the Court cited international humanitarian law to prevent hostile military modification of the environment, "which prohibit the unjustified attack of nature" (*STC4360-2018* Translation, 2018, p. 15). Therefore, the ruling suggests 'nature' is a victim of armed conflict, without further elaboration. Most of these factors informed the ruling's distributive remedies.

5.1.2.2 Distributive justice

Next, the Court determined *illegal* deforestation in the Colombian Amazon to be the primary threat to intergenerational environmental justice and ecological justice for the Amazon. To enable distributive justice for both, the ruling requires that:

1. national authorities submit short-, medium- and long-term plans to counteract deforestation rates in the Amazon and mitigate climate change impacts;
2. municipalities submit land management plans to achieve net-zero deforestation in the territories; and
3. regional CARs submit plans that counteract deforestation using police, judicial, or administrative means (*STC4360-2018* Translation, 2018, p. 4, 29, 31-32).
4. The rights afforded the Colombian Amazon also contribute to redistributive goals (*STC4360-2018* Translation, 2018, p. 29).

Redistributive efforts are twofold. On the one hand, efforts seek to prevent further 'bads' generated by rampant illegal deforestation, i.e. impaired hydrologic cycles, inhospitable climate, and biodiversity loss. On the other hand, the Amazon's right to 'restoration' serves as a basis to reallocate environmental 'goods' to both plaintiffs and the Amazon. For plaintiffs, this would mean sustained ecosystem services, i.e. access to freshwater, air, and a stable climate. For the Amazon, this would mean sustained capacity to maintain ecological health and regulatory functions,

as well as provide habitat for plant and animal species. In this way, the ruling suggests that efforts to secure justice for humans and nature are harmonized by attempting to restore a healthy environment enjoyed by both (*STC4360-2018*, 2018).

Accordingly, the ruling's remedies focused on the desired distributive 'outcome' of halting illegal deforestation to protect future rights to a healthy environment – more so than participatory justice elements.

5.1.2.3 Participatory justice

When filing the tutela, the plaintiffs requested an intergenerational agreement that allows youth to participate in decision-making processes with climate change and intergenerational themes. This request was based on understanding that decisions made today by 'others' with political agency will inadvertently impact future generations without political agency. Therefore, their participation was seen as essential to enable intergenerational environmental justice (Investigator Eslava, personal communication, July 2019).

The Court responded to the request by ordering government authorities to generate an *Intergenerational Pact for the Life of the Colombian Amazon.* It became the first Pact nationally to invite youth participation and deal with climate change. It was also the first around a rights-bearing ecosystem. According to Eslava, a pact could provide a stronger participatory outlet than a simple agreement, as it implies more concrete obligations (personal communication, July 2019).

The Pact was framed as a vehicle to discuss and adopt preventative, corrective, and pedagogical measures at local, regional, and national levels to achieve net-zero deforestation and reduce greenhouse gas emissions. The order also invited inclusive participation, including plaintiffs, affected communities, and anyone from related disciplines or generally interested (*STC4360-2018* Translation, 2018, p. 31-32). While the ruling primarily emphasizes *intergenerational* justice, this mandate was

the only to explicitly integrate the *intragenerational* justice dimension, referencing affected communities. A pact, however, has its downsides, which will be discussed in the following section.

5.1.2.4 Shortcomings of the ruling

Despite the clearly impactful nature of the ruling, some critical environmental and ecological justice considerations were missing[8].

As a primary shortcoming, the ruling almost completely failed to acknowledge the Amazon's current resident populations – an essential for intragenerational environmental justice, which requires consideration for justice between current generations (Hiskes, 2006). It didn't acknowledge or emphasize: 1) the broad, complex range of communities residing in the Colombian Amazon, 2) the risks this ruling may impose on them, 3) the social-economic-political conditions contributing to marginalization and vulnerabilities which may lead civilians to clear forests, or 4) the sustainable use frameworks to transition actors involved in deforestation to alternative livelihoods (*STC4360-2018*, 2018).

Instead, the ruling left a lot up to interpretation. It bundles some of the sociological complexities of the problem within a paragraph that reads, "It's up to the authorities to respond effectively to the specific questions of the problem" (*STC4360-2018* Translation, 2018, p. 25). The authorities must determine how to

> fill the void left by the FARC and paramilitaries to make an active state presence in favor of the conservation of the Amazon territories that, in the context of armed conflict, were conquered by insurgent groups, merciless

[8] Again, it's important to note that this study does not intend to blame those responsible for crafting the ruling for the shortcomings identified in this section.

predators, irrational colonizers, and generally [those] outside the law…

(*STC4360-2018* Translation, 2018, p. 25).

Many indigenous and *campesino* (English: peasant) communities reside in the region. Indigenous territories make up a significant portion of the Colombian Amazon, and campesinos reside in the region mainly due to a complex history of forced displacement and dispossession in other regions. Both groups qualify as 'vulnerable' due to historical and ongoing injustices (Procuraduría General de la Nación, 2019). With that said, it's known that many campesinos rely on forest-clearing activities due to a lack of livelihood alternatives (Hernández, 2020; Public Audience for *STC4360-2018,* personal communication, October 15, 2019; Procuraduría General de la Nación, 2019; Volckhausen, 2019). An unjust reading of the ruling may allow authorities to categorize campesinos as 'merciless predator[s]' or 'irrational colonizer[s]' to justify their implementation methods, thus sacrificing intragenerational justice (*STC4360-2018* Translation, 2018, p. 25).

The ruling orders authorities to develop 'comprehensive' plans, without defining parameters around this – such as alternatives to criminalization, targeting other links on the chain or developing alternative livelihoods to transition. This is unfortunate as reports indicate the State consistently falls short of its responsibility to protect the most vulnerable (Procuraduría General de la Nación, 2019), and pure criminalization and militarization responses historically have had negative socioecological impacts (Graser et al., 2020; Botero-García et al., 2019; Procuraduría General de la Nación, 2019; Ramírez, 2019; Bocarejo & Ojeda, 2016). Left completely to interpretation, new complications and socioenvironmental risks may arise.

While it briefly acknowledges deforestation in the context of the armed conflict, the ruling doesn't discuss deforestation within the context of ongoing dispossession and culture of impunity (Graser et al., 2020; Betancur-Restrepo &

Grasten, 2019; Botero-García et al., 2019; LeGrand, van Isschot, & Riaño-Alcalá, 2017). The region is particularly vulnerable to invasions from new armed actors and extractivist interests due to leftover FARC infrastructure (Graser et al., 2020; Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Procuraduría General de la Nación, 2019; Volckhausen, 2019; Regjeringen, 2017). Any approach trying to tackle deforestation must acknowledge the influx of new sophisticated criminal networks and their potential and measured impact on civilians (Graser et al., 2020; Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Regjeringen, 2017).

Furthermore, the ruling only loosely defines the framework for understanding the Colombian Amazon's legal identity – referencing 'all' of the Amazon, naming some of its corresponding departments, and assigning it rights. But what does 'all' of the Colombian Amazon mean? The region geographically spans a third of the country, and its components (for example, climate functions, water, migratory species, air quality, etc.) transcend spatial boundaries. So too, redistributive measures to secure justice for the Amazon are tied to its rights. However, the ruling just orders the government agencies to guarantee them, leaving interpretation wide open (*STC4360-2018*, 2018). So, the Colombian Amazon as a legal subject may prove challenging to operationalize toward its desired distributive effects within the necessary timeframes.

Also, redistributive efforts *only* target illegal deforestation; however, rampant deforestation in the region also occurs legally (Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019). In the tutela, plaintiffs had called for a moratorium on all activities driving deforestation – legal *and* illegal (*STC4360-2018* Translation, 2018, p. 5). The lead petitioner explained, "a moratorium implies that the ruling would not only target illegal drivers of deforestation but also temporarily halt all legal drivers of deforestation, calling into question what *legal* elements can actually be permitted in light of the effects deforestation is having"

(Investigator Eslava, personal communication, July 2019). If the ruling had called for a moratorium, all deforestation in the Amazon could be halted, requiring government authorities to weigh the socioecological impacts of 'legal' logging against the rights of plaintiffs, local communities and the Amazon. Alas, this did not occur.

On another note, the ruling ordered the Intergenerational Pact as a participatory justice vehicle, which *could* be an important outlet to enable both intergenerational and intragenerational justice, if operationalized effectively. However, it does not contain many provisions for its operationalization and, unlike the Atrato's co-guardianship scheme, the Pact does not expressly permit citizens to represent the Colombian Amazon's interest (Public Audience for *STC4360-2018*, personal communication, October 15, 2019; *STC4360-2018*, 2018; *T-622/16*, 2016).

The Pact is not necessarily an ongoing participatory vehicle. It appears to culminate in a voluntary written agreement between stakeholders and government (Public Audience for *STC4360-2018*, personal communication, October 15, 2019; *STC4360-2018*, 2018). This is problematic given the evidenced unfulfilled commitments by government. The Pact may do little to enable full access rights and have little 'influence' on implementation efforts. So, it risks becoming a 'token' participatory outlet, not a meaningful one (*STC-4360-2018*, 2018; Arnstein, 1969).

Finally, the Amazon ruling does not order a Follow-Up Committee to guide implementation efforts. Without calling on external authorities to proactively guide implementation and enforce compliance, oversight for progress may be reactionary at best (Representative from La Procuraduría, personal communication, March 2020; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; *STC4360-2018*, 2018). This may also reduce potential opportunities to hold actors accountable for complying with the ruling, in the event of noncompliance.

5.2 Contributing and impeding factors following the issuance of the rulings

To meet objective two, I will present a narrative account of what has occurred since the Atrato and Amazon rulings were issued, focusing primarily on the implementation process so far. I will also identify factors which contribute to or impede justice outcomes for humans and nature – namely, advances and opportunities, barriers and risks generated by the approaches, as well as uncertainties.

5.2.1 Following the Atrato ruling

Overall, available reports have indicated a low level of government compliance with the orders, and ongoing illegal mining and armed conflict continues. These conditions have presented new and continued risks for Atrato communities (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

Risk of assassination and violence against Atrato communities remains a top concern since the ruling was issued in November 2016 (Redacción Colombia2020, 2019; Friedman, 2018; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; Volckhausen, 2018). According to official progress reports and media coverage, defense authorities had conducted several operations to seize and destroy illegal mining equipment throughout the Atrato River Basin (Redacción Colombia2020, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

As appears to be the historical norm (Justicia para la Paz, 2017), security forces vacated the region after carrying out the operations (Redacción Colombia2020, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b). Armed actors linked to illegal mining commonly use the security vacuum to retaliate against local communities (Dixon, 2020; Granada, Restrepo & Vargas, 2009). In this case, armed actors sought to retaliate against those confronting illegal mining directly – not necessarily because they were identified as River Guardians (Lawyer for

Tierra Digna, personal communication, July 2019). According to Redacción Colombia2020 (2019, para. 1, 10-11, 13), some community leaders have been assassinated and many remain under constant threat of violence.

As a 'protective' measure, the State issued cell phones and bulletproof vests to most of those under threat. Though, these measures have proven inadequate. Many already have cell phones but no one to call when in danger, and certain areas lack service (Redacción Colombia2020, 2019). Furthermore, the weight of bulletproof vests can cause individuals to drown when navigating the river (Redacción Colombia2020, 2019; Lawyer for Tierra Digna, personal communication, July 2019). Chocó lacks a sustained, reliable security presence to defend communities against direct attacks by armed groups, anti-personnel mines, and shootouts between armed groups (Redacción Colombia2020, 2019; Restrepo, 2018; *T-622/16*, 2016). It's worth mentioning that the available progress reports do not cover these details and interviews didn't discuss any particulars (Comité de Seguimiento, 2019, p. 44; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

However, the accounts presenting these details post-date the Follow-Up Committee's 2018 progress reports, which demanded that defense authorities swiftly initiate necessary, proportional responses to combat illegal mining and comprehensively address security concerns for Atrato communities. They indicated that defense authorities had made insufficient progress and strongly emphasized they view the illegal mining phenomenon in the context of the armed conflict (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

The mid-2018 report cited the following details regarding the ongoing armed conflict: territorial expansion of the National Liberation Army (or *ELN*, a left-wing armed group) and the United Self Defense Forces (or *AUC*, a far right-wing paramilitary group); illegal mining links to drug cartels; emergence of dissident

combatants in the process of disarmament and reincorporation of the FARC; and continued forced displacement and confinement as methods of war[9] (Comité de Seguimiento, 2018b, p. 27-28).

With these details in mind, the Follow-Up Committee ordered the defense sector to develop a comprehensive protocol to eradicate illegal mining which accounts for the intertwined nature of illegal mining and the armed conflict, and goes beyond militarization and criminalization of illegal mining. The Committee also indicated that the protocol requires direct insight from local communities to prevent collateral damage from military operations (Comité de Seguimiento, 2018b, p. 65 & 68).

Accordingly, the Committee urged defense authorities to target other links along the illegal mining supply chain (i.e., transport of inputs used by operations and points of commerce) (Comité de Seguimiento, 2018b, p. 68). They also urged defense authorities to support development efforts to recuperate traditional livelihoods – for example, by collaborating with Atrato communities and the Ministry of the Environment (MADS) to certify ancestral practices, uses, and customs and protect them from criminalization during eradication efforts (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b, p. 65-59).

The Committee's available progress reports through 2019 stated that plans must integrate and apply: 1) principles of international humanitarian and human rights law, such as *protection of civilians* and the *principle of distinction*, which govern the legal use of force in armed conflict scenarios and distinguish between civilians and

[9] One external NGO-account regarding continued armed conflict scenarios in Chocó suggests that some defense authorities and armed groups have recently collaborated against local Chocó communities – forcibly displacing communities, infiltrating civil society organizations and compromising their legitimacy. Further, the account also suggests that armed groups have attacked police forces, contributing to cross-sectional conflicts between armed groups, defense authorities, and civil society (Restrepo, 2019). It's important to note that, while this account was issued after the ruling to describe ongoing conflict in Chocó, it was not discussing the Atrato case.

combatants (Comité de Seguimiento, 2019, p. 50; Comité de Seguimiento, 2018b, p. 66); 2) provisions contained within the National Ministry of Defense's *Permanent Directive of 016 of 2016*, to guarantee human rights during armed conflict scenarios (Comité de Seguimiento, 2018b, p. 67; Paez, 2016); and 3) themes within the 2016 Peace Agreement with the FARC, including *autonomy, ways of life, ethno-development, dismantling of the paramilitary,* and the *final cessation of hostilities* with respect to civil property as well as individual and collective leaders (Comité de Seguimiento, 2018b, p. 68-69). The Committee also recommended involving the Truth Commission to help guarantee security in the process of characterizing armed actors and to establish a historical connection between mining and armed conflict in the region (Comité de Seguimiento, 2018b, p. 69).

Reports through 2019 also indicated that defense authorities still hadn't created indicators to measure eradication progress (Comité de Seguimiento, 2019, p. 40). Further, no effective prosecution strategies to judicialize actors engaged in illegal mining activities had been communicated, and classifying the 'legality' of mining activities was proving problematic (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a, p. 20; Comité de Seguimiento, 2018b, p. 65-69). For example, dredging barges continue to operate in full sight on Río Quito, one of the Atrato's main tributaries. While defense authorities indicated that two of these were granted permission by Quibdó's mayor to dredge the river, their operation went against MADS's directive prohibiting the use of all mining machinery in the tributary (Comité de Seguimiento, 2018a, p. 20).

Others dredging barges which defense authorities had 'eradicated' had been repaired and operationalized again by illegal mining operations (Comité de Seguimiento, 2018a, p. 20). Further, many 'eradicated' dredges had been left behind or fell into the river, contributing to further environmental deterioration. In some

areas, dredging barges and excavation machinery had left behind large gullies causing malaria outbreaks (Comité de Seguimiento, 2019, p. 12, 42, 45; Comité de Seguimiento, 2018a, p. 9).

Despite the official calls to adapt eradication methods, defense authorities had continued to take the same actions which were "consider[ed] unsuccessful, such as the [military] operations and bombings [of equipment]" (Lawyer for Tierra Digna, personal communication, July 2019). The sector has continuously claimed they are fulfilling their duties, despite aforementioned issues (Comité de Seguimiento, 2019).

Additional security concerns in the region have arisen, which undoubtedly complicate defense-related efforts and indicate ongoing escalation of new armed conflict scenarios. In 2019, armed groups began targeting bodyguards assigned to the National Protection Unit. Some bodyguards had been kidnapped while others were found dead – including one in the Atrato River in November 2019 (La W, 2019).

Complications surrounding noncompliance and disregard by other authorities, has been evidenced by the Follow-Up Committee, as well. For example, the National Authority of Environmental Licenses and the Ministry of Mining continued to grant problematic mining concessions, and the National Mining Agency had issued a proposal supporting the exploration for non-renewables in the region (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b, p. 68). The Committee condemned the proposal indicating, "To intervene in a territory, offering its reserves of another resource under irregular conditions and administrative difficulties, exacerbates unresolved problems. The mining and energy sector are urged to show greater concern for and commitment to resolving the department's problems…" (Comité de Seguimiento, 2018b, p. 68).

With that said, *all* government authorities had failed to satisfactorily account for the interests of River Guardians. In 2018, the Follow-Up Committee and River

Guardians had expressed concern that MADS repeatedly failed to circulate Guardians' reports and integrate their feedback in plans (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b). The early-2019 report, however, indicated that communication and collaboration between the River Guardians and MADS had improved remarkably, though warning that this relationship remained vulnerable and trust must be sustained (Comité de Seguimiento, 2019, p. 11). Tierra Digna confirmed that communication had improved (personal communication, July 2019).

Further, plans submitted by government agencies reflected their individual interests – not the vision required by the ruling (Comité de Seguimiento, 2019, p. 56; Comité de Seguimiento, 2018b, p. 51, 60-61, 64). For example, the Ministry of Agriculture & Rural Development submitted plans which sought to *rehabilitate* areas of the Atrato by replacing native plants with agricultural crops - rather than *restore* the Atrato, as the ruling requires. Authorities were criticized for "using the degraded ecosystem as an opportunity to advance their own agendas under the guise of helping communities" (Comité de Seguimiento, 2018b, p. 54) and, further, for not seeing how these plans invite new threats of an expanding agricultural frontier – pointing to the rampant problems of deforestation in the Amazon (Comité de Seguimiento, 2018b, p. 51-54).

By late 2018, the Follow-Up Committee warned government authorities that, if insufficient compliance continued, disciplinary action would be taken. This included urging the National Government to use their constitutional tools to intervene or face penalties (Comité de Seguimiento, 2018a, p. 28). These tools include their power of administration under the *subsidiary principle*, which allows them to intervene and enforce compliance by administrative authorities, as well as calling a *state of emergency,* which mobilizes a set of tools to address the crisis (Comité de Seguimiento, 2018a, p. 28; Artículo 215 de la Constitución Política de Colombia, n.d.).

At that time, some Panel of Experts members suggested that the Committee file *contempt of court* for insufficient compliance a year and a half after the ruling's issuance, signaling that noncompliant entities had willfully defied the ruling's authority (Comité de Seguimiento, 2018a, p. 6; Contempt of Court, n.d.). However, no disciplinary actions have been reported (La Procuraduría, personal communication, March 2020; Lawyer for Tierra Digna, personal communication, July 2019). Sources suggest that the Comptroller of the Nation (*Contraloría*) is in a process of determining and issuing disciplinary measures (La Procuraduría, personal communication, March 2020).

Delayed disciplinary action, however, has posed serious concerns. A lawyer for Tierra Digna stated (personal communication, July 2019),

> Until now… [the Committee's] 'demands' [have been] merely 'calls, please' or 'requests.' We already believe sanctions should be passed… Right now, there are no penalties for noncompliance. If we don't get to the point, the institutions are going to see this as a joke, like a game that happens with many rulings where nothing happens.

Issued around the time this concern was raised, the last available progress report does not address the warnings mentioned in previous reports, despite evidencing some perpetual noncompliance issues (Comité de Seguimiento, 2019). Further, in the late 2018 report, the Follow-Up Committee had indicated that government authorities have made *enough* progress to suggest their overall willingness to comply, despite having issued warnings in the same report (Comité de Seguimiento, 2018a).

It's worth noting that responsible authorities could have motioned to nullify the ruling but chose not to (Macpherson, 2019). Still, the degree of willingness remains vague at best. Nearly all government authorities have made insufficient progress

(Comité de Seguimiento, 2019), and, when the tutela was filed in 2015, all defendants had either denied responsibility for violating the plaintiffs' rights or remained silent (*T-622/16*, 2016, p. 12-16).

While significant barriers and risks remain, some advances and opportunities which may contribute to justice efforts have been identified. In early 2019, Colombia's Administrative Department of Science, Technology and Innovation (COLCIENCIAS) awarded $3M in grant funding to begin the required toxicological and epidemiological studies. The goal is to examine the extent of contamination throughout the Atrato River Basin and its impact on the health of residents (Drouet, 2019). This study is a pre-condition to restoring the Atrato River Basin and the health of local communities.

The ruling has also generated a unique opportunity for collaboration among various levels of government and civil society. Participants involved in the ruling's implementation indicate that, despite challenges and shortcomings, collaboration across sectors and the involvement of local communities is a necessary step toward securing justice in the region (Comité de Seguimiento, 2019; Representative from MADS, personal communication, July 2019; Lawyer for Tierra Digna, personal communication, July 2019).

While evidence suggests that collaboration across sectors and integration of local Atrato communities in decision-making processes has been insufficient, the Follow-Up Committee has consistently emphasized that their influence in all decision-making processes is mandatory (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b). After initial shortcomings, improved communications between MADS and the Guardians has been observed (Comité de Seguimiento, 2019, p. 11). If collaboration across sectors improves, expands, and is sustained, obstacles may be overcome with time.

It's also important to note that plaintiffs hadn't anticipated the Atrato would be recognized as a subject of rights. Rather, it was a juristic move responding to their attempt to demonstrate the relationship Chocoanos have had with the Atrato. On this, a lawyer for Tierra Digna explained, "What we wanted was to demonstrate the relevance that the Atrato has for the black and indigenous communities in Chocó… that the river is transversal to life in Chocó" (Lawyer for Tierra Digna, personal communication, July 2019). As a first-of-its-kind legal figure in Colombia, development of the Atrato's 'subject of rights' figure has occurred post-ruling.

Over three years later, formalization of this figure is now underway. A representative of the Attorney General of the Nation (*La Procuraduría*) stated (personal communication, March 2020),

> This conceptualization is currently being worked on – drawing from the conception of analogous figures in national jurisprudence – like juristic persons (societies, companies) in order to generate pedagogy around the figure and articulate it from the base of government. That is to say – to actualize a collective public-private construction of the figure. In practice, this means that all actions of the State must prioritize the safeguarding, protection, recuperation, and conservation of the Atrato River. No public policy will be exempt from this order. Sectoral and private actions must make the same considerations, and work is being done on this; however, the results of this are coming more from the perspective of giving the Atrato a VOICE rather than from the understanding of the Atrato as a SUBJECT.

At this time, the legal figure of the Atrato River Basin as a rights-holder is also being contextualized as a *victim*, around which a legal framework already exists. As a victim, the Atrato River Basin can access the criminal justice system to seek restitution for harms (Comité de Seguimiento, 2019, p. 11-12, 14-17). In this way, the

figure of the Atrato as a legal subject has been framed somewhat analogously to the 2011 Victims and Land Restitution Law (Cortés, 2013; Congreso de Colombia, 2011).

The resulting legal framework of the figure may have implications for the approach moving ahead. Until then, uncertainty over the figure and its potential for effective implementation by government authorities remains. Outside of philosophizing, it's hard to see the material effects of the 'subject of rights' figure so far; though, it has drawn international attention to the area and promises some additional legal tools (Lawyer for Tierra Digna, personal communication, July 2019).

Also, while the tutela and ruling targeted *illegal* mining, the Follow-Up Committee has recommended that all 'legal' development activities be reviewed for their impacts on the Atrato River Basin and residents (Comité de Seguimiento, 2019, p. 50). It's possible, then, that the ruling's reference to threats imposed by 'legal' extractive projects has had some influence (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16*, 2016). With that said, it remains unclear how the review process will be operationalized in the context of ongoing noncompliance, armed conflict, and ongoing permissions granted by government authorities despite restrictions (Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b, p. 68).

So far, the *inter pares* framing of the ruling has led other communities to seek protection (Comité de Seguimiento, 2019, p. 64; Tierra Digna, 2019). Additional Chocó residents have called to recognize two other 'Chocoano' rivers – the San Juan and Baudó Rivers – as legal subjects. They argue that they depend on these rivers' integral functioning just as the Atrato plaintiffs rely on the Atrato, and that the rivers are currently under threat (Comité de Seguimiento, 2019, p. 64).

Today, local Atrato communities and their vested supporters continue to charge ahead in an attempt to guide and implement the Atrato approach, despite

barriers and insufficient compliance. To restore the Atrato in a manner that restores guaranteed rights will take years, or "generations" as a lawyer for Tierra Digna described (personal communication, July 2019). The restoration plan with MADS has a 20-year time horizon (Lawyer for Tierra Digna, personal communication, July 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

Though, due to low levels of compliance and no disciplinary actions on record, the approach continues to live more on paper than in practice (multiple sources, personal communications, July 2019 through April 2020). "[What happens today] is ending up the same as without the ruling" (Lawyer for Tierra Digna, personal communications, July 2019). Table 3 summarizes what remains the same and what has changed since the ruling's issuance in 2016.

Table 3. What's the same and what's different after the Atrato ruling?

Same
• Low levels of government compliance and accountability
• Lack of funding for environmental and social protection
• Ongoing armed conflict and threats of violence
• Ongoing interest in extractive projects
• Ongoing illegal mining
• Ongoing socio-environmental harms linked to the above factors
• Zero-to-low levels of environmental justice secured for Chocoanos
• Zero-to-low levels of ecological justice secured for the Atrato
Different
• Increased 'potential' for future actions, including:
o Heightened legal standing of the Atrato River Basin
o Heightened voice for Chocoanos, in particular River Guardians
o Heightened legal standing of other ecosystems under *inter pares* framing
o Increased political representation of Atrato River Basin's interests
o Increased participatory influence of Chocoanos
o Increased channels for funding
o Increased channels to hold government accountable for inaction
o Increased attention to the socio-ecological crisis in Chocó

Table 3. *Summary of what remains the same and what has changed since the issuance of the Constitutional Court's 2016 Atrato River Basin ruling.*

To date, the ruling has, in theory, increased 'potential' avenues for justice; however, to date, its interpretation and implementation has instead perpetuated injustice.

5.2.2 Following the Amazon ruling

It's important to recall that the April 2018 Court ruling sought to stop rampant illegal deforestation to secure intergenerational justice and ecological justice (*STC4360-2018*, 2018). Since then, available data suggests an overall decline in illegal deforestation rates, indicating that the rate decreased by 10% in 2018 compared to 2017 and that deforestation rates dropped 17.8% in the first 3 months of 2019 (IDEAM, 2019; Ministerio del Ambiente y Desarrollo Sostenible, 2019a; Moloney, 2019; Morales, 2019a; Visión Amazonía, 2019).

However, the data's overall validity is questionable. In 2018, when the national government shifted from President Santos to Duque, the new administration decreased the national deforestation goal – changing it from a fixed to a variable goal. According to national government officials, this made the goal more attainable, arguing the previous administration's goal was too high to be accomplished. Though, this made the goal less ambitious, and no reports were available to convey how deforestation at the current rate would effectively halt deforestation at the level needed to secure justice for future generations, as the ruling intended (Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

To date, reports indicate a low level of compliance, and the ruling's interpretation and implementation have generated many challenges and caused harm to residents (Dejusticia, 2020; Actualidad, 2019; Dejusticia, 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; MADS Representative, personal communication, July 2019; Volckhausen, 2019).

It's important to acknowledge that the 25 plaintiffs "…went to Court knowing how climate change would affect them" (Investigator Eslava, personal communication, July 2019). They knew rampant deforestation in the Amazon contributed to these problems and that the government was not meeting their commitments to stop deforestation fast enough to protect them, "but they hadn't had previous contact with the indigenous communities[10] and farmers in the Amazon that are negatively impacted by this ruling… Then there is a challenge because a case that began with young people on climate change ended up affecting communities who were not really brought into the lawsuit" (Investigator Eslava, personal communication, July 2019).

Plaintiffs had not asked nor expected the Court to recognize the Colombian Amazon as a legal subject. There was no concrete body of law to help contextualize or interpret this new figure. So, when this happened, everyone was trying to figure out what it might mean for them – especially indigenous and campesino residents living in this new, uncertain reality (Investigator Eslava, personal communication, July 2019).

Indigenous groups occupy territories across the vast Amazon region, living according to their own customs and traditions. Not having been included in the lawsuit, initial interpretation of the Colombian Amazon as a rights-holder was hard to digest. How was this different from their own understandings of nature? How might this new legal figure from the outside impact their day-to-day realities in in their territories? Is this a tool they could use to help them, or could it negatively impact them? (Investigator Eslava, personal communication, July 2019).

[10] According to Investigator Eslava, four of the plaintiffs were from the Amazon region and 2 are members of indigenous groups (personal communication, May 2019). For example, one member of the plaintiff group belongs to the indigenous Ticuna group living along the Amazon River (Dejusticia, 2018b).

These questions haven't yet been answered. Though since the ruling was issued, the tutela's petitioners have fostered direct discussions with indigenous groups regarding how this tool could benefit them (Investigator Eslava, personal communication, July 2019). Still, since then, indigenous groups in the Colombian Amazon have continued using more familiar legal tools to defend their rights tied to a healthy environment (Impacto, 2019; Morales, 2019b; *T-063/19*, 2019).

Multiple interpretations without clear guidelines or coordination have led to innumerable challenges (Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019). So far, interpretation and implementation of the ruling has explicitly harmed campesinos. By late 2018, reports surfaced indicating that special defense units led by the Prosecutor (*Fiscalía,* the legal representative of the prosecution against crimes) had begun conducting military operations to halt illegal deforestation and criminalize offenders, justified by the ruling. Though, operations have disproportionately targeted and criminalized vulnerable campesinos, and destroyed their property (Dejusticia, 2020; Hernández, 2020; Actualidad, 2019; Dejusticia, 2019; Marandua Stereo 100.7FM, 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

Military operations, referred to as the 'Artemisa' Campaign *(Operación Artemisa* or *Campaña Artemisa)*, have occurred in National Parks, including La Paya National Park (Putumayo), Cordillera de Los Pichachos National Park (La Caquetá), and La Chiribiquete National Park (La Caquetá) (Dejusticia, 2020; Dejusticia, 2019; Medio Ambiente, 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Volckhausen, 2019; Dejusticia, 2018a).

According to reports, the Prosecutor stated they were responding to a complaint by the National Parks regarding illegal deforestation activity. They identified some actors involved in deforestation, issued arrest warrants, and captured some of those identified – though, without initiating the required judicialization processes, making the operations illegal (Procuraduría General de la Nación, 2019; Dejusticia, 2018a). A few of those captured were released while others were charged on environmental crimes, such as invading special ecological zones, aggravated ecological damage, and fire (Dejusticia, 2018a).

By November 2018, the plaintiffs had condemned the approach, emphasizing that campesinos already suffer from a long history of forced displacement and dispossession – and that many engage in forest-clearing activities because they lack alternatives. Further, campesinos are the lowest links on the criminal deforestation chain, so these operations have not decreased deforestation nor disrupted criminal chains. Higher links on the chain profit most from forest-clearing activities, rely on campesino labor, and are often tied to armed groups (Hernández, 2020; Olaya, 2019; Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Volckhausen, 2019; Dejusticia, 2018a; Medio Ambiente, 2018; teleSUR/mrs-LJS, 2018).

On April 5, 2019, the Attorney General (*la Procuraduría*) issued a directive to all public and private servants responsible for protecting the Colombian Amazon, reminding them they are also responsible for the welfare of vulnerable communities. The directive began by acknowledging that the region's indigenous and campesino communities have suffered from historic and ongoing marginalization and violence, and that the government has largely neglected them (Procuraduría General de la Nación, 2019, p. 1).

The Attorney General then named all of the many legal mechanisms and initiatives developed to protect the Colombian Amazon[11], but it stated that these efforts have been ineffective, too fractured, too slow, and disproportionate to the giant problem posed by deforestation. It also condemned the military operations as illegal captures, demanding that defense authorities take corrective measures immediately (Procuraduría General de la Nación, 2019, p. 1-2).

Next, it demanded that authorities unify all efforts, programs, and initiatives seeking to halt deforestation in the Amazon and confront climate change. It also provided tailored mandates to authorities based on the initiatives and demanded concrete, immediate actions by all authorities carrying out these programs – emphasizing that the matters are urgent, and compliance cannot wait (Procuraduría General de la Nación, 2019, p. 3).

By late April 2019, President Duque declared deforestation (including loss of water, biodiversity and environmental quality) a national security issue (Presidencia de la República, 2019). This decision appears to have formalized the Artemisa Campaign, authorizing the use of further military intervention to confront illegal and armed actors, implement productive alternatives, strengthen information regarding rural land adjudication, and permanently monitor anticipated threats (Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Presidencia de la República, 2019).

The national security approach claims to dismantle sophisticated criminal networks – in particular, those occupying forests to plant illicit crops, raise livestock, and conduct illegal mining activities, and those constructing unauthorized roads to

[11] The Comprehensive Strategy to Control Deforestation and Manage Forests; National Policy for Management of Biodiversity and Ecosystem Services; the CONPES 3934 of 2018 for Green Growth; REDD+; Resolution 261 of 2018; the National Plan for Forest Development 2000-2025; Decree 1257 of 2017; and the Amazon ruling (Procuraduría General de la Nación, 2019, p. 1-2).

facilitate illegal activities (Ministerio del Ambiente y Desarrollo Sostenible, 2019b). The presidential declaration used the term 'ecocide' to refer to rampant illegal deforestation in the Amazon and called rampant illegal deforestation as a form of environmental 'hemorrhaging' (Presidencia de la República, 2019, para. 8 & 25).

However, the presidential declaration didn't 1) claim that the military campaign will course-correct from past attempts that criminalized vulnerable groups, 2) acknowledge that earlier efforts were ineffective at targeting higher links on the criminal chain, nor 3) how it may address the culture of impunity for armed actors threatening vulnerable groups. It did, however, call for the formation of a National Council to Combat Deforestation (CONALDEF) and related environmental crimes, which includes the Attorney General's participation (Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Presidencia de la República, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

That same month in April 2019, Dejusticia filed a complaint evidencing noncompliance, which signaled that compliance progress must be reviewed by judicial authorities (Dejusticia, 2019; La Procuraduría, personal communication, March 2020). From October 15 until November 19, 2019, the Tribunal Court of Cundinamarca hosted a 10-day Public Audience inviting plaintiffs, stakeholders, and responsible government authorities to discuss progress in a public forum (Actualidad, 2019; Dejusticia representative, personal communication, November 2019; La Procuraduría, personal communication, November 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019).

During the 10-day hearing, authorities justified their level of progress in front of the Court, while plaintiffs and impacted communities presented their concerns, observations, and questions. Most agencies alleged progress had begun but gave various reasons for delays or insufficient action. Many sent functionaries who weren't

responsible for implementation. Some national government agencies said they lacked the required expertise or claimed that halting deforestation was outside their range of ministerial duties (Actualidad, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

Authorities who accepted deforestation as part of their responsibilities also demonstrated insufficient progress. At the national level, MADS had created deforestation alerts but hadn't released them. At the regional level, CARs indicated they lacked the necessary resources to advance, and municipalities hadn't updated land management plans or begun to develop climate action plans (Actualidad, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

At the Public Audience, the government claimed that the *Intergenerational Pact for the Life of the Colombian Amazon* was in progress as part of the Amazon Regional Table, a pre-existing working group, and that it had established 'agreements' with some indigenous groups as part of this Table. Though, indigenous groups indicated government authorities had not fulfilled their end of the agreements. Also, as a pre-existing initiative, discussions at the Table hardly addressed the particulars required by the ruling. Furthermore, government officials indicated that a Pact draft was in circulation, but not even plaintiffs had been included in this drafting process (Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

On this note, a month following the ruling's issuance (May 2018), the plaintiffs met to discuss what the Pact could be. At this time, they submitted their feedback to MADS but never received a response. Three months later, when national leadership changed from Santos to Duque, the plaintiffs lost their connection to MADS so they began to mobilize the Pact themselves. "If the government doesn't create the Pact, then we'll work alongside youth to give energy to the Pact" (Investigator Eslava,

personal communication, July 2019). Since then, they have convened Pact meetings with local communities (Dejusticia, 2019).

The military operations were also discussed at the Public Audience. MADS asserted they were aware of the criticism around military operations harming campesinos and that they generated National Council to Combat Deforestation, with the Attorney General's participation, to help develop comprehensive strategies to better identify actors behind illegal deforestation. They also stated that the Artemisa Campaign was working to halt the 'scourge' responsible for destroying the Colombian Amazon (MADS representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

During the hearing, the Ministry of Agriculture also indicated that anyone convicted of environmental crimes, such as illegal deforestation, would not be eligible for land restitution through the National Land Agency (Ministry of Agriculture representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019). One plaintiff representative questioned this policy, stating:

> One of the causes of the expansion of the agricultural frontier in the Amazon is the absence of economic alternatives for campesinos, and that is why they end up in the deforestation chain in general… Because if they have to deforest, and if they deforest, he tells us, they will not have access to the programs of the National Land Agency, and the measure will end up concentrating [ownership of] the land in a few hands. (Public Audience for *STC4360-2018*, personal communication, October 15, 2019)

They also asked the Ministry of Agriculture if they saw advancing peasant reserve areas (promised by the 2016 Peace Deal) as a strategy against deforestation (Plaintiff representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019). Though, this wasn't explicitly answered (Public Audience for

STC4360-2018, personal communication, October 15, 2019). Again, the Peace Deal's promises of rural reform remain largely unfulfilled (Graser et al., 2020; Olarte-Olarte, 2019; Cairo et al., 2018; Fospa, 2018; LeGrand, van Isschot, & Riaño-Alcalá, 2017).

It is also important to acknowledge that hardly any data on legal deforestation exist[12], and no formal review on the impacts of legal deforestation in the Colombian Amazon have been attempted (IDEAM, 2019; IDEAM, 2018; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; IDEAM, MinAmbiente & Prosperidad para Todos, 2011). Despite ongoing deforestation and environmental harms caused by legal extractive projects (Hill, 2019; Fospa, 2018), government authorities continue to justify legal deforestation. "Let's say that, although it is true that these companies generate impacts, those impacts are controlled through an instrument of command and control that are granted by environmental authorities" (MADS representative for Public Audience for *STC4360-2018,* personal communication, October 15, 2019).

Upon culmination of the 10-day Public Audience, the judges confirmed that no concrete actions had been taken toward compliance, and they invalidated authorities' excuses for insufficient progress. The Court stated that authorities must mobilize and obtain the required expertise necessary to achieve the required goals (Actualidad,

[12] I solicited a researcher to point me to data on illegal and legal deforestation rates in Colombia. They replied:

> In Colombia, logging and burning is illegal in two situations. First, if it takes place in protected areas where zoning explicitly prohibits forest exploration. This is the case of the Natural Parks System, or the preservation zones of other protected areas, such as the Integrated Management Districts and Protective Forest Reserves. Secondly, if you do not have a 'forest harvesting permit' from the corresponding environmental authority (on public or private lands). IDEAM's official reports on 'deforestation' (published in Early Deforestation Alert Bulletins, Annual Report and Information Systems on Fires) include data on Early Alerts and deforested hectares within Natural Parks, but not on deforestation without 'forest harvesting permits' or in preservation areas of other protected areas. IDEAM also has official reports on 'forest harvesting permits': the Forest Bulletins, but these have two problems: a) only the one published in 2011…, b) the unit of measurement used in the analysis is the cubic meters of wood allowed for harvesting, not the hectares cut down. In conclusion, I'm afraid that the most accurate data available, to differentiate between legal and illegal deforestation, are IDEAM deforestation reports within Natural Parks. (personal communication, March 2020)

2019; Public Audience for *STC4360-2018,* personal communication, October 15-November 19, 2019). They also indicated that actions which were taken to halt deforestation have been conducted 'in bad faith' and should not jeopardize the well-being of campesinos (Actualidad, 2019; Public Audience for *STC4360-2018,* personal communication, October 15-November 19, 2019). Since then, no more 'official' updates have been issued regarding implementation efforts.

However, in February 2020, media coverage surfaced on the convergence of large fires in the National Parks and military operations, which continued targeting campesinos (Dejusticia, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020). Between January and February 2020, several weeks of fires were reported, which occur at this time annually (Paz Cardona, 2020a). During this time, residents of the Macarena municipality described increased military presence accompanied by increased harassment of campesinos (Nación, 2020).

By February 22, 2020, a fire had overtaken a large area of the region, which took over 12 hours and multiple groups to put out. Afterward, the Attorney General was ordered to represent the National Parks as a victim of the fires in criminal court, in order to seek restitution (Paz Cardona, 2020a). On this same day, residents also reported active military combat in Los Picachos Park, resulting in some deaths (soldier deaths, according to Nación, 2020) and multiple injuries (Dejusticia, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020).

Residents indicated that the Army had also dropped tear gas from several helicopters, harming residents. The Army claimed there had been an invasion of the natural area and sought to issue eviction notices. According to the coverage, the Army captured many individuals – again, some illegally. Many captures were campesinos who had lived in the region long before it was a National Park (Nación, 2020; Paz Cardona, 2020a).

At this time, reports also suggest that FARC dissidents ordered officials from at least 10 Amazon Parks to leave within 48 hours (Paz Cardona, 2020a). Many environmental authorities and those believed to be involved with environmental protections in the region remain at high risk of assassination and violence by a convergence of illegal armed groups (Botero-García et al., 2019).

Despite widespread condemnation, government actions have continued to demonstrate an overreliance on militarization and criminalization, failing to incorporate alternative measures that address problems faced by vulnerable resident groups while failing to dismantle criminal networks and halt deforestation (Comité Cívico por los Derechos Humanos del Meta-CCDHM, 2020; Dejusticia, 2020; Hernández, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020; Botero-García et al., 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Volckhausen, 2019; Dejusticia, 2018a; Medio Ambiente, 2018; teleSUR/mrs-LJS, 2018).

Without an established Follow-Up Committee from the start, Dejusticia and other civil society organizations had been left to monitor progress and compliance, and Control Organisms had been left to intervene in a reactionary manner. At the Public Audience, Control Organisms requested to formalize their active involvement to guide and monitor progress, ensuring the Attorney General is more actively involved (Public Audience for *STC4360-2018*, personal communication, October 15, 2019).

While it's certain that perpetual harms caused by the State have contributed to furthering conflicts tensions in the region, the ruling has generated some opportunities that *could* help if implementation course-corrects and incorporates comprehensive justice standards.

Eslava reflected on the underlying intentions of the ruling, stating "It's been a year since the ruling. Having talked to various people, what I feel with this figure of

the subject of rights is that it is targeting the way that we take care of ourselves as Westerners" (personal communication, July 2019). While it's important to note the notion of 'Westerners' was not elaborated on, nature's rights theory emphasizes that high-impact extractive activity and the notion of perpetual economic growth is what must end, to ensure that nature's ecological health can be maintained and, consequently, human life reliant upon it (Bugge, 2013; Burdon, 2012; Stone, 2010).

Eslava has indicated that this legal figure is just one more legal tool that could help enable justice for humans and nature overtime. "It is not, say, the revolution of our time, but it can help protect nature… and maybe help protect territories" (personal communication, July 2019). However, the notion of the Amazon as a legal subject has yet to formalized and has yet to be applied in a justice-oriented manner as to review the socioecological impacts of 'legal' development initiatives (Public Audience for *STC4360-2018,* October 15-November 19, 2019; MADS Contractor Jenny Ramírez, personal communication, July 2019; Hill, 2019; Fospa, 2018).

Also, Jenny Ramírez, a MADS contractor responsible for helping implement the ruling, indicated that it has generated a unique, necessary opportunity for collaboration across sectors, regions, and communities. She echoed what many other sources indicated – that a lack of coordination has gone on too long. Though, she indicated that mobilizing collaboration has been challenging (MADS Contractor Jenny Ramírez, personal communication, July 2019).

She explained that agencies often promote their own interests rather foster collaboration. She also explained that MADS has been given significantly more coordination responsibilities but not necessarily the resources (i.e., a sufficient budget, time in the day). When asked, she confirmed that functionaries have many other responsibilities than implementing compliance measures. However, she repeatedly stated that collaboration was key and hoped that, over time, collaboration

would be welcomed by all parties (MADS Contractor Jenny Ramírez, personal communication, July 2019).

In our interview, she also emphasized that efforts require generating and coordinating climate action plans for the first time. She stated, “This is essential. The ruling sets out to mobilize unified actions around climate change, and it makes clear that deforestation in the Amazon is a prime driver and continues to accelerate these changes” (MADS Contractor Jenny Ramírez, personal communication, July 2019).

One of her central concerns in this process, however, was asking “what alternatives can we provide these communities that live in the forest in order to combat climate change, let them live in their environment and sustain them?” (MADS Contractor Jenny Ramírez, personal communication, July 2019). However, a sustainable use framework has yet to be formalized – despite some projects continuing through *Visión Amazonía* (Bernal, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Visión Amazonía, 2019).

Some major concerns and uncertainties remain over the direction of the Colombian Amazon ruling, but there is no indication it will be overturned. Instead, Control Organisms and judicial authorities demand that government agencies must comply, as well as unify and expand efforts to halt deforestation and mitigate climate change impacts (Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019).

Based on available reports, deforestation rates remain well above the zero-deforestation goal set for 2020 goal, established years prior to the ruling (Hernández, 2020; IDEAM, 2019; IDEAM, 2018; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Moloney, 2019; Aguilar-Støen, Toni & Hirsch, 2016).

In sum, little has changed following the 2018 Colombian Amazon ruling (Table 4). While the lawsuit and ruling have represented a significant win for the climate movement worldwide, low levels of compliance and unjust enforcement indicate significant obstacles remain to securing justice for humans and nature.

Table 4. What's the same and what's different after the Amazon ruling?

Same
• Low levels of government compliance and accountability
• Lack of funding for environmental and social protection
• Ongoing armed conflict and high threat of violence
• Ongoing interest in extractive projects
• Ongoing illegal economies, including logging and mining
• Ongoing socio-environmental harms linked to the above factors, including current and future, local and nonlocal harms
• No environmental justice secured for plaintiffs or others affected
• No ecological justice secured for the Colombian Amazon
Different
• Increased 'potential' for justice:
o Increased dialogue surrounding what constitutes 'justice' as it applies to human communities and the Colombian Amazon
o Increased channels to hold government accountable for inaction
• Increased 'actual' injustice:
o Ecological justice for the Colombian Amazon disabled by government's manipulation of figure to suit own agenda
o Environmental justice for plaintiffs, Amazon residents (and potentially globe) disabled by unjust implementation harming campesinos and failing to dismantle illegal deforestation

Table 4. Summary of what remains the same and what has changed since the issuance of the Supreme Court's 2018 Colombian Amazon ruling.

6. Relationship between efforts to secure justice for humans and nature

To meet objective three, I will examine both cases to: 1) determine whether efforts to secure justice for humans and nature are inherently compatible, and 2) identify any tensions between these efforts. I will first examine the Atrato River Basin approach, followed by the Colombian Amazon approach.

6.1 Balance between justice for humans and nature in the Atrato

So far, implementation of the Atrato approach has fallen short of its aims to secure justice for humans and nature, both individually and simultaneously. Though, available evidence suggests these efforts may be compatible.

6.1.1 Compatibility

The Atrato approach demonstrates how justice outcomes for humans and nature are bound with one another. The physical and cultural health of Atrato residents depends on the Atrato's ecological health. The Atrato's ecological health depends on the eradication of high-impact mining to keep the ecosystem within its functional limits, and it can also benefit from the restoration of low-impact livelihoods. It seems, then, that Atrato communities and the Atrato River Basin share common opportunities and adversaries, suggesting sufficient compatibility (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16*, 2016).

The convergent proliferation of high-impact mining, armed conflict, impunity, and noncompliance are what perpetuate injustices against Atrato communities and the Atrato River Basin. So, both environmental and ecological justice outcomes depend on preventing further burdens and risks (i.e., from illegal mining, armed conflict, and the culture of impunity) and promoting benefits (i.e., restoring the Atrato and alternative livelihoods) (Comité de Seguimiento, 2019; Redacción2020, 2019;

Restrepo, 2019; Tierra Digna, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16*, 2016).

6.1.2 Tensions

Therefore, the primary tension is not between efforts to secure justice for humans and nature. It is with the military extractive complex in which these efforts are embedded, complicated by a sense of urgency. Since the neutralization and eradication of illegal mining is a precondition for justice, the Court required defense authorities to plan and implement efforts to neutralize and eradicate illegal mining activities within six months (*T-622/16*, 2016, p. 163).

However, eradication missions were conducted in a hurry without established frameworks or indicators. They were also carried out without consideration for protecting civilians and lacked long-term perspectives and a comprehensive protocol. So, these efforts have been unsuccessful, and many areas remain under the control of armed groups (Comité de Seguimiento, 2019; Redacción2020, 2019; Restrepo, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

Without the needed support at the national, regional, and local levels, Atrato communities remain in a conflicted and dangerous space. Prior to the Atrato ruling, the proliferation of illegal mining and armed conflict threatened both the physical and cultural survival of residents, evidenced by health problems, loss of livelihoods, displacement, violence, etc. (*T-622/16*, 2016; Defensoría del Pueblo de Colombia, 2014a; Defensoría del Pueblo de Colombia, 2014b). After the ruling, 'empowerment' of Atrato communities has been disabled by the dangerous context of armed conflict, ongoing impunity, and noncompliance (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16*, 2016).

The ongoing culture of disregard in the face of serious socioecological concerns and violence remains the biggest barrier to justice for humans and nature in

both regions, and it is part of a larger crisis where social leaders and environmental defenders nationwide are targeted for trying to survive (Betancur-Restrepo & Grasten, 2019; Global Witness, 2019; Human Rights, 2019; Oxfam, 2019).

Attempts to secure justice for humans and nature inevitably run up against conflicts of interest embedded in the systems perpetuating injustices, i.e. priority given to extractive interests and profit over the well-being of people and nature. Multiple and distant government authorities continue to issue permissions for risky extractive projects, and the defense sector remains unaccountable (Hernández, 2020; Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b). Justice efforts for both humans and nature must overcome these adversarial factors.

6.2 Balance between justice for humans and nature in the Amazon

Unlike the Atrato approach, the Colombian Amazon approach deals with a nontraditional environmental conflict. Where traditional environmental conflicts occur within a shared locality and involve a near-past and/or present issue, the Amazon conflict deals with *nonlocal* plaintiff communities whose *future* rights were threatened. In the scenario framed by the ruling, illegal extractive activities pose grave threats for both humans and nature, insinuating a base level compatibility between efforts to secure justice for both. According to the ruling, efforts target a shared enemy – illegal deforestation activities (*STC4360-2018*, 2018).

However, examination of the current Amazon approach has exposed some fundamental imbalances and tensions between efforts to secure justice for humans and nature. Implementation efforts have (at least, rhetorically) favored justice for some humans and nature, sacrificing justice for others. A thorough examination of imbalances and tensions can inform a more balanced, comprehensive approach.

This subchapter is organized into three parts: two 'compatibility' sections and one 'tensions' section. This is because compatibility between efforts to secure justice for humans and nature in the Colombian Amazon can be calculated at two levels. Take one will explore a basic compatibility between both efforts, which formed the ruling's basis of understanding. Take two will build off an examination of primary tensions, for a more developed understanding of compatibility between efforts – and as a corrective measure, to address tensions generated by the interpretation and implementation of the ruling.

6.2.1 Compatibility: take one

The Amazon ruling was rooted in a perceived compatibility between efforts to secure justice for humans and nature. At a fundamental level, local and nonlocal communities, and current and future generations alike rely on a well-functioning Amazon to generate ecosystem services needed for survival. Stemming from a climate litigation case, the Amazon approach emphasizes that safeguarding its climate regulatory functions is essential to safeguard future human life on the planet, while also acknowledging its vital hydrological functions (*STC4360-2018*, 2018).

Until more recently, the Colombian Amazon has been able to retain its high levels of biodiversity, climate regulatory and hydrological functions. This has changed overtime with changing socioeconomic conditions and increasing colonization of the Amazon (Armenteras, Rudas, Rodriguez, Sua & Romero, 2005). Increasing extractive activity in the Amazon has compromised its capacity to maintain ecological health, generating an imbalance between humans and nature (Kronik & Hays, 2015). This has negative consequences for humans, too. Reduced biodiversity and unstable climate and water cycles reduce adaptive capacity and increase vulnerability to shocks (World Bank Group, 2014, p. 25).

In this case, it's clear that rampant forest-clearing contributes to extreme socioecological instability. So, to an extent, humans and nature have a common adversary. Though, government authorities tasked with interpreting and implementing the ruling have warped the perception of this common adversary to justify an agenda that is incompatible with efforts to secure justice for humans and nature and has generated tensions between these efforts (Procuraduría General de la Nación, 2019; *STC4360-2018*, 2018).

6.2.2 Tensions

A quick read of the Colombian Amazon ruling might suggest that nonlocal youth plaintiff communities and the Colombian Amazon are the victims of illegal deforestation and resulting socioecological instability, which must be stopped to prevent potentially irreversible consequences – and that actors engaged in illegal forest-clearing have effectively contributed to its long-term demise. However, the ruling left space for a lingering interpretation that those involved in illegal deforestation activities are simply the 'bad guys' (MADS representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Presidencia de la República, 2019; *STC4360-2018* Translation, 2018, p. 25).

Again, the ruling explicitly sought to secure intergenerational justice for nonlocal communities and ecological justice for the Amazon, thereby prioritizing these considerations (*STC4360-2018*, 2018). However, government authorities have willfully sacrificed intragenerational justice for local communities in their implementation efforts, using the ruling as a justification (Hernández, 2020; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Presidencia de la República, 2019; Procuraduría General de la Nación, 2019; Dejusticia, 2018a).

This unjust interpretation has consequences for many residents of the Colombian Amazon. Among these actors are the indigenous groups. From a legal

perspective, indigenous groups have special protections through the Colombian Constitution and international agreements ratified by Colombia[13] (Título 1 de la Constitución Política de Colombia, n.d.; *T-622/16*, 2016, p. 52-54). Though, these protections are often violated due to ongoing government actions and inaction, illegal and legal extractive projects, and the influence of colonialism – which extracts resources without re-investing and increases risks for local residents. Implementation of the approach has, so far, failed to consider address these adversarial factors (Abadía Mosquera, 2020; Hernández, 2020; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Ramírez, 2019; *STC4360-2018*, 2018; Parry et al., 2016).

None of the reports consulted in this study indicated that the ruling's implementation has directly harmed indigenous groups so far. Though, it's clear that government actions and inaction continue to disregard the interests and well-being of indigenous residents. The militarized approach to implement the ruling undoubtedly affects them, and the government's expressed permission for ongoing extractive projects profit at their expense (Hernández, 2020; Impacto, 2019; Morales, 2019b; *T-063/19*, 2019; Public Audience, personal communication, October 15, 2019).

The ruling's implementation has directly targeted and harmed campesinos (Procuraduría General de la Nación, 2019). The image projected by government authorities is that the Colombian Amazon as a rights-holder is a 'pristine other' and campesinos engaged in forest-clearing are 'criminals' (Nación, 2020; Public Audience for *STC4360-2018,* personal communication, October 15, 2019; Bocarejo & Ojeda,

[13] These include the International Labor Organization's Convention 169 on Indigenous and Tribal Peoples (est. 1989), ratified by Law 21 of 1991; the Convention on Biological Diversity (est. 1992), ratified by Law 165 of 1994; the UNESCO Convention on the Safeguarding of Intangible Cultural Heritage (est. 2003), ratified by Law 1037 of 2006; the UN Declaration on the Rights of Indigenous Peoples (est. 2007); and the American Declaration on the Rights of Indigenous Peoples (est. 2016) (*T-622/16,* 2016, p. 52-54).

2016). Investigator Eslava explains, “The interpretation on the part of the government to comply with the orders is, ‘if the Amazon is a subject of rights then it needs to be kept intact and everything there needs to stay.’ Then, what happens to the farmer? It is their only manner of making a living and now the Amazon is a subject of rights?” (personal communication, July 2019).

This interpretation may have multiple sources, which may include the ruling’s lack of campesino recognition, overlapping conservation laws in the Amazon’s National Parks which prohibit any use of the Amazon, or that campesinos are not protected by a tailored set of rights (for example, Colombia never ratified the Convention on the Rights of Campesinos) (Graser et al., 2020; Olarte-Olarte, 2019; Fospa, 2018; LeGrand, van Isschot, & Riaño-Alcalá, 2017).

“In any case, there is a major power imbalance between campesinos, conservation laws, and others protected by rights, including those operating legally at larger scales of production” (Lawyer Carlos Olaya, personal communication, July 2019). Now campesinos effectively have fewer special legal protections than the Colombian Amazon, and they have been categorized as criminals because they cannot legally take any wood – by contrast to other large, legal deforestation operations taking place (Nación, 2020; Public Audience for *STC4360-2018,* personal communication, October 15-November 19, 2019; Revelo-Rebolledo, 2019).

Behind this simplistic good/bad imagery of ‘protect the Amazon’ and ‘criminalize forest-clearing actors’ projected by government authorities hides: 1) the roles played by higher links on the criminal chain; 2) complex dynamics leading campesinos to forest-clear in the first place, including unfulfilled rural reforms promised by the Peace Deal further exacerbated by the criminalization for environmental crimes, which prohibits access to peasant reserve zones; and 3) harms caused by government-approved extractive projects (Graser et al., 2020).

Again, promises of land restitution and territorial peace – made by the 2016 Peace Deal – remain unrealized (Graser et al., 2020). Campesinos who have been criminalized for activities classified as 'environmental crimes' are no longer subjects for land restitution, through peasant reserve areas (Ministry of Agriculture representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019). So, this criminalization approach further kills any chances of gaining access to land after a long history of dispossession, slamming the door on potential justice outcomes for campesinos (Public Audience for *STC4360-2018,* personal communication, October 15, 2019).

Meanwhile, government authorities have willfully denied the request to gather data on the impact of legal projects – demonstrating an overt lack of political will to evaluate whether it's necessary to halt legal high-impact activities in order to prevent irreparable socioecological damage and secure intergenerational justice and ecological justice (Public Audience for STC-4360/2018, personal communication, October 15, 2019). Importantly, what is *legal* and *just* here may not align (Diamond, 2019; Revelo-Rebolledo, 2019).

Again, many legal activities may cause higher rates of deforestation and other forms of socioecological destruction (Gorder, 2019; Olarte-Olarte, 2019; Public Audience for *STC4360-2018,* personal communication, October 15, 2019). So too, justification for military operations overlooks their negative socio-environmental consequences (Comité de Seguimiento, 2019b; Public Audience for *STC4360-2018,* personal communication, October 15, 2019; Dejusticia, 2018a; Fospa, 2018; Bocarejo & Ojeda, 2016). To secure ecological justice requires examining *all* activities occurring in the Colombian Amazon which have negative socioenvironmental impacts. Instead, alleged attempts to secure justice for the Colombian Amazon present gaping holes in

the level of consideration for what that may entail and have generated serious tensions between efforts to secure justice for humans and nature.

6.2.3 Compatibility: take two

As we have seen, implementation of the ruling has taken a criminalization and militarization approach, allegedly to secure justice for future generations and the Colombian Amazon (Nación, 2020; Comité de Seguimiento, 2019b; Dejusticia, 2018a). Though, so far this approach has 1) consistently failed to halt illegal deforestation, by targeting the lowest links of the criminal chain and allowing higher links to continue maneuvering unabated, while relying on lower links' cheap labor; 2) increased vulnerabilities of many resident groups, who continue to be subsumed by armed conflict; 3) increased tensions and mistrust between residents and government authorities; 4) further harmed humans and nature; and 5) often been conducted illegally, by failing to initiate required judicialization processes (Hernández, 2020; Dejusticia, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020; Olaya, 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Martin, 2018; Dejusticia, 2018a).

The approach taken to implement the ruling is incompatible with efforts to secure justice for humans and nature, thereby generating tensions between these efforts. Therefore, it's important to point to alternative methods for implementation. These alternatives also underline some lesser-explored compatibilities between efforts to secure a dual justice, swept under the rug by the current approach. Alternative implementation measures that also seek to secure intragenerational justice not only reflect a more balanced, comprehensive justice, but may better enable justice for both plaintiffs and the Colombian Amazon.

First, a revised Amazon approach must integrate humanitarian law's *principle of distinction* to differentiate between vulnerable actors simply engaged in forest-clearing activities and higher-level criminal actors benefitting most from them. Integration of this principle operationalizes the investigative environmental and ecological justice *recognition* dimension, by requiring that motivations behind actors engaged in illegal extractive activities be considered (Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Comité de Seguimiento, 2018b).

Honest integration of the principle would recognize that many campesinos are forest-clearing for their survival, due to a lack of economic alternatives resulting from forced displacement, perpetual violence and criminalization (Graser et al., 2020; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Botero-García et al., 2019). So, rather than simplistically frame any actor engaged in forest-clearing activities as a 'criminal', a more just and potentially more effective approach would view these actors as potential allies in the quest for a more balanced environmental-ecological justice (Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019).

To help enable a just transition for humans and nature, a framework for low- and no- deforestation alternatives must be developed further. This framework could help transition vulnerable actors and other high-impact activities to more sustainable models. Oddly enough, this argument is already employed by some of Colombian 'environmental initiatives', but the political will to apply it to the Amazon ruling so far remains lacking (Ministry of Agriculture representative at the Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Visión Amazonía, 2019). Low-impact alternatives to current high-impact development initiatives may also reduce the socioecological burdens and risks imposed on indigenous residents,

provided they reinvest in and protect local residents (Hill, 2019; Impacto, 2019; Morales, 2019b; *T-063/19*, 2019; Dejusticia, 2018a; Fospa, 2018).

Further, campesino and indigenous residents of the Amazon must have direct involvement and influence in all decision-making processes that may impact them, recognizing the historic and ongoing burdens and risks disproportionately placed on these communities. The ruling enabled their participation in the Pact; however, implementation has fallen short of the inclusivity described in the ruling. An alternative manner of implementing the ruling must ensure their participation actively influences decision-making and protects their dignity, health and well-being – as the Constitution requires. Their experiences and needs are central – not auxiliary – to the goals of securing justice for future generations and the Colombian Amazon (*STC4360-2018*, 2018; *T-622/16,* 2016; Schlosberg, 2004).

All of the above factors point to shared opportunities (i.e. legal means to confront adversaries) and adversaries (i.e., high-impact activities that harm both humans and nature) between efforts to secure a more comprehensive environmental and ecological justice, indicating again that efforts to secure a more comprehensive justice for humans and nature are sufficiently compatible.

A true environmental-ecological justice approach doesn't criminalize vulnerable campesinos communities without viable alternatives in order to supposedly secure justice for future generations and the Colombian Amazon. Rather, it halts all socioecologically harmful development activities, enables current and future generations of humans to live within ecological limitations, operationalizes both vulnerable human groups and nature as subjects of restitution, and uproots colonial agendas that disproportionately harm some humans and nature for the benefit of others (Graser et al., 2020; Botero-García et al., 2019; Public Audience for *STC4360-*

2018, personal communication, October 15-November 19, 2019; Martin, 2018; Rojas-Robles, 2018; *T-622/16,* 2018).

While the ruling's implementation has wholly disrupted the balance between efforts to secure justice for humans and nature, both intergenerational *and* intragenerational environmental justice are certainly contingent upon protecting nature's interest in maintaining ecological functions. Though, to succeed in securing a comprehensive justice for humans and nature, interpretation and implementation of the ruling must intentionally seek to balance these embedded interests (Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018,* personal communication, October 15-November 19, 2019).

This requires overcoming significant barriers and letting go of the narrative which simplistically portrays humans engaged in environmentally harmful acts as adversaries to a healthy environment and developing a new one – one that enables humans to contribute to and maintain nature's ecological functioning. Undoubtedly, this will also require letting go of high-impact extractive projects and militarized approaches that perpetuate both environmental and ecological injustices.

7. Comparative analysis

To meet objective four, this chapter will summarize and compare how each approach currently measures against its aims to secure justice for humans and nature. Recognizing that both approaches have fallen short of their aims to secure justice for humans and nature, I will highlight factors contributing to or impeding justice. Though, I will also argue that the Atrato approach preemptively presents a stronger framework to secure environmental and ecological justice than the Colombian Amazon approach.

7.1 The Atrato approach as a promising blueprint, if actualized

So far, implementation of the Atrato approach continues to fall drastically short of the ruling's aims to secure justice for both humans and nature. Ensuring the physical and cultural survival of Chocoanos is a central aim of the ruling, and, unfortunately, evidence suggests that on-the-ground realities continue to move in the opposite direction. Ongoing violence and escalating new armed conflict scenarios undoubtedly pose the biggest barrier to securing justice for both humans and nature in the region (Hernández, 2020; Comité de Seguimiento, 2019; La W, 2019; Procuraduría General de la Nación, 2019; Redacción Colombia2020, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; Friedman, 2018; Restrepo, 2018).

The disabling factors appear to be the convergence of a permeating culture of impunity and noncompliance, as well as a militarized extractive complex which fails to protect and reinvest in both human groups and nature. If this complex continues uninterrupted, then no attempt to secure justice for humans and nature can succeed. Until the political and economic costs prove to be too high, armed and illegal actors will likely continue to engage in socioecologically harmful, self-interested projects for profit (Human Rights Investigator, personal communication, May 2020; Hernández,

2020; Comité de Seguimiento, 2019; Tierra Digna, 2019; Redacción Colombia2020, 2019; Comité de Seguimiento, 2018a; Friedman, 2018; *T-622/16*, 2016).

With that said, analysis of the Atrato approach has identified some important factors to enable a more comprehensive, balanced justice for humans and nature.

First and foremost, both the ruling and the Follow-Up Committee have emphasized the need for a comprehensive approach to eradicate illegal mining by implementing criminalization alternatives. Emphasis on these alternatives began with the ruling, which recognized that: 1) the phenomenon of illegal mining has increasingly displaced persons and livelihoods, and many civilians engaged in illegal mining activities have done so due to a lack of alternatives; 2) criminalization and militarization have collateral damage on both humans and nature; 3) illegal mining operations have long supply chains, requiring that multiple links be targeted to dismantle these operations; 4) restoring traditional livelihoods and subsistence models is key to enable a just transition for local communities and nature itself; and 5) civic participation in the planning, decision-making, and restoration process is key to the approach's success (Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b, p. 68; *T-622/16*, 2016).

To elaborate on points four and five, the approach stresses the need for *restoration* tied to a sustainable use framework. Restoration is twofold. *Recuperation* of traditional livelihoods can help preserve the cultural heritage of Atrato communities, and *restoration* of the Atrato River Basin can help ensure it retains its ecological identity. Emphasis on both aspects help the approach skirt new threats posed by government emphasis on extractive projects, which may perpetuate socioecological injustices (Comité de Seguimiento, 2019; Diaz Parra, 2019; Pardo, 2019; Paz Cardona, 2018; Morales, 2017; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; *T-622/16,* 2016).

Secondly, both the ruling and the Follow-Up Committee have emphasized that Atrato communities are equals in governance and decision-making processes (Comité de Seguimiento, 2019; Macpherson, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; p. 68; *T-622/16*, 2016). While most progress updates indicate that government implementation efforts haven't sufficiently integrated Atrato communities in their planning processes, improved communications between the River Guardians and Ministry of the Environment (MADS) has been observed (Comité de Seguimiento, 2019, p. 11).

Third, the Atrato approach has enabled the development of a transversal legal figure which claims to require *all* public, administrative, and private interests to account for the nature's interest in ecological health (La Procuraduría, personal communication, March 2020). A transversal figure could help mobilize a new eco-centric governance paradigm toward securing a more balanced justice for humans and nature, both which require consideration for and protection of nature for interests beyond 'productivity' (Villavicencio, 2019; *T-622/16*, 2016).

In the meantime, the Follow-Up Committee has already begun urging a comprehensive review of the social and ecological impacts of all 'legal' development projects in the region (La Procuraduría, personal communication, March 2020; Comité de Seguimiento, 2019). Also, the Follow-Up Committee has also begun to legally operationalize the Atrato River Basin as a 'victim', which relies on an existing conception within Colombian law. As a victim, the Atrato may access the criminal justice system to seek restitution for harms by high-impact perpetrators (Comité de Seguimiento, 2019).

Furthermore, the transversal figure proposed by the Follow-Up Committee has also consistently emphasized that the Atrato's protection *cannot* supersede protections for Atrato communities. At the core of this emphasis is an interest in

striking a balance between the two (La Procuraduría, personal communication, March 2020; Comité de Seguimiento, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b, p. 68; *T-622/16*, 2016).

Lastly, the *inter pares* status of the ruling has permitted new groups to pursue guarantees offered by the ruling. This permits increased access to justice for both humans and nature, allowing them to advocate for comparable applied protections when comparable rights have been threatened and/or violated (Comité de Seguimiento, 2019; Tierra Digna, 2019).

Operationalization of all these justice-enabling factors paired with the required interinstitutional articulation is key to enabling a more balanced justice for humans and nature alike. What's lacking is the political will needed to implement the approach as prescribed.

7.2 Today's Colombian Amazon approach as a mongoose problem

To begin, it's important to note that the Colombian Amazon Court decision was an important advance for climate litigation worldwide (Osofsky, 2020; Abate, 2019; Setzer & Byrnes, 2019; Alvarado & Rivas-Ramírez, 2018). The decision affirmed that protecting the rights of future generations to a stable climate is imperative, and that these rights are being compromised by harmful extractive activities, which must be stopped now to prevent potentially irreversible damage (Abate, 2019; Alvarado & Rivas-Ramírez, 2018). With that said, interpretation and implementation of the ruling has not advanced in a manner that can secure justice for humans and nature.

As currently implemented, the Colombian Amazon nature's rights approach has become analogous to a mongoose problem. Where mongooses were imported to deal with a rat problem, mongooses created new complications – tag-teaming with the rats and leaving destruction in their wake (Hawaii Invasive Species Council, n.d.). So too,

the Colombian Amazon ruling was unleashed as an alternative legal approach which promised to secure ecological justice for the Amazon and, thereby, secure environmental justice for future generations. Instead, it has been applied by authorities in bad faith, perpetuating new harms against vulnerable human groups and nature while failing to mobilize the necessary changes to remedy the harms targeted by the tutela lawsuit (Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; *STC4360-2018,* 2018).

Authorities have cited the rulings as a justification for harmful military operations, which have targeted and criminalized the lowest links on the illegal deforestation supply chain. In this way, government authorities have perpetuated injustices against vulnerable groups while failing to target the root of the illegal deforestation problem. Thus, implementation has disabled ecological justice and intergenerational environmental justice (Dejusticia, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Dejusticia, 2018a).

Furthermore, making the Colombian Amazon a rights-holder has not yielded a review of 'legal' extractive projects contributing to the region's deforestation. First, the ruling did not enable the requested moratorium on all extractive projects (*STC4360-2018*, 2018). Second, while government authorities acknowledge that 'legal' activities have negative socioecological impacts, they justify these impacts because they are under a 'controlled' system. Still, they deny requests to quantify and make these impacts known (MADS representative at Public Audience for *STC4360-2018*, October 15, 2019). This indicates that development of the legal figure does not align with what the legal theory of nature's rights had intended (Gordon, 2018; Stone,

2010). It also presents a stark contrast to the Atrato figure's development, which has begun to question all legal extractive projects (Comité de Seguimiento, 2019).

From the beginning of the Amazon approach, complex social dynamics behind forest-clearing went unexamined, so it lacked a key investigative dimension of *recognition* to help ensure sufficient remedies were enabled (Schlosberg, 2004, p. 518). Then, the ruling's interpretation and implementation were left entirely up to government authorities, which have historically demonstrated negligence (Bocarejo & Ojeda, 2016). Since then, government implementation has continued to demonstrate willful negligence of justice concerns for humans and nature. In this case, the ends do not justify the means, and an unjust implementation process has further jeopardized the ends (Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019).

In this matrix, justice for humans and nature has been disabled. More holistic evaluation of the problem may help guide implementation efforts toward more just outcomes for the complex web of humans and nature dependent on the Colombian Amazon's integral functioning; however, the military extractive complex and permeating culture of impunity and noncompliance remain primary obstacles (Dejusticia, 2020; Impacto, 2020; Nación, 2020; Paz Cardona, 2020a; Vélez & Garzón, 2020; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019).

8. Discussion

Drawing on findings, I have argued that both the Atrato River Basin and Colombian Amazon nature's rights approaches have so far fallen short of their aims to secure justice for humans and nature. To interpret findings, I discuss the approaches comparatively in the context of their limitations. I will first summarize the impeding factors which continue to disable the approaches' ability to secure any semblance of justice for humans or nature. Based on this understanding, I will then discuss these environmental and ecological injustices as co-occurring symptoms of an unjust militarized extractive complex – an outgrowth of colonialism and armed conflict (Abadía Mosquera, 2020; Graser et al., 2019; Ramírez, 2019; Botero-García et al., 2019; Ramírez, 2019; Martin, 2018; McNeish, 2020; *T-622/16*, 2016).

I will conclude by discussing limitations of the research. Here I discuss some shortcomings of environmental and ecological justice theories and the need for an intersectional environmental and ecological justice. Following, I will discuss the limitations of this study and further research needed.

8.1 Justice for humans and nature bound in a politics of neglect

Both the Atrato River Basin and Colombian Amazon nature's rights approaches sought to secure justice for humans by securing justice for nature. Both approaches employed the logic that protecting nature's interest in maintaining ecological health is a precondition to guarantee human rights contingent upon a healthy, functioning environment (*STC4360-2018*, 2018; *T-622/16*, 2016).

An initial analysis of both rulings evidenced the three main threads of environmental and ecological justice theories (recognition, participatory and distributive justice) had been woven into the fabric of each nature's rights approach. However, the inhospitable sociopolitical contexts in which these approaches have

emerged continue to perpetuate injustices against both humans and nature. Analysis of both rulings and their subsequent implementation in their contexts highlighted some of the approaches' shortcomings and barriers to securing justice – in particular, the incompatible culture of impunity, noncompliance, and militarized extractive complex in which they emerged (Graser et al., 2020; Botero-García et al., 2019; Martin, 2018; Bocarejo & Ojeda, 2016; McNeish, 2016).

First, both approaches have emerged within a broader crisis of impunity, in which assassinations and acts of violence go unpunished (Graser et al., 2020; Botero-García et al., 2019; Global Witness, 2019; Human Rights, 2019; Oxfam, 2019; McNeish, 2016). In both cases, the rulings neglected to acknowledge the complex dangers this context imposes onto human rights and environmental defenders across Colombia (*STC4360-2018*, 2018; *T-622/16*, 2016). Increasing their participation in efforts to protect human rights and nature, without sufficient security measures, may risk perpetuating violence against them (Graser et al., 2020; Gigova, 2020; Botero-García et al., 2019; Global Witness, 2019; Human Rights, 2019; Oxfam, 2019; Redacción Colombia2020, 2019; Friedman, 2018).

Also, both regions lack a sustained security presence. Defense authorities have demonstrated insufficient regard for how their actions negatively impact residents and nature, thus, imposing ongoing collateral damage on both. Operations by defense authorities in both regions failed to integrate required humanitarian principles, while demonstrating insufficient plans to dismantle the complex, armed criminal networks profiting the most from illegal extractive activities (Dejusticia, 2020; Hernández, 2020; Nación, 2020; Comité de Seguimiento, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Procuraduría General de la Nación, 2019; Volckhausen, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2019b; Dejusticia, 2018a).

Second, both approaches have emerged within a culture of noncompliance (García-Villegas, 2019; Peña Huertas, 2018; Langbein & Sanabria, 2013). While both rulings sought to confront inaction and omission by government authorities, their implementation has evidenced ongoing noncompliance by government authorities – many who have tried to shirk responsibility two-plus years after the rulings' issuance and have failed to make the required changes to comply with guidelines. Furthermore, evidence suggests that sanctions have yet to be issued for noncompliance in either case (Comité de Seguimiento, 2019; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Lawyer for Tierra Digna, personal communication, July 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b).

This ongoing culture of noncompliance begs an in-depth review of conflict of interests, power dynamics, and resource allocation between authorities. It's also important to reiterate that, in the case of the Atrato approach, funding the initiatives of River Guardians is not required (*T-622/16*, 2016). Similarly, while the Ministry of the Environment (MADS) has been tasked with operationalizing inter-institutional collaboration in both cases, MADS continues to receive less funding than extractive interests (Diaz Parra, 2019; Pardo, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Paz Cardona, 2018; Morales, 2017). It's worth noting that funding dynamics and general accountability measures for the defense sector remain unclear.

Third and building on these aforementioned factors, both approaches have emerged within a broader militarized extractive complex. Militarized approaches and 'legal' extractive interests continue to be prioritized nationally, despite known socioecological impacts, and it appears the two go hand-in-hand, where military operations have forcibly protected legal extractive projects. Meanwhile, defense

operations claiming to stop illegal extractive activities have continuously failed to do so, while disregarding calls to course-correct and incorporate required measures. In this way, the proliferation of both illegal and legal extractive activities has continued undeterred (Graser et al., 2020; Hernández, 2020; Nación, 2020; Paz Cardona, 2020a; Paz Cardona, 2020b; Botero-García et al., 2019; Comité de Seguimiento, 2019; Hill, 2019; MADS representative for Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Ministerio del Ambiente y Desarrollo Sostenible, 2019b; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; Fospa, 2018; Martin, 2018; Bocarejo & Ojeda, 2016; McNeish, 2016; Abadía et al., 2014).

Examination of these aforementioned conditions also suggests these conditions as an outgrowth of colonialism, where 'resources' are extracted to profit the few and don't reinvest socially or environmentally. Both areas have a high rate of unmet basic needs (Graser et al., 2020; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Ramírez, 2019; *T-622/16, 2016*).

It's also important to discuss the power imbalance imposed by categorization of 'illegal' versus 'legal' extractive activities in the context of this militarized extractive complex. On the one hand, both cases deal with the complex theme of environmental crime. When an activity is categorized as *illegal*, it becomes a punishable offense. While illegal extractive activities are often tied to powerful armed criminal networks, many individuals engage in illicit resource extraction due to a lack of viable economic alternatives, complex sociopolitical factors, and systemic prevention from being able to 'legally' engage in a livelihood activity, such as taking wood (Graser et al., 2020; Hernández, 2020; Nación, 2020; Hermann, 2019; Procuraduría General de la Nación,

2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Volckhausen, 2019; Dejusticia, 2018a; *T-622/16, 2016*).

Simply classifying an act, then, as *illegal* can potentially increase harm against vulnerable groups, by justifying criminalization rather than addressing modern forms of colonialism and enabling conditions that meet their needs. Differentiating between the higher and lower links on the supply chain is required to avoid perpetuating injustices against vulnerable groups (Hernández, 2020; Nación, 2020; Procuraduría General de la Nación, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Hermann, 2019; Volckhausen, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; Dejusticia, 2018a).

On the other hand, it's also important to acknowledge that *legal* extractive activities are not necessarily congruent with justice outcomes. If nature's rights approaches are to enable justice for humans and nature, then the characterization of *legality* must be called into question. All extractive processes must be reviewed for their distributive environmental and ecological impacts, illegal and legal alike (Comité de Seguimiento, 2019; Tierra Digna, 2019; Hill, 2019; Public Audience for *STC4360-2018*, personal communication, October 15, 2019; Comité de Seguimiento, 2018b; Fospa, 2018; McNeish, 2016).

Unfortunately, available progress reports demonstrate that authorities continue to propose and approve extractive projects in both the Atrato and Amazon regions, which still generate socioecological problems in the zones (Tierra Digna, 2019; Hill, 2019; Public Audience for *STC4360-2018*, personal communication, October 15-November 19, 2019; Comité de Seguimiento, 2018b; Fospa, 2018). Though, unlike the Amazon approach, the Atrato approach's Follow-Up Committee has put forth a mandatory review of the socioecological impacts of 'legal' extractive projects in order to protect the rights of Chocoanos and the Atrato River Basin (Comité de

Seguimiento, 2019; MADS at Public Audience for *STC4360-2018*, personal communication, October 15, 2019). However, it's still too early to examine the implementation and impacts of this review process.

It's also important to note that *illegal* and *legal* extractive processes alike have long supply chains with attached foreign interests, contributing to a complexity of interests and power dynamics. This complexity can also contribute to a lack of transparency, and ease exporting generated-wealth while failing to reinvest in human and non-human communities impacted (Public Audience for *STC4360-2018*, personal communication, October 15, 2019; McNeish, 2016; *T-622/16*, 2016; Petras & Veltmeyer, 2014). Therefore, dismantling harmful extractive chains, regardless of legality, requires increased transparency and concerted effort across sectors and borders (Petras & Veltmeyer, 2014).

To wrap up, examination of both approaches emphasized that environmental and ecological injustices are concurrent symptoms of a broader politics of neglect and an unjust militarized extractive complex – as residuals of war and an outgrowth of colonialism. Therefore, environmental and ecological justice issues are intersectional justice issues. Confronting the risks and barriers to secure justice for humans and nature in both regions requires that approaches must also critically examine and integrate other justice and conflict resolution approaches (Abadía Mosquera, 2020; Graser et al., 2020; Ramírez, 2019; Rojas-Robles, 2018; Martin, 2018; Washington et al., 2018; McNeish, 2016). Concepts from humanitarian law, environmental peacebuilding, restorative and transitional justice and ecocide may serve as a starting point (Abadía Mosquera, 2020; Graser et al., 2020; Díaz Pabón, 2018; Martin, 2018; Rojas-Robles, 2018; McNeish, 2016; Lindgren, 2017; Crook & Short, 2014).

If implemented in a justice-enabling manner, Colombia's nature's rights approaches carry the potential to advance the notion of nature as a subject of and

tool for restitution, as called for by the 2011 Victims and Land Restitution Law, 2016 Peace Agreement, and the JEP's call for approaches to help restore nature. They could also help mobilize Environmental Truth Commissions (Comité de Seguimiento, 2019; Plaintiff Representative at Public Audience for *STC4360-2018*, personal communication, October 15, 2020; Catorce6, 2019; Martin, 2018; Peña Huertas, 2018; Rojas-Robles, 2018; Cortés, 2013; Congreso de Colombia, 2011).

To date, Colombia's seminal nature's rights approaches still evidence all of the UNEP's cited insufficiencies in environmental law worldwide – lack of political will, funding, provisions, and incentive for adequate enforcement; contain structural flaws (for example, they haven't been adapted to context) and/or are subject to conflicts of interest (UNEP, 2019, p. 3 & 8).

However, by intentionally seeking to balance justice for humans and nature (by targeting high-impact initiatives), legal approaches that recognize nature's rights may have enabled some necessary legal conditions which haven't existed previously – by making nature's interest in maintaining ecological health visible and defensible, creating opportunities to restore nature, and correcting power imbalances between legally (and, otherwise, militarized) protected interests known to harm humans and nature (Storaas, 2019; Gordon, 2018; Martin, 2018; Voigt, 2013; Stone, 2010).

Perpetrators of injustice are still in the process of committing them. A just nature's rights approach has to overcome significant barriers and requires mobilizing a politics of care, evidenced by firm divestments from the military extractive complex, practiced commitments to dismantling the culture of legal impunity and noncompliance, and reinvestment in the well-being of both humans and nature (Martin, 2018; Rojas-Robles, 2018). This must include practical measures for accountability, transparency, and enforcement. This is no easy task and remains

complicated by a sense of urgency. Much work remains to dismantle barriers and enable just transitions to prevent potentially irreversible damage.

8.2 Theoretical limitations

This thesis also presented an opportunity to test environmental and ecological justice theories for their strengths and limitations. In this section, I will discuss some of these limitations as they have applied to my case studies.

Use of both environmental and ecological justice theories was essential to this study, and both theories sufficed as preliminary tools to evaluate efforts to secure justice for humans and nature. However, use of both theories – as drawn from referenced sources – highlighted some of their primary shortcomings. These shortcomings include the risk of overemphasizing 1) a human-nature duality and 2) justice as a destination, rather than a transitional process; further, both theories in the form used by this study may imply that 3) justice 'within and for nature' is divorced from other types of conflicts.

First, the ongoing analytical separation of environmental and ecological justice theories may, albeit unintentionally, perpetuate a dualistic human and non-human nature divide that mirrors militarized conservation arguments (Bocarejo & Ojeda, 2016; Mogstad, 2016; West, Igoe & Brockington, 2006). However, justice for (and injustices against) humans and nature occur on the same plane of existence and, often, in relation to one another (Mogstad, 2016; Houston, 2013). While referenced materials which discuss both theories acknowledge this shared reality, their discussions center around how ecological justice is a contemporary outgrowth of environmental justice, due to increasing anthropogenic harms against non-human nature (Washington et al., 2018; Gudynas, 2015; Burdon, 2012; Baxter, 2005; Low & Gleeson, 1998).

Therefore, the intention behind these discussions seem to be to justify the emerging field of ecological justice and its inquiry. Though, as a result, discussion of both theories primarily places them alongside one another – not so much in relation to one another. While human and non-human nature may have unique needs that justify distinct lenses, discussion of both theories should develop further by examining the innate relationships between these two embedded fields of inquiry (Mogstad, 2016; Gudynas, 2015; Burdon, 2012; Baxter, 2005; Low & Gleeson, 1998).

By using both theories and examining the relationship between efforts to secure justice for both humans and nature, I was able to demonstrate how these efforts may share common opportunities (i.e., protecting nature's ability to maintain its vital ecological functions) and adversaries (i.e., militarized extractive complex) – suggesting an underlying compatibility between efforts. Still, there is plenty of room to go deeper into the interconnected nature of these justice inquiries. Continued exploration of these theories in a relational way can help reconcile dualistic reasonings which silo human interests from nature's interests, identify underlying dynamics, and inform efforts which seek to enable a balanced justice for humans and nature (Mogstad, 2016; Houston, 2013; Stone, 2010; Low & Gleeson, 1998).

Second, reviewed sources on environmental and ecological justice theories tended to portray justice as a destination to be reached (Rodríguez, 2016; Schlosberg, 2004; Low & Gleeson, 1998). This is also reflected by the rulings, which sometimes referred to securing a 'material justice' for humans and nature (*T-622/16*, 2016, p. 31-32, 148). While securing conditions to enable a material justice is desirable, overemphasis on the notion of justice as an outcome, or material reality, may overshadow the need for a just transition. Also, it's important to acknowledge that justice can never be truly 'secured', as conditions that enable justice must constantly be renewed (Storaas, 2019; Sen, 2009).

This was especially apparent in evaluation of both cases, where ongoing omission by government agencies has continued, perpetuating injustices against both humans and nature years after (Atrato: 3 ½ years; Amazon: 2 years) the rulings were issued. Also, the interpretation and implementation of the Colombian Amazon ruling has effectively corrupted aims to secure justice for humans and nature. Evaluation of these cases has demonstrated how the transitional nature of justice efforts should not be overlooked (Hernández, 2020; Comité de Seguimiento, 2019; Public Audience for *STC4360-2018*, October 15-November 19, 2019).

Even participatory and procedural justice dimensions, as framed by referenced materials, failed to consider some important power dimensions which need to be addressed to enable a just transition (Rodríguez, 2016; Schlosberg, 2004; Seneca, 2004) – for example, holding authorities accountable for wrongdoing within a reasonable timeframe. As a result, participatory elements can too easily become a box-ticking activity to legitimize initiatives with negative socioenvironmental implications and, therefore, take the focus off holding negligent authorities accountable for harms (Arnstein, 1969).

To conclude, examination of both approaches in their sociopolitical contexts evidenced environmental and ecological injustices as symptoms of a broader injustice in the context of a militarized extractive complex and an outgrowth of colonial violence (Abadía Mosquera, 2020). The dimensions of environmental and ecological justice theories which I used to evaluate both cases, unfortunately, didn't include nuanced elements for how to navigate within these complex armed conflict scenarios to enable a just transition (Schlosberg, 2004; Seneca, 2004; Low & Gleeson, 1998). Though, details from Seneca's (2004) *Trinity of Voice* article did help add nuanced tiers of influence within the participatory justice dimension, while discussing some aspects of navigating conflict within this participatory dimension.

Review of complementary materials regarding the complex nature of these and related conflicts suggests that there are important fields of inquiry to help fill and inform these theoretical gaps. For example, critical examination of concepts from humanitarian law, environmental peacebuilding, transitional and restorative justice theories, and ecocide may help inform ongoing development of the theories (Storaas, 2019; Comité de Seguimiento, 2018a; Comité de Seguimiento, 2018b; Díaz Pabón, 2018; Martin, 2018; Rojas-Robles, 2018; Washington et al., 2018; Lindgren, 2017; Nalepa, 2010; Uprimny & Saffon, n.d.). Critical examination is important, as these concepts are not fool proof, either (Ide, 2020). Evaluation and integration of external concepts may help environmental and ecological justice theories become better analytical and informative tools to navigate complex socioecological conflict scenarios.

8.3 Further limitations and future research required

Due to the complex, embedded nature of the socioenvironmental conflicts and justice dimensions within these two cases studies, many relevant details remain unexamined. In the previous section, I explored theoretical limitations to help inform future research. In this section, I will first present some additional, relevant dimensions for future research that remain un- or under- examined by this study, with the understanding that a thorough examination of the context-specific historic and ongoing elements of injustice can help identify shared opportunities and adversaries of justice approaches; these details are relevant to help overcome barriers to justice and reduce potential harms[14] (UNEP, 2019). To conclude this section, I provide more specific recommendations for further research on these and related cases.

[14] For example, this study acknowledged that the culture of legal impunity over the assassinations of human rights and environmental defenders was not addressed in the rulings (*STC4360-2018,* 2018; *T-622/16,* 2016).

Unexamined elements include concrete indigenous and race dimensions, both apart from and in relation to the Colombian context – for example, long-term histories and political agendas which impact scenarios faced by indigenous and afro-descendant groups today (Paschel, 2018; Gruner, 2017; Ng'weno, 2008); recognition of the distinct concerns and experiences of indigenous and afro-descendant individuals and groups (Tierra Digna, 2019; Tovar-Restrepo & Irazábal, 2013; Herrera, 2012); the role of 'ethnic politics' and 'identity' more broadly, including the impact ethnic categorization has had on campesino and mestizo concerns (Courtheyn, 2019; Hellebrandová, 2014); the role 'land' has played in both fueling and 'remedying' injustices (Serna, 2020; Tuck & Yang, 2012); livelihood limitations, such as economic isolation of traditional mining (Herrera, 2012, p. 23); and so on. The dimensions of gender and child justice (beyond intergenerational environmental justice considerations) also remain unexplored (Tierra Digna, 2019), as do references to 'global' and 'universal' notions of justice (Mindua, 2017; Normand, 2004).

Again, it's especially important to emphasize that the study was limited by security concerns and, therefore, did not incorporate firsthand feedback from local groups within the regions that are directly involved in the implementation of approaches or have been directly impacted by the approaches. In the Methods chapter, I discussed how I sought to overcome this. However, future research must more closely examine the on-the-ground, day-to-day realities in which these nature's rights approaches emerged, as well as the experiences and recommendations of local

---

This can pose additional risks for anyone directly involved with implementing the ruling, especially vulnerable groups (Redacción2020, 2019). It's also important to acknowledge that there are complex power dimensions at play in these scenarios, which may disable a Court's ability to sufficiently address these dynamics (Cepeda-Espinosa, 2004). These details help inform justice-seeking efforts.

communities living them – again, with ample, serious consideration for the security risks imposed on these communities.

I also want to acknowledge that some government authorities declined to comment, indicating that they are not responsible for complying with the ruling. Though, these same authorities were named responsible for certain components of the rulings and formally presented on their progress in official reports and/or Public Audience. Other government authorities, as well, are under threat of violence and could not be reached for comment (Paz Cardona, 2020a; Botero-García et al., 2019; Comité de Seguimiento, 2019). In both cases, their input came through secondary data and available progress reports. Future research should seek to incorporate more feedback directly from these agencies, responsibly and wherever possible.

It's important to remember that the evolution of nature's rights approaches is still in progress, and the approaches are still in their infancy. As Jenny Ramírez from the Ministry of the Environment (MADS) stated, "Perhaps because the work has not yet resolved, it is like a child. You do the work because you have to, but you don't know what it is yet that you're doing… we are not sure yet how it will live" (personal communication, July 2019). So, ongoing examination of these approaches is required.

Ongoing examination should consider: 1) the varied interpretations and practical implications of nature as a legal subject; 2) ongoing formalization of the ecosystems as a legal subject on a case-by-case and cumulative basis; 3) the varied forms and implications for human representation of said ecosystems in nature's rights approaches; 4) distributive and redistributive outcomes of the ecosystems' four rights to be *protected, maintained, conserved*, and *restored* and 5) how this corresponds with defined understandings of *ecological health* and/or *ecological integrity*, 6) ongoing progress and compliance by government authorities; 7) ongoing examination of the role played by defense and security forces in the interpretation

and implementation of nature's rights approaches, and alternative defense strategies; 8) illegal versus legal extractive activities in the regions against their impacts on environmental and ecological justice; 9) examination of nature's rights approaches as a subject of and tool for restitution, including an examination of Colombian jurisprudence around nature as a 'victim'; and 10) comparing the legal tool of *ecocide* as a method of war in the Colombian context of armed conflict and socioecological harms. These considerations can help identify key strengths and barriers to nature's rights approaches as a means to secure justice for humans and nature.

9. Conclusion

Nature's rights have emerged as an experimental legal approach to secure justice for nature, by helping make nature's interest in maintaining ecological health visible and legally defensible. Many proponents for nature's rights argue that human rights contigent on nature's integral functioning cannot be met until nature's interest in maintaining ecological health is legally protected.

Having internalized this understanding, Colombia's seminal nature's rights court rulings sought to protect the Atrato River Basin (est. 2016) and Colombian Amazon (est. 2018) as legal subjects – with the rights to be *protected, conserved, maintained,* and *restored* – in response to human rights violations linked to a degrading environment, environmental crimes, and government inaction. For this reason, both cases provided a unique opportunity to examine two distinct approaches against their shared aims to secure justice for both humans and nature. Using environmental and ecological justice theories, I sought to consider the strengths and weaknesses of these two approaches against these aims, as well as the relationship between efforts to secure justice for both humans and nature simultaneously.

I conclude that both approaches have fallen short of their aims to secure justice for either humans or nature, and many barriers remain toward enabling justice. To summarize the study and support this argument, I will present the main findings from meeting the four objectives. I will then briefly reflect on the effectiveness of environmental and ecological justice theories as analytical tools, in the form adopted by this study.

To meet objective one, I identified which environmental and ecological justice dimensions the Atrato and Amazon rulings contained and/or lacked. Examination began from an understanding that the Atrato ruling dealt with an intragenerational environmental justice conflict, while the Amazon ruling stemmed from an

intergenerational environmental justice conflict. Both rulings sought to secure environmental justice by issuing remedies to secure ecological justice. Examination further determined that both rulings contained all three environmental and ecological justice dimensions – recognition, participatory and distributive justice – albeit to varying degrees.

Both rulings recognized that the plaintiffs' interest in guaranteeing human rights tied to a healthy environment *and* nature's interest in maintaining ecological health are valid concerns of the political community. Both enabled varying degrees of participatory measures to represent both human interests and nature's interests. Both sought to prevent the ongoing proliferation of environmental 'bads' due to harmful extractive projects, as well as redistribute environmental 'goods' primarily by restoring nature's ecological health.

However, the Atrato ruling contained more justice-enabling measures that emphasize alternatives to criminalization and militarization. It also explicitly recognized that the proliferation of illegal mining has dispossessed communities of their traditional livelihoods, forcing them into illegal economies. By contrast, the Amazon ruling failed to acknowledge how many vulnerable groups resort to illegal forest-clearing activities due to a lack of alternatives, and how the ruling may impact them. This is problematic, as historically some government authorities have used conservation goals as an excuse to criminalize vulnerable communities.

With that said, neither ruling explicitly acknowledged that Colombia continues to have the second highest right of assassination against human rights and environmental defenders. An ongoing culture of legal impunity and government noncompliance contributes to this devastating trend. This factor poses some serious concerns for those seeking to protect themselves, as well as nature. Unfortunately,

neither ruling contained explicit measures to help protect vulnerable actors engaged in these social and environmental protections.

While courts and rulings can be limited by a variety of factors (for example, the parameters of the tutela conflict), lack of recognition regarding the complex phenomenon of environmental crimes can complicate interpretation and implementation efforts, potentially disabling justice – especially when paired with the culture of legal impunity, noncompliance and lack of accountability. This was, unfortunately, evidenced in the examination of implementation efforts, to date.

To meet objective two, I examined the implementation efforts of both approaches by identifying contributing and impeding factors which may influence justice outcomes – including advances and opportunities, barriers and risks, and remaining uncertainties. I conclude that, while both rulings enabled some important opportunities for securing justice, examination evidenced low levels of compliance by government authorities and some serious risks to local communities remain.

To summarize advances and opportunities, both rulings require collaboration across sectors, levels of government, and civil society to be considered in compliance. Both approaches have generated public forums to discuss what constitutes 'justice' for nature and impacted groups. Though, only the Atrato approach has formally required the River Guardian's direct involvement in the governance process and has called for a review of the impact of 'legal' extractive processes. Though, ongoing public forums continue to advocate for increased civic participation and impact assessments of legal activities in both cases.

Unfortunately, examination has uncovered more barriers and risks to implementing the approaches in a manner that secures comprehensive justice outcomes for humans and nature. Overall, ongoing violence against local communities has been evidenced in both cases. Armed actors continue to control large swathes of

territory and illegal extractive operations continue. However, available reports do not indicate that Atrato communities are being criminalized by the State, unlike implementation of the Amazon approach.

So far, implementation of the Amazon approach has evidenced a gross neglect for local residents and what constitutes true intergenerational and ecological justice, as required by the ruling. Military operations have disproportionately targeted and criminalized vulnerable campesinos for illegal forest-clearing, while knowing that campesinos are the lowest links on the criminal supply chain, cannot 'legally' take wood, and engage in these activities due to a lack of alternatives.

By contrast, higher links on the criminal chain profit most from forest-clearing activities and are more responsible for the Amazon's deteriorating ecological health. Still, examination has not found that the prescribed military operations have resulted in the capture or dismantling of any criminal networks. Instead, new armed conflict scenarios have increased risk of harm and contributed to ongoing tensions between vulnerable resident groups and the State.

To meet objective three, I examined the relationship between efforts to secure justice for humans and nature simultaneously, by identifying compatibilities and tensions. I conclude that efforts to secure justice for humans and nature are sufficiently compatible – evidenced by shared opportunities and adversaries.

First, nature's rights approaches have presented a common *opportunity* between efforts to secure justice for both humans and nature. These approaches have emerged in response to the proliferation of anthropogenic environmental degradation, recognizing that dominant anthropocentric governance frameworks have permitted some humans to exploit nature to their sole advantage. Nature's rights approaches provide a legal and governance antidote to help nature's interest in maintaining ecological health and defend it when its health is in jeopardy. As a rights-

holder, nature's interest can be defended against powerful interests responsible for higher levels of degradation – whether they be *illegal* criminal networks that operate with impunity or *legal* activities backed by rights-based or other protections.

Second, examination has identified that justice outcomes for humans and nature share *adversaries.* In both cases, proliferation of harmful extractive activities has discounted the well-being and health of vulnerable communities and nature. The identified conditions resemble conditions generated by colonialism – extraction and exploitation of the environment and human communities to benefit the few, evidenced by a severe lack of reinvestment and consideration for protecting social and environmental conditions. In other words, justice outcomes for both humans and nature are bound in both cases, up against a militarized extractive complex, culture of impunity and noncompliance – characterized as a politics of neglect.

To meet objective four, I compared both approaches for their strengths and weaknesses against their aims to secure justice for humans and nature. My intention was to identify some justice-enabling and disabling factors that could inform ongoing implementation efforts, and the design of future nature's rights approaches.

I conclude that the Atrato approach pre-emptively presented a stronger blueprint for securing justice for humans and nature than the Colombian Amazon approach. Identified justice-enabling factors include:

1. The Atrato approach has consistently emphasized the need for a comprehensive approach to eradicate illegal mining by implementing alternatives to criminalization, i.e. incorporating measures to restore traditional livelihoods and nature in tandem, making local participation central to the restoration process, and targeting other links (i.e., commerce, inputs, transport) along the criminal supply chain.

2. Its figure as a 'legal subject' promises to be considered *transversal*, meaning that all plans at all levels (government, private, etc.) must guarantee the Atrato's rights. Implementation efforts have also positioned the Atrato River Basin as a 'victim' to enable restitution.
3. Development of this legal figure has also explicitly emphasized that conservation goals cannot supersede protection for vulnerable local groups.

By contrast, the Amazon approach may serve as a word of caution. Interpretation and implementation of the Amazon nature's rights approach by government authorities has deviated significantly from the Atrato approach and nature's rights theory. A warped interpretation of the Amazon ruling has willfully ignored what constitutes justice for humans and nature, continues to perpetuate injustices against both, and has failed to materialize the reforms needed to secure intergenerational justice.

Having met the objectives, I conclude that environmental and ecological injustices are co-occurring symptoms of a broader politics of neglect which takes without reinvesting and punishes without providing. To secure justice for humans and nature, nature's rights approaches require an intersectional justice approach to remedy unjust socioecological conditions with entanglements in the armed conflict and with colonial roots.

By using environmental and ecological justice theories to examine the Atrato and Amazon approaches as a means to secure justice, I was also able to test these tools for their strengths and limitations. While they served as sufficient preliminary analytical tools, I identified a few shortcomings. These include the risk of overemphasizing 1) a human-nature duality and 2) justice as a destination, rather than a transitional process; further, both theories in the form presented in the study may imply that 3) justice 'within and for nature' is divorced from other types of conflicts.

Further development of the theories should aim to explore the relational dynamics of environmental and ecological justice, emphasize the need to enable just transitions (for example, by holding those in power accountable for wrongdoing), and recognize that justice concerns 'within and for nature' may be embedded in concurrent, complex conflicts. Development of both theories should critically examine and, where appropriate, integrate principles from humanitarian law, environmental peacebuilding, restorative and transitional justice, and ecocide to apply to complex armed conflict scenarios.

To conclude, court rulings in response to tutelas are meant to be transitional tools to prevent potentially irreversible harm and restore guarantees to protect rights. While a 'secured' justice for humans and nature would be the most desirable outcome of these approaches, it's important to remember that these emerging approaches are "part of contemporary global legal thought experiments, understood not as abstract, whimsical or fantastical, but as desperately serious conceptual interventions in a world that urgently needs to reimagine itself and its institutions" (Barcan, 2019, p. 17). Examination of both approaches against their aim to secure justice for both humans and nature is a step toward determining what a balanced, comprehensive justice for humans and nature could actually look like – while underscoring what justice absolutely does not look like.

Works Cited

Abadía, B.D., Urrea, D., Calle, D.C., Harman, J.F., Quijano, J.M., Tamayo, J.H.A., … Maldonado, T.R. (2014). Extractivismo, Conflictos y Resistencias [Extractivism, Conflicts, and Resistance]. Bogotá, Colombia: Censat Agua Viva – Amigos de la Tierra Colombia.

Abadía Mosquera, W.A. (2020). Estrategias de “desarrollo” y el conflicto armado en el Bajo Atrato: experiencias locales sobre la defensa de la vida y el territorio en el Consejo Comunitario de la cuenca del río Cacarica, Riosucio-Chocó [Strategies of “development” and the armed conflict in Lower Atrato: local experiences about the defense of life and territory in the Community Council of the Cacarica River Basin, Riosucio-Chocó]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.808

Abate, R. (2019). *Climate Change and the Voiceless: Protecting Future Generations, Wildlife, and Natural Resources.* Cambridge, UK: Cambridge University Press.

Acosta, M., Castañeda, A., García, D., Hernández, F., Muelas, D., Santamaria, A. (2018). The Colombian Transitional Process: Comparative Perspectives on Violence against Indigenous Women. *International Journal on Transitional Justice, 12*(1): 108-125. doi: 10.1093/ijtj/ijx033

Actualidad. (2019). Lo bueno, lo malo y lo feo en las audiencias de la sentencia de la Amazonía [The good, the bad and the ugly from the audiences of the Amazon sentence]. *Semana Sostenible.* Retrieved from https://sostenibilidad.semana.com/actualidad/articulo/lo-bueno-lo-malo-y-lo-feo-en-las-audiencias-de-la-sentencia-de-la-amazonia/47311

Aguilar-Støen, M., Toni, F., & Hirsch, C. (2016). *Forest Governance and REDD.* In F. De Castro, B. Hogenboom, & M. Baud (Eds.), *Environmental Governance in Latin America* (p. 205-233). New York: Palgrave Macmillan.

AHC4806-2017. (2017, July 26). República de Colombia Corte Suprema de Justicia [Colombian Republic Supreme Court of Justice]. Retrieved from http://legal.legis.com.co/document/Index?obra=jurcol&document=jurcol_9a4533cd7c4a418bb13c5d1db599890e

Aldana, A.M. & Mitchley, J. (2013). Protected areas legislation and the conservation of the Colombian Orinoco basin natural ecosystems. *Nature Conservation, 4:* 15-28. doi: 10.3897/natureconservation.4.3682

Alvarado, P.A.A. & Rivas-Ramírez, D. (2018). A Milestone in Environmental & Future Generations' Rights Protection: Recent Legal Developments before the Colombian Supreme Court. *Journal of Environmental Law, 30*(3): 519-526. doi: 10.1093/jel/eqy024

Alsema, A. (2020, January 13). 15 community leaders assassinated in Colombia in 2020. *Colombia Reports.* Retrieved from https://colombiareports.com/15-community-leaders-assassinated-in-colombia-in-2020/

Alsema, A. (2019, October 23). More than 36% of Colombia's Choco victimized by armed conflict so far this year: UN. *Colombia Reports.* Retrieved from https://colombiareports.com/more-than-36-of-colombias-choco-victimized-by-armed-conflict-so-far-this-year-un/

Álvarez, M.D. (2003). Forests in the Time of Violence: Conservation Implications of the Colombian War. *Journal of Sustainable Forestry, 16*(3-4): 47-68. doi: 10.1300/J091v16n03_03

Amnesty International. (2018). *Amnesty International Report 2017/18 – Colombia* (Report). Retrieved from https://www.refworld.org/docid/5a993925a.html

Armenteras, D., Rudas, G., Rodriguez, N., Sua, S., & Romero, M. (2005). Patterns and causes of deforestation in the Colombian Amazon. *Ecological Indicators, 6*(2006)*:* 353-368. doi: 10.1016/j.ecolind.2005.03.014

Arnstein, S.R. (1969). A Ladder of Citizen Participation. *Journal of the American Planning Association, 35*(4): 216-224. doi: 10.1080/01944366908977225

Artículo 1 de Ley 70 de 1993. (1993). Retrieved from https://www.acnur.org/fileadmin/Documentos/BDL/2006/4404.pdf?file=fileadmin/Documentos/BDL/2006/4404

Artículo 7 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-1/capitulo-0/articulo-7

Artículo 8 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-1/capitulo-0/articulo-8

Artículo 63 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-2/capitulo-2/articulo-63

Artículo 68 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-2/capitulo-2/articulo-68

Artículo 79 de la Constitución Política de Colombia. (n.d.). Retrieved from http://www.constitucioncolombia.com/titulo-2/capitulo-3/articulo-79

Artículo 86 de la Constitución Política de Colombia. (n.d.) Retrieved from http://www.constitucioncolombia.com/titulo-2/capitulo-4/articulo-86

Artículo 113 de la Constitución Política de Colombia. (n.d.). Retrieved from http://www.constitucioncolombia.com/titulo-5/capitulo-1/articulo-113

Artículo 115 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-5/capitulo-1/articulo-115

Artículo 150 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-6/capitulo-3/articulo-150

Artículo 197 de la Constitución Política de Colombia. (n.d.) Retrieved from https://www.constitucioncolombia.com/titulo-7/capitulo-1/articulo-197

Artículo 215 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-7/capitulo-6/articulo-215

Artículo 228 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-1/articulo-228

Artículo 233 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-1/articulo-233

Artículo 234 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-2/articulo-234

Artículo 237 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-3/articulo-237

Artículo 239 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-4/articulo-239

Artículo 241 de la Constitución Política de Colombia. (n.d.). Retrieved from http://www.constitucioncolombia.com/titulo-8/capitulo-4

Artículo 246 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8/capitulo-5/articulo-246

Artículo 305 de la Constitución Política de Colombia. (n.d.). Retrieved from http://www.constitucioncolombia.com/titulo-11/capitulo-2/articulo-305

Artículo 311 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-11/capitulo-3/articulo-311

Artículo 332 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-12/capitulo-1/articulo-332

Artículo 339 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-12/capitulo-2/articulo-339

Atapattu, S. & Schapper, A. (2019). *Human Rights and the Environment: Key Issues*. New York: Routledge.

Barcan, R. (2019). The campaign for legal personhood for the Great Barrier Reef: Finding political and pedagogical value in the spectacular failure of care. *Nature and Space, 0*(0): 1-23. doi: 10.1177/2514848619886975

Bavikatte, S.K., & Bennett, T. (2015). Community stewardship: the foundation of biocultural rights. *Journal of Human Rights & the Environment, 6*(1): 7-29. doi: 10.4337/jhre.2015.01.01

Baxter, B. (2005). *A Theory of Ecological Justice* (1st Ed.). London: Routledge.

Beder, S. (2002). bp: Beyond Petroleum? In E. Lubbers (Ed.), *Battling Big Business: Countering greenwash*, *infiltration and other forms of corporate bullying.* Devon, UK: Green Books.

Bernal, A.M. (2019). Colombia. In I.I. Briceño (Eds.), *Governments and Civil Society Advancing Climate Agendas* (p. 58-69). IDB Group.

Betancur-Restrepo, L., & Grasten, M. (2019, January 1). Contesting Impunity in Colombia. *E-International Relations.* Retrieved from https://www.e-ir.info/2019/01/01/contesting-impunity-in-colombia/

Bicker, A., Ellen, R., & Parkes, P. (Eds.) (2003). *Indigenous Environmental Knowledge and its Transformations: Critical Anthropological Perspectives.* Amsterdam: Overseas Publishers Association.

Blaser, M. & de la Cadena, M. (2018). Pluriverse: Proposals for a World of Many Worlds. In M. de la Cadena & M. Blaser (Eds.), *A World of Many Worlds.* Durham, NC: Duke University Press.

Bleckman, P. (2018). *The role of multinational enterprises in Colombia's economic and social development* (Master's thesis). Freie Universität Berlin: Berlin.

Bocarejo, D. & Ojeda, D. (2016). Violence and conservation: Beyond unintended consequences and unfortunate coincidences. *Geoforum, 69*:176-183. doi: 10.1016/j.geoforum.2015.11.001

Botero, D.I.R., & Galeano, C.A.P. (2017). Territories in Dispute: Tensions between 'Extractivism', Ethnic Rights, Local Governments and the Environment in Bolivia, Colombia, Ecuador and Peru. *International Development Policy, 9:* 269-290. doi: 10.4000/poldev.2374

Botero-García, R., López, F., Ospino, H., Ponce de León-Chaux, E. & Riveros, C. (2019). Áreas Protegidas Amazónicas y sus Funcionarios como Víctimas del Conflicto

Armado [Amazonian Protected Areas and their Functionaries as Victims of the Armed Conflict]. Bogotá, Colombia: Fundación para la Conservación y el Desarrollo Sostenible.

Brewer-Carías, A.R. (2009). The Injuring Party: The Defendant (Public Entities or Private Individuals). In A.R. Brewer-Carías (Ed.), *Constitutional Protection of Human Rights in Latin America: A Comparative Study of Amparo Proceedings* (p. 289-328). Cambridge, UK: Cambridge University Press.

Bruch, C. & King, S. (2002). Constitutional Procedural Rights: Enhancing Civil Society's Role in Good Governance. In (Eds.), *The New "Public": The Globalization of Public Participation* (p. 21-38). Washington, D.C.: Environmental Law Institute.

Bryman, A. (2016). *Social Research Methods* (5th Ed.). New York: Oxford.

Bugge, H.C. (2013). Twelve fundamental challenges in environmental law: An introduction to the concept of rule of law for nature. In C. Voigt (Ed.), *Rule of Law for Nature: New Dimensions and Ideas in Environmental Law* (p. 3-26). Cambridge, UK: Cambridge University Press.

Burdon, P.D. (2012). A Theory of Earth Jurisprudence. *Australian Journal of Legal Philosophy, 37*: 28-60. Retrieved from http://www.austlii.edu.au/au/journals/AUJlLegPhil/2012/index.html

Bustos, C. & Richardson, W. (in press). Nature's Rights in Colombia [Advanced Chapter Draft]. In *Earth Law: Emerging Ecocentric Law.* USA: Wolters Kluwer.

C-252/19. (2019, June 6). La Sala Plena de la Corte Constitucional [The Full Chamber of the Constitutional Court]. Retrieved from https://www.corteconstitucional.gov.co/relatoria/2019/c-252-19.htm

Cairo, H., Oslender, U., Suárez, C.E.P., Ríos, J., Koopman, S., Arango, V.M., … Quintero, L.Z. (2018). "Territorial Peace": The Emergence of a Concept in Colombia's Peace Negotiations. *Geopolitics, 23*(2): 464-488. doi: 10.1080/14650045.2018.1425110

Capítulo 1 de la Constitución Política de Colombia. (n.d.). Retrieved from http://www.constitucioncolombia.com/titulo-2/capitulo-1

Capítulo 3 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-2/capitulo-3

Capítulo 4 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-11/capitulo-4

Castro-Nunez, A. (2018). Responding to Climate Change in Tropical Countries Emerging from Armed Conflicts: Harnessing Climate Finance, Peacebuilding, and Sustainable Food. *Forests, 9*(10): 621. doi: 10.3390/f9100621

Castro-Nunez, A., Mertz, O., Buritica, A., Sosa, C.C., & Lee, S.T. (2017). Land related grievances shape tropical forest-cover in areas affected by armed conflict. *Applied Geography, 85:* 39-50. doi: 10.1016/j.apgeog.2017.05.007

Catorce6. (2019, June 6). La JEP reconoce al medio ambiente como víctima del conflict armado [The JEP recognizes the environment as a victim of the armed conflict]. *Catorce6.* Retrieved from https://www.catorce6.com/actualidad-ambiental/17151-la-jep-reconoce-al-medio-ambiente-como-victima-del-conflicto-armado?fbclid=IwAR1RylgsUQDXRqreg9SSRqi1D3stXdGGgCYlGcx7Hngz5lHxtXveF6lwMME

Caycedo, J.F.C. (2001). The Defender of the Public of the Republic of Colombia. In Hossain, K., Besselink, L.F.M., Selassie, H.S.G., & Völker, E. (Eds.), *Human Rights Commissions and Ombudsman Offices.* The Hague, Netherlands: Kluwer Law International.

CEPAL, Patrimonio Natural, Ministerio del Ambiente de Desarrollo Sostenible, Parques Nacionales Naturales, & Gordon and Betty Moore Foundation. (2013). Amazonia Posible y Sostenible [Amazon Possible and Sustainable] (Report). Retrieved from https://www.cepal.org/sites/default/files/news/files/folleto_amazonia_posible_y_sostenible.pdf

Cepeda Espinosa, M.J. (2005). The Judicialization of Politics in Colombia: The Old and the New. In R. Sieder, L. Schjolden, A. Angell (Eds.), *The Judicialization of Politics in Latin America.* New York: Palgrave MacMillan.

Cepeda-Espinosa, M.J. (2004). Judicial Activism in a Violent Context: The Origin, Role, and Impact of the Colombian Constitutional Court. *Washington University Global Studies Law Review, 3*(4): 529-700.

Chape, S., Spalding, M., Taylor, M., Putney, A., Ishwaran, N., Thorseil, J. … McManus, E. (2008). History, Definitions, Values and Global Perspective. In S. Chape, M. Spalding, & M. Jenkins (Eds.), *The World's Protected Areas: Status, Values and Prospects in the 21st Century* (p. 1-35). Berkley, California: University of California Press.

Chapin, M. (2003). A Challenge to Conservationists. *World Watch.* Retrieved from https://www.questia.com/magazine/1G1-124444744/a-challenge-to-conservationists

Chapron, G., Epstein, Y., López-Bao, J.V. (2019). A rights revolution for nature. *Science, 363*(6434): 1392-1393. doi: 10.1126/science.aav5601

Choplin, L. (2020, May 21). Islamabad High Court Recognizes the Rights of Nonhuman Animals [Media release]. Retrieved from https://www.nonhumanrights.org/media-center/media-release-5-21-20-islamabad-high-court-recognizes-animal-rights/?fbclid=IwAR2cC2ofmbSa54U3cvmX5WBXDMYaDbviZnj3WKdAsxwxvhFefSebnnjLDWc

Clark, T.D. (2017). Rethinking Chile's 'Chicago Boys': neoliberal technocrats or revolutionary vanguard? *Third World Quarterly, 38*(6): 1350-1365. doi: 10.1080/01436597.2016.1268906

Clarke, M. (2018). Climate change litigation: A new class of action. *White & Case.* Retrieved from https://www.whitecase.com/publications/insight/climate-change-litigation-new-class-action

Class action. (n.d.). In *Wex Legal Dictionary.* Retrieved from https://www.law.cornell.edu/wex/class_action

Colombia Reports. (2019, July 20). Forced displacement. *Colombia Reports.* Retrieved from https://colombiareports.com/forced-displacement-statistics/

Comité Cívico por los Derechos Humanos del Meta-CCDHM. (2020, February 23). Declaración Pública Comité Cívico por los Derechos Humanos del Meta [Public Declaration from the Civic Committee for Human Rights in Meta]. Retrieved from https://www.business-humanrights.org/sites/default/files/documents/Comunicado%20CCDHM%20sobre%20situaci%C3%B3n%20de%20la%20Macarena.pdf

Comité de Seguimiento [Follow-Up Committee]. (2019, June). Cuarto Informe de Seguimiento Sentencia T-622 de 2016 [Fourth Follow-Up Report Ruling T-222 from 2016]. Available upon request.

Comité de Seguimiento [Follow-Up Committee]. (2018a). Tercero Informe de Seguimiento Sentencia T-622 de 2016 [Third Follow-Up Report Ruling T-222 from 2016]. Available upon request.

Comité de Seguimiento [Follow-Up Committee]. (2018b, June). Segundo Informe de Seguimiento Sentencia T-622 de 2016 [Second Follow-Up Report Ruling T-222 from 2016]. Available upon request.

Congreso de Colombia. (2011). Ley 1448 de 2011 [Law 1448 of 2011]. Retrieved from https://www.unidadvictimas.gov.co/es/ley-1448-de-2011/13653

Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com

Contempt of Court. (n.d.). In *The Free Legal Dictionary.* Retrieved from https://legal-dictionary.thefreedictionary.com/Contempt

Convention on Biological Diversity. (n.d.). Colombia Country Profile. Retrieved from https://www.cbd.int/countries/profile/default.shtml?country=co

Corpoamazonia. (n.d.). Retrieved from http://www.corpoamazonia.gov.co/region/Jur_areas.htm

Cortés, P.M. (2013). *The Victims and Land Restitution Law in Colombia in Context: An analysis of the contradictions between the agrarian model and compensation for the victims.* Berlin, Germany: FDCL.

Courtheyn, C. (2019). De-indigenized but not defeated: race and resistance in Colombia's Peace Community and Campesino University. *Ethnic and Racial Studies, 42*(15): 2641-2660. doi: 10.1080/01419870.2018.1554225

Creswell, J.W. (2013). *Qualitative Inquiry and Research Design: Choosing Among Five Approaches (3rd Ed.).* Thousand Oaks, CA: Sage Publications.

Crook, M. & Short, D. (2014). Marx, Lemkin and the genocide-ecocide nexus. *The International Journal of Human Rights, 18*(3): 298-219. doi: 10.1080/13642987.2014.914703

Dávalos, L.M., Bejarano, A.C., Hall, M.A., Leonardo Correa, H., Corthals, A. & Espejo, O.J. (2011). Forests and Drugs: Coca-Driven Deforestation in Tropical Biodiversity Hotspots. *Environmental Science & Technology, 54*(4): 1219-1227. doi: 10.1021/es102373d

Decreto 2591 de 1991. (1991). Retrieved from https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=5304

Defensoría del Pueblo de Colombia [Ombudsman of Colombia]. (2014a). *Crisis humanitaria en Chocó: Diagnóstico, valoración y acciones de la Defensoría del Pueblo* [Humanitarian crisis in Chocó: Diagnostics, assessment, and actions of the Office of the Ombudsman] (Report). Bogotá, Colombia: Defensoría del Pueblo.

Retrieved from http://www.defensoria.gov.co/public/pdf/crisisHumanitariaChoco.pdf

Defensoría del Pueblo de Colombia [Ombudsman of Chicago]. (2014b). *Resolución Defensorial No. 064: Crisis humanitaria en el Departamento del Chocó 2014* [Ombudsman Resolution No. 64: Humanitarian crisis in the Department of Chocó]. Retrieved from https://www.defensoria.gov.co/es/public/resoluciones/2552/Resolución-Defensorial-064-de-2014-Defensorial.htm

Defensoría del Pueblo Colombia. (n.d.). ¿Quiénes somos? [Who are we?]. Retrieved from https://www.defensoria.gov.co/es/public/institucional/5847/%C2%BFQu%C3%ADenes-somos.htm

Dejusticia. (2020). Campaña Artemisa en Serranía de La Macarena no puede atropellar los derechos del campesinado [The Artemisa Campaign in La Macarena's Serranía cannot trample on the rights of the peasantry). *Dejusticia.* Retrieved from https://www.dejusticia.org/campana-artemisa-en-serrania-de-la-macarena-no-puede-atropellar-los-derechos-de-campesinos/

Dejusticia. (2019). La jornada de activismo creativo Days of Hope llega este 21 de septiembre a Caquetá [Days of Hope, a day of creative activism comes to Caquetá on September 21). *Dejusticia.* Retrieved from https://www.dejusticia.org/la-jornada-de-activismo-creativo-days-of-hope-llega-este-21-de-septiembre-a-caqueta/

Dejusticia. (2018a, November 1). Estrategia del Estado para frenar la deforestación no debe centrarse en medidas represivas contra campesinos [The State's Strategy to combat deforestation shouldn't center on repressive measures against *campesinos*]. *Dejusticia*. Retrieved from https://www.dejusticia.org/estrategia-del-estado-para-frenar-la-deforestacion-no-debe-centrarse-en-medidas-represivas-contra-campesinos/

Dejusticia. (2018b, May 7). 25 Voices Against Deforestation. *Dejusticia.* Retrieved from https://www.dejusticia.org/en/25-voices-against-deforestation/

Delgado-Duque, L. (2017). El papel de los grupos ambientalistas contra la minería ilegal en Chocó: más allá del lobby [The role of environmental groups against illegal mining in Chocó: beyond the lobby]. *Revista Estrategia Organizacional, 6*(1). doi: 10.22490/25392786.2450

Departamento Administrativo Nacional de Estadística [National Administrative Department of Statistics]. (2017). Proyecciones de población por Departamento Colombia [Population projections by Department Colombia]. Retrieved from https://www.datos.gov.co/Estad-sticas-Nacionales/Proyecciones-de-poblaci-n-por-Departamento-Colombi/5b7v-4tvp

Diamond, A. (2019, December 8). The Colombian Government Against the Campesinos. *Jacobin.* Retrieved from https://jacobinmag.com/2019/08/colombia-farc-hidroituango-demining-coca-campesinos

Diaz Parra, K. (2019, May 6). "Extractivismo en la brava en el Plan Nacional de Desarrollo del gobierno del Duque." *Semana Sostenible.* Retrieved from https://sostenibilidad.semana.com/impacto/articulo/extractivismo-a-la-brava-en-el-plan-nacional-de-desarrollo-del-gobierno-de-duque/44087

Díaz Pabón, F.A. (Ed.). (2018). *Truth, Justice & Reconciliation in Colombia.* London: Routledge.

Diócesis de Quibdó, Diócesis de Istmina, Diócesis de Apartadó, FISCH, & Mesa Indígena. (2018, September 14). *Informe sobre la grave crisis humanitaria, social, económica y ambiental en el departamento de Chocó* [Report on the grave humanitarian, social, economic and environmental crisis in the department of Chocó] (Report). Retrieved from https://verdadabierta.com/wp-content/uploads/2018/10/INFORME-CRISIS-HUMANITARIA-EN-EL-CHOCO%CC%81-FINAL.pdf

Dixon, L. (2020, April 29). 'In Many Ways, the Conflict Never Ended.' Ongoing Violence Threatens Colombia's Peace. *World Politics Review.* Retrieved from https://www.worldpoliticsreview.com/articles/28720/in-colombia-violence-in-rural-areas-threatens-the-farc-peace-deal

Dorling, D. (2010). Opinion: Social Inequality and Environmental Justice. *Environmental Scientist*: 9-13. Retrieved from http://www.dannydorling.org/wp-content/files/dannydorling_publication_id1828.pdf

Drouet, J. (2019, February 13). $3 million grant funds study of Colombian river contamination, effects on locals. *Florida International University News.* Retrieved from https://news.fiu.edu/2019/3-million-grant-funds-study-of-colombian-river-contamination-effects-on-locals

Earth Law Center. (2016). 2016 Update: Fighting for Our Shared Future: Protecting Both Human Rights and Nature's Rights (Report). Retrieved from

https://www.earthlawcenter.org/co-violations-of-rights/?utm_content=LDF%20tweet%20co-violations%20report

Earth Law Center, International Rivers, & RIDH. (2018, August 9). Amicus Brief Urges Fundamental Rights for the Anchicaya and All Colombian Rivers. Retrieved from https://www.earthlawcenter.org/elc-in-the-news/2018/8/amicus-brief-urges-fundamental-rights-for-the-anchicay-and-all-colombian-rivers

Earthy, S. & Cronin, A. (2008). Narrative Analysis. In N. Gilbert (Ed.), *Researching Social Life.* London: Sage.

Ebbesson, J. & Okowa, P. (Eds.) (2009). *Environmental Law & Justice in context*. Cambridge, UK: Cambridge University Press.

Emmenegger, S. & Tschentscher, A. (1994). Taking Nature's Rights Seriously: The Long Way to Biocentrism in Environmental Law. *Georgetown International Environmental Law Review, VI*(3): 545-742.

Falk, R. (2009). The second cycle of ecological urgency: an environmental justice perspective. In J. Ebbesson & P. Okowa (Eds.), *Environmental Law & Justice in context.* Cambridge, UK: Cambridge University Press.

Forero, J. (2001). "Union Says Coca-Cola in Colombia Uses Thugs." *New York Times.* Retrieved from https://www.nytimes.com/2001/07/26/world/union-says-coca-cola-in-colombia-uses-thugs.html

First National People of Color Environmental Leadership Summit. (1991). The Principles of Environmental Justice. Retrieved from https://www.nrdc.org/sites/default/files/ej-principles.pdf

Fospa. (2018, November 20). Protection of the Amazon is incompatible with the oil mining and extractive model. *Foro Social Panamazónico.* Retrieved from http://www.forosocialpanamazonico.com/en/the-protection-of-the-Amazon-is-incompatible-with-the-oil-mining-and-extractive-model/

Friedman, J. (2018, December 4). 'The Only Protection Is God': Negotiating Faith and Violence in Chocó. *The Pulitzer Center.* Retrieved from https://pulitzercenter.org/reporting/only-protection-god-negotiating-faith-and-violence-choco

Función Pública [Public Function]. (n.d.). Organismos de Control [Control Organisms]. Retrieved from https://www.funcionpublica.gov.co/eva/gestornormativo/manual-estado/organismos-control.php

Gaia Amazonas. (n.d., a). Amazonía Protegida [Protected Amazon]. Retrieved from https://www.gaiaamazonas.org/noticias/2019-02-01_amazonia-protegida/

Gaia Amazonas. (n.d., b). Colombian Amazon. Retrieved from https://www.gaiaamazonas.org/en/lamazoniaenmapas/13/

García-Villegas, M. (2019). Disobeying the Law: Latin America's Culture of Noncompliance with Rules. In R. Sieder, K. Ansolabehere, & T. Alfonso (Eds.), *Routledge Handbook of Law and Society in Latin America* (1st Ed.). New York: Routledge.

Gellers, J.C. & Jeffords, C. (2018). Toward Environmental Democracy? Procedural Environmental Rights and Environmental Justice. *Global Environmental Politics, 18*(1). doi: 10.1162/GLEP_a_00445

Gerring, J. (2004). What Is a Case Study and What Is It Good for? *American Political Science Review, 98*(2): 341-354.

Gigova, R. (2020, January 15). 'Staggering number' of human rights defenders killed in Colombia, the UN says. *CNN.* Retrieved from https://edition.cnn.com/2020/01/14/americas/staggering-number-of-human-rights-defenders-killed-in-colombia-the-un-says/index.html

Global Alliance for Rights of Nature [GARN]. (n.d.). What Is Rights of Nature? Retrieved from https://therightsofnature.org/what-is-rights-of-nature/

Global Witness. (2019). Enemies of the State? How governments and business silence land and environmental defenders (Report). Retrieved from file:///Users/whitneypaigerichardson/Downloads/Enemies_of_the_State%20(1).pdf

Gobernación de Boyacá. (2019, August 8). Gobernadores de Boyacá y Nariño, reafirmado la fuerza de las regiones, firman pacto para implementación de decretos por la vida [Governors of Boyacá and Nariño, affirm the strength of the regions, signing a pact to implement of decrees for life]. Retrieved from boyaca.gov.co/gobernadores-de-boyaca-y-narino-reafirmado-la-fuerza-de-las-regiones-firman-pacto-para-implementacion-de-decretos-por-la-vida/

Gordon, G. (2018). Environmental Personhood. *Columbia Journal of Environmental Law. 43*(1), 49-91. Retrieved from http://www.columbiaenvironmentallaw.org/environmental-personhood/?cn-reloaded=1

Gordor, G. (2019, December 20). Illegal Mining Behind Mercury Contamination Harming Colombia's Indigenous. *InSight Crime.* Retrieved from

https://www.insightcrime.org/news/brief/mercury-contamination-colombia-indigenous/

Government of Canada. (2020). Colombia. Retrieved from https://travel.gc.ca/destinations/colombia

Gov.uk. (2020). Foreign travel advice: Colombia. Retrieved from https://www.gov.uk/foreign-travel-advice/colombia/safety-and-security

Granada, S., Restrepo, J.A. & Vargas, A.R. (2009). El agotamiento de la política de seguridad: evolución [The exhaustion of security policy: evolution]. In J.A. Restrepo & D. Aponte (Eds.), *Guerra y violencias en Colombia: Herramientas e interpretaciones* [War and violence in Colombia: Tools and interpretations]. Bogotá, Colombia: Pontificia Universidad Javeriana.

Graser, M., Bonatti, M., Eufemia, L., Morales, H., Lana, M., Löhr, K. & Sieber, S. (2020). Peacebuilding in Rural Colombia—A Collective Perception of the Integrated Rural Reform in the Department of Caquetá (Amazon). *Land, 9*(36). doi: 10.3390/land9020036

Gruner, S. (2017). Territory, Autonomy, and the Good Life: Afro-Colombian and Indigenous and Ethno-Territorial Movements in Colombia's Peace Process. *Journal of Latin American and Caribbean Anthropology, 22*(1): 174-182. doi: 10.1111/jlca.12269

Gudynas, E. (2015). *Derechos de la Naturaleza: Ética Biocéntrica y Políticas Ambientales [Rights of Nature: A Biocentric Ethic and Environmental Policies]*. Buenos Aires, Argentina: Tinta Limón Ediciones.

Guego, E. (2017). IDPs in Colombia: The necessary steps toward effective protection. *Duesto Journal of Human Rights,* (3): 115-166. doi: 10.18543/aahdh-3-2006

Güiza, L. & Aristizabal, J.D. (2013). Mercury and gold mining in Colombia: a failed state. *Universitas Scientarum, 18*(1): 33-49.

Hanson, T. (2011). War and Biodiversity Conservation: The Role of Warfare Ecology. In G. Machlis, T. Hanson, Z. Špirić, & J. McKendry (Eds.), *Warfare Ecology. Nato Science for Peace and Security Series C: Environmental Security*. Berlin: Springer, Dordrecht.

Hawaii Invasive Species Council. (n.d.). Mongoose. Retrieved from https://dlnr.hawaii.gov/hisc/info/invasive-species-profiles/mongoose/

Hellebrandová, K. (2020). El proceso de etno-racialización y resistencia en la era multicultural: Ser negro en Bogotá [The process of ethno-racialization and

resistance in the multicultural era: To be black in Bogotá]. *Universidad humanística,* (77): 145-168.

Hermann, L.J. (2019). The high price of peace in Colombia: deforestation in the Amazon. *Lifegate.* Retrieved from https://www.lifegate.com/people/news/deforestation-in-the-amazon-colombia

Hernández, T.R. (2020, April 27). 'La deforestación va a un ritmo exagerado con o sin pandemia' ['Deforestation is going on at an exaggerated rate with or without the pandemic']. *El Tiempo.* Retrieved from https://www.eltiempo.com/vida/medio-ambiente/la-deforestacion-va-a-un-ritmo-exagerado-con-o-sin-pandemia-488750?utm_medium=Social&utm_source=Facebook&fbclid=IwAR1xbhC-GoTVnB4mttygP-FYolkMaPlqrwPp_Ah3T6cRn-uQwT0HjvHMh24#Echobox=1587924041

Hernández Reyes, C.E. (2019). Black Women's Struggles against Extractivism, Land Dispossession, and Marginalization in Colombia. *Latin American Perspectives, 46*(2): 217-234. doi: 10.1177/0094582X19828758

Herrera, S.C. (2012). A History of Violence and Exclusion: Afro-Colombians from Slavery to Displacement (Master's thesis). Washington, D.C.: Georgetown University.

Hill, D. (2019, April 2). 'Defending our existence': Colombian tribe stands in the way of oil exploration. *The Guardian.* Retrieved from https://www.theguardian.com/world/andes-to-the-amazon/2019/apr/02/colombia-siona-tribe-oil-exploration-territory-putumayo

Hiskes, R.P. (2006). Environmental human rights and intergenerational justice. *Human Rights Review, 7:* 81-95. doi: 10.1007/s12142-006-1023-6

Hoffman, C. García-Márquez, J.R. & Krueger, T. (2018). A local perspective on drivers and measures to slow deforestation in the Andean-Amazonian foothills of Colombia. *Land Use Policy, 77*: 379-391. doi: 10.1016/j.landusepol.2018.04.043

Hogl, K., Kvarda, E., Nordbeck, R., & Pregernig, M. (2012). Legitimacy and effectiveness of environmental governance – concepts and perspectives. In K. Hogl, E. Kvarda, R. Nordbeck, & M. Pregernig. (Eds.), *Environmental Governance: The Challenge of Legitimacy and Effectiveness.* Cheltenham, UK: Edward Elgar.

Hooker, J. (2005). Indigenous Inclusion/Black Exclusion: Race, Ethnicity and Multicultural Citizenship in Latin America. *Journal of Latin American Studies, 37*(2): 285-310. doi: 10.1017/S0022216X05009016

Houston, D. (2013). Crisis Is Where We Live: Environmental Justice for the Anthropocene. *Globalizations, 10*(3): 439-450. doi: 10.1080/14747731.2013.787771

Human Rights. (2019, May 10). Colombia: 'Terrible trend' of rights defenders killed, harassed; UN calls for 'significant effort' to tackle impunity. *UN News.* Retrieved from https://news.un.org/en/story/2019/05/1038281

Ide, T. (2020). The dark side of environmental peacebuilding. *World Development, 127.* doi: 10.1016/j.worlddev.2019.104777

IDEAM. (2019). Detección Temprana de Deforestación (Early Detection of Deforestation). *IDEAM.* Retrieved from http://smbyc.ideam.gov.co/MonitoreoBC-WEB/pub/alertasDeforestacion.jsp?0.5236824555034414

IDEAM. (2018). Resultados Monitoreo de la Deforestación (Deforestation Monitoring Results). *MinAmbiente.* Retrieved from http://www.ideam.gov.co/documents/24277/91213793/Actualizacion_cifras2018FINALDEFORESTACION.pdf/80b719d7-1bf6-4858-8fd3-b5ce192a2fdc

IDEAM, MinAmbiente & Prosperidad para Todos. (2011). *Boletín Forestal 2011* [Forest Bulletin 2011] (Report). Retrieved from http://documentacion.ideam.gov.co/openbiblio/bvirtual/022790/IDEAMboletinforestal2011.pdf

Impacto. (2020, February 24). Crece tensión en Meta y Caquetá por operativo en el parque Tinigua [Growing tension in Meta and Caquetá due to operative in the Tinigua Park]. *Semana Sostenible.* Retrieved from https://sostenibilidad.semana.com/impacto/articulo/continua-la-protesta-campesina-por-operativo-en-el-parque-tinigua/48763

Impacto. (2019, September 12). Pueblos Indígenas exigirán al Estado protección de su territorio [Indigenous peoples demand the State protect their territory]. *Semana Sostenible.* Retrieved from https://sostenibilidad.semana.com/impacto/articulo/pueblos-indigenas-exigiran-al-estado-proteccion-de-su-territorio/46710

Intergovernmental Panel on Biodiversity & Ecosystem Services [IPBES]. (2019). *Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services* (Global Assessment Report). Bonn, Germany:

IPBES secretariat. Retrieved from https://www.ipbes.net/global-assessment-report-biodiversity-ecosystem-services

Intergovernmental Panel on Climate Change [IPCC]. (2018). *Global Warming of 1.5 ℃* (Special Report). Retrieved from https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Full_Report_Low_Res.pdf

Internal Displacement Monitoring Centre [IDMC]. (2019). Global Report on Internal Displacement 2019. Retrieved from https://www.internal-displacement.org/global-report/grid2019/

Internacionalistas.net. (n.d.). *Río Atrato* [Map]. Retrieved from https://internacionalistas.net/?p=1473

Inter Pares. (n.d.). In *The Law Dictionary.* Retrieved from https://thelawdictionary.org/inter-pares/

International Panel on Climate Change [IPCC]. (2014). *Climate Change 2014: Mitigation of Climate Change, Summary for Policy Makers and Technical Summary* [Fifth Assessment Report]. Retrieved from https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_summary-for-policymakers.pdf

Judicial. (2019, July 17). Río Pance, en el Valle de Cauca, fue declarado sujeto de derechos [River Pance, in the Valley of Cauca, was declared a subject of rights]. *El Espectador.* Retrieved from elespectador.com/noticias/judicial/rio-pance-en-el-valle-del-cauca-fue-declarado-sujeto-de-derechos-articulo-871438

Justicia. (2019, September 19). Declaran al río Otún como sujeto de derechos [They declared the Otún River a subject of rights]. *El Tiempo.* Retrieved from www.eltiempo.com/justicia/cortes/juez-de-pereira-declara-al-rio-otun-como-sujeto-de-derechos-414124

Justicia para la Paz [Justice for Peace]. (2017, December 26). La resiliencia de “Lewis” Moya, líder social de Bajo Atrato [The resilience of “Lewis” Moya, social leader of Bajo Atrato]. *El Espectador.* Retrieved from https://www.elespectador.com/colombia2020/justicia/la-resiliencia-de-lewis-moya-lider-social-del-bajo-atrato-articulo-856191

Kehl, T.N., Todt, V., Veronez, M.R., & Cazella, S.C. (2015). Real time deforestation detecting using ANN and Satellite images: The Amazon Rainforest study case. Switzerland: Springer. doi: 10.1007/978-3-319-15741-2_1

KfW Development Bank & Deutsche Gesellschaft für. (2015). Rewarding REDD+ Action and Supporting Low-deforestation Development in the Colombian Amazon [Report]. Retrieved from https://www.kfw-entwicklungsbank.de/PDF/Entwicklungsfinanzierung/Themen-NEU/20151128-REM-Colombia-agreement-summaryFINAL.pdf

Kopnina, H. (2012). The Lorax complex: deep ecology, ecocentricism and exclusion. *Journal of Integrative Environmental Sciences, 9*(4): 235-254. doi: 10.1080/1943

Kronik, J. & Hays, J. (2015). Limited room for manoeuvre: indigenous peoples and climate-change adaptation strategies. In T.H. Inderberg, S. Eriksen, K. O'Brien, & L. Sygna (Eds.), *Climate Change Adaptation and Development: Transforming Paradigms and Practices.* New York: Routledge.

Langbein, L., & Sanabria, B. (2013). The Shape of Corruption: Colombia as a Case Study. *The Journal of Development Studies, 49*(11): 1500-1513. doi: 10.1080/00220388.2013.800858

La W. (2019, November 13). El escolta Jairo Rendón fue encontrado muerto a orillas del río Atrato: Pablo González [The bodyguard Jairo Rendón was found dead on the banks of the Atrato River]. *W Radio.* Retrieved from https://www.wradio.com.co/noticias/actualidad/el-escolta-jairo-rendon-fue-encontrado-muerto-a-orillas-del-rio-atrato-pablo-gonzalez/20191113/nota/3978293.aspx

LeGrand, C.C., van Isschot, L. & Riaño-Alcalá, P. (2017). Land, justice, and memory: challenges for peace in Colombia. *Canadian Journal of Latin American and Caribbean Studies, 42*(3): 259-276. doi: 10.1080/08263663.2017.1378381

Lindgren, T. (2017). Ecocide, genocide and the disregard of alternative life-systems. *The International Journal of Human Rights, 22*(4): 525-549. doi: 10.1080/13642987.2017.1397631

Low, N. & Gleeson, B. (1998). *Justice, society & nature: an exploration of political ecology.* London & New York: Routledge.

Lozada Vargas, J.C. Congreso de la República de Colombia: Cámara de Representantes. (n.d.). Proyecto de Acto Legislativo "por el cual se modifica el artículo 79 de la Constitución Política de Colombia" [Legislative Act Project "to modify article 79 in the Political Constitution of Colombia"]. Colombia.

lubasi. (2009). *Catedral Verde – Floresta Amazonica* [Image]. Retrieved from https://www.flickr.com/photos/44577875@N08/4909683043

Macpherson, E.J. (2019). Rivers as subjects and indigenous water rights in Colombia. In M.F. Massoud, J. Meierhenrich, & R.E. Stern (Eds.), *Indigenous Water Rights in Law and Regulation: Lessons from Comparative Experience* (p. 131-160). Cambridge, UK: Cambridge University Press.

Marandua Stereo 100.7FM. (2019, November 16). Campesinos convocan manifestación este sábado en Puerto Cachicamo (Guaviare) [Peasants call for demonstration this Saturday in Cachicamo Port (Guaviare). *Marandua Stereo 100.7FM*. Retrieved from https://marandua.com.co/campesinos-convocan-manifestacion-este-sabado-en-puerto-cachicamo-guaviare/

Marshall, J. (2014). *Human Rights Law and Personal Identity.* New York: Routledge.

Martin, H.M. (2018). 'Defoliating the World' Ecocide, Visual Evidence and 'Earthly Memory'. *Third Text, 32*(2-3): 230-253. doi: 10.1080/09528822.2018.1486526

Matsuyama, K. (2000). The Rise of Mass Consumption Societies [Thesis]. London: Northwestern University.

Mayan, M.J. (2016). *Essentials of Qualitative Inquiry.* Walnut Creek, CA: Routledge.

McNeely, J.A. (2002). Overview A: Biodiversity, Conflict and Tropical Forests, In R. Matthew, M. Halle, & J. Switzer (Eds.), *Conserving the Peace: Resources, Livelihoods and Security.* Winnepeg: International Institute for Sustainable Development.

McNeish, J.A. (2018). A vote to derail extraction: popular consultation and resource sovereignty in Tolima, Colombia. *Third World Quarterly, 38*(5): 1128-1145. doi: 10.1080/01436597.2017.1283980

McNeish, J.A. (2016). Extracting justice? Colombia's commitment to mining and energy as a foundation for peace. *The International Journal of Human Rights, 21*(4): 500-516. doi: 10.1080/13642987.2016.1179031

McNeish, J.A. (2015). The Devil Never Left: Indigeneity and Protest in Morales' Bolivia. In M. Berg-Nordlie, J. Saglie, & A. Sullivan (Eds.), *Indigenous Politics: Institutions, Representation, Mobilization.* Colchester, United Kingdom: ECPR Press.

McNeish, J.A. (2012). More than Beads and Feathers: Resource Extraction and the Indigenous Challenge in Latin America. In H. Haarstad (Ed.), *New Political Spaces in Latin American Natural Resource Governance: Studies of the Americas.* New York: Palgrave Macmillan.

Medina-Rivas, M.A., Norris, E.T., Rishishwar, L., Conley, A.B., Medrano-Trochez, C., Valderrama-Aguirre, A., … Jordan, I.K. (2016). Chocó, Colombia: a hotspot of

human diversity. *Revista Biodiversidad Neotropical, 6*(1): 45-54. doi: 10.18636/bioneotropical.v6i1.341

Medio Ambiente. (2019, October 19). Operativo militar contra la deforestación en la Amazonía levanta ampolla [Military operative against deforestation in the Amazon raises blisters]. *El Espectador.* Retrieved from https://www.elespectador.com/noticias/medio-ambiente/operativo-militar-contra-la-deforestacion-en-la-amazonia-levanta-ampolla-articulo-886853

Medio Ambiente. (2018, November 3). Las preguntas incómodas por el "Operativo Picachos" [The uncomfortable questions around "Operation Picachos"]. *El Espectador.* Retrieved from https://www.elespectador.com/noticias/medio-ambiente/las-preguntas-incomodas-por-el-operativo-picachos-articulo-821798

Melamed, J. & Espitia, C.P. (2017). Political Background of the Armed Conflict in Colombia: A History for Not Repeating. *Ciencia y Poder Aéreo*, *12:* 136-143. doi: 10.18667/cienciaypoderaereo.566

Mesa Cuadros, G. (2015). *Conflictividad ambiental y afectaciones a derechos ambientales* [Environmental conflict and threats to environmental rights]. Bogotá, Colombia: Universidad Nacional de Colombia.

Minamata Convention on Mercury. (2020, March 16). Parties. Retrieved from http://www.mercuryconvention.org/Portals/11/documents/List-of-Parties/Minamata_Parties.pdf

Mindua, A.K. (2017). Universal Justice for a Globalized World. *Comparative Law Review, 23*(1): 9-47. doi: 10.12775/CLR.2017.001

Ministerio del Ambiente y Desarrollo Sostenible [Ministry of the Environment and Sustainable Development). (2019a). Continúan disminuyendo las alertas de deforestación en la Amazonia colombiana [Deforestation rates in the Colombian Amazon continue to fall]. Retrieved from https://www.minambiente.gov.co/index.php/noticias/4502-continuan-disminuyendo-las-alertas-de-deforestacion-en-la-amazonia-colombiana

Ministerio del Ambiente y Desarrollo Sostenible. (2019b). En este gobierno, la falta de agua, la pérdida de la biodiversidad y la contaminación ambiental, se convirtieron en una preocupación de seguridad Nacional, gracias a la nueva política de defensa y seguridad para la equidad [In this government, lack of water, loss of biodiversity and environmental contamination has become a National security concern, thanks to a new defense and security policy for equity]. Retrieved from

https://www.minambiente.gov.co/index.php/noticias/4279-en-este-gobierno-la-falta-de-agua-la-perdida-de-la-biodiversidad-y-la-contaminacion-ambiental-se-convirtieron-en-una-preocupacion-de-seguridad-nacional-gracias-a-la-nueva-politica-de-defensa-y-seguridad-para-la-equidad

Ministerio del Ambiente y Desarrollo Sostenible [Ministry of the Environment and Sustainable Development). (2018, July 16). Entra en vigencia prohibición del mercurio en la minería de oro en Colombia [Mercury ban in gold mining goes into effect]. Retrieved from http://www.minambiente.gov.co/index.php/noticias-minambiente/4021-entra-en-vigencia-prohibicion-del-mercurio-en-la-mineria-de-oro-en-colombia

Ministerio del Ambiente y Desarrollo Sostenible [Ministry of the Environment and Sustainable Development). (n.d.). Corporaciones Autónomas Regionales [Regional Autonomous Corporations]. Retrieved from http://www.minambiente.gov.co/index.php/noticias/2067#cormacarena

Mogstad, M.W. (2016). Socio-ecological Security: Moving Beyond the Human-Nature Dualism. *E-International Relations Students.* Retrieved from e-ir.info/2016/08/05/socio-ecological-security-moving-beyond-the-human-nature-dualism

Moloney, A. (2020, January 16). Colombia's Amazon tribes tap into rainforest protection funds. *Reuters.* Retrieved from https://www.reuters.com/article/us-colombia-climatechange-amazon-trfn/colombias-amazon-tribes-tap-into-rainforest-protection-funds-idUSKBN1ZE2XL

Moloney, A. (2019, December 11). "Colombia's Amazon forest gets boost with $366 million protection fund." *Reuters.* Retrieved from https://www.reuters.com/article/us-colombia-forests-climate-trfn/colombias-amazon-forest-gets-boost-with-366-million-protection-fund-idUSKBN1YF2BD

Morales, C. (2019a). Deforestación en Amazonía tuvo reducción durante primeros meses de 2019 [Deforestation in the Amazon reduced over the first few months in 2019]. *LAFM.* Retrieved from https://www.lafm.com.co/medio-ambiente/deforestacion-en-amazonia-tuvo-reduccion-durante-primeros-meses-de-2019

Morales, C. (2019b). Presentan tutela por contaminación con mercurio en Amazonia colombiana [They present a tutela over mercury contamination in the Colombian Amazon]. *RCN Radio.* Retrieved from https://www.rcnradio.com/estilo-de-

vida/medio-ambiente/presentan-tutela-por-contaminacion-con-mercurio-en-amazonia

Morales, L. (2017). Peace and Environmental Protection in Colombia: Proposals for Sustainable Rural Development (Report). *Inter-American Dialogue.* Retrieved from https://www.thedialogue.org/wp-content/uploads/2017/01/Envt-Colombia-Eng_Web-Res_Final-for-web.pdf

Morris, C. (1964). The Rights and Duties of Beasts and Trees: A Law Teacher's Essay for Landscape Architects. *Journal of Legal Education, 17*(2): 185-192.

Nación. (2020, February 22). Confrontación entre campesinos y Ejército en parque natural Los Picachos, Meta [Confrontation between campesinos and the Army in the Natural Park Los Picachos, Meta]. *Semana.* Retrieved from https://www.semana.com/nacion/articulo/parque-cordillera-los-picachos-campesinos-se-enfrentan-al-ejercito/653260

Nalepa, M. (2010). Captured Commitments: An Analytic Narrative of Transitions with Transitional Justice. *World Politics, 62*(2): 341-380.

National Library of New Zealand. (n.d.). Change-maker – the Whanganui River. *He Tohu.* Retrieved from https://natlib.govt.nz/he-tohu/learning/social-inquiry-resources/cultural-interaction/cultural-interaction-supporting-activities-and-resources/change-maker-whanganui-river

Natural Resource Governance Institute. (2015). Country Strategy Note: Colombia. Retrieved from https://resourcegovernance.org/sites/default/files/documents/nrgi_colombia-strategy_20160629.pdf

Neopolitanos. (n.d.). Aire de Bogotá: sujeto de derechos [Air of Bogotá: subject of rights] [Blog post]. Retrieved from https://neopolitanos.org/proyectos/aire-de-bogota-sujeto-de-derechos/

Ng'weno, B. (2008). Can Ethnicity Replace Race? Afro-Colombians, Indigeneity and the Colombian Multicultural State. *The Journal of Latin American and Caribbean Anthropology, 12*(2): 414-440. doi: 10.1525/jlat.2007.12.2.414

Normand, R. (2008). *Human Rights at the UN: The Political History of Universal Justice*. Bloomington, IN: Indiana University Press.

N.U.R. 2019-00043-00. (2019, July 12). República de Colombia Juzgado Tercero de Ejecución de Penas y Medidas de Seguridad [Republic of Colombia Third Court of Enforcement of Sentences and Measures of Security]. Retrieved from

https://www.desplazada.co/wp-content/uploads/2019/07/19-07-12-JUZ.-EJECUSION-DE-PENAS-Tut.-2019-00043-00-Rio-Pance-1.pdf

Nygaard, L. (2017). *Writing Your Master's Thesis: From A to Zen.* Los Angeles, CA: Sage.

Ødemark, J. (2010). Timing Indigenous Culture and Religion: Tales of Conversion and Ecological Salvation from the Amazon. In G. Johnson & S.E. Kraft (Eds.), *Handbook of Indigenous Religion(s).* Leiden: Brill.

O'Donnell, E.L. & Talbot-Jones, J. (2018). Creating legal rights for rivers: lessons from Australia, New Zealand & India. *Ecology & Society, 23*(1): 7. doi: 10.5751/ES-09854-230107

OECD. (2017). *Due Diligence in Colombia's Gold Supply Chain: Gold Mining in Chocó* (Responsible Business Conduct Report). Retrieved from https://mneguidelines.oecd.org/Choco-Colombia-Gold-Baseline-EN.pdf

Offen, K.H. (2003). The Territorial Turn: Making Black Territories in Pacific Colombia. *Journal of Latin American Geography, 2*(1): 43-73.

Olarte-Olarte, M.C. (2019). From Territorial Peace to Territorial Pacification: Anti-Riot Police Powers and Socio-Environmental Dissent in the Implementation of Colombia's Peace Agreement. *Revista de Estudios Sociales,* 67. doi: 10.7440/res67.2019.03

Olaya, C. (2019, June 7). Un doble rasero en la lucha contra la deforestación [A double standard in the fight against deforestation]. *Dejusticia.* Retrieved from https://www.dejusticia.org/column/un-doble-rasero-en-la-lucha-contra-la-deforestacion/

Ojulari, E. (2015). The social construction of Afro-descendent rights in Colombia. In *Contemporary Challenges in Securing Human Rights* (p. 19-28). London: Institute of Commonwealth Studies.

Oxfam International. (2019). Defensores de derechos agrarios, territoriales y medioambientales en Colombia: Arriesgando la vida por la paz [Defenders of agrarian rights, territorial rights and the environment in Colombia: Risking life for peace] (Report). Retrieved from https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620872/bp-colombia-women-environmental-defenders-021019-es.pdf

Pacto de Leticia por la Amazonía. (2019). Pacto de Leticia por la Amazonía [Leticia Pact for the Amazon] (Pact). Retrieved from

https://id.presidencia.gov.co/Documents/190906-Pacto-Leticia-Amazonia-Espanol.pdf

Padilla, A. & Bermúdez, A. (2016). Normalising Conflict and De-Normalising Violence: Challenges and Possibilities of Critical Teaching of the History of the Colombian Armed Conflict. *Revista Colombiana de Educación,* (71): 187-218.

Páez-Murcia, A.M. Lamprea-Montealegre, E. & Vallejo-Piedrahíta, C. (2017). Medio Ambiente y Acciones Populares en Colombia: Un Estudio Empírico [Collective Litigation of Environmental Rights in Colombia: An Empirical Study]. *Vniversitas,* (134): 209-248. doi: 10.11144/Javeriana.vj134.maap

Paez, O.J.M. (2016). Intervención de la Fuerza Pública en Operaciones contra los Nuevos Grupos Armados Organizados (GAO) – antes BACRIM: Análisis de la Directiva Ministerial Permanente 015 de 2016 [The Intervention of Public Force in Operations Against New Organized Armed Groups – Before BACRIM: Analysis of the Ministerial Permanent Directive 015 of 2016] [Master's thesis]. Bogotá, Colombia: Universidad Militar Nueva Granada.

Palacios-Torres, Y., Caballero-Gallardo, K., & Olivero-Verbel, J. (2018). Mercury pollution by gold mining in a global biodiversity hotspot, the Choco biogeographic region, Colombia. *Chemosphere, 193:* 421-430. doi: 10.1016/j.chemosphere.2017/10.160

Pardo, A. (2019, March 4). "El Plan Nacional de Desarrollo profundiza el modelo extractivista." *Razón Pública.* Retrieved from https://razonpublica.com/el-plan-nacional-de-desarrollo-profundiza-el-modelo-extractivista/

Parry, L., Davies, G., Almeida, O., Frausin, G., Moraés, A., Rivero, S., … Torres, P. (2016). Social vulnerability to Climatic Shocks Is Shaped by Urban Accessibility. *Annals of the American Association of Geographers, 108*(1): 125-143. doi: 10.1080/24694452.2017.1325726

Paz Cardona, A.J. (2020a, February 26). Colombia: incendios, amenazas de muerte y operativos militares desatan nueva crisis en la Amazonía [Colombia: fires, death threats and military operations unleash a new crisis in the Amazon]. *Mongabay.* Retrieved from https://es.mongabay.com/2020/02/incendios-en-la-amazonia-colombia-amenazas-y-tala/

Paz Cardona, A.J. (2020b, January 28). For Colombia, 2019 was a year of environmental discontent. *Mongabay.* Retrieved from

https://news.mongabay.com/2020/01/for-colombia-2019-was-a-year-of-environmental-discontent/

Paz Cardona, A.J. (2018a, August 24). Colombia's new president faces daunting environmental challenges. *Mongabay.* Retrieved from https://news.mongabay.com/2018/08/colombias-new-president-faces-daunting-environmental-challenges/

Paz Cardona, A.J. (2018b, August 1). Colombia bans the use of mercury in mining. *Mongabay.* Retrieved from https://news.mongabay.com/2018/08/colombia-bans-the-use-of-mercury-in-mining/

Paschel, T. (2018). *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil.* Oxford: Princeton University Press.

Peña Huertas, R. (2018). From transitional justice to post-agreement rural reform: many obstacles and a long way to go. In F.A. Díaz Pabón (Ed.), *Truth, Justice and Reconciliation in Colombia: Transitioning from Violence.* London: Routledge.

Petras, J. & Veltmeyer, H. (2014). *Extractive Imperialism in the Americas: Capitalism's New Frontier.* Leiden: Brill.

Pinedo, V.A., Bellantoni, M., Cash, G., Espinosa, A., Holt, S., Martinussen, K., … Westeröd, C. (2014). Colombia: Extractives for Prosperity [Report]. *Columbia School of International and Public Affairs.* Retrieved from https://sipa.columbia.edu/academics/capstone-projects/colombia%E2%80%99s-extractive-riches-will-they-be-game-changer-and-road

Pingeot, L. (2012). Dangerous Partnership: Private Military & Security Campaigns and the UN (Report). *Rosa Luxemburg Foundation & Global Policy Forum.* Retrieved from https://www.business-humanrights.org/sites/default/files/media/gpf-dangerous-partnership-full-report-jun-2012.pdf

Presidencia de la República. (2019, April 28). Declaración del Presidente Iván Duque en la presentación de la Campaña 'Artemisa' contra la deforestación [The declaration of President Iván Duque on the presentation of the 'Artemisa' Campaign. *Gov.co.* Retrieved from https://id.presidencia.gov.co/Paginas/prensa/2019/190428-Declaracion-del-Presidente-Ivan-Duque-en-la-presentacion-de-la-Campana-Artemisa-contra-la-deforestacion.aspx

Prieto, G. (2019, July 29). The Colombian Constitutional Court Judgment C-252/19: A new frontier for reform in international investment law [Blog post]. *EJIL: Talk! Blog*

of the European Journal of International Law. Retrieved from https://www.ejiltalk.org/the-colombian-constitutional-court-judgment-c-252-19-a-new-frontier-for-reform-in-international-investment-law/

Procuraduría General de la Nación. (2019, April 5). *Directiva No. 004: Lineamientos con Relación la Problemática de Deforestación y sus Consecuencias en la Región Amazónica Colombiana* [Directive 004: Guidelines regarding the Deforestation Problem and their Consequences in the Colombian Amazon Region] (Informe para servidores públicos y particulares que transitoriamente ejerzan funciones públicas) (Report for public and private servants who temporarily carry out public functions).

Produce1895. (n.d.). *Untitled* [Image]. Retrieved from https://www.internationalrivers.org/blogs/433/colombian-river-gains-legal-rights

Quataert, J., & Wildenthal, L. (Eds.) (2019). *The Routledge History of Human Rights.* New York: Routledge.

Radicado 13001-31-04-001-2018-00077-00. (2018). RAMA JUDICIAL JUZGADO PRIMERO PENAL DEL CIRCUITO DE CARTAGENA CON FUNCIONES DE CONOCIMIENTO COMPLEJO JUDICIAL SISTEMA PENAL ACUSATORIO. Retrieved from http://files.harmonywithnatureun.org/uploads/upload746.pdf

Ramírez, M.C. (2019). Militarism on the Colombian Periphery in the Context of Illegality, Counterinsurgency, and the Postconflict. *Current Anthropology, 60*(19): S134-S147. doi: 10.1086/699970

Revelo-Rebolledo, J. (2019). *The Political Economy of Amazon Deforestation: Subnational Development and the Uneven Reach of the Colombian State* (Doctoral Dissertation, University of Pennsylvania). Retrieved from https://repository.upenn.edu/cgi/viewcontent.cgi?article=5297&context=edissertations

Redacción Colombia2020. (2019, February 26). "¿Nos van a matar a todos por defender el río Atrato?": líder social del Chocó" ["Are they going to kill us all for defending the Atrato River?": says social leader of Chocó]. *El Espectador.* Retrieved from https://www.elespectador.com/colombia2020/pais/nos-van-matar-todos-por-defender-el-rio-atrato-lider-social-del-choco-articulo-857687

Regjeringen. (2017). Colombia steps up the battle against Amazon deforestation. *Government.no*. Retrieved from https://www.regjeringen.no/en/aktuelt/colombia-stanser-veiutbygging-og-oker-innsats-mot-ulovlig-hogst-i-amazonas/id2571038/

Restrepo, J.S. (2019, August 8). Civil Society Faces Deadly Threats in Colombia's Chocó Region. *Advocacy for Human Rights in the Americas.* Retrieved from https://www.wola.org/analysis/civil-society-faces-deadly-threats-colombia-choco/

Richardson, W., Weber, E., Schaumburg, E., Quansah, E., Thilakarathne, C.D. (2019). Legal Movement for Nature's Rights: Case for Norway. *NMBU Student Journal of Life Sciences, 9*: 47-58.

Rihoux, B. & Ragin, C.C. (2008). *Configurational Comparative Methods.* Sage.

Robbins, P. (2012). Environmental subjects and identities. In *Political Ecology* (2nd Ed.) (p. 215-230). Oxford: Wiley-Blackwell.

Rodríguez, G.A. (2018). *Justicia Ambiental en Colombia: Una Mirada Desde el Accesso a la Información y la Participación* [Environmental Justice in Colombia: Looking at Access to Information to Participation]. Bogotá: Grupo Editorial Ibáñez.

Rodríguez Goyes, D. (2015). Land Uses and Conflict in Colombia. In A. Brisman, N. South & R. White (Eds.), *Environmental Crime and Social Conflict: Contemporary and Emerging Issues* (p. 75-93). Surrey: Ashgate.

Roelvink, G. (2012). Rethinking Species-Being in the Anthropocene. *Rethinking Marxism: A Journal of Economics, Culture & Society, 25*(1): 52-69. doi: 10.1080/08935696.2012.654700

Rojas-Robles, R. (2018). Ambiente y post-acuerdo en Colombia: la construcción de una paz integral y con la naturaleza no-humana [Environment and post-agreement in Colombia: building a comprehensive peace with non-human nature]. *Gestión y Ambiente, 21*(2): 183-192. doi: 10.15446/ga.v21n2supl.77961

Sistema de Información Ambiental Territorial de la Amazonia Colombiana [SIATAC]. (n.d.). *Región: Amazonia Colombiana* [Map]. Retrieved from http://siatac.co/web/guest/region

Sánchez-Cuervo, A.M. & Mitchell Aide, T. (2013). Consequences of the Armed Conflict, Forced Human Displacement, and Land Abandonment on Forest Cover Change in Colombia: A Multi-scaled Analysis. *Ecosystems 16:* 1052-1070.

Sánchez-Garzoli, G. (2020, March 10). Colombian Social Leaders at Great Risk in Chocó, Arauca, Cauca and Elsewhere. *WOLA: Advocacy for Human Rights in the Americas.* Retrieved from https://www.wola.org/2020/03/social-leaders-great-risk-colombia/

Sánchez-Triana. (2007). A Unique Model for Environmental Management. In E. Sánchez-Triana, K. Ahmed, & Y. Awe (Eds.), *Environmental Priorities and Poverty*

Reduction: A Country Environmental Analysis for Colombia (p. 9-32). Washington, D.C.: The World Bank.

Santoyo, M.J. (1987). *Colombia amazónica*. Bogotá, Colombia: Universidad Nacional de Colombia.

Schlosberg, D. (2004). Reconceiving Environmental Justice: Global Movements and Political Theories, *Environmental Politics, 13*(3): 517-540. doi: 10.1080/0964401042000229025

Sen, A. (2009). *The Idea of Justice.* Cambridge, MA: Belknap Press.

Senecah, S.L. (2004). The Trinity of Voice: the Role of Practical Theory in Planning and Evaluating the Effectiveness of Environmental Participatory Processes. In S.P. Depoe, J.W. Delicath, & M.A. Elsenbeer (Eds.), *Communication and Public Participation in Environmental Decision Making* (p. 13-33). Albany: State University of New York Press.

Serna, D.R. (2020). Ecúmene de vivos y muertos: mala muerte y reparaciones territoriales en el Bajo Atrato [Ecumene of the living and the dead: bad death and territorial reparations in Lower Atrato]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.639

Setzer, J. & Byrnes, R. (2019). *Global trends in climate change litigation: 2019 snapshot* (Policy Report). Retrieved from http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2019/07/GRI_Global-trends-in-climate-change-litigation-2019-snapshot-2.pdf

Sistema de Información Ambiental Territorial de la Amazonía colombiana [SIATAC]. (n.d.). Región: Amazonia colombiana. Retrieved from http://siatac.co/web/guest/region

Somos Guardianes del Atrato. (2019). *Untitled* [Painting]. Retrieved from https://www.facebook.com/105156180873858/photos/a.124092512313558/1348679645693 46/?type=3&theater

STC4360-2018. (2018, April 4). República de Colombia Corte Suprema de Justicia [Colombian Republic Supreme Court of Justice]. Retrieved from http://www.cortesuprema.gov.co/corte/wp-content/uploads/2018/04/STC4360-2018-2018-00319-011.pdf

STC4360-2018 Translation. (2018, April 4). Colombian Republic Supreme Court of Justice, translated by Earth Law Center & Dejusticia.

Stone, C. (2010). *Should Trees Have Standing: Law, Morality, and the Environment*. New York: Oxford University Press.

Storaas, M.V. (2019). *Ecocide, a crime against peace? A conceptual analysis of world peace from a case of applied ethics on ecosystem harm* (Master's thesis). University of Oslo, Oslo.

Storey, A. (2008). The Shock of the New? Disaster and Dystopia. *Capitalism Nature Socialism, 19*(1): 121-137. doi: 10.1080/10455750701859752

SU095/18. (2018, October 11). La Sala Plana de la Corte Constitutional [The Flat Chamber of the Constitutional Court]. Retrieved from https://www.corteconstitucional.gov.co/relatoria/2018/SU095-18.htm

T-063/19. (2019, February 15). La Sala Quinta de Revisión de la Corte Constitucional [Fifth Chamber of Review of the Constitutional Court]. Retrieved from https://www.corteconstitucional.gov.co/relatoria/2019/t-063-19.htm

T-606/15. (2015, December 15). La Sala Sexta de Revisión de la Corte Constitucional [Sixth Chamber of Review of the Constitutional Court]. Retrieved from http://www.corteconstitucional.gov.co/relatoria/2015/t-606-15.htm

T-622/16. (2016, November 10). La Sala Sexta de Revisión de la Corte Constitucional [Sixth Chamber of Review of the Constitutional Court]. Retrieved from http://www.corteconstitucional.gov.co/relatoria/2016/t-622-16.htm

T-406/92. (1992, June 5). *Estado Social de Derecho/Juez de tutela* [Social Rule of Law/Judge of Tutela]. Retrieved from http://www.corteconstitucional.gov.co/relatoria/1992/t-406-92.htm

Tanasescu, M. (2016). *Environment, Political Representation and the Challenge of Rights: Speaking for Nature*. New York: Palgrave Macmillan.

Taylor, W. (2018). Ambivalent Legal Mobilization: Perceptions of Justice and the Use of the Tutela in Colombia. *Law & Society Review, 52*(2): 337-367. doi: 10.101111/lasr.12329

teleSUR/mrs-LJS. (2018, September 12). Colombia: Millions Demand Investigation of Environmental Crimes. *Telesurtv.net*. Retrieved from https://www.telesurenglish.net/news/Colombia-Millions-Demand-Investigation-of-Environmental-Crimes-20180912-0033.html

Tierra Digna. (2019). *Risas, Sueños y Lamentos del Río* [Laughter, Dreams and Regrets of the River]. Bogotá, Colombia: Tierra Digna.

Título 1 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-1

Título 6 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-6

Título 7 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-7

Título 8 de la Constitución Política de Colombia. (n.d.). Retrieved from https://www.constitucioncolombia.com/titulo-8

Tovar-Restrepo, M. & Irazábal, C. (2013). Indigenous Women and Violence in Colombia: Agency, Autonomy, and Territoriality. *Latin American Perspectives, 41*(1): 39-58. doi: 10.1177/0094582X13492134

Tsing, A. (2013). More-than-Human Sociality: A Call for Critical Description. In K. Hastrup (Ed.), *Anthropology and Nature.* New York: Routledge.

Tuck, E. & Yang, K.W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, Education & Society, 1*(1): 1-40.

Uprimny Yepes, R. (2007). Judicialization of politics in Colombia: cases, merits and risks. *Sur Revista Internacional de Direitos Humanos*. doi: 10.1590/S1806-64452007000100004

UN Environment. (n.d.). What are environmental rights? Retrieved from https://www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what

United Nations [UN]. (n.d., a). *Harmony with Nature.* Retrieved from http://www.harmonywithnatureun.org

United Nations [UN]. (n.d., b). Rights of Nature Law, Policy & Education. *Harmony with Nature.* Retrieved from http://www.harmonywithnatureun.org/rightsofnature

United Nations Environmental Programme (UNEP). (2019). Environmental Rule of Law: First Global Report. Retrieved from https://wedocs.unep.org/bitstream/handle/20.500.11822/27279/Environmental_rule_of_law.pdf?sequence=1&isAllowed=y

United Nations Environmental Programme (UNEP) & Interpol. (2014). The Environmental Crime Crisis. Retrieved from https://reliefweb.int/sites/reliefweb.int/files/resources/RRAcrimecrisis.pdf

Uprimny, R. & Saffon, M.P. (n.d.). Transitional Justice, Restorative Justice and Reconciliation: Some Insights from the Colombian Case. Retrieved from cdn.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_55.pdf

US Department of State. (2019). Colombia Travel Advisory. Retrieved from https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/colombia-travel-advisory.html

Vatn, A. (2015). *Environmental Governance: Institutions, Policies and Actions.* Cheltenham, UK: Edward Elgar Publishing.

Vélez, J. & Garzón, C.A. (2020, March 1). La chispa que prende los incendios de La Macarena [The spark igniting the Macarena fires]. *La Silla Vacía*. Retrieved from https://lasillavacia.com/chispa-prende-los-incendios-macarena-75683

Velez, I. (2014). Law of Victims and Land Restitution: Colombia's Ambitious Law Faces Implementation Challenges. *FIU Law Review, 9*(2): 451-484.

Villavicencio, P. (2019). A Paradigm Shift in Courts' View on Nature: The Atrato River and Amazon Basin Cases in Colombia. *Law, Environment and Development Journal, 15*(0): 1-11.

Visión Amazonía. (2019). La Deforestación en Colombia Se Redujo 10% en 2018 en Comparación con el Año 2017, y 17% Respeto a la Tendencia de Crecimiento Estimada para 2018 [Deforestation in Colombia Decreased 10% in 2018 Compared to 2017, and 17% Regarding the Estimated Growth Trend for 2018]. Retrieved from https://www.google.com/search?q=translate+spanish+to+english&oq=trans&aqs=chrome.1.69i59l3j69i61j69i60j69i61j69i65l2.2745j1j7&sourceid=chrome&ie=UTF-8

Vivanco, J.M. (2019, June 19). Colombian Government Downplays Murder of Community Leaders. *Human Rights Watch.* Retrieved from https://www.hrw.org/news/2019/06/19/colombian-government-downplays-murder-community-leaders

Vogt, M. (2016). A New Dawn? Indigenous Movements and Ethnic Inclusion in Latin America. *International Studies Quarterly, 60*(4): 790-801. doi: 10.1093/isq/sqw020

Voigt, C. (Ed.) (2019). *International Judicial Practice on the Environment: Questions of Legitimacy.* Cambridge, UK: Cambridge University Press.

Voigt, C. (Ed.). (2013). *A Rule of Law for Nature: New Dimensions and Ideas in Environmental Law.* Cambridge, UK: Cambridge University Press. doi: 10.1017/CBO9781107337961

Volckhausen, T. (2020, January 29). Despite foreign aid, Colombia struggles to rein in Amazon deforestation. *Mongabay.* Retrieved from https://news.mongabay.com/2020/01/despite-foreign-aid-colombia-struggles-to-rein-in-amazon-deforestation/

Volckhausen, T. (2019, May 30). Land grabbing, cattle ranching ravage Colombian Amazon after FARC demobilization. *Mongabay.* Retrieved from https://news.mongabay.com/2019/05/land-grabbing-cattle-ranching-ravage-colombian-amazon-after-farc-demobilization/

Volckhausen, T. (2018, March 9). Colombian Land Defenders: "They're Killing Us One by One". *Amazon Watch.* Retrieved from https://amazonwatch.org/news/2018/0309-colombian-land-defenders-theyre-killing-us-one-by-one

Walker, G. (2009). Globalizing environmental justice: The geography and politics of frame contextualization and evolution. *Global Social Policy, 9*(3): 355-382. doi: 10.1177/1468018109343640

Washington, H., Chapron, G., Kopnina, H., Curry, P., Gray, J., & Piccolo, J.J. (2018). Foregrounding ecojustice in conservation. *Biological Conservation, 228*: 367-374. doi: 10.1016/j.biocon.2018.09.011

Weiss, E.B. (2013). Rule of law for nature in a kaleidoscopic world. In C. Voigt (Ed.), *Rule of Law for Nature: New Dimensions and Ideas in Environmental Law* (p. 27-45). Cambridge, UK: Cambridge University Press.

Wesselink, A., Paavola, J., Fritsch, O. & Renn, O. (2011). *Environment and Planning, 43*: 2688-2704. doi: 10.1068/a44161

West, P., Igoe, J. & Brockington, D. (2006). Parks and peoples: the social impact of protected areas. *Annual Review of Anthropology, 35:* 251-277. doi: 10.1146/annurev.anthro.35.081705.123308

Whyte, K. (2017). Is it colonial déjà vu? Indigenous peoples and climate injustice. In J. Adamson & M. Davis (Eds.), *Humanities for the Environment: Integrating Knowledge, Forging New Constellations of Practice* (p. 88-105). Abingdon: Routledge.

Wood, M.C. (2007). Nature's Trust: A Legal, Political and Moral Frame for Global Warming. *Boston College Environmental Affairs Law Review, 34*(3): 577-603.

World Bank Group. (2014). *Turn Down the Heat: Confronting the New Climate Normal.* Washington, D.C.: The World Bank.

World Wildlife Fund Colombia [WWF-Colombia]. (2014). Landscape management in Chocó-Darién priority watersheds. Retrieved from http://awsassets.panda.org/downloads/choco_darien_32.pdf

Yale School of Forestry & Environmental Studies. (2020). Forest Governance – Colombia. Retrieved from https://globalforestatlas.yale.edu/amazon-forest/forest-governance/forest-governance-colombia

Yang, T. (2006). Towards an Egalitarian Global Environmental Ethics. In *Environmental Ethics and International Policy* (p. 23-45). UNESCO.

Zulver, J. (2018). Feasible Justice: Has Colombia Over-Promised and Under-Delivered Reparations for Its 8.6 Million Victims? *Justiceinfo.net.* Retrieved from https://www.justiceinfo.net/en/reparations/37686-feasible-justice-has-colombia-over-promised-and-under-delivered-reparations-for-its-8-6-million-vic.html

Recommended Readings

Achury, L.E., Storini, C., Dalmau, R.M., de Carvalho Dantas, F.A. (Eds.) (2019). *La Naturaleza como sujeto de derechos en el constitucionalismo democrático* [Nature as a subject of rights in constitutional democracy]. Bogotá, Colombia: Universidad Libre.

Acosta, A. & Martínez, E. (2009). *Derechos de la Naturaleza: El futuro es ahora* [Rights of Nature: The future is now]. Quitó, Ecuador: Abya Yala.

Adriano, E.A.Q. (2014). Natural Persons, Juridical Persons and Legal Personhood. *Mexican Law Review, 8*(1). Retrieved from http://www.scielo.org.mx/scielo.php?pid=S1870-05782015000200005&script=sci_arttext&tlng=en

Aguilar-Støen, M. (2015). *Global forest conservation initiatives as spaces for participation in Colombia and Costa Rica.* (Paper from University of Oslo, Norway). Retrieved from https://www.duo.uio.no/bitstream/handle/10852/61507/Global+forest+conservation+participation+in+Colombia+and+Costa+Rica+Geoforum.pdf?sequence=1

Akchurin, M. (2015). Constructing the Rights of Nature: Constitutional Reform, Mobilization, and Environmental Protection in Ecuador. *Law & Social Inquiry, 40*(4): 937-968. doi: 10.1111/lsi.12141

Alfonso, O.A. (2016). Minería y desarrollo: Minería y comunidades: impactos, conflictos y participación ciudadana [Mining and development: Mining and communities: impacts, conflicts, and civic participation]. Bogotá, Colombia: Universidad Externado.

Almeita, I. (2012). El Estado plurinacional y la interculturalidad [The plurinational State and interculturality]. *La Tendencia, 13:* 120-123.

Andreotti, V., Stein, S., Sutherland, A., Pashby, K., Suša, R. & Amsler, S. (2018). Mobilising Different Conversations about Justice in Education: Toward Alternative Futures in Uncertain Times. *Policy & Practice: A Development Education Review,* (26): 9-41.

Arenas Orbegozo, M.X. (2019). A Policy Framework for Atypical Legal Subjects: Independent Policy Report to Mr. Ricardo José Lozano Picón, Minister of the Environment and Sustainable Development, Republic of Colombia.

Arenas Orbegozo, M.X. (2019). *Who Are We After Worlds Collide? Explorations into the Sources of Sui Generis Legal Persons in Colombia: The Atrato River* (Master's thesis). Tilburg Law School, The Netherlands.

Ávila, C. (2018, April 22). Guardianes del río Atrato: amenazados e ignorados [Guardians of the Atrato River: threatened and ignored]. *El Espectador.* Retrieved from https://www.elespectador.com/colombia2020/territorio/guardianes-del-rio-atrato-amenazados-e-ignorados-articulo-856577

Ayma, E.M., Barlow, M., Bassey, N., Biggs, S., Cullinan, C., Galeano, E., … Solón, P. (2017). *The Rights of Nature: The Case for a Universal Declaration of the Rights of Mother Nature*. San Francisco, CA: Council of Canadians, Fundación Pachamama, & Global Exchange.

Barrágan, M., Durán, H., Franco, D.R., Eslava, G., & Daza, V. (2018, December 5). Solicitamos la anulación de la sentencia que le pone límites a las consultas populares [We request the nullification of the ruling that limits popular consultations]. *Dejusticia.* Retrieved from https://www.dejusticia.org/litigation/solicitamos-la-anulacion-de-la-sentencia-que-le-pone-limites-a-las-consultas-populares/

Bavikatte, S.K. (2014). *Stewarding the Earth: Rethinking Property and the Emergence of Biocultural Rights*. Oxford, UK: Oxford University Press.

Bender, M. (2018). As Nature Evolves, So Too Does MPA Management Need to Evolve. *Biodiversity, 19*(1-2): 131-136. doi: 10.1080/14888386.2018.1479656

Berry, T. (2011). *The Great Work: Our Way into the Future.* New York: Crown Archetype.

Bethlehem, D. (2014). The End of Geography: The Changing Nature of the International System and the Challenge to International Law. *The European Journal of International Law, 25*(1): 9-24. doi: 10.1093/ejil/chu003

Brei, A.T. (2012). Rights & Nature: Approaching Environmental Issues by Way of Human Rights. *Journal of Agricultural and Environmental Ethics, 26:* 393-408. doi: 10.1007/s10806-012-9385-z

Boyd, D.R. (2017). *The Rights of Nature: A Legal Revolution that Could Save the World.* Toronto, Canada: ECW Press.

Burdon, P.D. (2012). *Earth Jurisprudence: Private Property and the Environment* (1st Ed.). London: Routledge.

Burdon, P. (2011, May 17). What If Trees Could Sue? [Blog post]. Retrieved from https://therightsofnature.org/trees-could-sue/

Cagüeñas, D., Galindo, M.I. & Rasmussen, S. (2020). El Atrato y sus guardianes: imaginación ecopolítica para hilar nuevos derechos [The Atrato and its guardians: ecopolitical imagination to spin new rights]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.638

Cardona, F. (2018, June 19). 66% of Colombia's gold is mined illegally: UN says. *Colombia Reports.* Retrieved from https://colombiareports.com/66-of-colombias-gold-is-mined-illegally-un-study/

Carrillo Cubides, A.J. (2017). *Revisión crítica de los REDD+: Limitaciones y potencialidades de su aplicación en Colombia* {Critical review of REDD+: Limitations and potentialities of its application in Colombia] (Doctoral dissertation). Universidad Nacional de Colombia, Bogotá, Colombia.

Chen, C.W. & Gilmore, M. (2015). Biocultural Rights: A New Paradigm for Protecting Natural and Cultural Resources of Indigenous Communities. *The International Indigenous Policy Journal, 6*(3). doi: 10.18584/iipj.2015.6.3.3

Chichilinsky, G. (1994). North-South Trade and the Global Environment. *The American Economic Review, 84*(4): 851-874.

Clarke, T. & Branson, D. (Eds.). (2012). *The SAGE Handbook of Corporate Governance.* London: SAGE.

Colombia Gold Letter. (2019, September 12). Colombia ratifies its commitment to fight mercury. *Colombia Gold Letter.* Retrieved from https://colombiagoldletter.com/colombia-ratifies-its-commitment-to-fight-mercury/

Conflict and Environment Observatory. (2020). Colombia. Retrieved from https://ceobs.org/countries/colombia/

Cullinan, C. (2008). If Nature Had Rights. *Orion Magazine.* Retrieved from https://orionmagazine.org/article/if-nature-had-rights/

Cullinan, C. (2002). *Wild Law: A Manifesto for Earth Justice.* Foxhole, United Kingdom: Green Books.

Cuesta Rentería, J.L. & Hinestroza Cuesta, L. (2017). Análisis jurídico de las funciones de los consejos comunitarios en territorios colectivos de comunidades negras [Legal analysis of the functions of community councils in collective territories of black communities]. *Justicia, 32*: 160-181. doi: 10.17081/just.22.32.2910

Cupp, C. (2016). Focusing on Human Responsibility Rather than Legal Personhood for Nonhuman Animals. *Pace Environmental Law Review, 33*(3): 517-541.

Daly, E. (2018). Environmental Constitutionalism in Defense of Nature. *Wake Forest Law Review, 53:* 667.

de la Cadena, M. & Blaser, M. (Eds.). (2018). *A World of Many Worlds.* Durham, NC: Duke University Press.

De Vries-Stotijn, A. Van Ham, I. & Bastmeijer, K. (2019). Protection through property: from private to river-held rights. *Water International, 44*(6-7): 736-751. doi: 10.1080/02508060.2019.1641882

Duarte, C. (2012). Implementación y Crisis del Actual Sistema de Gobernabilidad Minera en Colombia: El Modelo de Enclave Exportador [Implementation and Crisis of the Current Mining System in Colombia: The Model of Export Enclave]. *Análisis Político, 25*(74): 3-27.

Eckstein, G., D'Andrea, A., Marshall, V., O'Donnell, E., Talbot-Jones, J., Curran, D. & O'Bryan K. (2019). Conferring legal personality on the world's rivers: A brief intellectual assessment. *Water International, 44*(6-7): 804-829. doi: 10.1080/02508060.2019.1631558

Ecoosfera. (2019). Artículos sobre los Derechos de la Naturaleza [Articles about the Rights of Nature]. Retrieved from https://ecoosfera.com/manifiesto-cientifico-naturaleza-derechos-paises

Engle, K. (2010). *The Elusive Promise of Indigenous Development: Rights, Culture, Strategy*. Durham, NC: Duke University Press.

Esborraz, D.F. (2016). El modelo ecológico alternativo latinoamericano entre protección del derecho humano al medio ambiente y reconocimiento de los derechos de la naturaleza [Latin American alternative ecological model between protection of the human right to the environment and recognition of nature's rights]. *Revista Derecho del Estado*, (36): 93-129. doi: 10.18601/01229893.n36.04

Escobar, A. (1999). After nature: Steps to an anti-essentialist political ecology. *Current Anthropology, 40*(1): 1-30. doi: 10.1086/515799

Evans, C. (2012). *The right to reparation in international law for victims of armed conflict*. Cambridge, UK: Cambridge University Press.

First National People of Color Environmental Leadership Summit. (1991). The Principles of Environmental Justice. Retrieved from https://www.nrdc.org/sites/default/files/ej-principles.pdf

French, P.A. (1979). The Corporation as a Moral Person. *American Philosophical Quarterly, 16*(3): 207-215.

Garcia, A., Hurtado, C.A., Varón, D., Amórtegui, D.N., Ramírez, D.C.S., Zapata, D.C.S., … Hernández, M.C. (2018). *La Corte Ambiental: Expresiones ciudadanas sobre los avances constitucionales* [The Environmental Court: Citizen Expressions on Constitutional Advances]. Bogotá, Colombia: Heinrich Böll Stiftung.

Gardiner, S.M. (2006). A Perfect Moral Storm: Climate Change, Intergenerational Ethics and the Problem of Moral Corruption. *Environmental Values, 15*(3): 397-413.

Giroux, V. (2016). Animals Do Have an Interest in Liberty. *Journal of Animal Ethics,* 6(1): 20-43. doi: 10.5406/janimalethics.6.1.0020

Gómez-Baggethun, E. & Ruiz-Pérez, M. (2011). Economic valuation and the commodification of ecosystem services. *Progress in Physical Geography: Earth and Environment, 35*(5): 613-628. doi: 10.1177/0309133311421708

Gonzalez, C.G. (2015). Bridging the North-South Divide: International Environmental Law in the Anthropocene. *Pace Environmental Law Review, 32.* Retrieved from https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1772&context=faculty

Gow, D.D. (2008). *Countering Development: Indigenous modernity and the moral imagination.* Durham, NC: Duke University Press.

Gutiérrez, A. (2017). #TodosSomosGuardianesDelAtrato [#WeAreAllGuardiansoftheAtrato]. *Arcadia.* Retrieved from https://www.revistaarcadia.com/agenda/articulo/sentencia-rio-atrato-sujeto-de-derechos-choco-colombia/67553

Harmony with Nature United Nations. (n.d.). Experts' Library. Retrieved from http://www.harmonywithnatureun.org/references/

Hastrup, K. (Ed.). (2013). *Anthropology and Nature.* New York: Routledge

Henriquez Chacín, B.J. (2020). Recordar el pasado, sembrar el futuro: plantas y reconfiguración del territorio en Bellavista, Bojayá [Remember the past, sow the future: plants and reconfiguration of territory in Bellavista, Bojayá]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.790

Hernández, W.M. (2018, October 12). Con tutela buscan que aire de Bogotá sea declarado sujeto de derechos [A tutela wants to declare the air of Bogotá a subject of rights]. *El Tiempo.* Retrieved from https://www.eltiempo.com/bogota/tutela-busca-que-aire-de-bogota-tenga-los-mismos-derechos-que-una-persona-279540

Higgins, P. (2010). *Eradicating Ecocide: Laws and governance to prevent the destruction of our planet.* London: Shepheard-Walwyn (Publishers) Ltd.

Houck, O.A. (2017). Noah's Second Voyage: The Rights of Nature as Law. *Tulane Environmental Law Journal, 31:* 1-50.

Hutchison, A. (2014). The Whanganui River as a Legal Person. *Alternative Law Journal, 39*(3): 179-182. doi: 10.1177/1037969X1403900309

Igoe, J. (2010). The spectacle of nature in the global economy of appearances: Anthropological engagements with the spectacular mediations of transnational conservation. *Critique of Anthropology, 30*(4): 375-397. 10.1177/0308275X10372468

Jendroska, J. & Squintani, L. (2020). The Courts as Guardians of the Environment – New Developments in Access to Justice and Environmental Litigation. In S. Tilling (Ed.), *Environment & Climate Change Laws and Regulations 2020.* Retrieved from https://iclg.com/practice-areas/environment-and-climate-change-laws-and-regulations

Justus, J., Colyvan, M., Regan, H., & Maguire, L. (2009). Buying into conservation: intrinsic versus instrumental value. *Trends in Ecology & Evolution, 24*(4): 187-191. doi: 10.1016/j.tree.2008.11.011

Kang, K. (2019). On the problem of the justification of river rights. *Water International, 44*(6-7): 667-683. doi: 10.1080/02508060.2019.1643523

Kauffman, C.M. & Martin, P.L. (2018). *When Rivers Have Rights: Case Comparisons of New Zealand, Colombia, and India*. Paper presented at the International Studies Association Annual Conference, San Francisco. Abstract retrieved from http://files.harmonywithnatureun.org/uploads/upload585.pdf

Kennemore, A. & Postero, N. (2020). Collaborative ethnographic methods: dismantling the 'anthropological broom closet'?. *Latin American and Caribbean Ethnic Studies.* doi: 10.1080/17442222.2020.1721091

Kerr, J.S., Bernstein, M., Schwoerke, A., Strugar, M.D. & Goodman, J.S. (2013). A Slave by Any Other Name Is Still a Slave: The Tilikum Case and Application of the Thirteenth Amendment to Nonhuman Animals. *Animal Law Review, 19*(2): 221-294.

Knauß, S. (2018). Conceptualizing Human Stewardship in the Anthropocene: The Rights of Nature in Ecuador, New Zealand and India. *Journal of Agricultural and Environmental Ethics, 31*: 703-722. doi: 10.1007/s10806-108-9731-x

Korsgaard, C.M. (2013). Personhood, Animals and the Law. *Think, 12*(34): 25-32. doi: 10.1017/S1477175613000018

Kothari, A. & Bajpai, S. (2017). We Are the River, the River Is Us. *Economic and Political Weekly.* Retrieved from https://www.epw.in/journal/2017/37/special-articles/we-are-river-river-us.html

Kothari, A., Margil, M. & Bajpai, S. (2017). Now rivers have the same legal status as people, we must uphold their rights. *The Guardian.* Retrieved from https://www.theguardian.com/global-development-professionals-network/2017/apr/21/rivers-legal-human-rights-ganges-whanganui

Lalander, R. (2015). Rights of Nature and the Indigenous Peoples in Bolivia and Ecuador: A Straitjacket for Progressive Development Politics? *Iberoamerican Journal of Development Studies, 3*(2): 148-172. doi: 10.2139/ssrn.2554291

Lindahl, H. (2018). *Authority and the Globalisation of Inclusion and Exclusion.* Cambridge: Cambridge University Press.

Magallanes, C.J.I. (2018). From Rights to Responsibilities using Legal Personhood and Guardianship for Rivers. In B. Martin, L. Te Aho, M. Humphries-Kil (Eds.), *ResponsAbility: Law and Governance for Living Well with the Earth.* London: Routledge.

Maloney, M. (2018). Changing the legal status of nature: recent developments and future possibilities. *LSJ Online.* Retrieved from https://lsj.com.au/articles/changing-the-legal-status-of-nature-recent-developments-and-future-possibilities/

Maloney, M & Burdon, P. (Eds.) (2015). *Wild Law – In Practice.* London: Routledge.

Martin, P., Boer, B. & Slobodian, L. (Eds.). (2016). *Framework of Assessing and Improving Law for Sustainability: A Legal Component of a Natural Resource Governance Framework* (IUCN Environmental Policy & Law Paper No. 87). Retrieved from https://www.iucn.org/sites/dev/files/framework_for_assessing_and_improving_law_for_sustainability_0.pdf

McGuirk, M. & Mills, B. (n.d.). Climate Change and the Dignity Rights of the Child. *The Dignity Rights Project* (Report). Retrieved from https://www.ohchr.org/Documents/Issues/ClimateChange/RightsChild/Dignity_Rights_Project.pdf

McMichael, P. (2014). The Land Question in the Food Sovereignty Project. *Globalizations, 12*(4): 434-451. doi: 10.1080/14747731.2014.971615

McNeish, J.A. (2018). Resource Extraction and Conflict in America. *Colombia Internacional,* (93): 3-16. doi: 10.7440/colombiaint93.2018.01

McPherson, E. & Clavijo-Ospina, F. (2015). The Pluralism of River Rights in Aotearoa, New Zealand and Colombia. *Journal of Water Law, 25*(6): 283-293.

Medio Ambiente. (2019, November 18). Guardianes del Yuruparí presentan tutela contra el uso de mercurio en la Amazonía [Yuruparí Guardians present a tutela against the use of mercury in the Amazon]. *El Espectador.* Retrieved from https://www.elespectador.com/noticias/medio-ambiente/guardianes-del-yurupari-presentan-tutela-contra-el-uso-de-mercurio-en-la-amazonia-articulo-891642?fbclid=IwAR2r978Mz724e1SgS15PP0dkBrdd-VMoJV8lS7Iur9NF6NmGAYlZ-OSlS2Q

Medio Ambiente. (2017, November 15). "Si los bosques siguen en pie, es por nosotros": indígenas en la Cumbre de Cambio Climático ["If the forests are still standing, it's for us": indigenous people at the Climate Change Summit]. *El Espectador.* Retrieved from https://www.elespectador.com/noticias/medio-ambiente/si-los-bosques-siguen-en-pie-es-por-nosotros-indigenas-articulo-723281

Merchant, C. (2001). The Death of Nature. In M.E. Zimmerman & J.B. Callicott (Eds.), *Environmental philosophy: from animal rights to radical ecology.* Upper Saddle River, N.J.: Prentice Hall.

Mesa Cuadros, G. (Ed.). (2015). *Conflictividad ambiental y afectaciones a derechos ambientales* [Environmental conflict and threats to environmental rights]. Bogotá, Colombia: Universidad Nacional de Colombia.

Millennium Ecosystem Assessment (Conceptual Framework Working Group). (2003). *Ecosystems and Human Well-being.* Washington: Island Press.

Minority Rights Group International. (n.d.). Colombia: Afro-Colombians. Retrieved from https://minorityrights.org/minorities/afro-colombians/

Montaño, J. (2018, November 28). Histórico: juez ordena proteger la vida de las abejas de Colombia [Historical: judge orders to protect the life of bees in Colombia]. *El Tiempo.* Retrieved from https://www.eltiempo.com/colombia/otras-ciudades/historico-juez-ordena-proteger-la-vida-de-las-abejas-en-colombia-298846

Morris, J.D.K. Ruru, J. (2010). Giving Voice to Rivers: Legal Personality as a Vehicle for Recognising Indigenous Peoples' Relationship to Water? *Australian Indigenous Law Review, 14*(2): 49-62.

Movement Rights, Indigenous Environmental Network, & Global Exchange. (2015). *Rights of Nature & Mother Earth: Sowing Seeds of Resistance, Love & Change.* Oakland, CA: Movement Rights.

Nadasdy, P. (2005). Transcending the Debate over the Ecologically Noble Indian: Indigenous Peoples and Environmentalism. *Ethnohistory, 52*(2): 291-331. doi: 10.1215/00141801-52-2-291

Naffine, N. (2003). Who are Law's Persons? From Cheshire Cats to Responsible Subjects. *The Modern Law Review, 66*(3): 346-367. doi: 10.1111/1468-2230.6603002

Nash, R.F. (1989). *The Rights of Nature: A History of Environmental Ethics.* Madison, WI: The University of Wisconsin Press.

Nedelsky, J. (1993). Reconceiving Rights as Relationship: *Review of Constitutional Studies, 1*(1).

O'Donnell, E. & Macpherson, E. (2018). Voice, power and legitimacy: the role of the legal person in river management in New Zealand, Chile & Australia. *Australasian Journal of Water Resources, 23*(1): 35-44. doi: 10.1080/13241583.2018.1552545

Olaya, C. (2019, November 12). El extraño campesinado amazónico [The unusual Amazonian peasantry]. *Dejusticia.* Retrieved from https://www.dejusticia.org/column/el-extrano-campesinado-amazonico/

Olaya, C. (2019, March 6). El invisible acaparamiento de tierras [The invisible landgrab]. *Dejusticia.* Retrieved from https://www.dejusticia.org/column/un-doble-rasero-en-la-lucha-contra-la-deforestacion/

Olivero-Verbel, J., Carranza-Lopez, L., Caballero-Gallardo, K., Ripoll-Arboleda, A., & Muñoz-Sosa, D. (2016). Human exposure and risk assessment associated with mercury pollution in the Caqueta River, Colombian Amazon. *Environmental science and pollution research international, 23*(20): 20761-20771. doi: 10.1007/s11356-016-7255-3

Osofsky, H.M. (2020). The Geography of Emerging Global South Climate Change Litigation. *AJIL Unbound, 114.* doi: 10.1017/aju.2020.3

Parker, L. (2019, June 26). Kids suing governments about climate change: It's a global trend. *National Geographic.* Retrieved from https://www.nationalgeographic.com/environment/2019/06/kids-suing-governments-about-climate-growing-trend/

Pecharroman, L.C. (2018). Rights of Nature: Rivers That Can Stand In Court. *Resources, 7*(1). doi: 10.3390/resources7010013

Postero, N. (2017). *The Indigenous State: Race, Politics, and Performance in Plurinational Bolivia.* Berkley, CA: University of California Press.

Programa de las Naciones Unidas para el Desarrollo [United Nations Development Program]. (2011). *Afrocolombianos: Sus territorios y condiciones de vida* [Afrocolombians: their territories and living conditions]. Bogotá, Colombia: Informe Nacional de Desarrollo Humano (INDH).

Quiceno, N. & Villamizar, A. (2020). Mujeres atrateñas, oficios reparadores y espacios de vida [Atrateño women, repair Jobs and living spaces]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.702

Radin, M.J. (1982). Property and Personhood. *Stanford Law Review, 34*: 957-1015.

Rajkovic, N., Aalberts, T.E., Gammeltoft-Hansen, T. (Eds.). (2016). *The power of legality: practices of international law and their politics.* New York: Cambridge University Press.

Rawson, A. & Mansfield, B. (2018). Producing juridical knowledge: "Rights of Nature" or the naturalization of rights? *Environmental Planning E: Nature and Space, 1*(1-2): 99-119. doi: 10.1177/2514848618763807

Riaño-Alcalá, P. & Chaparro, R. (2020). Cantando el sufrimiento del río. Memoria, poética y acción política de las cantadoras del Medio Atrato chocoano [Singing the suffering of the river. Memory, poetics and political action of female singers in the Chocoano Medio Atrato]. *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.793

Rico, G. (2018, May 18). La selva en Colombia después del conflicto con las FARC [The jungle in Colombia after the conflict with the FARC]. *Mongabay.* Retrieved from https://es.mongabay.com/2018/05/colombia-la-selva-tras-conflicto-farc/

Rodríguez-Garavito, C. (2011). Ethnicity.gov: Global governance, indigenous peoples and the right to prior consultation in social minefields. *Indiana Journal of Global Legal Studies, 18*(1): 263-305. doi: 10.2979/indjglolegstu.18.1.263

Roht-Arriaza, N. & Mariezcurrena, J. (2006). *Transitional Justice in the twenty-first century: beyond truth versus justice*. Cambridge, UK: Cambridge University Press.

Sajeva, G. (2015). Rights with limits: biocultural rights – between self-determination and conservation of the environment. *Journal of Human Rights and the Environment, 6*(1): 30-54. doi: 10.4337/jhre.2015.01.02

Salcedo, H.d.C. (2015). Environmental Violence and Its Consequences. *Latin American Perspectives, 42*(5): 19-26. doi: 10.1177/0094582X15585116

Sanz-Caballero, S. (2013). Children's rights in a changing climate: a perspective from the United Nations Convention on the Rights of the Child. *Ethics in Science and Environmental Politics, 13:* 1-14. doi: 10.3354/esep00130

Sassen, S. (2012). When Territory Deborders Territoriality. *Territory, Politics, Governance, 1*(1): 21-45. doi: 10.1080/21622671.2013.769895

Sawyer, S. & Gomez, T. (2008). *Transnational Governmentality and Resource Extraction: Indigenous Peoples, Multinational Corporations, Multinational Institutions and the State*. Geneva: UNRISD.

Schilling-Vacaflor, A. (2014). *Contestations over Indigenous Participation in Bolivia's Extractive Industry: Ideology, Practices, and Legal Norms*, GIGA German Institute of Global and Area Studies Working Paper No. 254. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2554288

Semper, S. (2006). Los derechos de los pueblos indígenas de Colombia en la jurisprudencia de la Corte Constitucional [The rights of Colombia's indigenous peoples in the jurisprudence of the Constitutional Court]. *Instituto de Investigaciones Jurídicas,* 761-777. Retrieved from http://www.corteidh.or.cr/tablas/r21731.pdf

Stein, S., Hunt, D. & Suša, R. (2017). The Educational Challenge of Unraveling the Fantasies of Ontological Security. *Diaspora, Indigenous, and Minority Education, 11*(2): 69-79. doi: 10.1080/15595692.2017.1291501

Shelton, D. (2015). Nature as a legal person. *VertigO, 1.* doi: 10.4000/vertigo.16188

Suárez, S. (2013). Defendiendo la naturaleza: Retos y obstáculos en la implementación de los derechos de la naturaleza Caso río Vilcabamba [Defending nature: Challenges and obstacles in the implementation of nature's rights River Vilcabama Case]. *Energía y Clima.* Retrieved from http://library.fes.de/pdf-files/bueros/quito/10230.pdf

Soy Amazonía, Coalición para los Promoción de los Derechos Territoriales de Pueblos Indígenas Amazónicos y la Protección del Medio Ambiente, Organización de los Pueblos Indígenas de la Amazonía Colombiana [OPIAC], Asociación Ambiente y Sociedad, & Tierra Digna. (n.d.). Soy Amazonía. Retrieved from https://amazoniasoy.com/

Taussig, M.T. (2006). *The Devil and Commodity Fetishism in South America*. Chapel Hill, NC: The University of North Carolina Press.

Tierra Digna. (2019). *Todas y Todos Somos Guardianes del Atrato* [Pamphlet]. Retrieved from https://co.boell.org/es/2019/02/19/todas-y-todos-somos-guardianes-del-atrato

Travis, M. (2014). Non-Normative Bodies, Rationality, and Legal Personhood. *Medical Law Review, 22*(4): 526-547. doi: 10.1093/medlaw/fwu015

Trujillo, A.M.A. (2019, December 18). Controlling the mercury that is killing the Colombian Amazon. *openDemocracy.* Retrieved from https://www.opendemocracy.net/en/democraciaabierta/controlar-el-mercurio-que-mata-la-amazon%C3%ADa-colombiana-en/

Turkewitz, J. (2017, September 2016). Corporations Have Rights, Why Shouldn't Rivers? *The New York Times.* Retrieved from https://www.nytimes.com/2017/09/26/us/does-the-colorado-river-have-rights-a-lawsuit-seeks-to-declare-it-a-person.html?_r=0

Villanueva, C.O. (2020). ¿Qué hacemos con tanto muerto? Tratar la muerta violenta y masiva en el Medio Atrato. [What do we do with so much death? Treating violent and massive death in Medio Atrato.] *Revista Colombiana de Antropología, 56*(2). doi: 10.22380/2539472X.648

Westra, L., Bosselmann, K. & Westra, R. (2008). *Reconciling Human Existence with Ecological Integrity: Science, Ethics, Economics and Law*. London: Earthscan.

Worster, W.T. (2016). Relative International Legal Personality of Non-State Actors. *Brooklyn Journal of International Law, 42*(1): 207-273.

Wuijts, S., Beekman, J., van der Wal, B., Suykens, C., Driessen, P.P.J., Van Rijswick, H.F.M.W. (2019). An ecological perspective on a river's rights: a recipe for more effective water quality governance? *Water International, 44*(6-7): 647-666. doi: 10.1080/02508060.2019.1615773

Youatt, R. (2017). Personhood and the Rights of Nature: The New Subjects of Contemporary Earth Politics. *International Political Sociology, 11*(1): 39-54. doi: 10.1093/ips/olw032

Appendix A: Epilogue

This section will summarize details regarding Colombia's mercury bans (est. 2018), recent Colombian jurisprudence over prior consultations and mining (est. 2018) and Foreign Direct Investments (est. 2019), and the COVID-19 pandemic's impact on the Chocó and Colombian Amazon regions. These details provide some additional insight into ongoing issues linked to extractive projects, rights, and illegal criminal networks.

Mercury ban

In July 2018, Colombia's mercury ban went into effect, in accordance with Law 1658 of 2013. This ban is meant to impact legal mining operations' use of mercury. The ban also sought to stop the import of mercury for use in mining (Ministerio del Ambiente y Desarrollo Sostenible, 2018). Later that year, Colombia ratified the Minamata Convention, which seeks to stop production of all mercury-containing products by 2023 (Minamata Convention on Mercury, 2020; Paz Cardona, 2018a). The enforcement of this ban, its potential impact on illegal mining operations, and progress toward meeting the aims of the Minamata Convention remain unknown.

Recent Colombian jurisprudence on rights and development

In late 2018, a Constitutional Court ruling was issued that sought to speed up the national mining agenda by bypassing popular consultations *(consulta previa)*. The decision determined that popular consultations can no longer hinder extractive agendas in areas where consultations had previously been mandated. In 2019, this decision was stayed and also determined that municipalities cannot prohibit extraction of nonrenewable resources, either. This decision was considered retroactive by five years, overturning the 2013 Tauramena consultation. In sum, previous avenues to stop extractive projects were closed (Paz Cardona, 2020b; *SU095/18*, 2018).

Later, in June 2019, a Constitutional Court decision determined that protection for foreign direct investment initiatives cannot supersede protections for the rights of Colombians, stating that the protections afforded foreigners cannot cause "unjustified more favorable treatment than the treatment accorded to nationals" (*C-252/19*, 2019, para. 112). This decision came in response to a lawsuit by a French company against the Colombian State and has implications for other foreign direct investments in Colombia (*C-252/19*, 2019; Prieto, 2019).

COVID-19's impact in Chocó & the Amazon

Due to the COVID-19 pandemic, rampant environmental crimes are on the rise in both regions. It is believed that illegal criminal networks are taking advantage of the pandemic to increase forest-clearing acts in Chocó, the Colombian Amazon, and other biodiverse regions. In April 2020, the Attorney General urged President Duque to declare an ecological and climate emergency to increase measures against rampant deforestation and other activities harming nature. Requested measures include: 1) dedicating an exclusive defense team to stop criminal networks from further land grabs and environmental devastation and 2) a national registry of deforested areas (Hernández, 2020).

The defense sector has been taking care of other issues during the pandemic. According to reports, criminal networks have filled the security vacuum and are using their leverage in the territories while relying on some of the regional authorities' 'complicity' surrounding illegal extractive projects (Hernández, 2020, para. 6). The representative also stated, "We have asked the National Parks and the Prosecutor to be very careful in characterizing campesinos… Because criminalizing these people is not the way. It is not to reactivate the war for land with people who have never had

rural or agrarian justice. We have not yet seen results against criminal organizations…" (Hernández, 2020, para. 15).

Appendix B: Consent forms

Would you participate in the research project "Emerging Nature's Rights Governance in Colombia"?

(English form)

This is a formal request for you to participate in a research project. Your participation can help provide on-the-ground information regarding emerging nature's rights governance strategies in Colombia as a new environmental governance strategy, both in the national context but as well contributing to the international discourse on nature's rights governance strategies. In this letter, you'll learn about the goals of the project and what participation will mean for you. If you are willing to participate, please sign, and check all aspects of participation to which you are willing to commit.

Formal information

This master's thesis research project seeks to portray the emerging nature's rights governance strategies in Colombia and analyze them against the aims of achieving environmental and ecological justice and within the context of environmental peacebuilding efforts. It can be used to inform current and future cases of nature's rights adoption in Colombia and beyond.

Who is responsible for the research project?

Whitney Richardson, a student of the Norwegian University of Life Sciences, in cooperation with Professors Erik Goméz-Baggethun and John McNeish from the NORAGRIC department

Why have I been requested?

Because of your role and area of expertise in connection to environmental governance in Colombia and possible affiliation with the emerging nature's rights governance strategies.

What does it mean for you to participate?

- If you choose to participate, the following information will ideally be collected: name, role, organization.
- You will be asked to participate in an interview (from 30-45 minutes or more, depending on time available) that is to be recorded via an audio recording device. During the interview, we will be discussing issues surrounding environmental governance strategies to uphold the rights of nature. As such, information collected may include political and philosophical arguments and procedures related to the topic. While only information regarding law and

policy will be included, it is important to note that what you discuss during the recorded interview may be stored for the duration of the research project.
- If able and willing, you may also support the project by providing additional contacts who may be willing to help and relevant to the research.

Participation is voluntary

Participation in the project is voluntary. If you choose to participate, you may at any time withdraw your consent without giving any reason. All information about you will then be anonymized. It will have no negative consequences for you if you do not want to participate or later choose to withdraw.

Your privacy: how we store and use your information

We will only use the information about you for the purposes we have told you that is written. We treat the information confidentially and in accordance with the privacy policy.

- The student researcher and professors named above will be the only with access to this information.
- To ensure that no unauthorized person has access to your information, I will replace your name and contact information with a code stored on your name in a list separate from the data. It will be saved on a locked file.
- Your name and role will only be identified in the publication with express permission. **Please check the box if you offer your permission to include your name and role within the final publication in connection to quotes drawn from the interviews.**

What happens to your information when we close the research project?

At the end of the research project in June 2020, any stored data will be anonymized.

Your rights

As long as you can be identified in the data material, you are entitled to:

- Insight into which personal information is registered about you,
- Getting personal information about you,
- Delete your personal information,
- Get a copy of your personal data (data portability), and
- To send a complaint to the Data Protection Officer or the Data Inspectorate about the processing of your personal data.

What gives you the right to process personal information about you?

We will only process information about you based on your consent.

On behalf of the Norwegian University of Life Sciences, NSD (Norwegian Center for Research Data AS) has considered that the processing of personal data in this project is in accordance with the privacy regulations.

Where can I find out more?

If you have questions about the study, or would like to exercise your rights, contact:

The Norwegian University of Life Sciences
- Student Researcher, Whitney Richardson: whitney.richardson@nmbu.no
- Study Advisors:
    - Erik Gómez-Baggethun: erik.gomez@nmbu.no
    - John McNeish: john.mcneish@nmbu.no
- Data Protection Officer, personvernombud@nmbu.no

NSD – Norwegian Center for Research Data AS:
- Email: personverntjenester@nsd.no
- Telephone: +47 55 58 21 17

Kind regards,

Whitney Richardson
Student Project Manager

Consent statement

Consent may be obtained in writing, either in digital or print format. If necessary, oral consent recorded on audio may be submitted.

I have received and understood information about the "Colombian Nature's Rights" project and have been given the opportunity to ask questions. I give my permission:

- ☐ To participate in a recorded interview
- ☐ To participate in an interview, but not recorded
- ☐ To participate in any questionnaire
- ☐ *That my name can appear in publication* associated with my words*
- ☐ *That my professional role/occupation can appear in publication* associated with my words*
- ☐ *That the name of my organization can appear in publication* associated with my words*
  *(*both the thesis final and any subsequent international publication)*

By signing below, I acknowledge that I have read this form in full and consent to all of the permissions checked in the boxes above.

_____
Signature, date

_____
Participant's full name

_____

Participant occupation

Participant organization (if applicable)

Please use the space below to include any additional notes regarding your participation in this project.

Thank you!

¿Te gustaría participar en el proyecto de investigación? "Derechos emergentes de la naturaleza en Colombia"

(Formulario en español)

Esta es una solicitud formal para que usted participe en un proyecto de investigación. Su participación puede ayudar a dar información práctica sobre los derechos emergentes de la naturaleza en Colombia como una nueva estrategia de gobernanza ambiental, tanto en el contexto nacional como a la vez que contribuye al discurso internacional sobre los derechos de la naturaleza. En esta carta, conocerá los objetivos del Proyecto y lo que significará la participación para usted. Si está dispuesto a participar, firme y verifique todos los aspectos de la participación en los que está dispuesto a comprometerse.

Información formal

La investigación de tesis de este máster busca retratar los derechos emergentes de la naturaleza en Colombia y analizarlos en relación con los objetivos de lograr la justicia ambiental y ecológica y dentro del contexto de los esfuerzos para construir paz ambiental. Puede usarse para informar casos actuales y futuros de la adopción de los derechos de la naturaleza en Colombia y más allá.

¿Quién es el responsable del proyecto de investigación?

Whitney Richardson, una estudiante de la Universidad Noruega de Ciencias de la Vida, en colaboración con Erik Goméz-Baggethun y John McNeish, profesores en el departamento NORAGRIC.

¿Por qué me han pedido?

Debido a su rol y área de experiencia en relación con la gobernanza ambiental en Colombia y la posible afiliación con los derechos emergentes de la naturaleza.

¿Qué significa para ti participar?

- Si elige participar, lo ideal es que se recopile la siguiente información: nombre, rol, y organización.
- Se le pedirá que participe en una entrevista (de 30 a 45 minutos o más, dependiendo del tiempo disponible) que se grabará a través de un dispositivo de grabación de audio. Durante la entrevista, discutiremos temas relacionados con las estrategias de gobernanza ambiental para defender los derechos de la naturaleza. Como tal, la información recopilada puede incluir argumentos políticos y filosóficos y procedimientos relacionados con el tema. Si bien solo se incluirá información relacionada con la ley y la política, es importante tener en cuenta que lo que se discute durante la entrevista grabada puede almacenarse durante la duración del Proyecto de investigación.
- Si puede y desea, también puede respaldar el proyecto proporcionando contactos adicionales que puedan estar dispuestos a ayudar y que sean relevantes para la investigación.

La participación es voluntaria

La participación en el proyecto es voluntaria. Si decide participar, puede retirar su consentimiento en cualquier momento sin dar ninguna razón. Toda la información sobre usted será anonimizada. No tendrá consecuencias negativas para usted si no desea participar o más tarde decide retirarse.

Su privacidad: cómo almacenamos y utilizamos su información

Solo usaremos la información sobre usted para los fines que le hemos dicho que están escritos. Tratamos la información de forma confidencial y de acuerdo con la política de privacidad.

- La estudiante investigadora y los profesores mencionados anteriormente serán los únicos que tendrán acceso a esta información.
- Para garantizar que ninguna persona no autorizada tenga acceso a su información, reemplazaré su nombre y información de contacto con un Código almacenado en su nombre en una lista separada de los datos. Se guardará en un archive bloqueado.
- Su nombre y función solo se identificarán en la publicación con permiso expreso. **Por favor marque la casilla si ofrece su permiso para incluir su nombre y función en la publicación final en relación con las citas extraídas de las entrevistas.**

¿Qué pasa con su información cuando cerramos el proyecto de investigación?

Al final del Proyecto de investigación en junio de 2020, los datos almacenados se anonimizarán.

Sus derechos

Siempre que pueda ser identificado en el material de datos, tiene el derecho a:

- Información sobre la información personal que se registra sobre usted,
- Obtención de información personal sobre usted,
- Eliminar su información personal,
- Obtener una copia de sus datos personales (portabilidad de datos), y
- Para enviar una queja al Oficial de Protección de Datos o a la inspección de datos sobre el procesamiento de sus datos personales.

¿Qué te da derecho a procesar tu información personal?

Solo procesaremos información sobre usted con base en su consentimiento.

En nombre de la Universidad Noruega de Ciencias de la Vida, NSD (Centro Noruego de Datos de Investigación AS) ha considerado que el procesamiento de datos personales en este proyecto está de acuerdo con las regulaciones de privacidad.

¿Dónde puedo encontrar más información?

Si tiene preguntas sobre la investigación, o si desea ejercer sus derechos, conéctese:

La Universidad Noruega de Ciencias de la Vida:
- Investigadora estudiante, Whitney Richardson: whitney.richardson@nmbu.no
- Asesores del estudio:
    - Erik Gómez-Baggethun: erik.gomez@nmbu.no
    - John McNeish: john.mcneish@nmbu.no
- Oficial de Protección de Datos, personvernombud@nmbu.no

NSD – Centro Noruego de Datos de Investigación AS:
- Correo electrónico: personverntjenester@nsd.no
- Teléfono: +47 55 58 21 17

Una cordial salud,

Whitney Richardson
Investigadora

Declaración de consentimiento

Consentimiento puede obtenerse por escrito, ya sea en formato digital o impreso. Si es necesario, se puede presentar el consentimiento oral grabado en audio.

Ha recibido y comprendido información sobre el Proyecto "Derechos de la naturaleza colombiana" y se me ha brindado la oportunidad de hacer preguntas. Doy mi permiso:

- ☐ Para participar en una entrevista grabada
- ☐ Para participar en una entrevista, pero no grabada
- ☐ Para participar en cualquier cuestionario
- ☐ *Que mi nombre pueda aparecer en la publicación* asociado a mis palabras*
- ☐ *Que mi rol/ocupación profesional puede aparecer en la publicación* asociado a mis palabras*
- ☐ *Que el nombre de mi organización puede aparecer en la publicación* asociado a mis palabras*

  *(*Tanto la tesis final como cualquier publicación internacional posterior)*

Al firmar a continuación, reconozco que he leído este formulario en su totalidad y estoy de acuerdo con todos los permisos marcados en las casillas de arriba.

_____
Firma y fecha de firma

_____
Nombre completo del participante

_____
Ocupación del participante

Organización del participante (si corresponde)

Por favor utilice el espacio acá para incluir notas adicionales sobre su participación en este proyecto.

¡Muchísimas gracias!

Appendix C: Semi-Structured Interview Guide

Consideraciones / Considerations:

Dimensiones para cubrir / *Dimensions to cover:*

- **¿Quién, qué, dónde, cuándo, por qué, y cómo? /** Who, What, Where, When, Why, and How?
- **El pasado, presente, y futuro /** Past, Present, Future
- **Los derechos de los ecosistemas: mantener, protegir, conservar, y restaurar (parámetros y definiciones para cada uno) /** Ecosystem rights: maintain, protect, conserve, restore (parameters and definitions for each)

Recordatorio: consulte la pregunta principal de la investigación en la entrevista / *Reminder: refer to RQ in interview*

Preguntas fundamentales, adónde sean relevantes y posibles / *Foundational questions, where relevant and possible:*

- **¿Cuáles las metas, parámetros, y procedimientos gubernamentales y legales definidos para realizar los derechos de la naturaleza cómo se relacionan a "la protección, la conservación, el mantenimiento, y la restauración" de los ecosistemas colombianos? /** What are the aims, parameters, and defined legal and governmental procedures for realizing nature's rights as it relates to "protection, conservation, maintenance, and restoration" of the Colombian ecosystems?
- **¿Cuáles son los puntos fuertes, las barreras, y las oportunidades para mejorar la implementación de los enfoques de los derechos de la naturaleza en Colombia? /** What are the strengths of, barriers to, and opportunities for improved implementation of nature's rights approaches in Colombia?
- **¿Cómo encajan los enfoques de los derechos de la naturaleza en el contexto más amplio de los esfuerzos de consolidación de la paz ambiental colombianos? /** How do nature's rights approaches fit in the broader context of Colombian environmental peacebuilding efforts?

Estructura / Structure

[PARA TODOS] Introducciones / [FOR EVERYONE] Introductions:

- **Nombre y tema para entrevista** / Name and theme for interview
- **Formulario para dar consentimiento /** Form to give consent to participate
- **[Si grabar] Cuando dice "sí", empieza para grabar: "Por favor, dígame su nombre, y información como su rol y la organización en ⋯" /** [If recording] "Please, tell me your name, and information about your role and organization⋯"

[PARA 'AFILIADOS OBJETIVOS'] Pregunta primera para participantes relevantes / [FOR 'TARGET AFFILIATES'] First question for relevant participants:

- **¿Dónde se ubican los derechos humanos y derechos ambientales clave dentro de la constitución colombiana?** Where are key human rights and environmental rights located within the Colombian constitution?
- **Si la constitución no contiene derechos de la naturaleza, ¿qué están interpretando los jueces para declararlos?** If the constitution does not contain rights of nature, what are judges interpreting to declare these?
- **¿Puedes describir de nuevo la formulación de la tutela?** Can you describe the formulation of the tutela?
- **¿Qué tipo de evidencia se utilizó en el caso?** What kind of evidence was used in the case?
- **¿Asignar derechos a la naturaleza era parte del argumento presentado, o era esto algo que el juez había inventado?** Was assigning rights to nature a part of the argument presented in the case, or was this something the judge had come up with?
- **¿Cuáles (dónde) están los límites geografícos legalmente definidos de estos sujetos con derechos?** What are the legally defined geographic boundaries of these rights-bearing subjects? (Where?)
- **¿Cómo se definen legalmente cada uno de los derechos de los ecosistemas: "protección, conservación, mantenimiento y restauración"?** How are each of the following components of ecosystem rights legally defined - "protection, conservation, maintenance, and restoration"?
- **¿Hasta qué punto están siendo apoyados a los derechos de las ecosistemas en Colombia hoy [actividades prohibidos, protección y defensa, administración, conservación, y remediación]?** To what degree are the rights of ecosystems being upheld in Colombia (banned activities, protection and defense, management, conservation, and remediation)?

[PARA UNOS] Preguntas generales para participantes relevantes / [FOR SOME] General questions for relevant participants:

- **Antes de otorgar los derechos a la naturaleza, ¿cómo los tribunales respetaron o protegieron los derechos ambientes (comparables a los invocados en las demandas)?** / Prior to granting nature rights, how were

environmental rights (comparable to those invoked in the lawsuits) honored by the courts?

- **¿Cuáles son los procedimientos legales para apoyar los derechos de la naturaleza en Colombia?** / What are the defined legal procedures for defending nature's rights in Colombia?
- **¿Quiénes son los actores incluido en el proceso de hacer política para apoyo los derechos de las ecosistemas?** Who are the actors involved in the process of creating policy to upholding the rights?
- **¿Cuáles son las fortalezas, barreras, y oportunidades para mejorar la implementación de los derechos de naturaleza en Colombia?** What are the strengths of, barriers to, and opportunities for improved implementation of nature's rights in Colombia?
- **¿Cuáles actividades han prohibido para promover los derechos de la naturaleza en el área? /** What activities have been banned to promote nature's rights in the area?
- **¿Cuáles alternativos a las actividades prohibidos existen?** / What alternatives to the banned activities may exist?
- **¿Cómo están siendo apoyados los guardianes del río? How are [River] Guardians selected?** / How are the [River] Guardians supported? How do they collaborate with the state? Barriers to effective management?
- **¿Cómo los derechos bioculturales de las comunidades locales informan a los derechos de las ecosistemas?** / How do biocultural rights of local communities inform rights of ecosystems?
- **¿Qué esfuerzos de remediación están en marcha? ¿Cuál es la línea de tiempo para la remediación?** / What remediation efforts are underway? What is the timeline for remediation?
- **¿Qué complejidades y / o peligros existen para los involucrados en el proceso de implementación, y cuán difíciles pueden ser para superarlos?** / What complexities and/or dangers exist for those involved in the implementation process, and how difficult may they be to overcome?
- **¿Hay planes futuros para expandir los derechos de la naturaleza en Colombia? ¿Hay alguna legislación pendiente que defienda los derechos de la naturaleza? Si es así, ¿cómo los casos actuales informarán la adopción futura?** / Are there future plans to expand nature's rights in Colombia? Is there pending legislation arguing for nature's rights? If so, how will the current cases inform future adoption.