Norwegian University
of Life Sciences

Master's Thesis 2023 60 ECTS
Faculty of Landscape and Society

Exploring the ruling on the rights of the Colombian Amazon: Taking stock of the implementation of Ruling 4360 of 2018

Geovanna Esperanza Guerrero Ascuntar
MSc Global Development Studies

I saw that there was no Nature,
That Nature does not exist,
That there are mountains, valleys, plains,
That there are trees, flowers, grasses,
That there are steams and stones,
But that there's not a whole to which this belongs,
That any real and true ensemble
Is a disease of our ideas.

Nature is parts without a whole.
This perhaps is that mystery they speak of.

Fernando Pessoa

Declaration

I, Geovanna Esperanza Guerrero Ascuntar, 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: Giovanna Guerrero A.

Date: 14 August 2023

Table of Contents

Figures

Tables

Abstract

This thesis examines the Colombian ruling STC 4360-2018 on the Amazon region, assessing its implementation status and challenges amid Colombia's current socio-political landscape. The ruling seeks to combat climate change by curbing deforestation to safeguard future generations' rights. Furthermore, the ruling declares the Colombian Amazon as an entity subject of rights aiming to protect this crucial ecosystem. Nonetheless, the ruling's practical impact remains uncertain even after five years after its issuance. The conservation of the Amazon is crucial for Colombia and the global environment, as it is often referred to as the "lungs of the world." Despite various initiatives and commitments, including the Paris Agreement, deforestation remains a significant issue in the Colombian Amazon region.

To meet the overall objective of exploring the concrete impacts and challenges to the Amazon ruling implementation, I conducted a qualitative case study using inductive and deductive analysis to explore the relationship between theory and empirical data. I collected primary data by performing semi-structured interviews with people involved and engaged with the ruling process. Additionally, I reviewed relevant official documents, academic literature, and grey literature. To support my discussion, I interplayed the findings with the pluriverse and ecological justice theories acknowledging that these theories align with the rights of nature concept and could be an alternative to include nature's rights into legal frames.

Based on the evidence, I argue that the actual execution of conferring rights to natural entities, exemplified by the Amazon ruling's case, remains relatively undefined within the legal structure because of multiple challenges. These challenges are related to institutional and cultural disarticulation, disconnection between the ruling's conceptual framework and its applicability on the ground, a top-down approach in its process, and the country's complex dynamics, such as armed conflict, peace efforts, and illegal activities. Furthermore, I suggest that the rights of nature lack support for necessary shifts towards inclusive politics that encompass diverse worldviews and seek achievable environmental protection.

This thesis contributes to ongoing rights of nature and environmental protection discussions, highlighting complexities in translating legal frameworks into actual transformations.

Acknowledgements

I would like to express my deepest gratitude to all who supported me in the personal or professional scenario to complete this thesis. I got immeasurable emotional support from countless amount of people in Ås, Norway, Colombia, and other places in the world. I have expressed my gratitude to all of them each time they were available and cared for me.

This thesis could not be possible without the academic and professional support of my professors, mentors and research community. Special thanks to my supervisor John McNeish for his patience, commitment, and flexibility to accommodate to my initial changes. I am also grateful to the Riverine Rights research group for sharing their knowledge and financial support. I sincerely thank Ken Conca for his genuine interest in my research topic, feedback, and time. Thanks should also go to Janeth Cabrera and Edgar Arteaga for our fruitful thesis-related conversations that helped me to clarify and calm my head.

I would like to express my gratitude to all of the people who supported me during my fieldwork. I'm extremely grateful to Luisita and Paulo for opening the doors of their home and the valuable guidance for my data collection process. I am also thankful to all of the participants who contributed with their time, knowledge, opinions and information to nurture the empirical data of this thesis.

Lastly, I am grateful for the nature around the 'Lakehouse', the Common Ash tree in front of my window, the cows, and Årungen Lake for being the audience of my chaotic monologues about the rights of nature.

Introduction

In this thesis, I explore the Colombian Amazon ruling STC 4360-2018 by considering its implementation status and its challenges represented by the current political, economic, and social context of the country. The ruling aims to stop deforestation to combat climate change and consequently protect the fundamental rights of future generations. Additionally, it recognises the Colombian Amazon as an entity subject of rights intending to protect this vital ecosystem. However, it is unclear to what extent the ruling has been implemented after 5 years since its release. This thesis adds to the expanding body of research and practice concerning rights of nature perspectives by closely examining and analysing the ruling from a post-development angle. It is imperative to comprehend this innovative and historical ruling case because it addresses the global concern of climate change mitigation while using a novel trend for the judiciary and the law in Colombia and internationally. My thesis contributes to the rights of nature literature with scepticism about this legal environmental protection. I argue that the rights of nature, exemplified by the Amazon case, have no efficacy in safeguarding the Amazon ecosystems. Additionally, rights of nature (hereon referred to as RoN) in the Amazon ruling lacks support for essential changes towards inclusive politics that consider diverse views on understanding the world and the human and non-human connection. Even though the Amazon case integrates RoN into the legal system, its practical impact in the region remains still insufficient.

Deforestation reduction is imperative for addressing climate change, emphasized by the 2022 IPPC[1] report's urgent call to halt deforestation, particularly in major rainforests like the Amazon (Castellanos et al., 2022). The conservation of the Amazon is both a national and global imperative because it represents a foremost environmental focal point on the planet; therefore, it has been labelled as the "lungs of the world" (Sentencia STC4360-2018, 2018). However, between 2015 and 2016, deforestation in the Amazonas increased by 44%, (Dejusticia, 2018). There have been different initiatives and attempts to tackle this problem, and despite the Colombian government commitments that the government has acquired, such as the Paris Agreement and environmental policies, deforestation continues to be an

[1] The Intergovernmental Panel on Climate Change (IPCC) serves as the United Nations' authority for evaluating the scientific aspects of climate change. See more at https://www.ipcc.ch

issue in the Amazon (Sentencia STC4360-2018, 2018). Therefore, fast-developing trends, such as climate change litigation, have been appearing in the international and national jurisprudence to safeguard and protect the environment through the rights of nature.

Ideas about the rights of nature date back to 1972 when Cristopher Stone suggested granting legal rights to natural entities like forests, oceans, rivers, and the environment, similarly to corporations and states (Stone, 1972). Similarly, Stutzin claimed that nature should not be seen only as a resource for human use but rather as an entity with intrinsic value that warrants protection and respect. He firmly argues that acknowledging the rights of nature is crucial to stop the rapid destruction of the biosphere (Stutzin, 1984).

Environmental deterioration stands out as one of the most critical concerns in the present era, unprecedented in human history (Kotzé, 2012; Wesche, 2021). This has subsequently raised attention to environmental safeguarding on the global stage. Consequently, environmental legal experts, researchers, jurists, and advocates have broadened their engagement with environmental constitutionalism (Macpherson et al., 2021a). The primary obstacle confronting modern environmental constitutionalism involves the authentic preservation and efficient shielding of nature, the intertwined cultures and lifestyles, and biodiversity (Sentencia T-622-2016, 2016). This challenge goes beyond the surface-level considerations of material, genetic, or utilitarian worth for humans; it arises from the inherent recognition of these elements as living beings (Sentencia T-622-2016, 2016). Therefore, Justice towards nature must be applied beyond the human realm and must allow nature to become a subject of rights (Sentencia STC4360-2018, 2018; Sentencia T-622-2016, 2016).

Advocates of the rights of nature argue that individual and collective human rights must be in harmony with the rights of the Earth's other natural communities (Acosta, 2009). Indeed, "Nature must be regarded as a subject of rights" firmly claims Acosta (Acosta & Martínez, 2009), which should be recognised based on the identity of human beings as integral parts of their environments. He adds that viewed through this comprehensive and all-encompassing lens, the fresh constitutional legal structure of his country (Ecuador) would need to recognise that nature goes beyond being a mere assemblage of possessions subject to ownership. Instead, it should be acknowledged as an autonomous entity with legal rights and procedural

validity (Gudynas, 2009). Consequently, the foundation of nature's rights is centred on the inherent value of life where life transforms into a fundamental right, forming the basis upon which environmental policies and management are validated and established (Gudynas, 2009).

For the broad political society, it is of critical concern addressing nature as a legal entity with rights and upholding that nature's values in preserving crucial ecological processes (Stone, 1972). Nevertheless, these ideas stand in opposition to conventional perspectives that view nature merely as an object with human-centred value, neglecting nature's significance (Villavicencio, 2019). Natural entities have been granted rights in practice, leading to a new legal status since the early 21st century (Tănăsescu, 2022). These rights of nature challenge the traditional view of nature as human property and emphasise an egalitarian relationship between humanity and the environment, recognising our shared existence on Earth (Colón-Ríos, 2019; Tănăsescu, 2022). These rights have been integrated into various legal contexts, including constitutions, local laws, national statutes, policies, and resolutions (UN, s.a.). However, despite the theoretical potential of the rights of nature as radical solutions to environmental degradation, uncertainties remain about the extent of nature's rights in each case and the determination of human groups to protect these rights (Tănăsescu, 2022).

In theory, cases involving rights of nature recognition are seen as an innovative approach to addressing environmental deterioration; however, the practical implementation and impact of these rights must still be shown in terms of their effectiveness in mitigating such degradation (Tănăsescu, 2022). Therefore, criticisms raise doubts about the efficacy of rights of nature. For instance, Burdon and Williams (2022) state that while conferring legal rights to nature could offer a certain level of environmental protection, it remains significantly inadequate as a response to the urgent crisis. There is a lack of clarity surrounding whether the current legal framework accurately encompasses contemporary scientific comprehension of the Earth's mechanisms and its interdependence with human actions. Systems of governance should acknowledge the interrelation between humans and nature. Nonetheless, simply conferring legal rights to nature, without substantial modifications to the existing economic and political frameworks, it is improbable to achieve the desired outcomes (Burdon & Williams, 2022).

The contribution of my thesis to the current literature on the rights of nature aligns with a rather sceptical view towards this type of legal environmental protection. In agreement with different authors, I argue that, based on the Amazon ruling example, the rights of nature approach fall behind in its practice to safeguard a natural entity such as the Amazon effectively. Additionally, RoN does not provide the required support for essential changes that allow inclusive politics to integrate into the decision-making not only natural entities but also other forms of understanding the world and the relation between humans and non-humans. The Amazon ruling case shows that the concept of RoN can be integrated into the judiciary system; however, its applicability in the realities of the territory still needs to show more significant outcomes in stopping deforestation, including participation and safeguards for the local communities.

Within the Colombian context, the first natural entity that granted rights was the Atrato River in 2016. Due to the continuous illegal mining in the Atrato River Basin and the Colombian government's inability to stop these activities, a legal action *tutela*[2] was filed, resulting in a Constitutional Court ruling in favour of the protection of the river (Richardson & McNeish, 2021). This sentence is innovative for different reasons. For instance, it incorporates the concept of biocultural rights[3], which marked a significant departure from the perceived division between nature and culture, and emphasises the inseparable link between biological and cultural diversity. Indeed, the Court recognised that the environment is cultural through bio-culturalism (Derani et al., 2019). This pioneering ruling is a precedent for 18 similar rulings issued between 2016 and 2021 in the country and an example for international cases.

One of these rulings has jurisdiction over the Colombian Amazon. This region is contested for several reasons. This territory has a large natural value which serves as a huge source of resources, and simultaneously, it is an area of deforestation, extractivism, industrial agriculture, illegal agriculture, and large-scale livestock production. Additionally, the region

[2] Tutela, also known in Spanish as Acción de Tutela, is a constitutional action established in the 1991 Colombian Constitution. It allows anyone to directly seek judicial protection for their fundamental constitutional rights if these rights are being violated by individuals or state agents.

[3] Biocultural rights acknowledge the interdependence between the lifestyles of indigenous peoples, tribal communities, and ethnic groups with their territories, as well as their use, conservation, and management of natural resources (Constitucional, 2016).

has been a territory of conflicts because of the large presence of insurgent groups that have caused human right violations to people including indigenous peoples and farmers. The situation gets further complicated because of the national government's lack of attention and suitable actions to handle these issues when climate change continues to be a threat.

An overview of the Amazon ruling

The Amazon ruling is a Court response to a legal action *tutela* called legal action of Climate Change and Future Generations was presented by 25 Colombian children and youths in January 2018 supported by the Dejusticia[4] Institute, against the National Presidency, the Ministry of Environment and Sustainable Development, the Ministry of Agriculture and Rural Development, the Administrative Unity of National Natural Parks and the Governments of Amazonas, Caquetá, Guainía, Guaviare, Putumayo and Vaupes departments. The plaintiffs claimed that their rights to a healthy environment, life, and health are being violated because of governmental negligence in reducing and stopping deforestation in the Amazonas area, which is one of the leading causes of climate change. They also asserted that for the year 2040 and further, when they enter experience adulthood and grow older, the predictions according to the IDEAM (Institute of Hydrology, Meteorology, and Environmental Studies), it is expected that the average temperature in Colombia will increase between 1,6 and 2.14ºC (p.2). It means that they would experience the effects of climate change, such as water cycle disruption and land degradation. This ruling follows the pioneering decision of the Constitutional Court which recognises the Atrato River as a subject of rights, which stretches the boundaries of constitutional law to non-human natural entities (Wesche, 2021).

The claimants argue that despite national and international governmental compromises, such the Paris Agreement in 2016[5], to reduce deforestation and greenhouse gasses in the country and specifically in the Amazon, the claimants demonstrated a proportional increase in the rate of deforestation in the Amazon. They claim that the consequences of deforestation in the Amazon affect not only this area but also expand to all the national ecosystems.

[4] Dejusticia is a Center of Legal and Social Studies located in Bogotá, Colombia.

[5] Colombian president Juan Manuel Santos signed the Paris Climate Agreement in 2016 (WWF, 2017).

Consequently, the Colombian Supreme Court issued the ruling STC4360-2018. The court acknowledges the significant environmental alterations worldwide, the “ecosystems are exposed to extremely adverse conditions that hinder their survival” (Sentencia STC4360-2018, 2018), and its consequences threaten even the possibility of the existence of human beings. It states that the blameable for this situation is the human.

> Humanity is the main responsible for this scenario, its planetary hegemonic position led to the adoption of an anthropocentric and selfish model, whose characteristic features are harmful to environmental stability, namely: i) the excessive population growth; ii) the adoption of a rapid development system driven by consumerism and the prevailing political-economic systems; and iii) the excessive exploitation of natural resources. (Sentencia STC4360-2018, 2018).

However, the Court admits that an increased understanding of human responsibility to modify our actions has developed gradually. This has led to movements promoting a new ideology prioritising the environment, a so called "ecocentric anthropogenic" ideology. This should overcome the excessive and self-centred anthropocentrism that disregards the environment, considering the environment an integral part of the ideal of progress and sustainable development.

The court also takes into consideration the obligation of solidarity with the “other”, which includes all the people living on the planet, animals, vegetation, and future generations. The environmental rights of future generations are grounded on (i) the ethical duty of species solidarity and (ii) the intrinsic value of nature. The second focuses on the "ecocentric-anthropocentric criterion, which places humans on an equal footing with the ecosystem, aiming to prevent arrogant, careless, and irresponsible treatment of the environmental resource and its entire context to satisfy materialistic goals without any protective or conservationist respect” (Sentencia STC4360-2018, 2018).

The sentence decrees taking action to prevent further destruction of the rainforest. Hence, it gives four orders. First, to design a short, medium, and long-term Action Plan to counteract the deforestation rate in the Amazon. Second, to create an Intergenerational Pact for the Life of the Colombian Amazon -PIVAC to combat deforestation and greenhouse gas emissions, with national, regional, and local execution strategies. Third, to update and implement the Land Management Plans in the Colombian Amazon, including an action plan for eradicating

deforestation. And fourth, it orders to the regional corporations to conduct an action plan to counteract deforestation through police, judicial or administrative measures. In addition, the court stipulates increasing actions to mitigate deforestation while carrying out the mentioned orders.

After 5 years of the court decision, it is imperative to look at what has been achieved and how far the ruling's orders have been implemented to examine whether the rights of nature, based on this specific case, serve the environmental urgencies and support the necessary transformations. To understand the current state of the ruling's implementation, I studied the case under the guidance of the following research questions.

Research questions

What are the concrete impacts and challenges to the implementation of the Colombian court ruling 4360 -2018 on the rights of the Amazon?

Sub questions:

1. What is the background to the passage of the legal action through the court system?
2. To what extent has the ruling been implemented in practice?
3. What challenges to the ruling are represented by the current political, economic, and social context of the country?

Through the content analysis, I argue that the Amazon ruling case has not fully accomplished its objectives. The ruling aim of reducing deforestation in the Amazon to combat climate change and safeguard fundamental human rights has not been met. The data indicates that reasons for the discrepancies in implementation can be attributed to two distinct levels of disarticulation: institutional and cultural, as well as conceptual and practical. These disarticulations encompass, for instance, disruption between governmental institutions' intentions and the realities on the ground in the affected region, a disparity between the conceptual framework of the ruling and its practical application, a top-down approach in its formulation, and the intricate dynamics involving armed conflict, peace efforts, and illegal activities at the national level.

To explore these findings, I outline the rights of nature approach and analyse the Amazon ruling from the perspectives of the pluriverse and ecological justice theory. I discuss that the ruling aligns with the pluriverse and ecological justice ideals, as they aim to achieve fairness and equity for nature. However, despite their shared goals, they encounter limitations in terms of practicality and effective implementation due to the absence of concrete and practical methods.

This thesis is structured into six chapters. The first chapter delves into methodological considerations and details the data collection process. The second chapter gives context of the Colombian Amazon region, the area where the ruling mandates. The third chapter offers a thematic framework to situate this research within existing knowledge about rights of nature. The fourth chapter introduces the chosen theories, the politics of the pluriverse and ecological justice, used to explore the findings. The fifth chapter presents the findings organised according to the research questions and emerging categories. Lastly, the sixth chapter discusses the ruling's implementation status and findings under the view of the pluriverse and ecological justice theory. Additionally, the conclusion serves as a concise summary of this thesis and proposes avenues for future investigation in this field.

Chapter 1 - Research design

As mentioned in the introduction, the primary aim of this research is to examine what has been accomplished since the introduction of Ruling 4360 of 2018 about the rights of the Colombian Amazon. I chose a qualitative approach grounded in an epistemological standpoint which emphasises the comprehension of the social world by exploring how participants interpret it (Bryman et al., 2021).

This thesis relies on qualitative methods to achieve the study's objectives. Using qualitative methods enables an inductive approach that explores the interplay between theory and research, providing an interpretive perspective (Bryman et al., 2021). I propose a dialogue for this thesis between the pluriverse and ecological justice theories and empirical data because these theories share a tendency to improve the status of nature and emphasise human responsibility towards the world beyond humans. While ecological justice, similar to the rights of nature concept, promotes the recognition of nature based on its intrinsic value, the pluriverse acknowledges diverse forms of understanding the world and doing life, including those that have specific ways of relating to and respecting nature.

With this in mind, I have used both primary and secondary data. Primary data was obtained through fieldwork performed in Colombia between January and February of 2023, where I conducted semi-structured interviews and participant observation, while secondary data was collected before, during, and after the fieldwork.

Case Study

My research focuses on a single case of rights of nature recognition, the Colombian Amazon region. A case study entails a comprehensive and in-depth examination of a particular case through meticulous analysis (Bryman et al., 2021), aiming to shed light on a larger range of cases (Gerring, 2007). For this thesis, it means examining the implementation state of the ruling 4360 of 2018, which recognises the Amazon region as a subject of rights seeking to illuminate this specific case to contribute to a broader comprehension of the rights of nature cases.

The chosen ruling is one of the 18 Colombian court decisions (by the date of this study) that recognise a natural entity as subject of rights. The case of the Amazon's ruling is in theory, a significant achievement to safeguard the Amazon ecosystem and protect human rights protection. Stopping deforestation is the biggest aim of the ruling to protect fundamental human rights such as health and a healthy environment for the present and future generations.

Primary data collection and sampling

In this section, I present the reasoning behind the approach selected for engaging with key informants and the instruments used. Additionally, I will address the sample distribution according to the case's needs and the opportunities I encountered during my stay in Colombia.

For gathering primary data, I employed two sampling techniques: purposive sampling and snowball sampling (Bryman et al., 2021). On the one hand, purposive sampling allowed me to target individuals belonging to specific groups which were identified before the fieldwork, including plaintiffs, NGO's representatives, indigenous people from the Amazon region, farmers, institutional representatives, and academics. This type of sampling does not aim to sample participants on a random basis, instead, it invites to select participants in a strategic way, taking into consideration the kind of information they can deliver. Purposive sampling enables the identification of similarities and differences within the selected sample (Bryman et al., 2021). For purposive sampling, I sent emails to the chosen participants, initially to Gaia Amazonas and Dejusticia, in which I presented myself and the research project and asked them to participate through an interview. Their answer was positive, and we could have a few conversations prior the interview. In these conversations, they referred me to other relevant informants. I used the same strategy to contact the plaintiff's lawyers, and unfortunately, I did not get a response. In other cases, such as with indigenous peoples, plaintiffs, and institutional workers, WhatsApp was the main communication channel.

On the other hand, snowball sampling originated from my pre-existing network of contacts of two important organisations for this study, Dejusticia and Gaia Amazonas. These people referred me to others with relevant characteristics for the different groups mentioned

before. I contacted them by email and WhatsApp messages and fixed in-person and online meetings.

Primary data was mainly collected in Bogotá, Colombia, during the months of January and February in 2023. The primary data collection method involved conducting semi-structured[6] interviews in the Spanish language. A total of 11 interviews were conducted both in-person and online according to the location and preference of the participants[7]. Before the interviews, participants were provided with an information form[8] detailing the research purpose and asking for their voluntary consent to participate. Nevertheless, a few participants were not informed in advance because the opportunity to interview them arose spontaneously during my participation in the 73 Regional Amazon Board (Mesa Regional Amazónica MRA) and during a trip to Chingaza National Park to participate in a meeting of the Regional Amazon Alliance for the Reduction of Impacts from Gold Mining[9]. In these cases, participants were informed verbally about the study's aims and their voluntary participation in the research project.

Most of the interviews took place in private settings and had an average duration of one hour. The interviews that arose as opportunities were performed in a lobby of Corferias, a business fair venue in Bogotá, where the prior consultation framework with indigenous peoples for the construction of the National Development Plan 2022-2026 took place between the 24th of January and the 05th of February 2023. Another pop-up interview took place during a car trip between Bogotá City and Chingaza National Park.

I chose to conduct semi-structured interviews because it allowed the interviewees to express and share their insights related to the topic, as it was essential for this study to get their attitudes towards the topic. To prepare for each interview, I developed an interview guide

[6] See in appendix 2 a general interview guide
[7] See Table 1 for participants' general information
[8] See apendix 1
[9] Original name in Spanish is Alianza Regional Amazónica para la Reducción de los Impactos de la Minería de Oro. It has the participation of Fundación para la Conservación y el Desarrollo Sostenible, Gaia Amazonas, Parques Nacionales Naturales de Colombia, Frankfurt Zoological Society, WWF Colombia, and the Wildlife Conservation Society (WCS).

with a tailored set of questions based on the aims of this thesis and the participant's known role, although for each interview, I used a customised version of the sample[10].

Table 1: Participants information

Informant	Gender	Approx. age	Date of interview	Place of interview	Representation group
1	M	34	21.01.23	Zoom call	Farmer/ex-member of Dejusticia/academic
2	F	38	25.01.23	Bogotá	Follow-up board/expert panel/Fundación para la Conservación y Desarrollo Sostenible
3	M	50	27.01.2023	Trip to Chingaza National Park	Gaia Amazonas
4	M	40	30.01.23	Bogotá	OPIAC*
5	M	48	30.01.23	Bogotá	OPIAC*
6	M	36	31.01.23	Bogotá	OPIAC*
7	M	40	01.02.23	Bogotá	Dejusticia/academic
8	F	37	02.02.23	Bogotá	Follow-up board/expert panel/ Gaia Amazonas
9	F	42	27.02.23	Zoom call	Dejusticia
10	F	27	01.03.23	Zoom call	Plaintiff group
11	M	32	30.03.23	Zoom call	Plaintiff group/local from Amazon region

*OPIAC: Organización de los Pueblos Indígenas Amazónicos / Organization of Amazonian Indigenous Peoples

[10] A sample of semi-structured interview questionnaire can be found in Appendix 2

As mentioned above, during the fieldwork period, I had the opportunity to participate in two pertinent events for my data collection. One of them was Session 73 of the Regional Amazon Board (Mesa Regional Amazónica MRA), which was part of the prior consultation framework with indigenous peoples for the construction of the National Development Plan 2022-2026.

Participation and observation

During large gatherings, I performed unstructured and non-participant observation. That is, I joined these meetings but did not participate in their direction. Unstructured observation refers to observing a social setting in order to record behaviour and happenings in detail without any pre-set schedule (Bryman et al., 2021). These observations gave me valuable insights into the communication process between the Amazon indigenous people and the different ministries. For instance, the repeating pattern of the indigenous peoples repeatedly pointed out that it is necessary more articulation between the different ministries' projects in necessary to make substantial improvements in their agendas. The state representatives responded, saying that these are different budgets and, therefore, they cannot do any adjustments. Additionally, participating in this event allowed me to interview Indigenous and lawyers from the OPIAC and have informal conversations with them during breaks and lunchtime. Additionally, I gained first-hand perspectives from individuals from the Colombian Amazon about the ruling on the Amazon and an understanding of indigenous beliefs and traditional knowledge. For instance, talking to an indigenous person, I gained a detailed explanation about how they handle agriculture for self-consumption (chagra), which is a process that includes cutting down parts of the forest, on a 100 years cycle that allows reforestation, which for them means taking care of the forest and being part of the ecosystem.

The other event I participated in was the annual planning meeting of the Regional Amazon Alliance for the Reduction of Impacts from Gold Mining that took place in the Chingaza National Park between the 27th and 29th of January 2023. Attending this meeting gave me perspectives about the ongoing efforts from both governmental and non-governmental institutions to stop mining, especially illegal mining in the Amazon region. Participants of this meeting expressed positive perspectives towards the new government regarding taking actions to reduce mining in the area, and the need for putting pressure on the government from the executive branch, judiciary, and the press to continue reinforcing these activities.

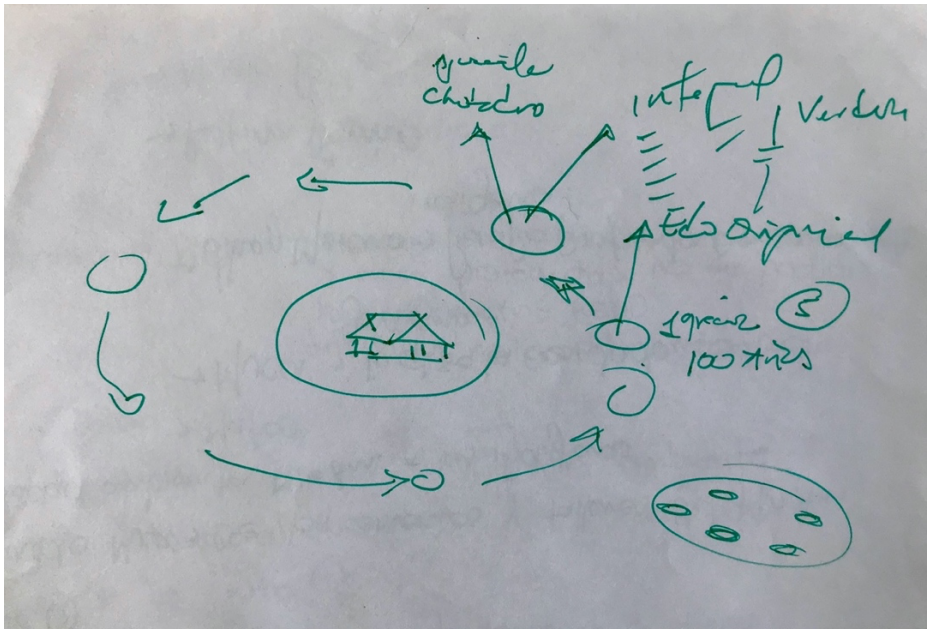

Figure 1: Drawing of the "chagra" system from an indigenous person in my notebook (own picture).

These two events varied in formality and level of interaction. While the Regional Amazon Board meetings were public, long and had extensive participation, the Regional Amazon Alliance for the Reduction of Impacts from Gold Mining gatherings were more intimate, and there was more spare time to talk with the participants. In the second event, the participants knew I was a researcher and understood my research interests and topic. During my participation in both events, I intended to maintain an observational role and to connect with people who might give me relevant information for my research project and the fieldwork plan.

It is noteworthy that during a lunch break at the Regional Amazon Board gatherings, I asked an indigenous leader about indigenous thinking related to the Colombian jurisprudence and, more exactly, about the ruling on the Amazon, his answer was: yes, I want to share all this information with you, and with people who have a real interest in getting to know our thinking. But the knowledge is given by the Yagé[11], so I invite you to come to Putumayo, visit my place and yagé will show you all what you want to know. The importance of this episode is my reflection on how differently we understand the world and the diverse paths to get to

[11] Yagé is a medicine beverage, also called ayahuasca or the "vine of the soul or dead" in Quechua, forms the core of indigenous cultures in the Andean-Amazonian Piedmont across Colombia, Ecuador, and Peru. This brew consists of two plants, the yagé vine (Banisteriopsis caapi) and the chagropanga leaves (Diplopterys cabrerana), which are regarded as a divine gift enabling the acquisition of wisdom, knowledge about medicinal plants, and the ability to heal various illnesses.

these understandings. Even though I am Colombian, I am not an indigenous person; therefore, these types of practices have not been part of my life. I respect traditional medicines and wisdom; however, I do not feel comfortable about the idea of drinking Yagé. For this reason and the lack of time, I did not accept the indigenous leader's invitation to visit his place in Putumayo.

Figure 2: Hike at Chingaza National Park with the Regional Amazon Alliance for the Reduction of Impacts from Gold Mining participants (own picture).

Secondary source data collection

Documents were used in addition to the primary data. This type of data source refers to the materials that "have not been produced at the request of the social researcher" (Bryman et al., 2021) but are already existing and available. For this thesis, I used mainly official documents produced by the state, official documents from private sources and digital media.

The official state documents I used include court judgments that have approached rights of nature, along with laws, action plans, and compliance updates. These documents offer detailed information about the decision-making procedures of the courts, for example, the dissenting vote document. Some of these documents shed light on the implementation process and achievements of the studied ruling, which was useful information to compare with the primary data.

I used official documents from private sources, which are usually materials connected to organisations and are in the public domain, including press releases and reports from organisations such as Sinchi Institute, IDEAM, Dejusticia, OPIAC, and Gaia Amazonas. And I used digital media such as websites, video content, and social networking sites. For instance, I made use of a video recording from YouTube of the judge Luis Armando Tolosa Villabona, who issued the ruling on the Amazon, talking about the rights of nature and that ruling. Since I did not have contact with him, listening to his reasons and arguments about granting rights to natural entities was helpful.

Within qualitative research, I am aware that data quality is controversial and challenging. While some researchers use reliability and validity as assessment tools, these quantitative criteria are unsuitable for qualitative research (Bryman et al., 2021). Instead, I adopt the trustworthiness[12] criteria which draw on equivalent concepts and procedures from the quantitative research design (Bryman et al., 2021).

The credibility criteria addresses whether the researcher's view of the reality corresponds with the respondents' perspectives (Tobin & Begley, 2004). To assess these criteria, I did member validation with several informants. For instance, I contacted informants 7 and 8 via phone and text messaging after interviewing them to validate and validate assertions and clarify further information. Additionally, I performed triangulation of the data by using multiple sources of information. For instance, I reviewed and compared data from the interviews with legal documents (ruling, legal action, and compliance documents) and both academic and grey literature. Further, I asked for peer debriefing with a suitable and knowledgeable academic who reviewed a first draft of the thesis.

Further, when using online digital media, I was cautious about the quality of that data and its relevance for the research project. I am aware that a large amount of data is available on the internet, but that does not mean that all that data is suitable and relevant to this study. It is crucial to evaluate this aspect in the research. To examine this type of material, I considered

[12] Trustworthiness is an alternative (to reliability and validity for quantitative studies) criteria for assessing qualitative research studies proposed by Lincon and Guba (1985) retrieved from (Bryman et al., 2021). For the authors, different to the idea of having a single and absolute understanding of the social world, they argue that it can be more than one interpretation. Trustworthiness consists of four criteria; credibility, transferability, dependability, and confirmability.

Scott's four criteria for assessing their quality. These criteria examine the authenticity, credibility, representativeness, and meaning (Bryman et al., 2021). Assessing these materials within this framework helped me to keep in mind and sceptically evaluate their origin, quality, and purpose.

Data Analysis

To analyse the collected data, I used thematic analysis and content analysis. Thematic analysis enabled me to extract and identify recurring themes and patterns from the data. To get themes, I first organised the data by coding to allocate meaning units to the collected data (Walliman, 2011). That process was iterative, which means that I reviewed the codes and data several times. Then, I identified categories and grouped them into themes.

To examine sub-question one, I analysed the legal action Climate Change and Future Generations, the ruling STC 4360-2018, data from interviews, and secondary data such as Dejusticia's YouTube channel, and a podcast format interview of one of the lawyers who built the legal action. Through deductive analysis of these sources, I aimed to put together the background and the motivations behind the ruling.

To examine sub-question two, I assessed primary data, secondary data and literature using the thematic approach to define themes within the 4 orders of the ruling. I tried to find out what has been implemented in practice regarding the mandates of each order by identifying recurrent elements within the texts, social categories, analogies, transitions between topics, and any gaps or missing data (Bryman et al., 2021). While I could find a large amount of information about the implementation process of orders 1, 2, and 3, data about order 4 is significantly missing.

To examine sub-question three, I analysed mainly primary data, both from interviews and observations, official documents such as the ruling STC4360-2018, compliance updates, and secondary data, including OPIAC reports, Dejusticia's articles, and other digital media documents. Using the thematic analysis approach, I could identify the challenges that the implementation of the ruling faces and grouped them into four themes: Institutional and cultural disarticulation; The gap between the ruling concepts and the practice; A top-down approach; and Peace, illegality, and armed conflict.

Through the identification of one perspective to answer my research questions, recognising the background of the ruling, the orders' implementation progress, and the challenges to achieving the rights of the Amazon protections by stopping deforestation, I intend to provide insight into the current state of this ruling to contribute with understanding and reflection about the rights of nature's scopes and limitations.

Limitations and ethical considerations

This research study has various limitations that I want to point out. These limitations are mainly related to security, language, and time.

Even though I am Colombian and know how to navigate the culture and logistics in the country, I am also aware of the security concerns when travelling across some areas of the country as the Amazon. Security considerations played a crucial role in determining the research design and imposed certain limitations. As a solo female researcher, I prioritised my safety. I decided to collect primary data from urban areas in Bogotá, the capital of Colombia, over a five-week period. Additionally, this decision was influenced by the fact that most of the targeted institutions and organisations are in Bogotá. However, the limited feedback from local resident communities is a significant weakness of the thesis.

Firsthand accounts from those directly experiencing environmental degradation, deforestation consequences, conflict, and governance approaches are crucial for a more accurate and comprehensive understanding. The absence of direct communication raises ethical concerns, as it is essential to consult those affected but who have not been included in the studied case. The exclusion of indigenous peoples, farmers, and afro-descendants from the Amazon during the creation of the legal action, the ruling and its implementations has been one of the greater critiques of this case, and it is also replicated in this research project. Fortunately, during my period there, many indigenous leaders, lawyers, and healers from the Amazon region gathered in Bogotá because of their participation in the prior consultation framework with indigenous peoples to construct the National Development Plan 2022-2026. Since it was a public event held over 13 days between the 24th of January and the 5th of February 2023, I participated as a member of the public and observer and could have direct

contact with them. This helped me contact this targeted population while minimising potential complications, security risks, and costs.

Furthermore, all of the interviews I conducted were in Spanish, the mother tongue of most participants, including myself. However, I do not speak native languages from the Amazon region, so the interviewed indigenous peoples I interviewed spoke Spanish with me. This situation could restrict the range of expressions and access to more profound perspectives, especially with the cosmology of this group which may require language adaptation in the translation process from a native language to Spanish.

Additionally, all of the interviews and reviewed documents were in Castilian Spanish. When writing this thesis, I translated from Spanish to English all of the quotations included in this document (most of these are in the findings chapter). My translations and interpretations may also create some limitations; therefore, to partially alleviate this concern, I have continuously asked native speakers of English for clarification and confirmation of the use of words and expressions, trying to find the closest translations possible given my limitations in the English language.

Another limitation that this study faced was the short time available for performing fieldwork. The length of the fieldwork period could be longer to get more relevant data. For instance, with more time, I would have contacted and interviewed representatives of governmental institutions who are closely working with the implementation of the ruling, such as the General Attorney Ramón Laborde. However, I could not prolong my time outside of Norway due to the Norwegian residency rules that now apply to me. Nevertheless, after I returned to Norway, I did a few interviews online using the Zoom platform and tried to contact further targeted people in and outside Colombia.

Regarding ethical considerations, I have approached different aspects, including informed consent, confidentiality and anonymity, voluntary participation, avoidance of harm, and institutional and legal compliance.

The participants were provided with an invitation that included a consent statement, granting me permission to record and utilise the interview material. This ensured that they clearly understood the study's purpose, procedures, potential risks, and benefits. That

consent statement gave them the option to voluntarily participate as well as the option to withdraw from the study at any point without repercussions. As explained earlier, some of the interviews happened spontaneously, and in such cases the information and consent were verbally given.

Further, to ensure the privacy and confidentiality of the participants, I chose not to disclose the identities of any of them, even those who explicitly granted me permission. The main reason to do that is linked to the ongoing crimes against environmental and social leaders in Colombia. Taking part in qualitative interviews, participants have the potential to disclose information that could be considered sensitive or confidential in terms of political views and social and environmental claims. Therefore, it is crucial to anonymise them to prevent any potential harm. To ensure that, I deleted their names and assigned them numbers for referencing. Additionally, this research project got approval to process personal data by the Norwegian Agency for Shared Services in Education and Research SIKT.

Chapter 2 - Background

The Amazon region

The Amazon is the largest rainforest in the world, the greatest single expanse of tropical terrestrial life (Davis, 2009). It covers 6% of the world's surface and 40% of the Latin American-Caribbean region. Its dimensions are between 5.1 and 8.1 million square kilometers. Its rivers contribute approximately 20% of the planet's fresh water to the oceans, more than the Missouri-Mississippi, Nile, and Yangtze rivers combined. Its basin has 25 thousand kilometers of navigable rivers. The Amazon River is 6.9 thousand kilometers long and is the largest in the world. It has more than a thousand tributaries and discharges around 220,000 cubic meters of water per second (Ramirez, 2012).

Location, demographics, and ecosystem overview

The Amazon expands over 9 countries in the north of South America: Bolivia, Brazil, Colombia, Ecuador, Guyane Française, Guyana, Peru, Suriname, and Venezuela, while the Amazon River basin excludes Suriname, Guyana, and Guyane Française (RAISG, 2020). The Colombian Amazon region represents 6,4% of the total Amazon biome (CEPAL et al., s.a.).

In Colombia, the Amazon region is in the south of the country and covers 42,3% of the national continental territory, expanding over 483,164 square kilometres. This region comprises 48 million hectares, where three models of territorial order predominate. These models are "conserved areas" which occupies 38 million ha, of which 25 million ha are conserved by 178 indigenous reservations (cabildos), and about 8 million ha are 12 national natural parks. Another model is the "forest reserve zones" which encompass 8 million ha. And the third model represents the "intervened areas" which cover 8 million hectares of field. (CEPAL et al., s.a.).

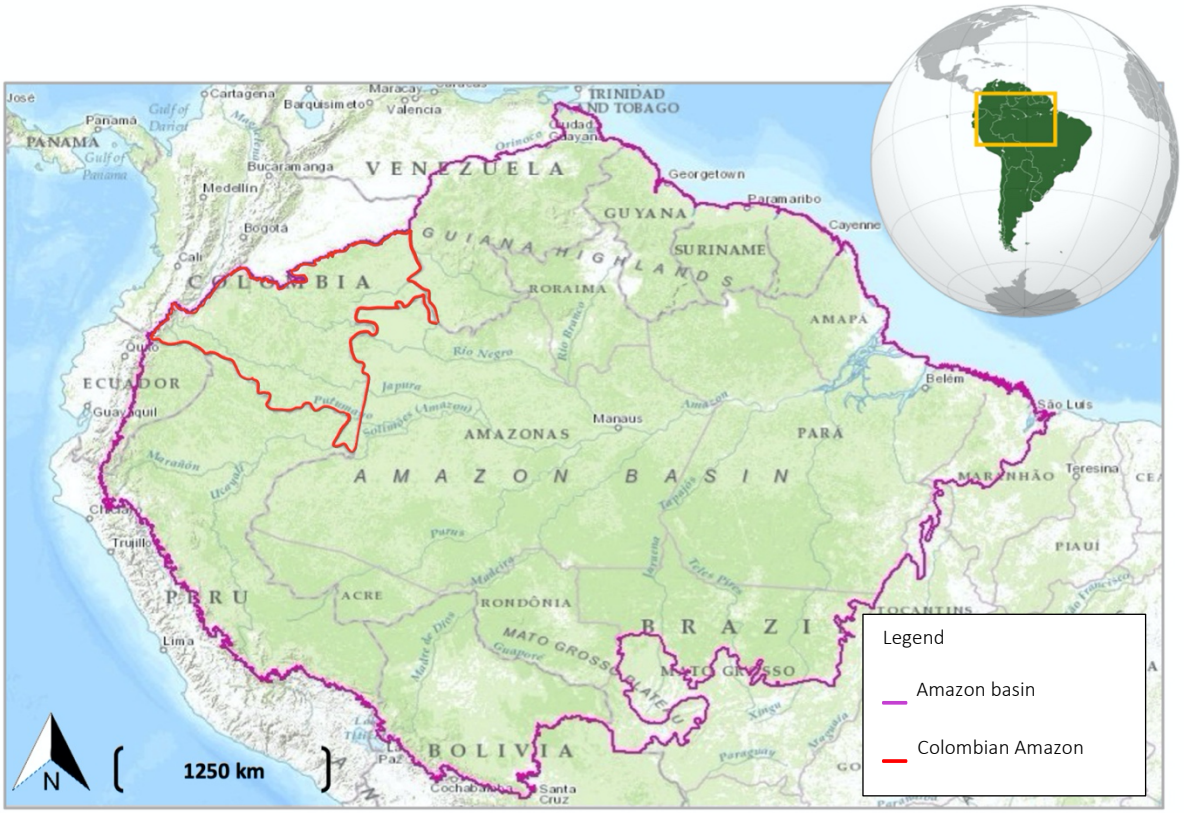

Figure 3: Colombian Amazon region (Source: Datos cartográficos. Visualización de información geoespacial sobre la Amazonía (RAISG, s.a), globe map: South America, orthographic projection, from Wikimedia Commons)

To define the Colombian Amazon, it is important to understand the 4 different categories that can be addressed to delimit it geographically. These categories are hydrography, rainforest, political-administrative, and Amazon region (Salazar & Riaño, 2016; SINCHI, 2023b). The hydrographic Amazon alludes to the natural region that brings together several basins in a large drainage system and its waters flow through a main tributary to a hydrographic area. This zone covers 41,994,37 km2 and comprises 9 basins of the Caquetá, Putumayo, Apaporis, Vaupés, Yarí, Guainía, Caguán, Amazonas, and Napo Rivers. The rainforest area refers to the humid tropical rainforest in the southeast of the country. This area expands in the north over the Amazon River basin, since its coverage extends to the Vichada and Orinoco River basins and to the Andean-Amazonian part, which averages up to 500 metres above the sea level. According to the SINCHI Institute, by 2012, it was calculated that the rainforest Amazon, below 500 metres above the sea level extends over 390,707,6 km2 (Salazar & Riaño, 2016, p. 22-24).

The politic-administrative Amazon covers 6 complete departments (Amazonas, Caquetá, Guainía, Guaviare, Putumayo, and Vaupés) and partially 4 departments (Cauca, Meta, Nariño, and Vichada). In total, this area comprises 79 territorial entities divided into 61 municipalities and 18 not municipalized (SIATAC, 2022). The Colombian Amazon Region combines the hydrographic, biogeographic, and politic-administrative areas. Thus, the limits of the Amazon region are in the west the hydrographic basin defined by the watershed; in the north the border is up to where the Amazon Forest cover reaches; and in the south and east, corresponding to international political borders. This region is estimated to be 483,163 km2 (Salazar & Riaño, 2016, p.26). It is important to keep in mind these distinctions when reading the statement of the ruling STC4360-2018 related to the recognition of the Amazon as a subject of rights.

The population of the Colombian Amazon region stands at 1,177,484 inhabitants (SINCHI, 2023a) which includes diverse population groups, such as peasants, indigenous peoples, and afro-descendants (GAIA, 2022) living in urban and rural areas (CEPAL et al., s.a.).

The ecosystem in the Amazon is “far more fragile than it appears”(Davis, 2009). Since its soil is scarce, most of the biological richness is built on a foundation of sand. The constant high humidity and the average temperature of 27 degrees Celsius provide the right environment for bacteria and microorganisms to break down vegetal material right after leaves touch the forest floor where nutrients are converted into new vegetation. Consequently, the fortune of this ecosystem is the living forest and all the interactions between living organisms. The fragility of this kind of forest lies in removing this living and in-motion covering which would result in a rise in temperatures, a decrease of humidity and evapotranspiration, and the decay of the tree root mosaic. With the loss of this vegetation, rains cause erosion undermining the quality of the soil and therefore provoking the destruction of the ecosystem (Davis, 2009).

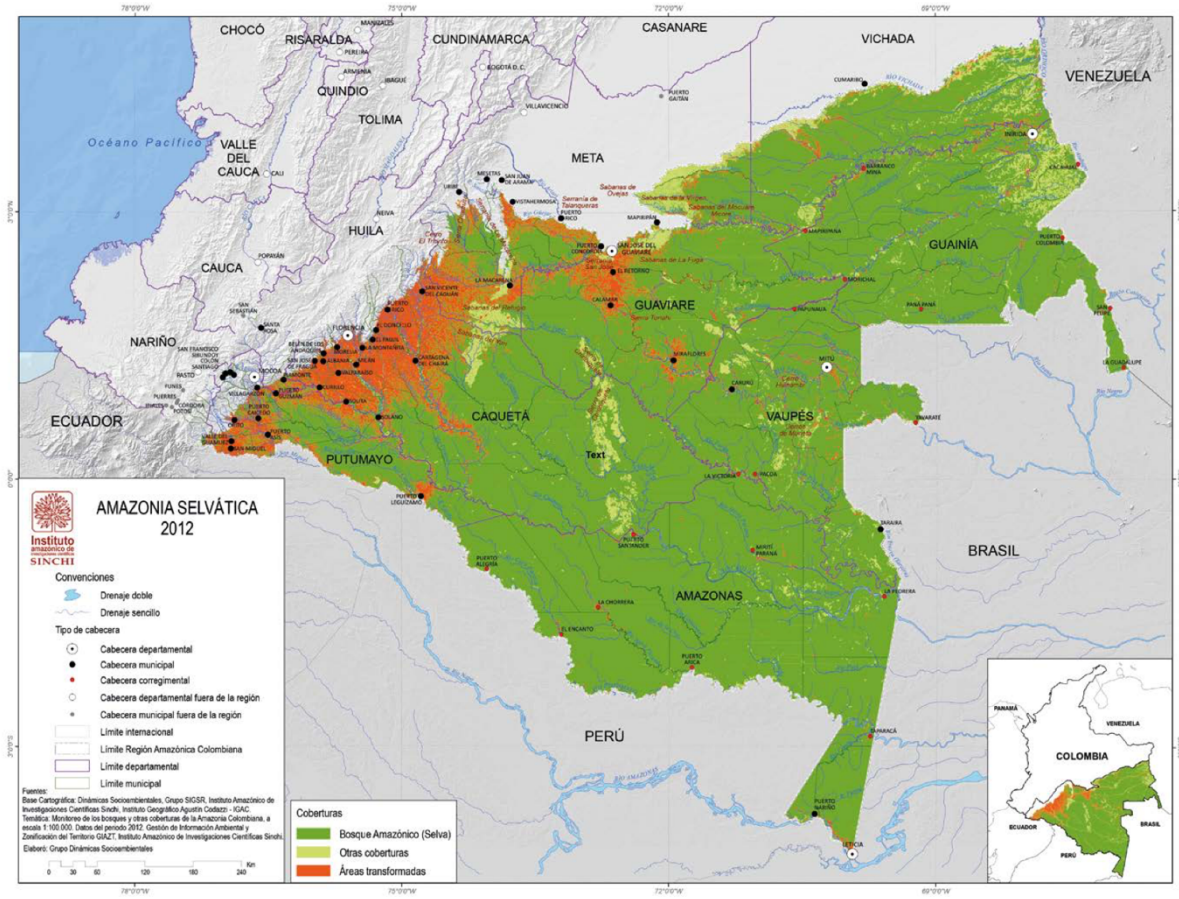

Figure 4: Amazon region. Source: Perfiles urbanos en la Amazonia colombiana, 2015: anexo cartográfico (Cardona & Umbarila, 2016)

The ecosystem in the Amazon is “far more fragile than it appears”(Davis, 2009). Since its soil is scarce, most of the biological richness is built on a foundation of sand. The constant high humidity and the average temperature of 27 degrees Celsius provide the right environment for bacteria and microorganisms to break down vegetal material right after leaves touch the forest floor where nutrients are converted into new vegetation. Consequently, the fortune of this ecosystem is the living forest and all the interactions between living organisms. The fragility of this kind of forest lies in removing this living and in-motion covering which would result in a rise in temperatures, a decrease of humidity and evapotranspiration, and the decay of the tree root mosaic. With the loss of this vegetation, rains cause erosion undermining the quality of the soil and therefore provoking the destruction of the ecosystem (Davis, 2009).

Indigenous peoples

Seventeen per cent of the population in the Colombian Amazon are indigenous which denotes a population of 76,000 inhabitants distributed in 26 ethnic groups (SINIC) and 56 indigenous communities (OPIAC, 2023). They mostly live in extensive collectively owned territories, reservations (resguardos), to which the Colombia Political Constitution (Art. 63) grants the conditions of being inalienable, imprescriptible, and unseizable (Corte Constitucional de Colombia, 1991).

There are 178 reservations that occupy approximately 25 million hectares, more than 50% of the Colombian Amazon biome. Most of these reserve territories maintain a forest cover, especially those that are far from the colonization border (CEPAL et al., s.a.).

Cultural richness is one of the main characteristics of the communities living there which can be perceived, for instance, through their agricultural practices, language diversity, and cosmology. Most of these communities maintain agricultural activities for subsistence purposes through cultivation models or "chagras" based on their traditional knowledge. Additionally, they complement the chagra with hunting, fishing, and gathering activities of wild products which depend on the resource availability (CEPAL et al., s.a.). Regarding their linguistic diversity, the Colombian Amazon holds 3 of the 5 large language families of the continental country: Arahuac, Caribe, and Tupi-guaraní. Of the 65 Colombian tongues, 51 are Amazonic (SINCHI & Landaburu, 2016) the most spoken ones are the tukano, arawak, tikuna, huitoto y tupí (SINIC, (s.a.))

The understanding of the natural world of the Amazon communities is vastly filled with meaning and cosmological significance (Davis, 2009). For them, as Davis (2009) describes, "every rock and waterfall embodies a story. Plants and animals are distinct physical manifestations of the same essential spiritual essence" (Davis, 2009). Different from the dualistic conception of humans and non-humans, for the Amazon's habitants, there is a large scale of beings in which the differences between humans, plants, and animals are of degree and not of nature (Descola, 1997). For instance, for the Achuar, who live in Ecuador and Perú, most plants and animals have a soul (wakan) like the humans. That soul gives animals and plants a faculty that entitles them as people (aents) which provides reflective awareness and intentionality, therefore, they can experience emotions and exchange messages with their

equals as well as with members of other species, including humans. This concept is closely similar to other tribes in the Amazon (Descola, 2013). For example, in the eastern part of the Colombian Amazon the Makuna community acknowledges a more radical non-dualistic perspective of the world. Like the Achuar, the Makuna people approach animals, humans, and plants as people (masa) who have identical conditions in social life, ceremonies, knowledge, and intentionality. The distinction between these living beings and their interactions is based on characteristics such as mythical origin, feeding regime, and reproductive modes. Additionally, relationships and interactions between humans and animals are conceived of as an alliance or marriage relationship, where for example the hunter considers his prey as a potential spouse and not like a brother-in-law as is the case within the Achuar communities. For the Makuna, the taxonomy comprehension of reality is relative and contextual due to the faculty of metamorphosis that applies to all living beings. Therefore, their appearance and identity are not always the same, humans can transform into animals, animals into humans, and animals into other animal species. (Descola, 1997; Descola, 2013). Consequently, these communities strongly assume a non-dualistic ontology, and rather they perceive a “world of deified ancestors where rocks and rivers are alive, plants and animals are human beings, sap, and blood the bodily fluids of the primordial river of the anaconda" (Davis, 2009).

Deforestation

According to the Ministry of Environment and the current minister, Susana Muhamad, in Colombia during the last 20 years, 3,182,876 ha of forest has been cut down. From this figure, 1,858,285 correspond to the Amazon region. In addition, compared to the first half of 2021, by September 2022, deforestation increased in the Amazon by 11% with 52,460 hectares cut; the increasing trend is expected to continue (Ministerio de Ambiente y Desarrolllo Sostenible, 2022).

The most significant causes of deforestation in Colombia are attributed to cattle ranching, land grabbing, mining, illegal logging, industrial agriculture, and illicit crop cultivation (Molina, 2022c), with cattle ranching being the main reason (Armenteras et al., 2006; International Crisis Group, 2021). Beef production is the top driver of deforestation not only in Colombia but also in the world’s tropical forests (WWF, 2018). In Colombia, the conversion of primary

forest into pasture land represents 50% of the deforestation rate registered between 2005 and 2015 (González et al., 2018).In 2017, the country registered the highest degree of deforestation, with more than 183,000 hectares lost in the Amazon because of illegal land appropriation for cattle farming (Rodríguez-de-Francisco et al., 2021). Land appropriation for this use is also located in environmentally protected areas, such as Chiribiquete and La Macarena National Parks, and the profits of this activity often go to criminal groups (Igini, 2023; International Crisis Group, 2021; Molina, 2022a). It is a paradox that, in Colombia, cows have more land than peasants (Cardona, 2018; CRIC, 2017; Molina, 2022a), evidenced in the Censo Nacional Agropecuario 2015 which shows that, while a small-scale farmer generally owns 1.4 hectares, in some large-scale farms, one cow has up to 3.5 hectares for grazing (Molina, 2022a).

In addition, and in the background of industrial agriculture and extensive grazing areas, there are illegal lucrative activities, such as illicit crop cultivation and illegal gold mining. Illicit crop cultivation, also known as drug trafficking, refers to cultivation of coca which is the base for cocaine production. According to the UNODC Survey of territories affected by coca cultivation, in 2021, this cultivation reached a level never seen before. Comparing only the figures between 2020 and 2021, the hectares used for coca cultivation almost doubled: in the first year, 143,000 ha were used, while 204,000 ha were cultivated in the second year (UNODC, 2022). Cocaine production not only contributes to deforestation because of coca plantations but also for the construction of processing laboratories and the creation of roads for the transportation of drugs (Dávalos et al., 2016). Additionally, these illegal activities impact the environment because of the discharge of chemical residues that contaminate rivers and therefore the soil. There have been attempts to eradicate illicit crops by aerial spraying of glyphosate. However, these forced eradication methods have failed because on one hand cocaine production did not decrease and deforestation continued, and on the other hand forest, legal crops, natural vegetation, and possibly humans and animals, suffered severe consequences (Rasolt, 2020). Nevertheless, coca is not only produced for illicit business. For the Amazonian and Andean Indigenous peoples, coca is a sacred plant, indeed, for the Incas, the Coca plant was known as the “divine leaf of immortality”(Davis, 2009).

The use of coca leaves is fundamental for the indigenous way of living which has nutritional, spiritual, and healing value (Molina, 2022b). As Wade Davis (2009) confirms, in the Andes,

Coca was revered as no other plant. During the Inca era, one could not approach a sacred shrine without chewing coca leaves. Even today, important occurrences in the highlands (Andes) entail a mutual sharing of energy from the leaves and the essence of Pachamama, the embodiment of feminine earth. Planting or harvesting fields, bringing a child into the world, or guiding an elder into the realm of the deceased all require the involvement of this revered plant (Davis, 2009). Coca is undoubtedly one of the most important plants for these communities because it represents thought itself, is essential for the continuity of traditional knowledge and is present in stories of the origin as well as in daily life (Gaia, 2019) .

However, deforestation dynamics are also related to the history of internal armed conflict in the country. After decades of civil war, in 2016 the peace agreement was signed between the guerrilla group FARC and the Colombian government. From that moment on, deforestation as well as land grabbing has increased by 44%. The reason for this increase is associated with the strict controls to protect the forest put in place by FARC that were lifted once the insurgent group left the region. In addition to the lack of functioning protection laws, this situation has provoked disputes over resource use among miners, farmers, and loggers who have been cutting the forest for illegal mining, logging, coca farming, and cattle ranching. (Igini, 2023). Additionally, the interest in land grabbing is not only for the locals. Investors and big companies have also increased their interest in the Amazon land in the post-conflict time when these territories have become more accessible and less dangerous (Molina, 2022c).

Armed conflict

The armed conflict in Colombia has its origins from 1960 with the onset of the left-wing guerrillas while right-wing Paramilitaries and organized crime groups have also appeared on the scene. The governmental response to this conflict has been often scarce in the in-conflict territories and has created space for expansion of illicit activities (Cantillo & Garza, 2022) which has further has exacerbated the social and political situation in the country. It has caused thousands of deaths, victims of forced displacement, sexual aggressions, forced disappearances, and torture (Melamed & Espitia, 2017). In 2016 the Revolutionary Armed Forces of Colombia FARC-EP, a guerrilla group, signed a peace agreement that officially denoted the end of decades of violence. This agreement brought hope not only to the local

population but also to international interests. Nevertheless, more violence has covered the process to reach peace. (Krause et al., 2022). It has been demonstrated by dynamics of non-accomplished promises for communities, violence over land, resource dominance, political power, murder of agrarian, social, and indigenous leaders, and ecosystem destruction for extractive activities, roads construction, coca plantations, agricultural expansion, and livestock farming (González-González et al., 2021). The causes of this conflict are still present and have turned into a war on nature and local indigenous communities because of the efforts for land control by armed groups. According to the registry of the Care Unit for Comprehensive Reparation for Victims, at the national level, the number of victims is 9,989,570. From this number, around 746,354 correspond to the Amazon region, meaning nearly 75% of the Amazon population was affected (Comisión de la Verdad, 2020).

This internal armed conflict has affected the country in multiple dimensions, nevertheless, for the nature of this thesis, I will point out the connections between the armed conflict and the environment. Nature has been proclaimed a silent victim of the ongoing armed conflict in Colombia. Since the Peace agreement was signed in 2016 until May 2022, the Especial Jurisdiction for Peace JEP registered 283 cases against the environment (JEP, 2022). The connection between the armed conflict and environmental abuses is largely due to illegal mining. This activity is one of the leading financing sources for the illegal armed groups, not only by direct resource extraction but also through other methods such as extortion, asset laundering, and production stealing. Illegal mining causes water contamination, land erosion, and disruptions in natural biodiversity (JEP, 2022).

History and Background of the Ruling

This section presents the origins and process of the Amazon ruling which is important to explore to get a deeper insight into the context of this decision. Understanding the ruling's background corresponds to one of the research questions inquiry. Therefore, I built up this section based on the available literature, official documents and guided by answers of participants of the research.

The global and local narratives and urgency to stop climate change was the historical setting in which the idea of this legal action took place. For instance, the Paris Agreement has led

during the last years discourses and efforts to mitigate climate change. The Colombian government adopted this treaty in July 2017, making it part of the national legal order. Additionally, under the need to mitigate climate change, the state committed to reducing deforestation and greenhouse gas emissions in the country in 2015; and previously in 2013, the state also committed to reducing deforestation in the Amazon without success as specified in the legal action (tutela) for climate change and future generations.

Additionally, the deforestation increase in the area is related to the implementation process of the Peace Agreement of 2016. Following the demobilisation of the FARC guerrilla group, there was a significant rise in deforestation, potentially due to the Colombian state's inability to fully establish territorial control in the ecosystems where the armed group was previously active (DEJUSTICIA et al., 2020; Garavito et al., 2017; Morales, 2017).

> *Violence has also had a paradoxical and conserving environmental effect. For instance, the fact that the Colombian Amazon has been better preserved compared to neighboring countries is not only due to the protective measures implemented, such as indigenous reserves and nature parks but also because the violence has created barriers to the entry of large-scale extractive economies. (Garavito et al., 2017)*

In specific regions, such as the Amazonian borders with Peru and Brazil, which depend on exploiting natural resources, armed groups were used to enforce limitations on hunting, fishing, and penalise practices like logging, diversion of water sources, and wildlife trading (Morales, 2017). Once the guerrilla group left the area, these territories were vulnerable to any use. To effectively address the challenges in the post-conflict period, the government must develop institutional capacity at both national and local levels to establish regulations that foster economic prosperity, and job creation, while safeguarding fragile ecosystems(Morales, 2017).

Under these circumstances, the idea of bringing a legal action to stop deforestation in the Amazon arose. According to informant 9[13] "the idea emerged from César Garavito" a lawyer who was at that time the director of Dejusticia, Centre for Legal and Social Studies of Colombia. He together with other two members of the same organisation, Gabriela Eslava

[13] Informants are named by numbers to keep their anonymity. However, general information is provided in a table shown at the end of this chapter.

and Valentina Rozo, developed the idea and wrote a first draft of the legal action. For this specific case, since the main concern of the legal action is to make a climate change argument, the reduction of deforestation in the Amazon, to ensure future generations' rights, they formulated the case to include children and young people as plaintiffs.

This group of children and youth was created with the requirement of being younger than 26 years by the time of the legal action's creation in 2016 and having a real interest in environmental topics. The approach to recruit members for the group was, according to informants 9 and 10, by word-of-mouth invitations. Informant 9 said that

> *the plaintiffs were contacted through word of mouth. For example, the 'raizal' girl was connected through one of her professors at the university, and the two people from Florencia were connected through one of their professors, by references and I got invited by my brother who used to work in Dejusticia.*

Twenty-five children and young people between 7 and 26 years became the plaintiffs of this case. These young people come from seventeen different municipalities and cities not only from the Amazon region but across all the country's regions, such as Cartagena, San Andrés in the north, Buenaventura in the West, and Bogotá, the capital in the middle of the country. The legal action proposal was presented to them, and initially, they maintained non-in-person communication through email. Then, after the Dejusticia group had a completed version of the suit, they convened as a group in Bogotá in November 2017. During this time, they got to know each other, discussed, and studied the suit, and they, together with the Dejusticia team, agreed to proceed with the case.

The legal action was built as a strategic litigation[14] case based on the theme of climate change and future generations. For this specific case, since the main concern of the lawsuit is to take a climate change argument, deforestation reduction in the Amazon, and ensure future generations' rights, they formulate the case, including children and young people who are the adults of the future. They incorporated a biographical resource, which, in this case,

[14] In short, strategic litigation is a method that resolves public interest disputes, but its goal is to create general principles that people outside of the lawsuit can use. The objective is to create a broader impact and help people or groups with similar human rights issues. However, strategic litigation does not just focus on obtaining a favourable court ruling. It also aims to generate wider social effects, such as empowering marginalized groups, changing attitudes, and promoting political reforms (Eslava et al., 2020).

meant that each plaintiff described how deforestation directly or indirectly affected their right to a healthy environment and health. Additionally, they used an outreach strategy to inform the public about the case as well as to promote advocacy. In connection with this, Informant 9 said, “this strategic litigation had to be closely linked to a communications strategy, and Dejusticia's communications team took the opportunity, when we were in Bogotá, to collect material like photos, interviews, and other materials from the plaintiffs”.

In January 2018, the lawsuit was presented to the Superior Court of Bogotá and in February of the same year, the Court issued the first ruling against the legal action. After this, the plaintiffs appealed and different organisations such as Gaia Amazonas and Amazon Indigenous Associations, joined the claimants’ interests by presenting their position and intervention to the Supreme Court judge. In March 2018, the Indigenous associations requested the Supreme Court to provide legal protection for the fundamental rights expressed by the Indigenous communities. Specifically, they requested regulations that would grant Indigenous communities decision-making power and environmental authority over their territories. Furthermore, they aimed for recognition as a crucial component of the agreement safeguarding the rights of future generations.

Subsequently, the Presidency released Directive No. 10 of 2018, establishing the mechanisms for compliance with the orders issued by the ruling. This document specifies instructions for the defendant institutions to comply with the short, medium, and long-term action plans. Thereafter, the Office of the General Attorney released Directive 04 of 2019, which urged the compromised institutions to effectively intervene with the deforestation drivers and everything that affects the natural and cultural resources of the Amazon. This legal document emphasises the articulation and coordination between the related institutions and gives exact instructions to fulfil the 4 orders to each defendant institution.

Even though the lawsuit of Climate Change and Future Generations does not claim the recognition of the Amazon as an entity subject of rights, the court included and proclaimed such recognition. I inquired about the reasons for this Court decision and found a variety of opinions among the informants. Some think that we are in a new generation of rights, which is also a new paradigm to approach jurisprudence. Therefore, the courts are expanding their possibilities to include the rights of nature in their decisions. Another opinion is that this

recognition was boosted by the rise of rights of nature in Latin America led by the Ecuadorian and Bolivian constitutions, the upsurged development positions such as the "buen vivir", and the international cases and initiatives, as informant 8 said

> *there was a Latin American boom around the idea of "buen vivir" and concepts that seemed very much from the Global South, but these were also nurtured by other European forms and other cases like New Zealand and India.*

Nationally and internationally, the media response to the ruling was positive and hopeful[15]. For instance, the ruling is highlighted as unprecedented, historic, and crucial in the fight against climate change. These articles explain the importance of stopping deforestation for climate change mitigation and provide an overview of the ruling orders. What is worth noticing is that the press emphasises that the Amazon is recognised as subject of rights as a major outcome of the ruling, for instance, ABC from Spain states as the headline of an article "The Colombian Amazon is already a subject of rights", and the Independent UK points that "The court recognised the Amazon as an 'entity subject of rights' - meaning it has the same legal rights as a human being" (Díaz, 2018; Stubley, 2018). Similarly, one of the most-read newspapers in Colombia, El Tiempo, titles an article "The Amazon is declared as subject of rights to tackle deforestation" (Obando, 2018). However, there are fewer unconvinced opinions about the ruling and RoN. In an opinion column of *El Espectador*, a major Colombian newspaper, the author states that it is essential to focus on the duties rather than on the on the rights (Zuleta, 2018). He recognises that the new RoN rulings are crucial in acknowledging the limits of our planet and the need for innovative solutions. However, the current perspective is still anthropocentric and arrogant. Recognising our obligations rather than just rights would be more appropriate (Zuleta, 2018).

Furthermore, by investigating the position of the judges in charge of issuing the case, the idea that promoted the recognition of the Amazon as a subject of rights is the view which sustains that safeguarding the environment requires an attitude transformation from the human-centred perspective to an expanded perspective that includes granting rights to non-

[15] I reviewed Inhabitat – US, Independent – UK, The Guardian – UK, Mongobay, ABC – Spain, Naturpress – Norway, NRK – Norway, Utopia – Germany, and the Colombian press El tiempo, El Espectador, Revista Semana, and RCN Radio. I chose these newspapers because most of them are well known and have great audience.

human entities. Referring to this, Luis Armando Tolosa Villabona, the judge behind the studied ruling, in the Environmental justice panel at CUMIPAZ 2018, said, “the feudal concept of the subject of rights, that only is for humans and corporations, is a restricted concept, we invite you that we have to build from legal knowledge and take it to the concrete, through the construction of categories that serve us for the protection of the environment, our future, and our countries”. He also stressed that at these times, it is important to “reconstruct the epistemological framework of the concept that environment is a central element, and one way to start is with the category of the subject of rights. Nature, fauna, and flora are subjects of rights, that is, they have the right to existence, protection, restoration, and resilience” (CUMIPAZ, 2019).

For further up-to-date background, I find it suitable to touch on the new government agenda. In May 2023, the National Development Plan 2022 – 2026, Colombia Potencia Mundial de la Vida (Colombia, Global Power for Life) was approved. Gustavo Petro, the first left-wing president of the country for his mandate period, emphasises on five key transformative strategies; environmental land management, social justice, human right to food, climate action, and social matters. This also advocates for total peace, understood as a participatory and inclusive strategy to seek the security of everyone, including humans and ecosystems. In fact, this document declares that "the core of all public policy decisions is the dignified life, in such a way that both humans and ecosystems are respected and protected” (Congreso de Colombia, 2023). All of these strategies are aligned to create new possibilities not only for the further Amazon ruling implementation but also for other similar environmental and social requirements. However, it too early to explore its application and repercussions for the ruling accomplishment.

Chapter 3 – Thematic framework

Rights of Nature

In agreement with Menea Tanasescu (2022), when considering the history of events it is essential to know where things come from and assign them a broader significance that gives them a specific trajectory. By shaping our understanding of the subject, origin stories seek to influence its development. Therefore, including the history of rights of nature, or at least one version, is a starting point to understanding them.

According to Tanasescu (2022), a widely accepted version of the history of the rights of nature dates back to 1972 when Cristopher Stone wrote an article titled *Should Trees Have Standing? Toward Legal Rights for Natural Objects*. The reason for him to think about the legal standing of natural entities was provoked by a lawsuit from a significant grassroots environmental organisation in the United States, the Sierra Club[16]. This organisation filed a legal case against the U.S. Forest Service's permit approval for Walt Disney Enterprises to build a $35 million complex in Mineral King Valley, in California's Sierra Nevada Mountains. The Sierra Club argued that the project would harm the area's aesthetics and ecology, but the Ninth Circuit dismissed their case because of a lack of legal standing. The Supreme Court later upheld the Ninth Circuit's decision, with Justice Douglas, a Supreme Court Associate Justice, dissenting based on Stone's legal arguments.

To have legal standing, in this case, means “to have the right to bring a lawsuit in front of a judge, because you are considered an injured party” (Tãnãsescu, 2022). Therefore, in agreement with the legal concept of standing in the United States, the Sierra Club was ineligible to file a lawsuit since they could not demonstrate that the construction would directly affect them. Indeed, their interest was to protect the integrity of Mineral King Valley itself. In US law, there was no provision for suing on behalf of the environment itself, regardless of the harm caused to the plaintiff. Stone’s arguments tried to impulse granting standing or rights directly to natural objects so legal environmental protection would be simpler. He said “I am quite serious proposing that we give legal rights to forests, oceans,

[16] https://www.sierraclub.org

rivers and other so-called “natural objects” in the environment, indeed, to the natural environment as a whole” (Stone, 1972).

Stone's arguments maintain that there is no justification to affirm that streams and forests cannot hold standing because these entities have no voice to speak. In the same way, corporations, states, infants, municipalities, and ships have no voice, though the last ones have legal standing through the voice of, often, a lawyer. He says, "one ought, I think, to handle the legal problems of natural objects as one does the problems of legal incompetents – human beings who have become vegetable”. If this type of person has legal problems, the court designates someone, also known as “the guardian” or “conservator”, to represent and manage the incompetent’s affairs. And the same system is used for corporations when they become incompetent. Therefore, following these ideas, the argument for granting rights to natural entities should be valid. He proposes that natural objects would have standing through a “guardian”, who should should seek to have its concerns related to the environment addressed in a more nuanced and procedurally accepted way.

Nevertheless, he recognises that these “new kinds” of rights are not understandable or easily compatible with existing law. “The fact is, that each time there is a movement to confer rights onto a some new “entity”, the proposal is bound to sound odd or frightening or laughable” (Stone, 1972). This is partially because when something without rights remains in that state, we can only perceive it as an object to be used by "us" – the ones who possess rights at the moment. For instance, the history of granting rights to Blacks, Chinese, and women to practice law in the US were at the first time unthinkable. Likewise, recognising rights for natural entities is beyond belief and might provoke resistance among many people.

Concurrently with Stone, the lawyer Godofredo Stutzin was developing similar ideas about including the rights of nature in the legal spheres. In different essays he wrote during the 70s, he argued that recognising nature as an entity endowed with rights is legally possible (Stutzin, 1984). In 1984, he composed an article in Spanish titled *Un imperativo ecológico: reconocer los derechos de la naturaleza*, An ecological imperative: recognising the rights of nature (Stutzin, 1984). He argues that nature should not be seen simply as a resource for human use but rather as having intrinsic value and deserving protection and respect. Indeed, he says, “I have come to the conclusion that the recognition of the rights of nature

constitutes an imperative, a true condition sine qua non, to structure an authentic Ecological Law capable of stopping the accelerated process of destruction of the biosphere"(Stutzin, 1984) (own translation). Additionally, he emphasises that the current environmental crisis results from an anthropocentric vision of the world, where human beings have treated nature as a passive entity which serves their interests. The environmental crisis requires a radical change in how humans interact with nature. Therefore, the idea of recognising the rights of nature does not undermine human rights. Instead, it serves to ensure that human rights are fully understood and protected against the pressures of a society driven by a "dehumanized technocracy".

Stutzin suggests that recognising these rights signifies a shift towards ecocentrism within legal history. A moral dilemma plays, therefore a key role in his arguments (Dalmau, 2019) because the idea of an "ecological imperative" suggests a change towards a non-human-centred attitude, in other words, to overcome the traditional anthropocentric approach of the law. Therefore, he proposes the creation of a new dimension of law, i.e. "Ecological Law"(Stutzin, 1984), which requires discovering and creating new legal possibilities to protect and preserve the environment "before the magnitude of the world's ecological crisis renders all legal efforts to resolve it useless"(Stutzin, 1984).

Further, another early contribution to the history of the rights of nature is the work of the American professor Roderick Frazier Nash. In his book, The Rights of Nature. A history of Environmental Ethics dated by 1989, he examined the development of the concept of rights for nature in the English-speaking world, which evolved from the earlier notions of natural rights that were revised through various human rights movements such as the abolition of slavery and women's rights, as well as the development of animal rights theories, and ultimately leading to the recognition of rights for nature (Tãnãsescu, 2022). Further, he discusses whether nature should hold rights or not and points out that even though, for some thinkers, nature does not demand rights, for others, nature must have rights. They recognise that animals and other natural entities do not request for their rights; however, it is the duty of humans, as moral agents, to advocate for and protect the rights of all other inhabitants of the planet (Nash, 1989).

Another input to developing the idea of recognising nature's values through the conception of rights comes from the spiritual tradition. Thomas Berry was the primary advocate in the early stages of promoting an *ecotheological* perspective on nature's rights. He drew from a longstanding tradition of theologising rights that originated from the concept of natural rights. Through his work, Berry aimed to harmonise Christian theology and modern science, specifically cosmology and ecology. To achieve this, he developed a broad narrative describing the Universe's origin and evolution, which became a being and evolved. (Tãnãsescu, 2022). Berry argues that past legal systems were centred around human interests, only valuing nature as far as it was helpful to humans. He suggests ecocentric ideas, which value nature for its own inherent worth. However, his argument's theological basis undermines the idea of an ecocentric-anthropocentric dichotomy. Ultimately, humans are responsible for maintaining the order of creation by reshaping their legal systems to align with the interconnectedness of a universal community (Tãnãsescu, 2022). Following this line of thought and the need to introduce a fresh perspective in social discourses regarding the function of law in regulating and restraining human activity, Tomas Berry together with international lawyers came up with the idea of *Earth Jurisprudence* (Dalmau, 2019). In 2001, this concept was developed aiming to give a common ground to ecology and law where these two can provide a contemporary conceptualisation of governance and create a new legal perspective for the Earth, as Jamie Murray (2014) pointed out, "Earth Jurisprudence is a distinctive philosophical framework for thinking through Earth-centric systems of legality and governance".

This emerging field of law and ecology is further studied and presented by Cormac Cullinan in *Wild Law: A Manifesto for Earth Jurisprudence* in 2003, which is deeply rooted in Berry's work, and represents an important foundation for rights of nature thinking and practice (Tãnãsescu, 2022). As a lawyer, Cullinan aimed to give a legal structure to Earth Jurisprudence that could fit into modern legal theory. Based on Earth Jurisprudence, the legal framework would consist of wild laws. The term "wild" does not imply irrationality or lack of control but rather emphasises that these laws derive from nature, nature without any human intervention. (Filgueira & Mason, 2011). He claims that:

> *In order to change completely the purpose of our governance systems, we must develop coherent new theories or philosophies of governance ('Earth Jurisprudence')*

> *to supplant the old. The Earth Jurisprudence is needed to guide the re-alignment of human governance systems with the fundamental principles of how the universe functions… Giving effect to Earth Jurisprudence and bringing about systemic changes in human governance systems will also require the conscious fostering of wild law". (C. Cullinan 2002 retrieved from (Filgueira & Mason, 2011)*

According to the works of Berry and Cullinan and other scholars in Earth Jurisprudence and Wild Law, the intersection of ecology and law calls for a radical shift in our worldview. This involves moving away from the traditional, anthropocentric view of nature and culture as separate entities, towards a more Earth-centric, interconnected perspective. This shift in worldview is necessary for the emergence of a new era that is focused on the well-being of the planet, known as the Ecozoic age (Murray, 2014) This shift of paradigm is driven by intellectual, emotional, and practical needs. It also requires a critique of the modernist worldview and the current and advancing ecological crisis, an updated scientific understanding of the Earth and nature within a modern philosophy of Nature, a new perception of our relationship with the Earth, and a fundamental shift in our approach to legality and governance to align them with the Earth's creative forces (Murray, 2014).

Following this line of the rights of nature's history, the 20th century saw a new development in the progress of rights with the creation of constitutional courts in the interwar period and international human rights tribunals after World War II. This progress included discussions of health, environment, education, and shelter topics and stipulated titles such as migrants, sexual minorities, and indigenous peoples. Hence, a significant change occurred in the meaning of rights, which revolutionised both the philosophical foundations and legal channels for their representation within the framework of the constitutional state, leading to the legal protection of historically marginalised subjects and minorities in the construction of rights (Dalmau, 2019).

The history and theory of the rights of nature show an advance in political and jurisprudential forms to attempt environmental protection. However, there are critiques that call into question this idea, arguing that although giving legal rights to nature might provide some degree of environmental safeguarding, it falls far short of an adequate response to the pressing crisis (Burdon & Williams, 2022).

Legal rights are a human-made concept and pose challenges when applied to safeguard the natural world (Burdon & Williams, 2022; Elder, 1984; Rolston, 1993). Indeed Rolston (1993) argues that “using the language of rights for rocks, rivers, plants and animal is comical, because the concept of rights is an appropriate category for nature”. The problem with the rights of nature is that rights also establish duties and thinking that nature owes rights to humans or other being is inconceivable. Therefore there is controversy around the idea of the rights of nature is framed in terms of rights instead of human duties, which lawmakers would find politically more convenient (Burdon & Williams, 2022; Hohfeld, 1920). Comparably, Philip Elder (1984) argued that regardless of whether non-humans are granted rights, only humans can participate as actors in the legal system. Consequently, the legal system would inherently focus on human concerns. If there is a societal desire to establish rights for non-humans, then the legislative power could be utilised to safeguard the environment by creating new rights for people (for instance, at the constitutional level). Numerous policy and legal approaches are already accessible within current legal and moral frameworks. However, the actual issue is the lack of political will, which remains a challenge regardless a conceptual or technical transformation is needed (Elder, 1984).

Providing rights to nature lacks the same liberating effect it might have for human beings. It does not liberate nature from its classification as human property, making it fundamentally distinct from granting rights to humans (Burdon & Williams, 2022). According to Burdon and Williams (2022), there is uncertainty regarding whether the existing legal system adequately reflects the modern scientific understanding of the earth's functioning and its interactions with human activities. Governance systems should recognise the interconnectedness of humans and nature. However, merely granting legal rights to nature, without significant changes to the current economic and political structures, is unlikely to achieve the intended results.

Environmental lawyers must be able to think beyond the boundaries of the existing system and prevailing power structures. It is argued that merely granting rights to nature is not enough to address the environmental crisis effectively. While it may be tempting to urge the capitalist political class to adhere to liberal principles, it is a grave mistake to believe that politics centred around the rights of nature alone can replace extractive economics (Burdon & Williams, 2022). In agreement with that, Richardson and McNeish (2021), after their

examination of the Atrato River case in Colombia, conclude that despite the emergence of a fresh eco-political vision, the implementation of nature's rights has not fully materialised as a substantially distinct approach to environmental governance in that territory.

The authors and ideas exposed above are some of the most representative of the conception of the idea of rights of nature. This story continues with the legal recognition of the rights of nature that has undergone a slow but steady application process in various countries' legal regulations, starting from municipal legislation in the 1990s and leading up to their incorporation in the latest generation of constitutions (Dalmau, 2019). An overview of these cases will be approached later in this chapter.

Understanding nature

To go further with the understanding of the rights of nature, it is important to review the conceptualisation of nature. The word nature has become a keyword used widely in different arenas and for different purposes. When inquiring about what nature is, it could become an extensive and endless catalogue, for instance, the word nature is used in everyday life in different contexts, from natural advertisements and science documentaries, to the human genome and science fiction and laws of nature (Castree, 2014). Hence, "nature" is vague and can have multiple meanings. However, it generally implies that what is considered "natural" is always influenced by certain assumptions, agendas, and desires specific to a particular social group, community, culture, or society, which may be hidden or forgotten (Castree, 2014). Indeed, Williams affirmed that “references to ‘nature’ are usually selective, according to the speaker’s general purpose” (Williams, 1980, retrieved from (Castree, 2014)). Therefore, Castree (2014) proposes looking at nature in relation to “the shared meanings that we attribute to these phenomena when we classify them as ‘natural’. He suggests four categories of nature meaning. First, the *non-human world* or “external nature” which includes things and environments not affected by humans. Second, the *entire physical world* or “universal nature” which encompasses the entire world including humans as both biological and historical entities. Third, *the essential quality or defining property of something* which could also be called “intrinsic nature”. This category refers to defining characteristics of living and non-living entities and phenomena, for instance, the natural attribute of birds to fly. And fourth, the power or force governing some or all living things also called “super-

ordinate nature" which includes organising and operating principles such as gravity and DNA information.

Another way to approach the concept of nature is through a Western distinction between natural and artificial. In this categorical distinction of nature, Elena Casetta (2020) refers to natural everything independent of human-made or touching. Nevertheless, specifying what can be considered independent and human making could be a brainteaser and radical opinions on understanding human-nature relationships are on the table. For instance, for some people, nature might exist where there is no human. An opposite argument says that "once we no longer define nature by our absence, the concept has no end" (Wickson 2008 retrieved from (Casetta, 2020)). This dualistic understanding of nature prompts a challenging discussion when approaching conservationist matters. Validating the first assessment would mean that there is no chance for nature to exist while validating the second argument would suggest that everything would be nature. In any case, "the distinction between natural and artificial would collapse, and the idea of conserving nature would make no sense at all" (P.3). However, different thinkers with opposing arguments support the idea of dismissing this dualism. For instance, Joseph Pitt claims that since everything is unnatural, because everything, including humans, is to some extent permeated by and the product of human technology, the distinction between natural and artificial should be discarded. He says that attempting to keep that apparent distinction is to live in the past, following an idea that any longer applies to the modern world (Casetta, 2020). On the contrary, the philosopher Elliot Sober proposes abandoning this distinction, based on the contrary argument that everything is natural since, considering that we are part of nature, everything we do is part of nature (Sober 1986, retrieved from (Casetta, 2020)). Although there are theoretical attempts to dismiss the natural-artificial distinction, the reality is that that distinction is alive in people's mindsets (Casetta, 2020). As Tim Low (2002, retrieved from (Casetta, 2020)) states, human minds are tied to think dualistically, in opposites, even though the world is not divided like this. It is important to note that the dualistic view of the world is rather from Western thought. Castree (2014) discusses the dualisms of Western thought by evaluating discourses. The concept of dualism is associated with a set of rules that dictate how language and images are represented. He brings the Butler's suggestion that "the representation-reality distinction is constructed (not given) speaks to a much larger set of categorical contrasts that

Westerners rather take for granted" (Butler, 1993, retrieved from (Castree, 2014)). Binaries establish limits and contrasts that are believed to exist in reality due to natural causes or intentional design. Examples of these dualisms are nature - culture and nature, environment – society, wilderness – cultivated land, natural world – built environment, traditional – modern, animal – human, to name a few (Castree, 2014; Kothari et al., 2019).

Furthermore, complementing the variety of understandings of nature, According to Tãnãsescu (2022) there are two interesting (for the discussion of the rights of nature) distinctions. On the one hand, Nature with the capital N, in the writings of Berry and his followers, refers to the entirety of existence, encompassing all things and phenomena. However, it is important to note that Nature seen as a complete whole is too vast and immense to allow relationships at smaller levels of abstraction. Considering this totality, it is impossible for any individual or group (whether human or non-human) to have a relationship with Nature as a whole, but only with specific parts of it. It is crucial to acknowledge the significance of the dependence on totality, as it forms a significant link between the rights of Nature and the neoliberal growth of a specific development model based on the assumption of a universal Human with universal rights. In that sense, similar to the doctrine of human rights, which proposes a universal Human as the general holder of fundamental rights, this strand of rights proposes Nature as the source of a set of fundamental rights that are also intended to be very broad (Tãnãsescu, 2022). On the other hand, the concept of nature can also be addressed as the immediate environment, an "environing world" in the words of David Abram (Abram 2012, retrieved from (Tãnãsescu, 2022)). Within this conception, nature is extremely specific and when conceived it as place it cannot be conceptualised in a totalising perception. Instead, it is important to understand how life can thrive in a specific location, under constantly changing circumstances, with specific participants. Observing these two views, Tãnãsescu (2022) affirms that " Nature as totality has no politics, only theology; nature as place is nothing but politics". Under the understanding of nature as a place, the practice of the rights of nature finds meaning and an arena to exist.

The concept of nature faces further complications when the thinking goes towards the differentiation between nature and culture. In anthropologic fields, this conceptualisation is problematic since it assumes that the concept of nature is "a culturally specific concept" rather than a universal one (Tãnãsescu, 2022).

Understanding rights

Ethics has involved the discernment between what is morally right and wrong throughout the history of moral philosophy. The fundamental aspect of ethics revolves around determining what actions or principles are considered "right." In the past few centuries, there has been a growing tendency among philosophers to utilize the concept of "rights" as a means of safeguarding specific values that are inherent to human beings (Rolston, 1993). Hence, a right, as a noun, “is a person’s entitlement to have other persons that treat her in certain ways” (Rolston, 1993). For Wesley Newcomb Hohfeld (1920), the word ‘right’ denotes any legal advantage, whether claim, privilege, power, or immunity; in other words, this concept refers to a kind of enforceable claim to “something that is owed to the rights holder, as a matter of justice” (Tãnãsescu, 2022). The term is also used as the correlative of duty, and in this sense, “claim” is the best synonym to express this meaning (Hohfeld, 1920). Therefore, a right is a compelling claim a person can request to maintain her interest or welfare considered (Rolston, 1993).

Nevertheless, in the contemporary Western world, the ethical discourse has predominantly revolved around interpersonal relationships, primarily concerning how individuals can ethically interact. This narrow perspective has primarily centered on human beings' role within their communities while neglecting their place within the natural environment. With the adverse consequences of human progress impacting the natural world, there is a pressing need for environmental ethics that can harmoniously integrate humans into the broader ecosystems encompassing fauna and flora (Rolston, 1993). Consequently, Rolston (1993) continues to assert that the notion of rights has been effective in safeguarding human dignity, however, when applied to the preservation of the natural world, the rights-based approach encounters significant challenges. The ecological crisis we currently face generates a paradigmatic ethical dilemma. Unlike the human realm, nature itself does not operate on the concept of rights. Throughout the countless years of evolutionary history, there were no rights, and this continues to be the case outside of human society. Trees, grasses, and wildflowers lack the capacity for rights; they cannot recognise or confer rights upon others. They do not bear responsibilities, make claims, or assert entitlements against one another. Therefore, when justice needs to be applied to a natural entity, it is a human decision to

protect these rights; as Holhfeld (1920) affirms, when a non-human gets rights, the duties of these rights need to be covered by the human.

Under this need for environmental ethics and environmental protection, the rights of nature have emerged. The evolution of rights has now extended to include nature as a rights holder. The development of rights has been a gradual and progressive process. During the specific timeframe from the late 20th century to the early 21st century, we are witnessing the theorisation and subsequent legal recognition of nature's rights, marking an important milestone in our ongoing journey towards greater ecological awareness and justice (Dalmau, 2019). Recognising nature as a rights holder is crucial for ecological transition and the pursuit of harmonious coexistence between humans and the environment. This requires a paradigm shift in the legal thinking (Dalmau, 2019). Thus, knowing that human beings are intricately intertwined and reliant on the natural world, law, as an evolving social institution, should adjust and align itself to accurately represent this comprehension *(Burdon, 2010).* However, rights of nature beyond its usefulness as a legal framework, in societies where it becomes acceptable to talk about rights of rivers, rights of mountains, and rights of forests, it is likely that a very different relationship with nature will develop compared to a society where only human beings are considered worthy of holding rights (Colón-Ríos, 2019). Consequently, rights of nature open possibilities for re-thinking the entangled relationship between the human and the natural world; as Colón-Ríos (2019) argues, “the recognition of rights of nature, far from being an act of legal violence or an attempt to subject nature to human institutions and discourses, is based on a rediscovery of the inseparability between the human and the non-human” (own translation).

Furthermore, it is worth mentioning an international expansion in human rights that goes hand in hand with environmental protection. In October 2021, the United Nations Human Rights Council recognised that having a clean, healthy, and sustainable environment is a human right. This recognition addresses the entangled relationship between environmental degradation, climate change, and human rights crisis (United Nations, 2021). However, this right is not a novelty in the Colombian fundamental law system. The Political Constitution of 1991, in article 79, includes the right to enjoy a healthy environment. The same right that plaintiffs claim in the Climate change and future generations' legal action and the Supreme Court refers to in the Amazon ruling.

Rights of Nature in Practice

To return to the history of the rights of nature, this section focuses on the inclusion and practice of these rights. Since the beginning of the 21st century natural entities have been entitled to rights and with this, a new legal status has appeared (Tănăsescu, 2022). Rights of Nature are evolving as a legal approach that recognises that, in general, environmental regulations have been focused on nature as property which benefits humans; nevertheless, rights of nature are grounded in the idea that humanity and nature share an egalitarian relationship since we share existence on this planet. Until now, provisions for the rights of nature have been introduced in various places and legal contexts, taking into account different types of governance including constitutions, local laws, national statutes, policies, and resolutions (UN, s.a.). Thus, each case is unique and has challenges, which makes the idea of the rights of nature problematic to generalize.

Rights of nature and to nature are critically and often hardly understood since "it remains unclear just what rights of nature may have in any given case, and which human groups have the power to determine the content of nature's rights as well as the content of human rights to nature" (Tănăsescu, 2022). In theory, rights of nature cases are assumed to be similar in the sense that most existing cases are "a radical solution to environmental degradation". Nevertheless, the practice and application of these rights still need to be demonstrated in terms of how it contributes to reducing that degradation (Tănăsescu, 2022).

International trends of rights of nature

Environmental degradation is one of the most serious issues in current times (Kotzé, 2012) and without precedent in the history of humankind (Wesche, 2021). Therefore, environmental protection has gained attention in the international agenda, and not only environmental lawyers but also scholars, judges, and activists have expanded their interest in environmental constitutionalism, possible legal ways of environmental protection, and the emergence of rights of nature (Macpherson et al., 2021b). According to a database of rights of nature initiatives authored by Alex Putzer et al. (2022), there were 409 initiatives identified in 39 countries in the world by 2022. These include different types of legal documentation

such as the constitution, local regulations, court decisions, legislations, and policies. After these initiatives were analysed and fulfilled the requirements to be part of it, the authors grouped them into different categories and created a map.

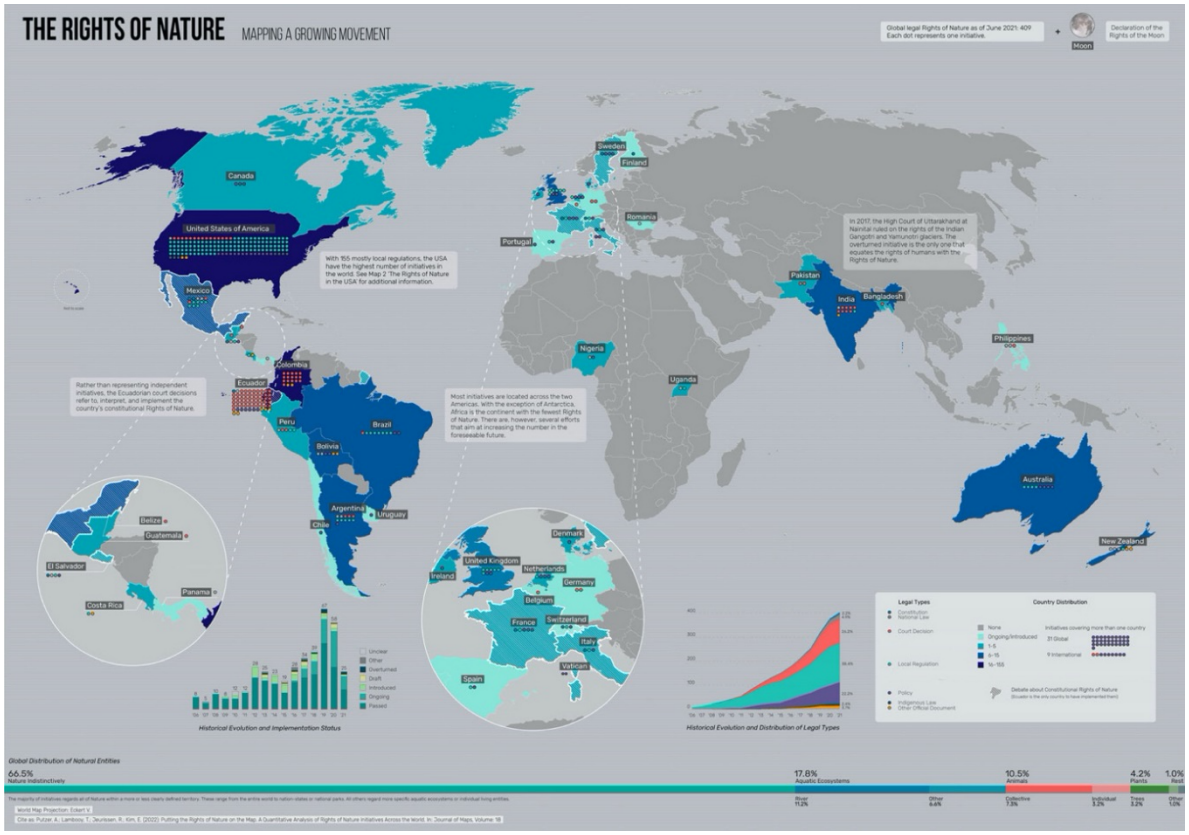

Figure 5: Map of the Rights of Nature. Source: Putting the rights of nature on the map (Putzer et al., 2022).

This map shows geographical distribution per country, historical evolution, implementation status, and historical evolution and distribution of legal types of rights of nature cases. The map demonstrates that a considerable majority of rights of nature initiatives are on the American continent. The United States has a significant number of cases, representing the 38% of the worldwide total initiatives. Following the US, Ecuador and Colombia account for a considerable number of cases, most of them court decisions. It is worth noticing that most of the total initiatives correlate to cases of “Nature Indistinctively”, meaning that there is a tendency not to define the natural entity, and the next largest category corresponds to “river and other aquatic Ecosystem”. Thus, representative cases of rights of nature include a large selection of rivers.

Macpherson et al. (2021b) claim that river rights recognition has increased attention globally by its transformative possibilities across environmental politics and laws. Examples of rivers recognition as legal subjects which have been broadly studied include the Whanganui River in New Zealand, the Atrato River in Colombia, and the Ganges and Yamuna Rivers in India. Another illustrative example is the case of Bangladesh, where the river Turag is recognised as a living entity with legal rights the remarkable characteristic of this case is that the Court, in the same ruling, adds that the same decision would apply to all rivers in Bangladesh (Earth, 2019; Willems et al., 2021).

Environmental constitutionalism

Constitutions serve as the foundation for safeguarding essential human rights and addressing societal requirements, including the responsibilities of the welfare state to ensure the well-being of the population (Singh, 2018). A constitution refers to the written document that establishes a political entity and defines the structure of its institutions. It serves as a legal framework for a state, delineating the boundaries and limitations of political power within its territorial jurisdiction (Kotzé, 2016). Constitutions are often called “supreme law” (Joseph 2014 retrieved from (Macpherson et al., 2021b) and often include provisions that encompass limitations on state authority and the distribution of power among different branches of government (May & Daly, 2015). Furthermore, constitutionalism operates by means of a constitution, which establishes the framework for political society and governs it through the rule of law, with the aim of preventing the arbitrary exercise of power. The primary strength and enduring influence of constitutionalism stem from its capacity to impose constraints on political authority. This is achieved through the enactment of constitutional laws by the legislature, which further enhances the normative force and enduring authority of constitutionalism (Kotzé, 2016). Due to the normative superiority of constitutionalism, the public is more inclined to positively react to the constitutional provisions compared to regulations. Environmental governance rises from the need to prevent further environmental degradation due to human activity during the last decades. Climate change as well as biodiversity loss, changes in land use, freshwater consumption, and the disruption of the nitrogen cycle are environmental challenges associated with the Anthropocene era. All of

these processes have been profoundly impacted by human activities and warrant significant consideration and action (Tãnãsescu, 2022). Therefore, May and Daly (2015)stated that "environmental constitutionalism offers one way to engage environmental challenges when other legal mechanisms fall short". These authors suggest that environmental constitutionalism "represents the confluence of constitutional law, international law, human rights, and environmental law"(May & Daly, 2015). However, they recognised that this type of constitutionalism is only one of the different potential juridical advances to achieving environmental protection (Kotzé, 2016).

The connection between human rights and environmental rights was clearly indicated in the UN Conference on the Human Environment in Stockholm in 1972. It was the first world conference to bring environmental issues to the forefront of global attention and initiated a dialogue between developed and developing nations regarding the relationship between economic growth, pollution of air, water, and oceans, and the overall welfare of people worldwide. Indeed, the document released after this conference, the *Stockholm Declaration*, expresses in its first and second principles that:

> *Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.*
>
> *The natural resources of the earth, including the air, water, land flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate (Declaration, 1972).*

Consequently, the inclusion of provisions for environmental protection rights in national constitutions has experienced significant growth; in fact, out of the 196 national constitutions, in effect, 148 of them demonstrate some form of environmental constitutionalism (O'Gorman, 2017). However, it was almost 20 years after the *Stockholm Declaration* that the majority of environmental mentions were included in national

constitutions. Moreover, many countries now include the “right to a clean and healthy environment” in their constitution (Macpherson et al., 2021b), as is the case of the Colombian constitution which in article 79 states: “All individuals have the right to enjoy a healthy environment” (Constitución Política de Colombia, 1991).

Latin-American Constitutionalism and rights of nature

Latin America holds innovative and pioneering scenarios that challenge dominant Western perspectives, especially within legal dogmatics. This represents a series of transformations, known as "new" constitutionalism within academia, which also includes fresh planetary ethics rooted in ecocentric views (Wolkmer et al., 2019). This can be observed in the ideologies of "Vivir Bien" in Bolivia and "Buen Vivir" in Ecuador, which emphasise the necessity for acknowledging and respecting the rights of nature. The concept of "Buen Vivir" entails significant implications, including the reconfiguration of a sustainable society that eliminates all extractive production methods and rejects mechanistic notions of economic progress (Wolkmer et al., 2019). Buen vivir, or living well, challenges the dominant notion of humans as exclusive beings with political representation and the sole origin of all value. This signifies an ethical shift that acknowledges the inherent worth of non-human entities and the rights of nature and a political shift that acknowledges the existence and importance of non-human subjects (Chuji et al., 2019). In this regard, Acosta (2009) argues that to admit such a possibility requires breaking conventional legal paradigms shaped by Western culture, which has historically prioritised an anthropocentric perspective during the modern era. This perspective restricts the recognition of rights solely to human individuals. Thus, *buen vivir* also challenges the modern separation between humanity and nature. Indeed, Chuji te al., (2019)said that *buen vivir* “acknowledges extended communities made up of humans and non-humans, animals, plants, mountains, spirits and so on, in specific territories – as with the Andean concept of *ayllu*, mixed socio-ecological communities rooted in a specific territory”.

These ways of thinking have contributed to political and constitutional innovations. Due to their normative superiority and inherent legitimacy, constitutions have been utilized to enact transformative structural changes. A prime illustration of this is observed in the Latin American constitutions of the twentieth century (Macpherson et al., 2021b). A remarkable

example of this is the Ecuadorian Constitution of 2008. The background of this novelty inclusion of the rights of nature in a constitution recalls the battle of Amazonian people against Chevron, a huge oil company partner of Texaco. They claimed in the suit that the company discarded an enormous amount of oil and waste into 17000 acres of virgin forest, causing ecological damage and an increase in cancer cases and miscarriages among the indigenous peoples (Burdon, 2010). Alongside with this case, deforestation in the Amazon prompted the NGO Pachamama Alliance to get international help from the Community Environmental Legal Defense Fund CELDF to act towards the protection of the rainforest. Members of the CELDF presented the legal framework of rights of nature to the president of the Ecuadorian Constitutional Assembly. Due to these efforts and environmental activism, Ecuador was the first country to legally recognise the rights of nature in its constitution (Burdon, 2010). This event represented a significant turning point in the country's history and serves as a crucial background on constitutional practices worldwide. It was an unprecedented occurrence that gained tremendous support from the electorate, as evidenced by the overwhelming majority in the voting booths (Acosta, 2019a). The Constitution not only serves as a framework for shaping laws, policies, and actions, its significance lies in providing avenues for transformative changes that envision a distinct society from the current paradigm. The recognition and application of the Rights of Nature play a crucial role in transcending anthropocentrism (Acosta, 2019a). Nevertheless, a successful application of these principles remains as a mission to achieve. Certainly, Acosta (2019a) recognises that while a constitution does not directly alter reality, understanding and upholding it can contribute to shaping that reality; and despite its resounding approval, there is still a long way to go before society fully embraces and grasps the true significance of this constitution.

In Colombia, the Constitution of 1991 largely contributed to the inclusion of environmental dispositions. More than 30 articles refer to the environment, natural resources and animal protection; therefore, this constitution is commonly known as “ecological constitution” (Navas, 2021). These articles advocate for conservation, responsible use of natural resources, and the right to a healthy environment. Indeed, article 79 states,

> All individuals have the right to enjoy a healthy environment. The law will ensure community participation in decision-making that may affect it. It is the State's duty to

> protect environmental diversity and integrity, preserve ecologically significant areas, and promote education to achieve these objectives. (Constitución Política de Colombia, 1991)

Even though this constitution acknowledges environmental protection, this is not clearly recognising nature's rights as the Ecuadorian constitution. The Colombian Magna Carta does not include the word '*naturaleza'* (nature in Spanish) for referring to the natural environment; instead, it uses the expression 'natural resource'. However, it has been the ground for a significant development of environmental laws and regulations (Ministerio de Ambiente y Desarrolllo Sostenible, 2016).

Colombian rulings overview

According to Harmony with Nature from the United Nations (UN, s.a.), by the date of writing this study, 18 rulings recognise nature or natural entities as subjects of rights in Colombia. Additionally, one local regulation, Decree 348, was issued in 2019 by the Governor of Nariño, which promotes the rights of nature and the protection of the strategic ecosystems in the Department of Nariño. This regulation is supported by the Departmental Development Plan (Plan de Desarrolllo Departamental) of the governmental term 2016 – 2019, which established a more robust environmental sustainability agenda for the region (Decreto 348-2019, 2019).

The other 18 rulings are court decisions[17]. The first one was the ruling T-622 issued by the Constitutional Court of Colombia in 2016 which recognises the Atrato River, its basin, and its tributaries as a subject of rights. It was released after a legal action *tutela* involving Afro-descendant, indigenous, and peasant communities residing along the Atrato River who were represented by the non-governmental organisation Tierra Digna[18]. The plaintiffs contended that the extensive use of heavy machinery and toxic substances, like mercury, had caused severe environmental damage in the region, jeopardising their rights to life, health, water,

[17] See table 2 for an overview of the rulings that have integrated the concept of RoN in Colombia
[18] Centre of Studies for Social Justice

food security, a clean environment, and their cultural and territorial rights (Villavicencio, 2019). In 2016, the Constitutional Court upheld that the plaintiff's rights were violated due to the government's failure to address the widespread illegal mining. Therefore, the Court recognised the Atrato River Basin as a rights holder, and issued specific orders involving local residents in decision-making processes to protect the well-being of both the residents and the Atrato River Basin (Richardson & McNeish, 2021).

The Court appointed state and local community representatives as co-guardians of the Atrato River Basin to ensure the protection, recovery, and proper conservation of the river (Sentencia T-622-2016, 2016). This pioneering decision marked a significant step forward in acknowledging the rights of both marginalised communities and nature, setting a precedent for a more holistic approach to legal protection. Indeed, as Macpherson et al. (2021b) assert, the ruling came as a surprise as it favoured the people from the most neglected region of Colombia. Moreover, the recognition of the river as a subject with rights challenged the conventional legal notion of legal personality and embraced the inclusion of non-human entities in the legal framework (Macpherson et al., 2021b). However, the outcomes of implementation seem to be not very satisfying. According to Richardson's (2020) study, by 2020, the implementation of the Atrato approach had fallen short of its objectives of providing justice for both people and the environment. The central goal of the ruling was to guarantee the survival of the local communities both physically and culturally. However, the evidence indicated that on-the-ground circumstances were not moving towards that intention.

Furthermore, this case continues to be a subject of controversy. On the one hand, the lack of legal recognition of the rights of natural entities in the Colombian civil and procedural codes poses a significant obstacle to its effective implementation. And on the other hand, the situation is worsened by the country's weak environmental institutions and the state's limited influence in the region, mainly due to the ongoing armed conflict in the region (Macpherson et al., 2021b).

Table 2: Colombian rulings integrating rights of nature

Natural entity or ecosystem	Year	Issuing institution
Atrato River	2016	Constitutional Court
Andean bear	2017	Supreme Court
Bees as pollinating agents	2017	The First Criminal Court of the Circuit of Cartagena
Pisba Highlands (Páramo de Pisba	2017	Administrative Court of Boyacá
La Plata, Coello, Combeima and Cocora Rivers	2019	The Administrative Court of Tolima
Cauca River	2019	The Superior Court of Medellin
Magdalena River	2019	The First Criminal Court of Neiva's District
Quindío River	2019	The Administrative Court of Quindío
Pance River	2019	Regional Court of Cali
Otún River	20 19	Regional Court of Pereira
Awá Indigenous territory Katsa Su	2019	Jurisdicción Especial para la Paz de Colombia (JEP)
Isla de Salamanca National Park	2020	Supreme Court
Natural National Park of Los Nevados	2020	Superior Tribunal of Ibagué
Natural National Park of Complejo de Páramos Las Hermosas	2020	Superior Tribunal of Ibagué
Fortecillas River	2021	First Criminal Circuit Court with Functions in Neiva

Later in 2017, the Colombian Supreme Court of Justice recognised animals as subjects of rights through ruling AHC4806-2017, which granted rights to the Andean bear (Tremarctus Omatus) (Sentencia AHC4806-2017, 2017). In 2018, three cases were issued including the Amazon ruling STC4360-2018 which will be described in a following section. Another one pertains to the order of protection and preservation of bees as pollinating agents conveyed by the First Criminal Court of the Circuit of Cartagena through the ruling 213 of the 26th of November 2018 (Sentencia 213-2018, 2018). And the third case is the declaration of the Pisba Highlands (Páramo de Pisba) as an entity subject of rights by the Administrative Court of Boyacá (Boyacá, 2018). In 2019, 8 rulings were issued, and 7 of which recognise rivers as subjects of rights by local and regional courts in different departments of the country. These rivers are La Plata, Coello, Combeima and Cocora, Cauca River, Magdalena River, Quindío River, Pance River, and Otún River. The other case is the recognition of the Awá Indigenous territory Katsa Su as a subject of rights by the Jurisdicción Especial para la Paz de Colombia (JEP) (Nations, (s.a.)). Later in 2020, the Supreme Court of Justice of Colombia declared the Isla de Salamanca National Park as a subject of rights by the ruling STC3872-2020 to protect it from deforestation (Sentencia STC3872-2020, 2020). In the same year, the Natural National Park of Los Nevados got recognition as a subject of rights through a decision issued by the Superior Tribunal of Ibagué, which aims for its protection, recovery, and conservation (Sentencia del 28 de agosto 2020, 2020). One month later, the same Tribunal recognised another national park, the Natural National Park of Complejo de Páramos Las Hermosas as a subject of rights (Ibagué, 2020). And lastly, in 2021 the Fortecillas River was declared a subject of rights to protection, conservation, maintenance, and restoration issued by the First Criminal Circuit Court with Knowledge Functions Neiva (Neiva-Huila, 2021).

Indigenous Peoples, ontologies, and the Rights of Nature

It is often assumed that there is a direct connection between the rights of nature, indigenous thinking and legislation. There is, however, no clear evidence to support this. According to Tanasescu (2022), there is no factual basis for this correlation, neither to say that rights of nature originate from indigenous traditions nor that these two are directly linked. Possible reasons to explain this often-made association are “ignorance of indigenous philosophies, an un-reflexive colonial inheritance, and enthusiastic belief in the power of rights discourse”

(Tãnãsescu, 2022). Additionally, one point to assume that rights of nature and indigenous thinking go together is the idea of harmony; however, this can be misleading. The notion that indigenous people live in harmony with nature is not necessarily accurate; they have a vast different array of relationships with nature (Tãnãsescu, 2022). Indeed, indigenous philosophies are primarily relational, emphasising the development of contextual connections with ever-changing natural beings (Macpherson et al., 2021b; Tãnãsescu, 2022). Unlike ecocentric perspectives, indigenous philosophies do not assign intrinsic values as separate entities. Instead, they acknowledge the interdependence and interconnectedness between humans and nature, rejecting the notion of a preexisting nature that exists independently of relationships and considering the value of nature not in contrast to human utilisation (Tãnãsescu, 2022). Additionally, supporters of nature advocacy highlight the compatibility between Indigenous belief systems and their ecocentric approaches. However, it is essential to recognise that the rights of nature movement primarily originated from Western and non-Indigenous sources. Consequently, there have been instances where this movement has inadvertently or intentionally neglected Indigenous agency and visions (Macpherson et al., 2021b). For instance, despite this diversity and the importance of acknowledging and incorporating indigenous peoples' knowledge in global discussions, a 2010 study conducted by UNPFII highlighted the noticeable absence of Indigenous peoples in the discussions on promoting harmony with nature at the first UN General Assembly resolution on Harmony with Nature (Dancer, 2021).

Furthermore, other thinkers argue that indigenous thinking has enabled cultural dialogue. Arturo Escobar (2015) affirms that the recognition of indigenous peoples by the national states in Latin America has allowed, and perhaps demanded, a dialogue at a cultural level that guarantees the survival of different ways of being and living. Notions such as cultural diversity or social inclusion have opened the doors to an exchange that is as enriching as it is problematic. The structures of Western culture and those typical of the indigenous world will be altered since it represents a meeting between profoundly different ways of viewing the world. The friction generated by this encounter has resulted in a flexibilisation or mixing of cultures, which responds not only to the need to recognise but also to understand and integrate the world of the other. In the field of law, for example, legal frameworks have been

established that have their roots in indigenous thought, such as granting rights to the land (Cusicanqui & Sousa, 2014).

Consequently, what may appear as a natural evolution in the field of law, which should align with the inclusive and ecological demands of the present, conceals a series of philosophical, anthropological, and ethical changes that are important to consider. In this case, for instance, the implications of understanding land and nature as a subject of rights. According to Tãnãsescu (2022), there are two different ways of understanding the world. One is to acknowledge that there are multiple views about the same world. This is the predominant Western understanding of various cultures, which has based its arguments on scientific methods. The other way is to admit difference, which implies recognising that there are different worlds, as most indigenous philosophies assume. A point to recognise here is that colonialism has worked towards "replacing one world for another so that the claim of a single world accepting of different views can finally prevail (Tãnãsescu, 2022).

Recognising that there are different worlds implies that the habitants of these worlds are fundamentally different. For instance, in the Andean world, according to Marisol de la Cadena, (retrieved from (Tãnãsescu, 2022), there are beings that Westerners would perceive as mere landscape features, while Indigenous people believe that these features are animate and possess their own consciousness. On this matter, Viveiros de Castro (De Castro, 2008) also observes that "the Western metaphysical doctrine consists of the notion that there exists only a single external nature, and multiple cultures, multiple subjectivities that revolve around that nature. In this view, nature functions as a super-nature, a correlate of God" (Own translation). However, Western thought has maintained a particular understanding of nature for centuries. Initially, this perspective was centred on humans and their needs, placing them at the forefront. As time progressed, it evolved into a more rationalist approach, which continued to perceive nature as a resource to be harnessed and utilised to satisfy human requirements (Serna & Cairo, 2016). In practical terms, the characterisation of nature as an imposed object translates into the practice of a kind of ethics that is particularly harmful. This is sustained by a theoretical framework that legitimises actions such as the excessive exploitation of minerals, oil, timber, and so on (Serna & Cairo, 2016). The gravity of the ecological impact caused by this perception of nature, combined with various other social

and human conditions, generates rejection from the communities inhabiting the affected territories, which Escobar (2015) calls the "critical academy." This disagreement necessitates the consideration of alternative ways of perceiving and inhabiting the world.

Unlike the Western world, which is a singular world dominated by an isolated and superior species, "the indigenous world is a multiple world, where there is no singular nature, and the only uniqueness lies in human culture, which is a purely formal and pronominal position. While for us, nature is the place of the One, I observed in the indigenous world that what was universal was merely a subject's position, but one that circulated. And as for the particular, the differentiating, the singularizing, it was the world of matter, the corporeal universe" (Viveiros, 2008, p. 269). In this sense, it is more appropriate to speak of a world full of worlds, a pluriverse as articulated by Escobar (2015; Kothari et al., 2019) in order to counteract the dominant tendencies that characterise the Western world. Reducing the cosmos' multiplicity and vitality is the first step towards objectifying and exploiting it as a resource. However, it also lays the foundation for the creation of a discourse of singular and absolute knowledge. If there is only one nature for everyone, one singular world, there is no need for two paths to understand it nor room for two truths.

It is the Western obsession with the concept of unity, an obsession that drives it to assert dominance over nature as well as over those who think differently (Escobar, 2015; Kothari et al., 2019). Understanding that is crucial to shift away from the perspective that sees us as a distinct and privileged species that is exceptional and does not fully belong to the world because of our spiritual, cultural, linguistic, and symbolic dimensions, such as language and psychoanalysis (De Castro, 2008). Critically considering the place humans occupy in the world allows for discovering the multiplicity, the pluriverse, as pointed out by Escobar, when the spectrum of relationships expands and necessitates a form of dialogue beyond multiculturalism, as this is solely a human matter. In the conversation, humans, and other subjects, must be included to fully grasp the environmental and political significance and transcendence of concepts such as territory or the recognition of land as a subject with rights (Escobar, 2015).

Furthermore, by observing the gaps between Western law and indigenous law, Bacca (2019) proposes the idea of *inverse legal anthropology*. This concept is built from the understanding

of the double bind, which "oscillates between indigenous peoples in Western jurisprudence and indigenous jurisprudence" (Bacca, 2018), which challenges the assumption of Western dominance. Instead, inverse legal anthropology proposes the possibility of reversing the process, taking the potential for indigenous jurisprudence to influence and reshape the conceptual framework of the Western Rule of Law, including international law. This reversal allows for the transformation of existing legal paradigms. The focus of *inverse legal anthropology* is not solely on presenting indigenous knowledge as it is articulated within specific cosmologies, but as an exercise in which international legal ethnographers allow themselves to be seduced by the thoughts of indigenous jurisprudences. In other words, what the author proposes is

> *to take indigenous jurisprudence seriously, which in the context of my analysis here means unveiling the epistemological richness of indigenous legal theory and, consequently, the significance of aboriginal narratives in productively addressing the colonial role played by the Western legal tradition in dismantling indigenous systems of justice. In this regard, it would not be a matter of adjusting indigenous jurisprudences into the terms of the Western Rule of Law, but rather an attempt to fully acknowledge indigenous peoples' ontological self-determination. (Bacca, 2019)*

For indigenous peoples from the Amazon, the political decision-making within their territories comes as part of their mystic traditions. According to Bacca (2019), the fundamental principles underlying the protection of indigenous territories are rooted in the shamanic worldview, which is embodied in the teachings of master plants. These plants, which have been essential to indigenous cultures for countless generations, possess consciousness-expanding properties that contribute to a profound understanding of the world. Paper, p. 153. Based on Bacca's empirical work, he points out what Taita Jacanamejoy repeatedly mentioned during an interview, that "indigenous peoples cannot separate rituality from politics—the most important political decisions of his people are taken by following the advice of *Ayahuasca*". The use of this kind of "master plants" in this indigenous context underlines the belief that all entities in the world, regardless of their human or non-human nature, possess the potential to develop psychic abilities and exercise agency as humans do. Further, Taita Jacanamejoy affirms that:

> *Indigenous justice begins in yagé, this is justice for my people. Yagé is territory. Just like our people, yagé belongs to this territory. Drinking yagé (chumando) I have learned to love, to respect, to cultivate, and to defend the life, which is the earth. This is our law, the natural law. Indigenous law was born in traditional medicine. (Bacca, 2019)*

Thus, according to Bacca (2019), Jacanamejoy's assumptions suggest bridging the realms of the jungle, where he acquires the ancestral knowledge of traditional medicine and the national and international gatherings where crucial decisions regarding indigenous peoples in international law are made.

Chapter 4 - Theory

Pluriverse and pluriverse politics

The starting point of the pluriverse idea arises from a collective belief that it is necessary to dismantle the concept of "development as progress" to create space for cultural alternatives that prioritise the well-being and preservation of life on Earth. The Western development model is a homogenising framework that drives material pressures (Kothari et al., 2019). Development has been associated with economic growth approaching sustainability and inclusivity through technology, markets, and policy reforms. However, there is an incongruity between 'development and environment' as the idea of sustainability was taken by capitalism, leaving it with a lack of ecological content while the world faces multiple crises: environmental, economic, social, political, ethical cultural, spiritual, and embodied. (Kothari et al., 2019). Therefore, the understanding of "development," which has been in existence for several decades, requires an immediate political reassessment and reconsideration.

The pluriverse proposes recognising the variety of the world's views and how to interact with and care for them. It aims to anchor human activities within the natural rhythms and structures, appreciating the interconnected essence of all living entities.

> *In giving voice to diversity, we share a conviction that the global crisis is not manageable within existing institutional frameworks. It is historical and structural, demanding a deep cultural awakening and reorganization of relations both within and between societies across the world, as also between humans and the rest of so-called 'nature' (Kothari et al., 2019).*

In the book *Pluriversal Politics: the real and the Possible*, Escobar (2020) invites exploration of the notion of other possible realities by approaching two dimensions with an open mind. Firstly, it involves engaging with spaces that may disclose the existence of other realms, where different conceptions of reality and possibilities coexist without separation. Secondly, it requires a deep reflection on the practices that have shaped individuals in the modern era, particularly as subjects who sustain the belief in a singular "real" and consequently in scientific truths, economics, the notion of individuality, and self-regulating market entities.

When examining contemporary social life, several significant sources emerge for revaluating the real and the possible concepts. For instance, these sources include the teachings of ancient civilisations and various spiritual and cultural traditions that prioritise radical interdependence over notions of separation as well as matriarchal ontologies, Buddhism, and other Earth spiritualities. Further, within academia, various trends explore the role of the nonhuman in shaping realities, providing valuable insights into alternative understandings of the real and the possible [19].

Whit this in mind, the idea of pluriverse refers to a world that embraces different worlds, as the Zapatistas proposed, *a world in which many worlds might fit* (Escobar, 2020). This concept challenges the notion of universality, which has been a foundational principle of Western modernity and has propagated the idea that there is only one world, now globally widespread, which accommodates a singular worldview. Further, Escobar (2020) argues that the pluriverse assumes life as a limitless flow. Any attempts to fragment and categorise the open and indeterminate world are limited and tend to perpetuate harmful dichotomous and dualistic thinking. Instead, worlds are completely interlinked as "a web formed of interwoven lines and threads, always in motion" (Escobar, 2020). These connections do not make them alike, they can be drastically different and still be interconnected. Escobar exemplifies this with indigenous realities that have learned dualistic thinking even though it is not part of their own thinking:

> *…many indigenous worlds have learned to live with the separation between humans and nonhumans (and thus have begun to speak of nonhumans as 'natural resources', but they also resist this separation when they mobilise in defence of mountains, lakes, rivers, and lagoons by arguing that they are living, sentient beings, not mere objects to which we give the insipid and apparently benign name of 'natural resources'. (Escobar, 2020)*

The pluriverse is not just a trendy concept but rather a comprehensive way of living. Embracing the understanding that multiple worlds exist, though partially connected yet radically distinct, involves an entirely different ethical framework encompassing life, action,

[19] To explore these further refer to Escobar (2020) pages 15-23.

and knowledge. While various pluriverse articulations complement each other, unlike the universalising concept of sustainable development, they cannot be simplified into a comprehensive policy administered by a global or local governance system. Instead, the pluriverse imagines a convergence of alternative approaches that inspire strategies for transition, encompassing both small daily actions and broader transformative changes.

There are many articulations or initiatives that already nurture the pluriverse idea. One of them is *buen vivir,* or living well, which challenges the prevailing notion of human beings as the exclusive subjects with political representation and as the sole source of value. It signifies an ethical shift by acknowledging the intrinsic worth of non-human entities and recognising the rights of nature. It also entails a political transformation by accepting the agency of non-human subjects. This paradigm confronts patriarchal structures, even within rural and indigenous contexts, proposing feminist alternatives that revive the essential role of women in safeguarding communities and the natural world (Chuji et al., 2019). It signifies an ethical shift by acknowledging the intrinsic worth of non-human entities and recognising the rights of nature. It also entails a political transformation by accepting the agency of non-human subjects. This paradigm confronts patriarchal structures, even within rural and indigenous contexts, proposing feminist alternatives that revive the essential role of women in safeguarding communities and the natural world (Chuji et al., 2019).

Other pluriverse initiatives with similar ideas that confront anthropocentric perspectives and recall the value of nature and non-human entities independent of their human utility value are, for instance, the kyosei, earth spirituality, and post-economia. The kyosei overcomes the conflict between anthropocentrism and ecocentrism. For this initiative, both humankind and nature are considered as subjects. The Japanese word kyosei means symbiosis, conviviality, or living together by integrating human-to-human and human-to-nature relations (Fuse, 2019). E*arth spirituality* rejects the conventional capitalist perspective on the biosphere and emphasises the inherent value of nature itself. This viewpoint recognises that nature has intrinsic worth beyond its instrumental or economic value. Notably, a significant political outcome of embracing this perspective is the recognition of the rights of nature which has been incorporated into the legal frameworks of various countries (Eisenstein, 2019). And similarly, *post-economia* suggests diminishing anthropocentric approaches and instead

acknowledges that all beings possess equal ontological value, regardless of their usefulness or the effort required to sustain their existence. We must strive to appreciate and celebrate the non-instrumental values inherent in the world of non-human life, transcending the shallow materialism of capitalist and patriarchal economic ideologies (Acosta, 2019b).

These initiatives support from different angles the ideas of the rights of nature and could boost the understanding of this trend by shaping the personal and political spheres to think and behave in agreement with a more open and inclusive approach.

Pluriversal politics theory aims to provide space for collective imagination about the possibility of ontological politics towards the pluriverse, rather than creating a new theory or giving a prescriptive plan outlining the necessary actions to be taken. Ontological politics are different to modernist politics, which assumes ontology of separation and leans on radical relationality. Radical relationality refers to the interconnectedness of all elements in the world, challenging the notion of their inherent, independent existence. Modern epistemology divides entities into separate categories, such as subject and object, mind and body, nature and humanity, reason and emotion, and facts and values. Ontological politics disrupt these divisions, especially rejecting the dichotomy between humans and nonhumans. Political ontology examines environmental conflicts as clashes between different configurations of the human/nonhuman relationship (Escobar, 2020).

Consequently,

> *the question thus arises of how to understand worlds that clearly live partly outside the separation between nature and humanity but also live with it, ignore it, are affected by it, use it strategically, and reject it—all at the same time. That they thus defend mountains or lakes against large-scale mining on the basis that they are "sentient beings" or "sacred entities" (our modern translation) calls for an ontological perspective that avoids translating them into "beliefs" concerning mere objects or independently existing things. (Escobar, 2020)*

The context of the examined ruling on the rights of the Amazon is Colombia and Latin America, where despite the presence of disputed realities and efforts to suppress or reduce

differences, the diversity in which individuals shape their realities persists. This diversity is evident today as established modern categories fail to fully capture the essence of social struggles and conflicts. Consequently, the resurgence of multiple worldviews in Latin America and the Caribbean creates a fertile environment for developing and promoting pluriversal ideas and initiatives, both within academic and activist spheres (Escobar, 2020). Therefore, pluriversal politics and theory provide contextual lenses to examine the Amazon ruling.

Indeed, the pluriverse theory and the rights of nature are interconnected in their conceptualisation of alternative approaches to understanding and valuing the natural world. This link lies in their shared rejection of a single, dominant worldview that prioritises human interests and treats nature as mere commodity. Both theoretical perspectives advocate for a more inclusive and holistic understanding of the world, recognising the interconnectedness of humans, non-human beings, and ecosystems. They challenge the hierarchical and exploitative relationships between humans and nature that have been predominant and promote alternative ways of living and interacting with the natural world that prioritise justice and respect for humans and non-humans. Besides gaining validity and distinction in the political and jurisdictional world, nature as a legal subject opens a possibility to embrace another world (different to the modern/Western perception), the world of the natural realm and its inherent value. The case of the Amazon ruling, even though is not the first nor the unique one, contributes to the expansion of the legal scope and the enlargement of pluriversal understandings, hopefully, in politics and the community.

Ecological Justice

The ground for ecological justice contemplations has been the injustices made to the environment. There is an immediate and pressing need to develop a suitable and tangible ethical response to the increasing impact that humanity has had on other species inhabiting the planet (Baxter, 2004). The ongoing mass extinction is a crisis and an indication of a damaged connection between humans and other living beings. The domination of humans over the Earth's ecological realm, including its resources, benefits derived from ecosystems, and physical spaces, resulting in species extinction is a tangible and real form of injustice. Addressing this issue from a practical moral response, as a matter of justice, is imperative

(Baxter, 2004; Wienhues, 2020), and requires “to reconceive of the basis of justice in the way we think of our ‘self’ and thus how we define our interests and moral values” (Gleeson & Low, 2002).

As Schlosberg (2014) argues, the concept of justice has consistently relied on the notion of human exceptionalism and the idea that humans are separate from the rest of the natural world. This belief of distinctiveness from one another shapes the normative foundation for various perspectives on how justice has been constructed. Nevertheless, it has been essential to develop a moral theory concerning the relationship between humans and non-human beings, which could be meaningfully applicable to all moral agents, regardless of their cultural context. Therefore, moral responsibilities towards non-human organisms go beyond humanity's well-being, which requires the expansion of distributive justice to all beings (Baxter, 2004).

Ecological justice theory is intrinsically related to environmental justice. While environmental justice ensures that environments are distributed fairly among human populations, ecological justice aims to provide an equitable distribution of environments among all living beings inhabiting the planet (Gleeson & Low, 2002). The focal point of environmental justice lies in the equitable allocation of environmental quality, placing emphasis on distribution, the shared practical concern among individuals for having a safe, healthy, and enjoyable living environment. However, ecological justice introduces a distinct dimension. In this case, the significance of the environment must explore a more profound sense, encompassing our moral connection with the non-human realm (Gleeson & Low, 2002).

Continuing in this direction, the grounds of ecological justice rely on non-anthropocentric perspectives that allow seeing non-human entities as morally considerable by their own intrinsic worth, rather than anthropocentric approaches that are less likely to justify ecological justice theory (Wienhues, 2020). Various non-anthropocentric views could support ecological justice, however, for the purpose of this thesis, biocentrism and ecocentrism are addressed.

Biocentrism is an ethical framework that places inherent value and moral consideration on all living beings (Attfield, 1987; Taylor, 1981). Taylor (1981) argues that non-human entities, such as animals and plants, have inherent worth and deserve respect and moral consideration independent of their instrumental value to humans. In this way, biocentrism rejects anthropocentrism, denying human superiority and instead advocates for an expanded ethical perspective that includes the well-being and rights of non-human entities. Taylor emphasises the interconnectedness and interdependence of all living beings, highlighting the importance of recognising that humans are just one specie of the Earth's community of life (Taylor, 1981). Ecocentrism, also called holism, recognises not only living beings but also ecosystems and the Earth itself and its abiotic components as entities that can hold moral status and intrinsic value (Washington et al., 2017; Wienhues, 2020). Considering the vital role of geology and geomorphology in supporting life and recognising the intrinsic value of its diversity, the concept of ecocentrism appears to be more inclusive and appropriate than, for example, biocentrism. Expressing similar sentiments, Arne Naess and Geoge Sessions affirm in the first basic principle of deep ecology[20] that:

> *The well-being and flourishing of human and non-human Life on Earth have value in themselves (synonym: intrinsic value, inherent value). These values are independent of the usefulness of the non-human world for human purposes. (Devall & Sessions, 1985)*

Furthermore, within the ecological justice theory, it is crucial to recognise the mutual relationship between humanity and nature, and the discursive shift from justice as a matter of distribution. Indeed, Kortetmäki (2016) states:

> *The (ecological justice) approach rejects the view that justice is primarily about distribution and endorses instead the relational view of justice as a matter of relations between recipients of justice, where distribution plays a role but is not the whole of justice. In other words, the approach involves a transition from a distributional to a relational paradigm of justice.*

[20] The term "Deep Ecology" was introduced by Arne Naess (1973) and refers to an environmental philosophy and movement that advocates a shift in human relationship with the natural world. It touches the principles of diversity, complexity, autonomy, decentralization, symbiosis, egalitarianism and classlessness (Naess, 1973).

The mutual relationship between humanity and nature that Gleeson and Low (2002) describe as asymmetrically co-dependent means that the continued existence of the natural world relies on the actions of humanity, and simultaneously, humanity is entirely reliant on non-human nature for its own survival. Based on that, these authors propose two principles of ecological justice. The first one is *that every natural entity is entitled to enjoy the fullness of its own form of life,* which implies that nature is eligible for moral consideration. And the second is *that all life forms are mutually dependent and dependent on non-life forms, which* they recognise as conflictive between rights and needs among different species. Both principles can be examined within the Amazon ruling, the first one because the ruling recognises the Colombian Amazon as a subject of rights, which means that this natural entity has been given moral consideration. And the second principle applies to the Amazon case because there is a dependency between humans and the ecosystem, on the one hand, humans depend on the Amazon because of its resources (such as water and air, as well as livelihoods) and on the other hand, the ecosystem relies on the human activity, which is being triggered by the factors mentioned earlier as deforestation, mining, and livestock production.

Justice, as a concept, holds a specific position within the broader field of morality as it offers solutions to the challenges of coexistence in society or the shared existence on our planet, which resides within the wider realm of ethics. Consequently, a theory of ecological justice does not encompass the entirety of environmental ethics but represents only a subset that such a theory should address (Wienhues, 2020). This implies that numerous questions within the realm of environmental ethics do not fall under the view of ecological justice. However, the advantage of ecological justice lies in the fact that the justice domain is narrower than ethics and is often regarded as more significant, stringent, and capable of effective protection through practical implementation compared to other normative demands (Wienhues, 2020). Therefore, another positive view of ecological justice is its strong connection to institutional protection, which requires an expansion of the community of justice to nature's legal rights development (Wienhues, 2020). The already-mentioned constitutional cases that have included rights to nature and several lawsuits that have attributed rights to legal entities illustrate attempts to institutional protection of nature within the justice field. Indeed, Kortetmäki (2017) affirms that incorporating ecological

entities into the domain of justice considerably enhances their chances of being effectively protected and strengthening institutional engagement is vital as large-scale ecological issues cannot be adequately addressed solely through individual-level actions.

Conclusion

Both the pluriverse and ecological justice theories are broad tendencies, and there are tensions and contradictions within and among them as well as with the RoN ideas. These tensions relate, for instance, to the contested relationship between legal systems intentions and possibilities to safeguard natural entities and pluriverse ideas and indigenous cosmologies. However, they move in a broadly similar direction of enhancing the standing of nature and human accountability to the non-human world. The bottom line here for the purposes of this thesis is to inquire whether these theories serve, contradict, or explain the rights of nature connected to the Amazon ruling's features, pros and challenges. For example, from the theory, the rights of nature recognise nature's legal status and move towards acknowledging the pluriverse. However, these legal rights initiatives further grant authority to the dominant state's legal system, conflicting with the pluriverse's principles. And as a relational paradigm of justice, ecological justice, similarly to RoN, enhances the recognition of natural entities by its own value. Yet, it is questionable that the Amazon ruling aims solely justice to the Amazon ecosystem, but rather, by its protection and conservation, the Court wishes to entitle fundamental rights to humans.

Chapter 5 – Research Findings

In this chapter, I present my analysis of the collected data. These findings aim to consider what has been achieved and the remaining challenges regarding the ruling on the rights of the Amazon in 2018. The statements presented here result from the analysis of the data collected by performing interviews, gathering official documents, and observing and participating in session 73 of the Regional Amazon Board in Bogotá at the beginning of 2023. These findings are organised in three sections, corresponding to the study's three sub-questions. First, the current state of the ruling implementation which shows the status of the four orders of the ruling. And second, challenges to proceed with the implementation. These include institutional and cultural disarticulation, a gap between the ruling's concepts and the practice, a top-down approach, and the persistence of armed conflict, peace negotiations and illegal activities.

The current state of the ruling´s implementation

One of the main objectives of this study is to illuminate the implementation achievements of the ruling on the Amazon. Therefore, I present this section following the 4 orders dictated by the ruling describing what I found about the implementation status of each order.

Order 1

Order 1 dictates to the defendant institutions with the participation of the plaintiffs:

> *the communities affected and the interested population in general, within four (4) months following the notification of the ruling, formulate a short, medium, and long-term Action Plan which counteracts the rate of deforestation in the Amazon. This plan will have the purpose of mitigating the early warnings of deforestation issued by IDEAM. (Sentencia STC4360-2018, 2018)*

First Action Plan made only by institutions

A first Action Plan for Deforestation Control was formed in August 2018. This document was issued by the Ministry of Environment and the Corporation for Sustainable Development of the Northern and Eastern Amazon CDA (Corporación para el Desarrollo Sostenible del Norte y el Oriente Amazónico). The first section presents a diagnosis, causes, and deforestation rates of the Amazonian territories as well as the institutional capacity and historical activities to control environmental issues. The second section contains an analysis of the deforestation problem and formulates 4 management lines and its operative plan: 1.) Sociocultural management of forests and public awareness, 2.) Development of the forestry economy and closure of the agricultural frontier, 3.) Management for territorial ordering, and 4.) permanent monitoring and control.

Despite the creation of this plan and ongoing efforts towards its implementation, it did not achieve significant success. One reason for the failure is the dissatisfaction in some sectors of society such as indigenous communities, because the plan, like the ruling, was not created with a participatory strategy that includes the locals. Consequently, the implementation was not viable because, on the one hand, people in the territories did not know the ruling. On the other hand, the lack of participation of the locals lead not only to their indifference and resistance towards the ruling but also to a not-contextualized plan.

In 2018, still under the administration of Juan Manuel Santos, socialisingsocialising workshops were executed. However, socialising a built plan did not really imply a participatory approach and this created difficulties among the locals. Indeed, informant 1 said:

> Peasants were not interested in the ruling, nor did they know about it… then there were some workshops to try to implement the ruling during the government of Santos, but there was still a lack of information… What I heard in the Amazonian region is that workshops were executed by people from Bogotá talking about the ruling but using a bad practice that has been known for a long time in rural areas, which is socialising, to present an already existing plan to guarantee participation pretending that socialising is making it participatory, and it makes people very angry.

Later, to enhance this situation, institutions such as the Ministry of Environment and the Presidency introduced participation routes. These were organised to promote participation and agreement about how the Action Plan might take form. These participation routes will be described in detail later in this chapter. It is, however, worth mentioning here that the participatory routes aim to involve the local community in constructing another version of the Action Plan and the PIVAC. By the time of the data collection, between January and April 2023, the participatory routes had not been completed. However, those routes are being executed. Informant 10 reported his participation in one participatory route that was executed during January 2023 and said that the last phase of the route is planned to be finished by June 2023. This information indicates that the Action Plan is still under construction, therefore, it is reasonable to observe that the implementation of this order has not been successfully achieved yet.

Despite the delays in participation, other actions have been implemented by the Ministry of Environment and other institutions associated with efforts for deforestation reduction. These activities seem to be aligned with the existing Action Plan for Deforestation Control and the National Deforestation Strategy Control and Forest Management [21] and have been reported as Order 1. The goal of these actions has been to prevent further deforestation. They are not necessarily part of a defined and articulated Action Plan as Order 1 mandates because, as mentioned before, the Action Plan is not yet finished, and these actions are part of other initiatives that were on the agenda before the release of the Amazon ruling.

The reported actions, presented as Order 1 in progress strategies are 1) Community forestry, also known as sustainable forest management, a technical and financial model that allows expanding the areas under sustainable management of natural forests, as well as strengthening social capital by creating diversified economies and improving the livelihoods of rural communities. Under this approach, the use of timber and non-timber forest products constitutes the primary source of income. So far, 16,391 hectares have been granted for

[21] Estrategia Integral de Control a la Deforestación y Gestión de los Bosques issued in 2018 by the Minsitry of Environment constitutes the National Strategy REDD+ at the behest of the United Nations Framework Convention on Climate change (Gobierno de Colombia, s.a).

timber management, and 176,292 potential hectares are identified for the use of timber and non-timber forest products in different areas of the Amazon region. 2)

Capacity building through the ongoing program “Strengthening the capacities of Colombian institutions to fight against deforestation” is to be executed in The Sierra de la Macarena and Serranía de Chiribiquete National Natural Parks, Nukak National Natural Reserve, and the Cordillera de los Picachos National Natural Park. This program aims to strengthen the capacities of entities whose mandate is to combat environmental crimes and it is funded by the Government of Norway and implemented by the United Nations Office on Drugs and Crime, UNODC. The strengthening plan includes hiring experts and purchasing equipment and technology such as geographic viewers for data processing, analysis, risk definition, early warnings, and the acquisition of satellite tools. 3) Forestry boards are action strategies to resolve problems affecting the country's natural forests and strategic ecosystems.

These boards include interactions of different sectors of society because this issue is considered not only the responsibility of the regional environmental authorities or the Ministry of Environment and Sustainable Development but also the responsibility of all the actors in the sector, and for this reason, the responsibilities must be shared and managed integrally. There are 5 boards in the Amazon region, and their support is focused on activities such as the actualisation of the board plans, technical and legal capacity building, financial management, and being articulators between the board, projects, and different ministries.

Zero deforestation agreements (action 4), such as the *Sustainable Amazon for Peace* project, targets rural development with a low-carbon approach and integration of environmental management for peace consolidation. The project is led by UNDP and operates in the departments of Amazonas, Guaviare, Guainía, Caquetá, Putumayo, Vaupés and Meta. The project seeks sustainable production development based on local resources, therefore, by September 2022, 170 farms in 420 ha have been involved. The focus has been the sustainable use of livestock with the framework of landscape conservation aiming to stop deforestation processes.

These agreements are linked and supported by an official document issued by the office of the General Attorney, Directiva 006 of 2022, which urged the entities and actors related to

the cycle of the livestock production chain to advance preventive, sanctioning and corrective actions for those who carry out activities of production, marketing, distribution or transformation of meat or dairy products from National Natural Parks and Natural Parks Regional, within the regulatory framework that promulgates the importance of conservation and protection of these areas and the express prohibition of extensive cattle ranching, considering it one of the main drivers of deforestation in the country.

Monitoring Forest and deforested areas involves issuing reports mainly done by the Institute of Hydrology, Meteorology and Environmental Studies IDEAM and the System of Forest and Carbon Monitoring (SMBYC). While the IDEAM develops bulletins every 3 months which show critical sites of forest loss, the SMBYC reports early warnings of deforestation which supports environmental authorities in their management. However, the data is not available on the SMBYC web page; I visited this website weekly between March and June 2023.

Order 2

The order dictates:

> *the construction of an "Intergenerational Pact for the Life of the Colombian Amazon - PIVAC", where measures are adopted to reduce to zero deforestation and greenhouse gas emissions, which must have national, regional, and local execution strategies, of a preventive, mandatory, corrective, and pedagogical type, aimed at adapting to climate change. (Sentencia STC4360-2018, 2018)*

However, the order gives no further details of what a PIVAC means and entails. According to informants and the Ministry of Agriculture and Rural Development website[22], the PIVAC is a new instrument that has not been carried out before in the country. Therefore, it is unclear how the PIVAC should be built and operated. Indeed, informants from the expert panel stated that “there is no PIVAC as such, but rather a series of workshops that includes different communities for some basic agreements that they presented as PIVAC, but the

[22] As part of the analysis process, I included the triangulation strategy to validate information when available. In this case, I visited an official website from Colombian governmental institutions to ratify my argument. The link to this page is: https://www.minagricultura.gov.co/PIVAC/Paginas/Inicio.aspx

panel of experts did not accept it as a PIVAC". Further, another informant said that "*there is not a clear understanding of what a PIVAC is and many discussions within the institutions in charge have been addressed".*

There was an attempt to implement this pact during the Duque's government saying that the PIVAC is an instrument where multi-stakeholders generate symbolic pacts, and joint goals to protect the Amazon but it did not imply a strong institutional action or a level of monitoring of the fulfilment of the objectives, which turned to be rather a political pact but in terms of execution it is very vague. However, expectations from other actors alleged that the PIVAC needs to have a level of coherence and follow-up. Indeed, one indicator from the follow-up board indicators, proposes that the PIVAC should be approved and validated by the court so can be traceable and does not remain unattended. Additionally, the idea of the PIVAC was not developed and discussed with the locals, as an indigenous asserted "The proposed intergenerational plan is not discussed with the Amazonians, but people from the city are supposedly arranging the defence of the Amazon without knowing the collective property that we, the indigenous peoples, have". As a step to alleviate the absence of community involvement, routes of participation are being executed which are detailed in the following paragraphs.

Participation routes for orders 1 and 2

The strategies that have been initiated, by the national government, for the fulfilment of orders 1 and 2 have been articulated together through the construction of participation routes for the formulation of the Action Plan and the construction of the Intergenerational Pact for Life of the Colombian Amazon (PIVAC). These routes aim to involve the community in the creation of these strategies using a differential approach that distinguishes 6 different routes: indigenous, NARP, rural, research and academic centres, children and youth, and the general population.

In the Indigenous route, the Ministry of Environment and Sustainable Development together with the OPIAC united efforts to collect inputs from the Amazon indigenous communities to build the Indigenous chapter of the Action Plan (order 1) and the Intergenerational Pact for

Life in the Colombian Amazon PIVAC (order 2), and generate recommendations about a pre-existing document related to the traditional knowledge associated to biodiversity. By April 2023, 22 participatory meetings (mingas de pensamiento y Encuentros departamentales) of 37 agreed have been performed.

In the NARP communities' route (NARP refers to the Spanish acronym for black, afro-Colombian, Raizal, and Palenquero populations), the Ministry of Interior allocated funds to a contracting process to comply with the ruling orders. Even though the contract is not yet done, these communities have started again a decision-making process to plan and execute this route.

The rural communities' route was planned in two phases, first, the deforestation hubs phase executed between October 2021 and August 2022, and the local, departmental, and national phase to be executed in October – November 2022, January – March 2023, and March – April 2023 respectively. However, the regional and national consensus is delayed, and it is expected that by the beginning of June 2023, it will be performed.

Phase one was focused to provide relevant information on themes such as ruling 4360, deforestation, climate change, and territorial and environmental planning, as well as finding consensus in the deforestation hubs for updating the Action Plan (order 1). Phase two aims to update the Action Plan and build the PIVAC by finding consensus in the different regions and contrasting them with the consensus of phase one. Within this route, informative, participative, and capacity-building workshops were executed.

Twenty-three concertation spaces were additionally formed across the 10 Amazonian departments with the participation of 1026 people. Interestingly, female and youth participation was significant, with 48% and 20%, respectively, which contributes to fulfilling the provisions of the Order of December 18, 2020, emphasising the permanent accompaniment and inclusion of these two differentiated groups. All these activities have been supported by Expertise France, SINCHI Institute, and Euroclima+ from the European Union.

The research and academic centres are one of the most developed participatory routes and therefore the information is already systematized and reported. In the children and youth route, workshops related to socialising the ruling took place with the participation of about 60 children and youth in three different municipalities: Tuquerres (Nariño), San José del Guaviare y Rosas (Cauca). From September 2022 to April 2023, there has not been relevant progress and the route is 50% complete.

The general population route is the other almost completed route. The participation was large, about 1500 people were involved and therefore, support was required for the systematization of the collected information. From this data, ideas, and proposals were extracted to develop the Action Plan and PIVAC. The project was successful, and the systematization was delivered in November 2022.

Order 3

Order 3 of the ruling dictates

> *to all municipalities of the Colombian Amazon update and implement the Land Management Plans, within a period of five (5) months following the notification of this ruling, which must contain an action plan for deforestation reduction to zero in their territory. (Sentencia STC4360-2018, 2018)*

According to the collected data, the implementation of this order has been insufficient. By March 2022, only two municipalities (El Retorno and La Montañita) have reported the update of their Land Management Plans, including a deforestation reduction plan in concordance with the ruling. However, these documents need to be reviewed by the Superior Court to verify if they correspond to the purpose of this order.

Additionally, 61 territorial entities have reported progress in the updating process of their Land Management Plans in different phases such as diagnosis, formulation, and concertation. And there are 3 municipalities (Florencia, Mocoa, and Inírida) that have not answered the request, made by the Office of the General Attorney, to send a report of the implementation of order 3 of the ruling. The reason for the slow and unsatisfactory update of the Land

Management Plan relates to the municipalities' lack of technical, operational, and financial capacity. Additionally, security conditions in various areas of the Colombian Amazon make these procedures, as many other processes, slow and highly difficult to accomplish.

The latest actions by the Ministry of Environment and Sustainable Development refer to resource management to strengthen the Autonomous Regional Corporations CAR (Corporaciones Autónomas Regionales) in topics related to territorial environmental ordering and support the ruling fulfilment. Three experts were contracted to work with 3 corporations from the region.

Order 4

The order obliges

> *the Corporation for the Sustainable Development of the Southern Amazon – Corpoamazonia, the Corporation for the Sustainable Development of the North and Eastern Amazon – CDA, and the Corporation for the Sustainable Development of the La Macarena Special Management Area – Cormacarena, to carry out within five months from the notification of this ruling, in regards to its jurisdiction, an action plan to counteract, through police, judicial or administrative measures, the deforestation problems reported by IDEAM (Sentencia STC4360-2018, 2018)*

Poor information was found about the achievements of this order. When I inquired the informants about it, some said they do not have details. For instance, informant 7 said “I do not have details, but I can say that I have not seen much participation from them”. Additionally, it is interesting to note that in the official documents and the grey literature reviewed, this order is not approached.

There is a consensus among the examined information to affirm that the ruling goals are not fulfilled, as informant 2 asserted:

> as a general balance, the orders have not been fulfilled, there are more and more deforested areas, there is no concurrence in institutional terms to pay technical, economic and operational efforts to

> stop deforestation, and there is still not a PIVAC. Each follow-up hearing considers the orders as unfulfilled.

Furthermore, when responsible institutions are asked to provide reports on the actions undertaken to fulfil the ruling mandates, they often detail various strategies or initiatives that are aligned with the efforts to combat deforestation. For instance, informant 9 affirmed that the "governmental entities had to present actions they had done to implement the ruling. About 90 institutions attended, they presented the Action Plan draft, as the final version and they also did not have an instrument to measure the impact of what they presented as an action plan, it seemed more like an accountability of what has been done for deforestation and not as the ruling's plan". Even though these actions pursue reducing deforestation, they are not created to comply with the ruling's orders and are not necessarily articulated among the different institutions.

Challenges to proceeding with the implementation

As presented in the previous sections of this chapter, the implementation of the ruling is rather insufficient. Thus, here I present the difficulties that the decision has encountered. As I will demonstrate, the challenges to successfully implementing the ruling are mainly associated with institutional and cultural disarticulation, a gap between the ruling concepts and the practice, a top-down approach and armed conflict, peace and illegal activities.

Institutional and cultural disarticulation

Institutional and cultural disarticulation includes disjunction between governmental institutions, the national institutions, the local communities, and between the governmental paradigms and the local forms of governance in the Amazon.

One of the most significant findings I encountered is order 3's inconsistency. This order attempts to stop deforestation by mandating the municipalities to update the Land Management Plans in agreement with the environmental protection perspective. However, it fails to do so because an extensive portion of the Amazon region, covered by Amazonas, Guainía, and Vaupés departments, has no municipalities. These non-municipalised areas overlap with indigenous reserves. Indeed, as Naide Duque-Cante (2020) asserts, in the

Amazon region, the non-municipalized areas cover 93% of the area of the Amazonas department, 59% of Guainía, and 43% of Vaupés. Additionally, she argues that "the majority of their inhabitants belong to indigenous communities but are subjected to non-indigenous governments under conditions and rules that were established for other territories". Thus, the non-municipalized regions have no governmental institutions. Therefore, there are no Land Management Plans, and obviously, it is not viable to update them. Instead, in some of these areas where the indigenous reserves are established. These Indigenous territories are recognised as special political-administrative organisations assigned to be exercised by their own authorities (Duque-Cante, 2020). It clearly shows the gap between the Court's intentions and the realities of the territory.

Nevertheless, there are attempts to remediate that failure. Even though the ruling's orders cannot be modified, official compliance documents have tried to remediate the ruling's inaccuracies. For instance, Memo 03 of November 2022, issued by the Office of the General Attorney, orders different public institutions to

> Take effective actions for institutional coordination and adaptation to ensure that indigenous territories located in non-municipalized areas in the departments of Amazonas, Guainía, and Vaupés become operational and can assume and exercise all constitutional powers as territorial entities. (Memorando 03 - 11/22, 2022)

Further, informant 7 agrees with the General Attorney's disposition, expressing that:

> The state must recognise that indigenous planning instruments and indigenous land management are the instruments to be used. The instruments are already there; therefore, there is no need to create additional instruments. However, harmonisation of indigenous and state instruments must be done at the departmental level.

This coordination, adaptation, and harmonisation type already exists in the Amazon region. Creating and planning the Yaigojé Apaporis Indigenous Reserve National Natural Park[23] by the National Natural Parks of Colombia (PNNC) and the Yaigojé Apaporis Indigenous Reserve is one illustrative example of harmonisation achievements between these different institutions.

[23] https://www.parquesnacionales.gov.co/portal/es/parques-nacionales/parque-nacional-natural-yaigoje-apaporis/

The protected area was created in response to the request of indigenous communities with the government's support. It was established through a prior consultation process, which ensured that the communities gave their free and informed consent. Special management agreements were also formed between the State and indigenous authorities to govern the area. The legal framework of the Special Management Regime (REM)[24] played a crucial role by safeguarding the inalienability of indigenous territories once they are designated as National Natural Parks. Furthermore, it recognised the cultural values within the park's objectives, which ensured that the planning processes respected the indigenous worldview (Hildebrand, 2017). This model could be replicated and contextualised to achieve order 3 in coordination between the State authorities, such as the municipalities and the indigenous authorities. Data is missing about the other departments of the Amazon region related to the non-municipalized areas.

Furthermore, another example of institutional disarticulation relates to the defendant institutions that are not necessarily working together to follow and achieve their obligations in the fulfilment of the ruling's implementation. Instead, the institutions follow their own agendas and work on the ruling compliance according to their abilities, resources, and interests. The challenge is to find a way for these institutions to work towards the same goals from their specific competencies. On this subject, informant 7 said,

> There is a need for articulation among institutions in order to comply with the ruling. An articulation that goes beyond their mission-driven actions, not operating as separate entities but acting as coordinated entities to achieve common objectives. This coordination involves building policies where actions are combined, budgets are defined, and institutional adjustments are made as necessary.

Therefore, efforts take different directions, making the practical work on the ground more cumbersome and the results not greatly tangible. This institutional disconnection is apparently not only occurring in the context of the Amazon ruling but also in the agenda of different ministries in relation to programs with the Amazonian indigenous peoples. During my participation in session 73 of the Regional Amazon Board (Mesa Regional Amazónica

[24] A collaborative planning strategy established between National Natural Parks and indigenous traditional authorities. It aims to define agreements on using, controlling, and co-administrating natural resources within the overlapping area between the indigenous reserves and the National Park (Parques Nacionales Naturales de Colombia, 2023).

MRA) where indigenous peoples from the Amazon discussed with different ministries, I observed an iterative suggestion from the indigenous leaders to integrate initiatives across different departments and ministries.

For instance, with the goal of maintaining the indigenous languages alive, they proposed to build a plan collectively between the Ministry of Education and the Ministry of Culture and Heritage. However, the last one was not supportive because they use different budgets, and a collective effort could be inconvenient for the organisation. Similar situations occurred in dialogues with other governmental bodies, showing that the proposals are there but the institutions not ready to cooperate. (In the framework of prior consultation with the indigenous peoples for the construction of the National Development Plan 2022-2026, which took place in Corferias, Bogotá, between the 24th of January and the 05th of February 2023. During these 13 days of dialogue between the Amazonian Indigenous Governments and the National Government, 57 agreements were created for the next quadrennium with the themes of social and regional convergence, a human right to food, internationalisation and productive transformation for life and climate action, territorial planning around water and environmental justice, and human security and social justice.)

Disarticulation among the governmental institutions and the local communities is revealed by the fact that indigenous, peasants, and Afro-descendant communities were not included in the lawsuit creation process nor in the first attempts to fulfil the Court mandates. Nevertheless, nowadays, through the participatory routes, these communities are being included, and the indigenous peoples in connection with the OPIAC are more present in dialogues and follow-up discussions. However, in the case of farmers, it has been more arduous to get them involved; as opposed to the Indigenous peoples who are organised in the OPIAC and have legal representation, farmers have no one big association with involvement from many areas of the Amazon region. Therefore, the communication channels and their representation has been weaker. Now the new challenge, as informant 7 pointed is to find out “how community proposals are translated into concrete actions to be carried out by state entities” after the completion of the participatory routes.

The gap between the ruling's concepts and the practice

This refers to a disconnection between the theoretical or abstract concepts and ideas expressed in a ruling and their practical application or execution in real-world situations. This includes a disruption of the ruling paradigms and the different actors' understandings involved in the ruling implementation. This gap concerns the inclusion of the concepts and practice of rights of nature and ecocentrism and the understanding of these ideas by plaintiffs, local people, and organisations in charge of the follow-up mechanisms. Interviewed plaintiffs expressed that it is not clear to them what rights of nature means and what is the significance of their claims. Informant 9 said,

> I relate - rights of nature - to the most recent legal decisions that have been introduced in the country, due to the other judgments and new current of law, but for us, it has been something very difficult to understand because it is very new.

Similarly, informant 8, a member from Dejusticia stated that "in the ruling, rights of nature have very little content and that gives a very large margin of interpretation and that generates arbitrariness. The government must find ways to solve that." In the same direction, a member of the expert panel for the following-up board support, informant 2 said,

> In the panel, this topic is not addressed directly. Nature as a subject of rights is a concept that has not been developed, although Colombia has many cases now, understanding this is a matter of discussion.

In the case of locals, they have their own relationship with nature and the idea of granting rights to nature is incompatible. Informant 1 affirmed, "It is difficult for people to understand that the forest has rights, but people do know what the forest law (ley del monte) is".

Further, in relation to the concept of ecocentrism and the rights of nature, I found similar arguments that critique the lack of clarity of them in the ruling as informant 1 asserted that:

"These distinctions are not clear and there are many tensions between them. The court does not distinguish them well and does not argue well where it is justified to recognise it because nowhere in the constitution does it say that non-humans have rights."

Moreover, for some of the informants, these gaps are understood as a "translation problem". From a political perspective, there is a lack of an epistemological, cultural, and ontological dialogue where the national law and the indigenous law and understandings can find

common ground that complements each other and opens possibilities for both. For instance, informant 6 said,

> The judges do not have cultural translation tools to bring an indigenous cosmology and translate it into a ruling, what happens is the opposite, they end up making translations that erase the voice of the others. These rulings are made as another act of law, and they try to make explanations from our anthropology and our law to issues that have another anthropology and that have another law.

This is not only a jurisdictional and paradigmatic problem but also interferes with the practical methods that the ruling uses in seeking to protect human and nature rights. Indeed, there is a different opinion that opposes the idea that there is a challenge in the paradigm, other informants put more attention on the applicability of the ruling rather than the theory, saying that "the challenge lies in the implementation and not in the paradigm" (Informant 7).

The ruling recognises the anthropocentric and egoistic position of current times being responsible for the environmental degradation (Sentencia STC4360-2018, 2018). Therefore, considering the need to change human behaviour towards the environment, the Court embraces an ecocentric perspective. However, observing the ruling in detail, its justifications are more associated with the defence of essential human rights than the rights of the Amazonian ecosystem. For instance, the Supreme Court studies the relationship between the consequences of deforestation in the Amazon and environmental legal principles such as the precautionary principle, intergenerational equity, and solidarity. The first alludes to the ongoing deforestation and its impact on climate change and ecosystem damage, which could be associated with an ecocentric perspective. Nevertheless, the other two principles, intergenerational equity and solidarity, are clearly related to humankind's impacts and need for the protection of present and future generations. Additionally, it acknowledges the imminent demand for the Amazonian ecosystem protection; however, it is mainly linked to human rights protection. In this sense, it suggests that the ruling is both anthropocentric because aims to protect fundamental human rights of present and future generations as well as ecocentric because it recognises the Amazon as a subject of rights.

Chapter 6 – Analysis and Discussion

Drawing on the findings in this chapter, I claim that the Amazon ruling case has not fully achieved its intended outcomes. The intended goal of reducing deforestation in the Amazon to combat climate change and protect fundamental human rights has not been fulfilled. The data suggests that the main challenges for the effective applicability of the ruling relate to a top-down approach in its formulation, the complex dynamics related to armed conflict, peace efforts, and illegal activities at the national level, breaches between governmental institutions and the realities in the territory, and a gap between the conceptual framework of the ruling and its practical application. To interpret these findings, I discuss the rights of nature approach and examine the Amazon case through the lens of the pluriverse and ecological justice theory.

A top-down approach

The details above demonstrate that this ruling case has a top-down approach. This means that the court's response was based on its understanding, including perspectives and frameworks that may not necessarily apply to the Amazon jungle's unique physical and ontological realities. On the one hand, there is a physical distance between where judges create laws and the territory in the Amazon where these laws need to be implemented. And on the other hand, there is a breach in the different ways of understanding the world between the judges and the locals. For instance, as informant 1 said,

> for indigenous people, nature has no rights, there is not even a word for nature. The forest, as a superior being, can attribute punishment itself. That is why in Colombia, the idea of rights of nature comes from intellectuals, from the courts, or from environmental movements, but not from indigenous people, peasants, or from Afro-descendants.

Later he added that more than a philosophical problem, it is a problem of the gap between the centre and the periphery, which also means a challenge of inclusion and democracy in the decision-making process. To achieve that, it requires, as mentioned before, coordination between the actors. As informant 6 said,

> when you see the arguments of the ruling, the foundations have not been constructed properly, which highlights the need for effective coordination among indigenous judges, non-indigenous judges, and traditional indigenous authorities in such a way that some creative translations could be generated that allow giving these things another theoretical and practical floor.

Peace, illegality, and armed conflict

For some informants, one of the main challenges to stopping deforestation and fulfilling the ruling orders is related to peace, armed conflict, and illicit activities. The ruling occurred after the peace agreement signing in which the guerrilla group FARC abandoned the Amazonian territories. According to informant 8, it triggered leaving these territories without governance due to limited state presence in those regions, which fostered the strengthening of various illegal phenomena, such as land grabbing, but also illegal crops and extensive livestock breeding.

The FARC used to have governance structures in these areas where the government was not present and apparently had something to do with managing the land and controlling deforestation. Nevertheless, since the group left the area, there is chaos because there is not order and the actors have changed. In this regard, Informat 7 said,

> before the peace process, groups like FARC had a clear political vision and command structures, but now the situation is a mess. There are armed groups whose identities are unknown and who even have binational relationships beyond national borders. They operate according to trans-border logic and are heavily involved in illegal activities, including land grabbing. These groups often have unclear legal structures that take an illegal form, but are actually driven by powerful interests in controlling land and its resources.

Colombia has attempted to build peace and has encountered obstacles in its pursuit. These challenges stem from a range of factors, including historical conflicts, political instability, economic inequality, and ongoing struggles with armed groups and organized crime. The Colombian government has implemented various approaches to address these issues, such as promoting economic development, promoting social justice, and investing in law enforcement and military operations. However, building lasting peace and combating illegality have not been achieved yet.

In the context of the studied ruling, the difficulty lies in expecting a judicial ruling to be effective and successful amid long-standing challenges faced by Colombia in its efforts to achieve peace and address issues of illegality. Regarding this matter, informant 8 stated that

> the entire burden of the country's years of violence, policies designed to allow sectors to exploit natural resources to the hilt, and the history of human rights violations against ethnic communities cannot be placed on the judicial system alone. It is very difficult to change these complex historical tendencies, and neither can the judiciary be held responsible for what the executive and legislative branches should have done a long time ago.

The ruling on the Amazon presents a particular challenge, as it requires navigating complex social, political, and economic realities in a context where peace remains elusive.

Institutional and cultural disarticulation

Disarticulation at the cultural level is present throughout the whole case, from the lawsuit creation and the Supreme Court ruling to the implementation efforts performed so far. From the lawsuit creation, the plaintiffs who put forward the problematic consequences if deforestation in the Amazon is not stopped did not articulate their claims with concerned members of the community, such as indigenous people and peasants. There was a lack of awareness of how these communities assume or are linked to deforestation. For instance, indigenous communities, as part of their rotational silviculture or chagra[25], carry out deforestation in a system that permits regrowth. Contrarily, others might deforest because they do not have livelihood alternatives or are threatened to participate in processes that cause deforestation.

Further, the ruling seems to ignore that the Amazon territory is very different from the rest of the country in regards to the territorial management and disposition. The most significant disarticulation in terms of the ruling orders is the inconsistency of Order #3, which mandates updating the Land Management Plans where in an extensive area of the Amazon region there are no municipalities (Duque-Cante, 2020). With more awareness and knowledge of the Amazonian territorial setting, this order could include feasible actions for both municipalised

[25] The Chagra model is presented in the background and methodology chapters.

and non-municipalized areas. Under this scenario, perhaps the implementation efficacy could show better results.

Neglecting the indigenous understandings and their relationship with nature and the reality of the territory controverts the pluriverse ideals at the ideological level. The pluriverse demands equality in worldviews, politics, and lifestyles; however, it is challenging to see how this equality can be achieved through a ruling because it already stems from a hegemonic and homogenous power of the law. The discourse of the pluriverse is intriguing and innovative, although it constructs a discourse that makes sense to many, it does not manage to be effective or to generate necessary systemic transformations. In this sense, as a discourse, the pluriverse resembles politics because while the pluriverse suggests integrating diverse forms of viewing and organising the world to seek equity, current politics proposes a form of governance to ensure justice, however, in practice, both still falls short.

Furthermore, the defendant institutions lack cohesive collaboration in fulfilling their obligations to implement the ruling. Instead, each institution operates independently, pursuing its agenda and approaching the ruling compliance based on its capabilities, resources, and interests. The challenge lies in finding a system to effectively coordinate these institutions, using their unique competencies, to collectively work towards shared objectives to fulfil the ruling orders. For instance, operations carried out by the military forces, such as the Artemisa operation, show disarticulation between the ruling aims and the institutional practice. In the name of deforestation reduction and the Amazon ruling, these operations carried out procedures to reduce the cultivation of illicit crops. Nevertheless, it triggered violence, social injustice and environmental injustice. Therefore, local communities objected the ruling. This situation contributes to the ruling weakness in the territory, losing its effectiveness and value, generating a contrary effect to the ruling aims.

These findings contradict ecological justice when it suggests that integrating ecological entities within the realm of justice and emphasising the importance of institutional involvement could enhance effective ecological protection (Kortetmäki, 2017). The ruling is given by a justice institution and orders many governmental institutions to act towards deforestation reduction. However, the ruling, independently of its failures, does not have enough power to articulate the defendant institutions. In accordance with informants 7 and

8, for this ruling to be prosperous, structural changes are needed in the national politics and governmental reforms. These changes need to open space for new types of paradigms and achieve solutions to the long-term problems of the country, such as violence, illicit activities, and narcotraffic.

The courts and judges are making efforts to find a way within already existing systems in the legal field to give rights to nature and ensure environmental protection. However, the mentioned encounters challenge the rights of nature idea because despite its acknowledgement as an innovative approach to environmental protection, conflicts and operational challenges continue to highlight the need for national governance structures to strengthen their environmental governance agendas (Richardson & McNeish, 2021).

Concepts and practice disarticulation

The rights of nature idea in the Amazon ruling is a title that gained national and international recognition. The resonance of the rights of nature concept seems to be more external than internal as the international media shows. It has advantages because it could attract more people and institutions to support and engage with the protection of the Amazon. However, local realities are ignored, while at the global level, there is large resonance with the recognition of the subject of rights which generates prestige as a country that is taking interest in the vanguard of the rights of nature. Nevertheless, there is less significance at the local level and difficulties in putting the ruling's mandates into practice are multiple. It contradicts rights of nature arguments that stress that these rights are essential for establishing a genuine ecological law that can effectively cease the rapid destruction of the environment (Stutzin, 1984). The inclusion of this title in the Amazon ruling has no significance for the implementation procedures and no significance for the involved actors. Informants from the Expert Panel of the follow-up boards affirmed that within their competencies and discussions, they have not included the rights of nature conception because it is vague. Similarly, plaintiffs asserted that even though they celebrated this recognition, they do not understand the meaning and importance for their claims.

The granting of rights of nature attempts to create similar recognitions as human rights, however, while the concept of rights has proven to be effective in protecting human dignity,

it faces considerable obstacles when applied to the preservation of the natural world (Rolston, 1993). Further, rights of nature have the challenge of innovative and new types of rights. “New kinds” of rights are not understandable and not easy to fit into the law system. As Stone affirmed, “the fact is, that each time there is a movement to confer rights onto a some new ‘entity’, the proposal is bound to sound odd or frightening or laughable. This is partly because until the rightless thing receives its rights, we cannot see it as anything but a thing for the use of ‘us’ – those who are holding rights at the time” (Stone, 1972). In agreement with that, the judge who issued the Amazon ruling said that judges are afraid to address environmental issues and to regulate beyond what is requested and stipulated by the law (CUMIPAZ, 2019). Additionally, informant 6 gave an example of that, in an earlier ruling in which she was a plaintiff, the future generation rights were addressed, and the Constitutional Court spoke very cautiously and timidly, stating that these types of rights have no criterion for constitutional interpretation. Judges might be careful because there is evidence that these new rights recognitions are controversial in theory and difficult in practice.

Talking about new rights, the rights of nature are a novelty in the national legal context[26]; however, it is an ancient notion within indigenous knowledge and law. Although expressed and understood differently, indigenous peoples have a relationship with the natural world (Macpherson et al., 2021b) that inherently assigns it a deep value and consequently protection. Within the indigenous realm, there is a cosmologic significance (natural entities have spirit, and they recognise them as equals, as a family (Davis, 2009; Descola, 1997; Descola, 2013)), while rights of nature belong to the legal realm. It shows a disarticulation in the understanding of concepts such as nature, rights, and justice. Since the Amazon region is mainly covered by indigenous reserves, which have their own governance system based on their thinking and cosmology, their participation in the lawsuit and ruling creation and implementation was imperative to achieve effective solutions.

For the indigenous conception of the world, it might be challenging or even not feasible to speak about their understanding of justice to nature and needs in legal terms. And comparably, those who create laws are far from understanding indigenous thought in depth

[26] The Atrato River ruling, the first of this kind in Colombia was issued in 2016, indicating that this trend is still young in the country.

and generating discourse in these terms. There are many examples of Amazonian indigenous people who have tried to understand the world of law and Western justice; therefore, some have national and international studies in law[27]. They have had the need to understand the law to claim and defend their rights with the dynamics of Western law that govern the country. However, there are no known efforts on the part of the institutions or, in this case, the judges who create this ruling to gain in-depth knowledge of indigenous thinking, Amazonian cosmologies, nor the realities of the territory. Such understanding would allow them to create the ruling in line with both Western and indigenous systems.

This is especially critical because the indigenous cosmology in the Amazon has great transcendence and importance in indigenous governance (Bacca, 2019). In the indigenous world natural entities are like humans, therefore they have a relationship where they establish a dialogue with them. Some natural beings are even to be sacred plants and sacred animals who rule and govern the order and decision-making of the indigenous community. Thus, it is worth bringing back the words of Taita Víctor to remember how indigenous thinking and practices are deeply connected to their forms of life and governance:

> *Indigenous justice begins in yagé, this is justice for my people. Yagé is territory. Just like our people, yagé belongs to this territory. Drinking yagé (chumando) I have learned to love, to respect, to cultivate, and to defend the life, which is the earth. This is our law, the natural law. Indigenous law was born in traditional medicine. Retrieved from. (Bacca, 2019)*

The question here is how the law and judges can integrate these realities to make successful rulings and how Western law can harmonise with indigenous law? Even though answering this question is not the aim of this thesis, it is interesting to bring into this discussion an alternative to alleviate such disarticulation. The *inverse legal anthropology*[28] (Bacca, 2019) challenges the assumption of Western dominance by suggesting the potential for indigenous jurisprudence to shape and redefine the conceptual framework of Western law. This is relevant in the Amazon ruling case since most of the territory is covered and partially ruled by indigenous reserves it could be more sensible that the legal system adapts to the

[27] I met some of them in session 73 of the Regional Amazon Board in Bogotá at the beginning of 2023.
[28] *Inverse legal anthropology* is already explained in the thematic background chapter.

indigenous system instead of the other way around. Undoubtedly, there is a long way to reach such a transformation of existing legal paradigms in a nation with a centralised political model, in which its peripheries have often been neglected. Bacca's notion agrees with informants 6 and 1 in that not only the inclusion of indigenous peoples is required, but also taking indigenous jurisprudence seriously is essential to create understandable and effective rulings in the territory.

Instead, as demonstrated, the Amazon ruling fits in a top-down approach where the institutions have overseen its creation and implementation without a participatory system. For instance, the first created Action Plan (Order #1) was irrelevant because of the lack of participation of local and interested communities. It was only presented to the communities, and therefore it was necessary to create participatory routes to include the local and relevant voices to make a feasible and contextualised Plan. This situation took time, and after 5 years since the release of the ruling, the Action Plan and the PIVAC (Order #2) are not successfully clarified. This could have been avoided if the actions dictated by the ruling had been done more in consonance with local realities and knowledge.

This reflects a power dynamic in which minorities are usually concerned and try to understand who dominates them. However, to create the justice that is needed, it is also necessary for institutions with power to make efforts to understand others. Therefore, it is crucial to be able to engage in deep dialogues that allow different worldviews to be valued. And this is precisely what the pluriverse proposes, to recognise that there are different worlds and different ways of understanding the world. In this sense, if the hierarchy of Western law that dominates other forms of governance would not only recognise these other ways but include them equitably in the decision-making processes, the results would hopefully be more favourable. Nonetheless, the different ways are delimited, but there is no dialogue, they are recognised but not integrated, and they are named but not articulated. In other words, the intentions reflected in the ruling to protect the Amazon by giving it the title of subject of rights should be in harmony with the way indigenous and other local communities relate to the natural world in a pragmatic manner and not only stay in the argument.

Thus, the contribution of the pluriverse theory would be to break down such power dynamics, as it seeks to integrate different conceptions of the world at the same level. However, under the ruling's scope, this contribution is conceived from the theory but needs to be put into practice. The question would be how to arrive at a pluriverse policy in which the legislative and executive powers are not the only paths for governing pluriverse territories.

From one perspective, the concept of the rights of nature brings a notable advancement in recognising the legal status of nature, indicating a step towards acknowledging the existence of diverse and varied realities within the pluriverse. However, this progress is juxtaposed with a potential drawback conferring legal rights to nature essentially means placing it under the control and jurisdiction of the dominant, standardised, and modern state's legal system, which fundamentally contradicts the principles and essence of the pluriverse.

The concept of the pluriverse at the ideological level has an advantage in this effort to recognise and integrate the multiple forms of knowledge of worldviews and ways of life (Escobar, 2020; Kothari et al., 2019), in contrast to what politics and law demand, which is hegemonic. For instance, the ruling is made in a single form of what is known in law and is in Castilian Spanish language only, not translated into indigenous languages or in terminology that rural communities can easily understand. This indicates a contrast because the pluriverse seeks equality and inclusion of all worlds. However, the lawsuit and the ruling already reflect a predominance of the Western legal model. The pluriverse challenges the notion of a single truth or a hegemony, yet in practice struggles to confront it because the political, legal, and cultural order continues to rule, including a language predominance. It is understandable because it is the only way we currently know to create and reform laws and rulings is from existing juridic modes. There is a lack of acceptance of diverse forms of administration, such as indigenous governance, to be integrated and considered because there is a pre-existing standardised configuration of rights protection claims. The practical implementation of granting rights to natural entities is still not fully defined within the legal framework, as it predominantly relies on an anthropocentric approach where justice is primarily pursued for human well-being. While there is a growing inclination in emerging legal approaches to consider justice beyond the human sphere, there remains a significant

gap between the intended goals of these new approaches and their actual implementation in practice.

The need to protect ecosystems in times of a mounting climate crisis further widens the gap between the dialogues of the entities that have power in terms of justice and the general population of the country and the local people of the areas where these actions must be taken. This is where the law falls short because historically, the development of law and legislative power has been directed towards human justice but not necessarily towards justice to the non-human. This could be understood as a lack of translation of concepts the given parameters or concepts that the indigenous people have in terms of the human and the natural world are different from those that the ruling pronounces. The dualistic notion of understanding the world is too narrow for the Amazonian indigenous thinking since they have specific relationships with natural entities. However, for the law, the differentiation between human and non-human is clear, there are human rights and rights of nature as two distinct domains. Therefore, approaches such as ecological justice seeks precisely to achieve justice for the ecosystems and natural world since human rights are largely more developed. Similar to some of the concepts of the ruling, ecological justice addresses non-anthropocentric viewpoints, recognising the moral dichotomy towards non-human entities based on their inherent value. Nevertheless, in the Amazon case, the ecocentric perspective remains theoretical and similar to the concept of rights of nature; these concepts are not necessarily understandable and are not taken into practice.

Conclusion

This thesis aimed to explore what has been achieved, and what continues to challenge the introduction of the ruling 4360 of 2018 on the rights of the Colombian Amazon. To achieve this, I explored people's views on the topic and official documents. I conducted 11 semi-structured interviews with lawyers, indigenous leaders, NGO's representants, and academics who are actively involved with the topic. I reviewed 12 official documents, including compliance papers and memorandums. Additionally, I participated in 2 relevant events, the session 73 of the Regional Amazon Board and the annual planning meeting of the Regional Amazon Alliance for the Reduction of Impacts from Gold Mining. After analysing the collected data, I chose the theories of the pluriverse and ecological justice to guide a discussion framed from these theories and the rights of nature approach.

The thesis found that despite the performed efforts for the ruling's accomplishment led by governmental institutions, the Amazon ruling has not been successfully implemented. The ruling's primary objective of reducing deforestation in the Amazon to address climate change and protect human rights has not been achieved. The data reveals it can be attributed to two key levels of disarticulation: institutional and cultural, and conceptual and practical. These disconnections manifest discrepancies between the intentions of governmental institutions and the actual situation on the ground, a disconnection between the conceptual framework of the ruling and its implementation, a top-down approach in its design, and complex interactions involving armed conflict, peace initiatives, and illegal activities in the region.

To explore these findings, I addressed the rights of nature approach and conducted an analysis of the Amazon ruling through perspectives of the pluriverse and ecological justice theories. This thesis sheds light on how the ruling aligns with ideas of the pluriverse and ecological justice, which share a desire to establish fairness and equity for the natural world. Despite the philosophical alignment between the ruling and the principles of these theories, pragmatic challenges arise in its practical application. While the recognition of the Amazon as subject of rights represents a paradigmatic shift, its translation into actionable measures encounters complexities at institutional, legal, and policy level. The lack of concrete and practical methods hinders the effective implementation of the ruling, leading to

discrepancies between aspirations and real-world outcomes. To put in practice this type of ruling is challenging from the beginning because of the contested realities of the territory, however, it is crucial to have the active engagement and collaboration of diverse stakeholders, from local communities to national institutions.

In short, the examination of this ruling illuminates the profound effort to establish environmental and human rights protection from the discourse. Nonetheless, while the alignment between the ruling intentions, the pluriverse, and ecological justice ideals offers a promising vision, the realisation of these principles demands pragmatic and innovative solutions that can bridge the gap between aspiration and implementation. By embracing the complexities of this case, society could navigate towards a more harmonious and sustainable coexistence with the natural world by acknowledging modern needs and opportunities.

Broad lessons and further explorations

The Amazon-specific example of climate change and RoN litigation provides different thoughts as a cautionary tale for other cases. First, the need for prompt action to address climate change is not a recent development. Nevertheless, when this is brought to the judicial system, as seen in climate change litigation, the pressure to act speedily may be intensified due to the potential for legal consequences and sanctions. Nevertheless, the litigation procedures need to be contextual-based with a participatory approach to be effective in practice. Second, talking about the urgency for a deep contextual-based approach to RoN litigation, realities demand focusing on the various relationships between individuals and their environment within local power structures, then the RoN frame changes from a universal, neoliberal concept of rights to a more rooted understanding that incorporates the pluriverse (Gilbert et al., 2023). The Amazon ruling case shows that indigenous participation and inclusion of their ontologies inclusion in the decision-making process of the legal action, ruling, and its implementation continues to be an imminent requirement to greater outcomes. Likewise, even though it was not deeply approached in this thesis, the participation and inclusion of other communities, such as peasants and afro-descendants, is equally necessary. And third, the challenges of the implementation make visible already known problems of the territory, which serves as reminders to the state institutions to act

and find viable solutions. For instance, the lack of infrastructure to reach Amazon areas, the inability of municipalities to embrace changes, human rights violations, and violence.

Because of the intricate and wide-ranging nature of the political-socio-environmental conflicts addressed in the exploration of this ruling, numerous important details have not been thoroughly examined. Further explorations on the topic may address the compatibility of RoN with the Colombian (as well as other nations) legal and economic system; consider how RoN in practice could harmonise and contribute to enhancing local livelihoods; examine who consumes the Amazon deforestation and how international regulations are updating to address the climate crisis; explore how climate change litigation and ecological justice approaches can match inclusive and participatory politics; examine the progress of this government that emphasises environmental importance in its agenda in relation to fulfilling the Amazon ruling as well as the other RoN rulings in the country; and investigate why the idea of RoN comes from the judges rather than from the plaintiffs and communities and its implications.

References

Acosta, A. (2009). Los grandes cambios requieren de esfuerzos audaces. A manera de prólogo. In Alberto Acosta, E. M. (ed.) *Derechos de la Naturaleza. El Futuro es Ahora.* . Quito: Abya-Yala.

Acosta, A. & Martínez, E. (2009). *Derechos de la naturaleza: El futuro es ahora*: Editorial Abya-Yala.

Acosta, A. (2019a). Construcción constituyente de los derechos de la naturaleza. Repasando una historia con mucho futuro. In Editores académicos: Estupiñan Achury et al. (ed.) *La naturaleza como sujeto de derechos en el constitucionalismo democrático*, p. 155. Bogotá, Colombia Universidad Libre.

Acosta, A. (2019b). Post-Economia. In *Pluriverse: A post-development dictionary.* : Tulika Books.

Armenteras, D., Rudas, G., Rodriguez, N., Sua, S. & Romero, M. (2006). Patterns and causes of deforestation in the Colombian Amazon. *Ecological indicators*, 6 (2): 353-368.

Attfield, R. (1987). Biocentrism, Moral standing and Moral significance. *Philosophica*, 39.

Bacca, P. I. (2018). *Indigenizing International Law. Inverse Legal Anthropology in the Age of Jurisdictional Double Binds*: University of Kent.

Bacca, P. I. (2019). Indigenizing international law and decolonizing the anthropocene: Genocide by ecological means and Indigenous nationhood in contemporary Colombia. *Maguaré*, 33 (2): 139-169.

Baxter, B. (2004). *A Theory of Ecological Justice*: Routledge.

Boyacá, T. A. d. (2018). *Sentencia del 9 de Agosto de 2018*. Tunja, Colombia.

Bryman, A., Clark, T., Foster, L. & Sloan, L. (2021). *Bryman's social research methods*. Sixth edition. ed. Social research methods. Oxford: Oxford University Press.

Burdon, P. (2010). Wild law: the philosophy of earth jurisprudence. *Alternative Law Journal*, 35 (2): 62-65.

Burdon, P. & Williams, C. (2022). Rights of nature: a critique. *Research Handbook on Fundamental Concepts of Environmental Law*.

Cantillo, T. & Garza, N. (2022). Armed conflict, institutions and deforestation: A dynamic spatiotemporal analysis of Colombia 2000–2018. *World Development*, 160: 106041.

Cardona, A. J. P. (2018). *Un millón de hogares campesinos en Colombia tienen menos tierra que una vaca*: Mongobay. Available at: https://es.mongabay.com/2018/04/distribucion-de-la-tierra-en-colombia/.

Cardona, C. A. S. & Umbarila, E. R. (2016). *Perfiles urbanos en la Amazonia colombiana, 2015: anexo cartográfico* In «sinchi», I. A. d. I. C. (ed.). Bogotá, Colombia.

Casetta, E. (2020). Making sense of nature conservation after the end of nature. *History and Philosophy of the Life Sciences*, 42 (2): 18.

Castellanos, E. J., Lemos, M. F., Astigarraga, L., Chacón, N., Cuvi, N., Huggel, C., Miranda, L., Vale, M. M., Ommeto, J. P., Peri, P., et al. (2022). *Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. UK and New York: Cambridge University Press, Cambridge.

Castree, N. (2014). *Making sense of nature*: Routledge.

CEPAL, Cultural, P., Naturales, P. N. & Moore, F. (s.a.). *Amazonía Posible y Sostenible*. Marcela Giraldo ed. Ramírez, J. C. (ed.): Offset Gráfico Editores.

Chuji, M., Rengifo, G. & Gudynas, E. (2019). Buen vivir. In vol. 1 *Pluriverse–A Post–Development Dictionary*, pp. 111-113.
Colombia, C. C. d. (1991). *Constitución Político de Colombia* Imprenta Nacional
Colón-Ríos, J. I. (2019). Guardianes de la naturaleza. *La naturaleza como sujeto de derechos en el constitucionalismo democrático*.
Comisión de la Verdad. (2020). *Los territorios indígenas en medio del conflicto armado, el confinamiento, la hambruna y el exterminio*. Available at: https://web.comisiondelaverdad.co/actualidad/noticias/los-territorios-indigenas-en-medio-del-conflicto-armado-el-confinamiento-la-hambruna-y-el-exterminio.
Congreso de Colombia. (2023). *PLAN NACIONAL DE DESARROLLO 2022- 2026 "COLOMBIA POTENCIA MUNDIAL DE LA VIDA"*. Bogotá, Colombia.
Constitución Política de Colombia. (1991). *Corte Constitutional*
Constitucional, C. (2016). *Sentencia T-622/16*. Bogotá, Colombia: Corte Constitucional.
CRIC, C. R. I. d. C. (2017). *En Colombia, las vacas tienen más tierra que los campesinos* Available at: https://www.cric-colombia.org/portal/en-colombia-las-vacas-tienen-mas-tierra-que-los-campesinos/.
CUMIPAZ, E. m. d. a. p. l. p.-. (2019). *CUMIPAZ 2018 - Conclusiones del panel 2, Luis Armando Tolosa Villabona*
Cusicanqui, S. R. & Sousa, B. d. (2014). *Conversa del Mundo*. CES, A. (ed.). Youtube.
Dalmau, R. M. (2019). Fundamentos para el reconocimiento de la naturaleza como sujeto de derechos. In *La naturaleza como sujeto de derechos en el constitucionalismo democrático*, pp. 31-47.
Dancer, H. (2021). Harmony with Nature: towards a new deep legal pluralism. *The Journal of Legal Pluralism and Unofficial Law*, 53 (1): 21-41.
Dávalos, L. M., Sanchez, K. M. & Armenteras, D. (2016). Deforestation and coca cultivation rooted in twentieth-century development projects. *BioScience*, 66 (11): 974-982.
Davis, W. (2009). *The wayfinders: Why ancient wisdom matters in the modern world*. Toronto, Canada: House of Anansi.
De Castro, E. V. (2008). *La mirada del jaguar. Introducción al perspectivismo amerindio*. Río de Janeiro: Encontros, Azougue Editorial.
Declaration, S. (1972). Declaration of the United Nations conference on the human environment. *URL= http://www. unep. org/Documents. Multilingual/Default. asp*.
Decreto 348-2019. (2019). *Decreto 348-2019 de la Gobernación de Nariño*.
Dejusticia, C. D. E. D. D., JUSTICIA Y SOCIEDAD DEJUSTICIA. (2018). *Tutela de cambio climático y futuras generaciones* Bogotá, Colombi: Dejusticia.
DEJUSTICIA, D. C. D. E. D. D. J. Y. S., -CCJ, C. C. D. J., -MASP, C. D. M. A. Y. S. P. D. L. U. D. L. A. & GRUPO DE 25 NIÑOS, N. Y. J. A. (2020). *INFORME DE SEGUIMIENTO DEL CUMPLIMIENTO DEL FALLO STC 4360 DE 2018 DE LA CORTE SUPREMA DE JUSTICIA*. Bogotá, Colombia.
Derani, C., Dantas, F. A. d. C., Moraes, G. d. O., Magalhães, J. L. Q. d., Sobrinho, L. G. N., Souza, T. R. d., Oliveira, V. H. d. & Sousa, V. (2019). Derechos de la naturaleza en Brasil: perspectivas teóricas, prácticas y normativas. In Achury, L. E., Storini, C., Dalmau, R. M. & Dantas, F. A. d. C. (eds) *La naturaleza como sujeto de derechos en el constitucionalismo democrático*, pp. 495-545. Bogotá, Colombia: Universidad Libre.
Descola, P. (1997). Las cosmologías de los indios de la Amazonia. *Mundo científico*, 175: 60-65.
Descola, P. (2013). *Beyond nature and culture*: University of Chicago Press.

Devall, B. & Sessions, G. (1985). *Deep ecology:living as if nature mattered*: Gibbs M. Smith, Inc.
Díaz, C. (2018). La Amazonia colombiana ya es sujeto de derechos. *ABC Natural*. Available at: https://www.abc.es/natural/biodiversidad/abci-amazonia-colombiana-sujeto-derechos-201804101225_noticia.html.
Duque-Cante, N. (2020). Áreas no municipalizadas y autonomía de los pueblos indígenas en Colombia. *Ciudad y Territorio Estudios Territoriales*, 52 (204): 307-320.
Earth, C. (2019). *Legal rights of Rivers* Available at: https://www.clientearth.org/projects/access-to-justice-for-a-greener-europe/updates/legal-rights-of-rivers-an-international-trend/.
Eisenstein, C. (2019). Earth spirituality. In *Pluriverse: A Post-Development Dictionary*, pp. 157-160. New Delhi: Tulika Books
Elder, P. S. (1984). Legal Rights for Nature-The Wrong Answer to the Right (s) Question. *Osgoode Hall Law Journal*, 22.
Escobar, A. (2015). *Tejiendo el Pluriverso: La ontología política de las luchas territoriales en América Latina*. MAEID. Popayán: Seminario Internacional Pensamiento Contemporáneo. Obtenido de YouTube.
Escobar, A. (2020). *Pluriversal politics: The real and the possible*: Duke University Press.
Eslava, G., Karamé, L., Barragán, M. & Albarracín, M. (2020). *Strategic Litigation Manual: From Theory to Practice, Lessons from Colombia and Lebanon* Bogotá, Colombia Ediciones Antropos
Filgueira, B. & Mason, I. (2011). Wild law: Is there any evidence of earth jurisprudence in existing law. *Exploring wild law: The philosophy of earth jurisprudence*: 192-203.
Fuse, M. (2019). Kyosei. In *Pluriverse: A Post-Development Dictionary*, pp. 226-227: Tulika Books.
Gaia, A. (2019). *PLANTAS SAGRADAS, ELEMENTO CLAVE PARA EL MANEJO DE LOS TERRITORIOS INDÍGENAS*: Gaia Amazonas Available at: https://www.gaiaamazonas.org/noticias/2019-10-09_plantas-sagradas-elemento-clave-para-el-manejo-de-los-territorios-indigenas/.
GAIA, A. (2022). *Amazonía Viva y Estado Intercultural* ¿Cómo abordar los retos de la región? : Gaia Amazonas
Garavito, C. A. R., Franco, D. R. & Crane, H. D. (2017). *La paz ambiental: retos y propuestas para el posacuerdo*: Dejusticia.
Gerring, J. (2007). *Case study research: Principles and practices*. United States: Cambridge University Press.
Gilbert, J., Macpherson, E., Jones, E. & Dehm, J. (2023). The Rights of Nature as a Legal Response to the Global Environmental Crisis? A critical review of international law's 'greening'agenda. *Netherlands Yearbook of International Law 2021: A Greener International Law—International Legal Responses to the Global Environmental Crisis*: 47-74.
Gleeson, B. & Low, N. (2002). *Justice, society and nature: An exploration of political ecology*: Routledge.
Gobierno de Colombia. (s.a). *Estrategia Integral de Control de la Deforestación y Gestión de los Bosques* Ambiente, M. d.: La Imprenta Editores
González, J., Cubillos, A., Chadid, M., Cubillos, A., Arias, M., Zúñiga, E., Joubert, F., Pérez, I. & Berrío, V. (2018). Caracterización de las principales causas y agentes de la deforestación a nivel nacional período 2005-2015. *Programa ONU-REDD Colombia*.

González-González, A., Clerici, N. & Quesada, B. (2021). Growing mining contribution to Colombian deforestation. *Environmental Research Letters*, 16 (6): 064046.
Gudynas, E. (2009). Derechos de la naturaleza y políticas ambientales In Abya-Yala, E. (ed.) *Derechos de la naturaleza, el futuro es ahora*. Quito, Ecuador: Ediciones Abya-Yala.
Hildebrand, M. v. (2017). *Creación y planificación del Parque Nacional Natural Resguard o Indígena Yaigojé Apaporis desde la cosmovisión indígena*: Panorama Solutions for a Healthy Planet Available at: https://panorama.solutions/es/solution/creacion-y-planificacion-del-parque-nacional-natural-resguardo-indigena-yaigoje-apaporis.
Hohfeld, W. N. (1920). *Fundamental Legal Conceptions as Applied in Judicial Reasoningm and Other Legal Essays*: Yale University Press.
Ibagué, T. S. d. D. J. d. (2020). *Sentencia del 15 de Septiembre de 2020*.
Igini, M. (2023). *Deforestation in Colombia: An Intricate Story of Conflict and Power*: Earth.org. Available at: https://earth.org/deforestation-in-colombia/#:~:text=Among%20the%20main%20causes%20of,nearly%20154%2C000%20hectares%20of%20land.
International Crisis Group. (2021). *A Broken Canopy: Deforestation and Conflict in Colombia*. Available at: https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/091-broken-canopy-deforestation-and-conflict-colombia.
JEP, U. d. I. y. A. (2022). *El ambiente como víctima silenciosa*.
Kortetmäki, T. (2016). Is broad the new deep in environmental ethics? A comparison of broad ecological justice and deep ecology. *Ethics & the Environment*, 21 (1): 89-108.
Kortetmäki, T. (2017). *Justice in and to the Environment: An Application of the Broad Framework of Environmental and Ecological justice*: PhD thesis University of Jyväskylä.
Kothari, A., Salleh, A., Escobar, A., Demaria, F. & Acosta, A. (2019). *Pluriverse: A Post-Development Dictionary* India: Tulika Books.
Kotzé, L. J. (2012). Arguing global environmental constitutionalism. *Transnational Environmental Law*, 1 (1): 199-233.
Kotzé, L. J. (2016). *Global environmental constitutionalism in the Anthropocene*: Bloomsbury Publishing.
Krause, T., Clerici, N., López, J. M., Sánchez, P. A., Valencia, S., Esguerra-Rezk, J. & Van Dexter, K. (2022). A new war on nature and people: Taking stock of the Colombian Peace agreement. *Global Sustainability*, 5: e16.
Macpherson, E., Borchgrevink, A., Ranjan, R. & Piedrahíta, C. V. (2021a). Where ordinary laws fall short:'riverine rights' and constitutionalism. *Griffith Law Review*, 30 (3): 438-473.
Macpherson, E., Borchgrevink, A., Ranjan, R. & Vallejo Piedrahíta, C. (2021b). Where ordinary laws fall short:'Riverine Rights' and constitutionalism. *Griffith Law Review*, 30 (3): 438-473.
May, J. R. & Daly, E. (2015). *Global environmental constitutionalism*: Cambridge University Press.
Melamed, J. & Espitia, C. P. (2017). Antecedentes políticos del conflicto armado en Colombia: Una historia para no repetir. *Ciencia y Poder Aéreo*, 12 (1): 136-143.
Memorando 03 - 11/22. (2022). *Memorando 03 de la Procuraduría General de la Nación*. Bogotá Colombia: Procuraduría General de la Nación.
Ministerio de Ambiente y Desarrolllo Sostenible. (2016). *Constitución del 91, la carta que le dio un reconocimiento al medio ambiente*. Bogotá, Colombia: Ministerio de Ambiente y Desarrollo Sostenible. Available at:

https://archivo.minambiente.gov.co/index.php/noticias-minambiente/2351-constitucion-del-91-la-carta-que-le-dio-un-reconocimiento-al-medio-ambiente.
Ministerio de Ambiente y Desarrolllo Sostenible. (2022). *En Colombia se han deforestado más de tres millones de hectáreas de bosque en las últimas dos décadas*. Available at: https://www.minambiente.gov.co/uncategorized/en-colombia-se-han-deforestado-mas-de-tres-millones-de-hectareas-de-bosque-en-las-ultimas-dos-decadas/.
Molina, M. (2022a). *Drivers of deforestation in the Colombian Amazon: cattle ranching*. In Netherlands, N. C. o. T. (ed.): National Committee of The Netherlands. Available at: https://www.iucn.nl/en/publication/drivers-of-deforestation-in-the-colombian-amazon-cattle-ranching/#note12225614.
Molina, M. (2022b). *Drivers of deforestation in the Colombian Amazon: illicit crops*: National Committee of The Netherlands Available at: https://www.iucn.nl/en/publication/drivers-of-deforestation-in-the-colombian-amazon-illicit-crops/#note12225611.
Molina, M. (2022c). *Drivers of deforestation in the Colombian Amazon: land grabbing*. In Netherlands, N. C. o. T. (ed.): National Committee of The Netherlands. Available at: https://www.iucn.nl/en/publication/drivers-of-deforestation-land-grabbing/.
Morales, L. (2017). La paz y la protección ambiental en Colombia. *Dialogo interamericano. Recuperado el*, 17.
Murray, J. (2014). Earth jurisprudence, wild law, emergent law: The emerging field of ecology and law—Part 1. *Liverpool law review*, 35: 215-231.
Naess, A. (1973). The shallow and the deep, long-range ecology movement. A summary. *inquiry*, 16 (1-4): 95-100.
Nash, R. F. (1989). *The rights of nature: a history of environmental ethics*: Univ of Wisconsin press.
Nations, U. ((s.a.)). *Harmony with Nature* United Nations Available at: http://www.harmonywithnatureun.org/rightsOfNature/.
Navas, Ó. D. A. (2021). *La historia de la protección ambiental en la Constituyente de 1991. Parte II*: Blog Departamento de Derecho del Medio Ambiente. Universidad Externado de Colombia. Available at: https://medioambiente.uexternado.edu.co/la-historia-de-la-proteccion-ambiental-en-la-constituyente-de-1991-parte-ii/.
Neiva-Huila, J. P. P. d. C. c. F. d. C. (2021). *Sentencia de Tutela de Primera Instancia Nº 37*. Neiva, Colombia
O'Gorman, R. (2017). Environmental constitutionalism: a comparative study. *Transnational Environmental Law*, 6 (3): 435-462.
Obando, V. (2018). Declaran la Amazonia sujeto de derechos para atacar la deforestació
. *El Tiempo*. Available at: https://www.eltiempo.com/justicia/cortes/amazonia-fue-declarada-sujeto-de-derechos-por-la-corte-suprema-201682.
OPIAC. (2023). *Historia*. Colombia. Available at: http://www.opiac.org.co/opiac/historia
.
Parques Nacionales Naturales de Colombia. (2023). *Las claves del proceso para formalizar el instrumento de planeación para el Parque Yaigojé Apaporis.* Gobierno de Colombia.
Putzer, A., Lambooy, T., Jeurissen, R. & Kim, E. (2022). Putting the rights of nature on the map. A quantitative analysis of rights of nature initiatives across the world. *Journal of Maps*: 1-8.
RAISG. (2020). *Amazon Under Pressure*

RAISG, R. A. d. I. S. G. (s.a). *Datos Cartográficos. Visualización de información geoespacial sobre la Amazonía*: RAISG. Available at: https://www.raisg.org/es/mapas/#descargas (accessed: March 20).
Ramirez, S. (2012). *La Cooperación Amazónica - Desafíos y Oportunidades de la Cooperación Amazónica a través de la OTCA*. Bogotá, Colombia: Taller de Edición - ROCCA S.A.
Rasolt, D. H. (2020). *Deforestation in Colombia* Ecologist Informed by Nature. Available at: https://theecologist.org/2020/aug/17/deforestation-colombia.
Richardson, W. (2020). *Nature's Rights in Colombia: an exploration of legal efforts to secure justice for humans and nature*. Master's thesis Norway: NMBU.
Richardson, W. & McNeish, J.-A. (2021). Granting Rights to Rivers in Colombia: Significance for ExtrACTIVISM and Governance. In *Our Extractive Age*, pp. 155-175: Routledge.
Rodríguez-de-Francisco, J. C., del Cairo, C., Ortiz-Gallego, D., Velez-Triana, J. S., Vergara-Gutiérrez, T. & Hein, J. (2021). Post-conflict transition and REDD+ in Colombia: Challenges to reducing deforestation in the Amazon. *Forest Policy and Economics*, 127: 102450.
Rolston, H. (1993). Rights and responsibilities on the home planet. *Yale Journal o f International Law*, 18.
Salazar, C. A. & Riaño, E. (2016). *Perfiles Urbanos de la Amazonía Colombiana 2015*. Bogotá, Colombia Instituto Amazónico de Investigaciones Científicas - SINCHI.
Schlosberg, D. (2014). Ecological justice for the anthropocene. *Political animals and animal politics*: 75-89.
Sentencia 213-2018. (2018). *Fallo de Tutela 213 de 26 de noviembre de 2018* Cartagena, Colombia.
Sentencia AHC4806-2017. (2017). *Sentencia AHC4806-2017*. Bogotá, Colombia.
Sentencia del 28 de agosto 2020. (2020). *Acción de tutela de primera instancia del 28 de agosto de 2020*. Ibagué, Colombia.
Sentencia STC3872-2020. (2020). *Sentencia STC3872-2020*. Bogotá, Colombia.
Sentencia STC4360-2018. (2018). *Sentencia STC4360-2018*. Bogotá, Colombia.
Sentencia T-622-2016. (2016). *T-622 de 2016*. Bogotá, Colombia: Corte Constitucional de Colombia.
Serna, D. R. & Cairo, C. D. (2016). Los debates del giro ontológico en torno al naturalismo moderno. *Revista de Estudios Sociales* (55): 193-204.
SIATAC, S. d. I. T. A. C.-. (2022). *La Amazonía*: Instituto SINCHI. Available at: https://siatac.co/la-amazonia-colombiana/.
SINCHI, I. & Landaburu, J. (2016). Las Lenguas Indígenas de Colombia y del Amazonas Colombiano: situaciones, perspectivas. *Revista Colombiana Amazónica 09 de 2016*: 200.
SINCHI, I. (2023a). *Preguntas Frecuentes*. Available at: https://www.sinchi.org.co/preguntas-frecuentes.
SINCHI, I. (2023b). *SUBREGIONES DE LA AMAZONIA COLOMBIANA*. Available at: https://www.sinchi.org.co/subregiones-de-la-amazonia-colombiana.
Singh, M. P. (2018). Constitutionalism in the Indian Comparative Perspective. *NUJS L. Rev.*, 11: 647.
SINIC, S. N. d. I. C. *Población Amazonas* Gobierno de Colombia - Ministerio de Cultura. Available at: https://www.sinic.gov.co/SINIC/ColombiaCultural/ColCulturalBusca.aspx?AREID=3&COLTEM=216&IdDep=91&SECID=8.

SINIC, S. N. d. I. C. ((s.a.)). *Población - Amazonas*. Bogotá, Colombia: Gobierno de Colombia Available at: https://www.sinic.gov.co/SINIC/ColombiaCultural/ColCulturalBusca.aspx?AREID=3&COLTEM=216&IdDep=91&SECID=8.

Stone, C. D. (1972). Should trees have standing? - Toward legal rights for natural objects. *Southern California Law Review* 45: 450 - 501.

Stubley, P. (2018). Colombian government ordered to protect Amazon rainforest in historic legal ruling. *Independent*. Available at: https://www.independent.co.uk/news/world/americas/amazon-rainforest-colombia-protect-deforestation-environment-logging-supreme-court-legal-rights-a8292671.html.

Stutzin, G. (1984). Un imperativo ecológico: Reconocer los derechos de la naturaleza. *Ambiente y Desarrollo*, 1 (1): 97-114.

Tãnãsescu, M. (2022). *Understanding the Rights of Nature: A Critical Introduction*: Transcript Verlag.

Taylor, P. W. (1981). The ethics of respect for nature. *Journal of Environmental Ethics* (3).

Tobin, G. & Begley, C. M. (2004). Methodological rigour within a qualitative framework. *Journal of advanced nursing*, 48 (4): 388-396.

UN, U. N. (s.a.). *Rights of Nature Law and Policy*. Available at: http://www.harmonywithnatureun.org/rightsOfNature/.

United Nations, U. (2021). Access to a healthy environment, declared a human right by UN rights council. *UN News*. Available at: https://news.un.org/en/story/2021/10/1102582.

UNODC. (2022). *Monitoreo de territorios afectados por cultivos ilícitos 2021*. Crop Monitoring and Colombia Oficina de las Naciones Unidas contra la Droga y el Delito.

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.

Walliman, N. (2011). *Your research project: designing and planning your work*. 3rd ed.: Sage Publications

Washington, H., Taylor, B., Kopnina, H., Cryer, P. & Piccolo, J. J. (2017). Why ecocentrism is the key pathway to sustainability. *The Ecological Citizen*, 1 (1): 35-41.

Wesche, P. (2021). Rights of nature in practice: a case study on the impacts of the Colombian atrato river decision. *Journal of Environmental Law*, 33 (3): 531-555.

Wienhues, A. (2020). *Ecological justice and the extinction crisis: Giving living beings their due*: Bristol University Press.

Willems, M., Lambooy, T. & Begum, S. (2021). *New governance ways aimed at protecting nature for future generations: The cases of Bangladesh, India and New Zealand: Granting legal personhood to rivers*. IOP Conference Series: Earth and Environmental Science: IOP publishing.

Wolkmer, A. C., Maria de Fátima, S. W. & Ferrazzo, D. (2019). Derechos de la Naturaleza: para un paradigma político y constitucional desde la América Latina. *La naturaleza como sujeto de derechos en el constitucionalismo democrático*.

WWF. (2017). *Colombian Congress passes bill ratifying Paris Agreement*: WWF. Available at: https://www.wwf.org.co/?303172/Colombia%2Dratifying%2DParis%2DAgreement.

WWF. (2018). *WHAT ARE THE BIGGEST DRIVERS OF TROPICAL DEFORESTATION?*: World

Wildlife Magazine. Available at: https://www.worldwildlife.org/magazine/issues/summer-2018/articles/what-are-the-biggest-drivers-of-tropical-deforestation.

Zuleta, I. (2018). El Amazonas sujeto de derechos. ¡Y ahora a tus deberes! *El Espectador*. Available at: https://www.elespectador.com/opinion/columnistas/ignacio-zuleta-ll/el-amazonas-sujeto-de-derechos-y-ahora-a-tus-deberes-column-753095/.

APPENDICES

Appendix 1: Consent form

(Plaintiffs example)

¿Te gustaría participar en el proyecto Explorando la Sentencia sobre los Derechos de la Amazonía: De la Formación a la Aplicación?

Esta carta es una petición para participar en un proyecto de investigación cuyo propósito principal es explorar el origen, fallo e impacto inicial de la sentencia sobre los derechos de la cuenca amazónica colombiana desde una perspectiva de los derechos de la naturaleza y las relaciones entre humanos y no humanos. En esta carta le daremos información general sobre el propósito del proyecto y lo que implicará su participación.

Propósito del proyecto
El proyecto explorará los antecedentes y el impacto de la sentencia colombiana STC-4360 de 2018 al considerar la historia de la tutela, sentencia, y los impactos iniciales de su implementación. Es importante comprender este caso crucial e histórico porque contiene connotaciones novedosas no solo para el derecho, sino también para la comprensión de los derechos de la naturaleza y la relación hombre-naturaleza en el ámbito colombiano. Estas connotaciones se relacionan principalmente con la mitigación del cambio climático, otorgando derechos a las entidades naturales y a las generaciones futuras como parte de la legislación. Los resultados de esta investigación podrían potencialmente informar otros casos relacionados con los derechos de la naturaleza.

¿Quién es el responsable del proyecto de investigación?
La Universidad Noruega de Ciencias de la Vida, NMBU, es la institución responsable del proyecto.
Geovanna Guerrero, estudiante de la Maestría en Estudios de Desarrollo Global está conduciendo el estudio.

¿Por qué pedimos tu participación?

Te he seleccionado porque eres una de las accionantes de la tutela Cambio Climático y Generaciones Futuras. Me interesa conocer los antecedentes de la tutela al igual que el rol de los accionantes durante y después del fallo. Adicionalmente, también me interesan sus percepciones (si las tiene) respecto a los derechos de la naturaleza en Colombia y las relaciones humano-naturaleza en el contexto de la litigación ambiental en la Amazonía.

Su participación es muy valiosa porque estoy convencida de que sus conocimientos contribuirán a comprender este fallo de la Amazonía colombiana. Los resultados de este estudio pretenden informar sobre este caso y servir de referencia para futuros casos y estudios sobre derechos de la naturaleza.

Aproximadamente 10 personas serán invitadas a participar en el proyecto.

¿Qué implica para ti la participación?
Participar en este proyecto implicará que compartas información participando en una entrevista. Tomará aprox. 45 minutos e incluirá preguntas sobre la formulación de la tutela, participación de los accionantes, y su rol en la implementación de la sentencia. Además, se abordarán preguntas sobre derechos de la naturaleza, litigio ambiental en el contexto colombiano, y sus puntos de vista con respecto a los potenciales y retos de este fallo. Sus respuestas se grabarán electrónicamente como grabación de audio.

La participación es voluntaria
La participación en el proyecto es voluntaria. Si elige participar, puede retirar su consentimiento en cualquier momento sin dar una razón. Toda la información sobre usted se hará anónima y así se requiere. No habrá consecuencias negativas para usted si elige no participar o luego decide retirarse.

Su privacidad personal es importante por tanto utilizaremos sus datos personales únicamente para el propósito especificado en esta carta de información. Procesaremos sus datos personales de forma confidencial y de acuerdo con la legislación de protección de datos (Reglamento General de Protección de Datos y Ley de Datos Personales).

• El acceso a sus datos personales está limitado a mí como responsable del proyecto, así como a mi supervisor universitario, John McNeish.
• Para proteger sus datos personales, si es necesario, reemplazaré su nombre y datos de contacto con un código. La lista de nombres, detalles de contacto y códigos respectivos se almacenarán por separado del resto de los datos recopilados.

¿Qué pasará con tus datos personales al final del proyecto de investigación?
Está previsto que el proyecto finalice en junio de 2023. Después de ese período, sus datos personales permanecerán anónimos y me gustaría conservarlos para futuras investigaciones o estudios de seguimiento. Seré la única persona que tendrá acceso a la información anónima después de terminar mi proyecto.

Tus derechos:
Siempre que pueda ser identificado en los datos recopilados, tiene derecho a:
- acceder a los datos personales que se están procesando sobre ti
- solicitar que se eliminen tus datos personales
- solicitar que se corrijan/rectifiquen datos personales incorrectos sobre ti
- recibir una copia de sus datos personales (portabilidad de datos), y
- enviar una queja al Oficial de Protección de Datos o a la Autoridad de Protección de Datos de Noruega con respecto al procesamiento de sus datos personales

¿Qué nos da derecho a tratar sus datos personales?
Procesaremos sus datos personales en base a su consentimiento.

Sobre la base de un acuerdo con la Universidad Noruega de Ciencias de la Vida, NMBU, los Servicios de Protección de Datos han evaluado que el procesamiento de datos personales en este proyecto cumple con la legislación de protección de datos.

¿Dónde puedo encontrar más?
Si tiene preguntas sobre el proyecto, o desea ejercer sus derechos, comuníquese con:
• Geovanna Guerrero: por correo electrónico geovanna.esperanza.guerrero.ascuntar@nmbu.no o por teléfono +4745189157

• John McNeish: por correo electrónico: john.mcneish@nmbu.no
• Nuestro oficial de protección de datos: Hanne Pernille Gulbrandsen personvernombud@nmbu.no
• Servicios de Protección de Datos, por correo electrónico: (personverntjenester@sikt.no) o por teléfono: +47 53 21 15 00.

Atentamente,

Geovanna Guerrero Ascuntar
Estudiante líder de proyecto

He recibido y entendido información sobre el proyecto “Explorando la Sentencia sobre los Derechos de la Amazonía: De la Formación a la Aplicación”y se me ha dado la oportunidad de hacer preguntas. Doy mi consentimiento de:

participar en una entrevista para que mis datos personales se procesen fuera de la UE (en Colombia si fuese necesario), si corresponde para que se publique información sobre mí de manera que pueda ser reconocido (por ejemplo como miembro del grupo de tutelantes), si corresponde para que mis datos personales se almacenen después del final del proyecto para futuros estudios, si corresponde.
Doy mi consentimiento para que mis datos personales sean procesados hasta la fecha de finalización del proyecto, aprox. Junio de 2023

(Firmado por el participante, fecha)

Appendix 2: Semi-structured interview general guide

Generales

- Pedir consentimiento para grabar la entrevista
- ¿Cuál es tu nombre y en qué te desempeñas?
- ¿cuál es tu relación/perspectiva de la sentencia 4360 de 2018?

Específicas

Orígenes de la sentencia

- ¿Cuáles son los antecedentes que se tuvieron en cuenta para crear la demanda?
- ¿cómo y quién tuvo/tuvieron la idea de poner una demanda de cambio climático y futuras generaciones? Puedes contarme un poco más de cómo fue ese proceso?
- ¿Cómo llegaron los niños y jóvenes a hacer parte de esta demanda? ¿Y cómo fue su participación durante el proceso de la demanda y después?
- Si participaron niños y jóvenes de varias partes del territorio colombiano, ¿por qué comunidades locales como indígenas y campesinas no participaron?
- ¿De dónde proviene que el fallo reconozca al Amazonas como sujeto de derechos?

Conceptos

- En el contexto colombiano, ¿qué significa reconocer los derechos de la naturaleza?
- La sentencia tiene el enfoque del ecocentrismo, ¿cuál es tu opinión en cuanto a eso?

Implementación

- Desde tus conocimientos, ¿cuál es el balance de la implementación de cada una de las órdenes de la sentencia?
    - Plan de Acción
    - PIVAC
    - Planes de ordenamiento territorial
    - Acciones de las corporaciones
- En lo que lleva la implementación de la sentencia ¿cuáles son los factores positivos que se han podido evidenciar?

- En lo que lleva la implementación de la sentencia ¿cuáles son los factores negativos que se han podido evidenciar?

Retos

- ¿Cuáles son las complejidades del contexto colombiano para implementar esta sentencia?
- ¿Cuáles son los retos jurídicos de otorgarle derechos a la naturaleza y en específico al Amazonas?
- ¿Cuáles son los retos políticos de otorgarle derechos a la naturaleza y en específico al Amazonas?
- ¿Cuáles son los retos sociales de otorgarle derechos a la naturaleza y en específico al Amazonas?
- ¿Cuáles son las razones por las cuales el proceso de implementación de la sentencia es lento y poco significativo?

Adicionales

- ¿Cuáles son las expectativas del nuevo gobierno en cuanto a temas ambientales y la protección de la Amazonía?
- ¿Hay algo más de este tema que quiera compartir?

Norges miljø- og biovitenskapelige universitet
Noregs miljø- og biovitskapelege universitet
Norwegian University of Life Sciences

Postboks 5003
NO-1432 Ås
Norway