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## **The Role of the Environment in Transitional Justice Settings: the Colombian Case**

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**The Role of the Environment in Transitional Justice Settings: the  
Colombian Case**

**Master's Thesis**

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## **Introduction**

On 10 July 2018, the Special Jurisdiction for Peace (SJP) of Colombia opened a case to investigate the consequences of more than 50 years of internal conflict on the territory of Ricaurte, Tumaco y Barbacoas (Nariño). As such domain belongs for seventy-eight percent of its extension to Indigenous and Afro-Colombian communities, the SJP has chosen to investigate in depth the environmental damages that severely impacted the lives of these communities (See: JEP, 2018). With this thesis, I seek to explore the dynamics that might have led such an internationally legitimized legal entity to prioritize territorial aspects of the Colombian conflict. This case is highly innovative and may carry significant implications for future transitional justice (TJ) scenarios elsewhere. As the SJP forms part of the TJ system established in 2016 alongside the peace agreement between the Colombian government and the Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo (FARC-EP), it is essential first to locate this research within the existing literature concerning TJ.

The literature review will focus on restorative TJ goals and limits in order to understand what adding an environmental perspective to it may entail. Moreover, it is important to mention the role that scholars have attributed to memory as a tool for reconciliation to understand further reflections on memorialization better.

After having contextualized the Colombian case and outlined the chosen methodology, the paper will continue with an analysis, structured in three parts: the first two parts constitute an attempt at understanding how discourses on human rights (HR) and TJ on the one hand, and climate change and development, on the other hand, have set the basis for the emergence of a new understanding of the environment as a victim in conflict situations. The first part will focus on international narratives, while the second part will cover the peculiarity of the Colombian case. Subsequently, the third part of the analysis will analyze the role of memorials in restorative TJ and the place of the environment in national memorialization efforts in Colombia. The analysis of international discourses showed that the language of restorative TJ constructed locally in Latin America was largely mobilized by the UN in the 1990s, especially in terms of non-repetition and remembrance of mass atrocities. At the same time, growing concerns about the consequences of climate change contributed to a shift of development strategies towards a sustainable approach that considers environmental and social aspects as well alongside economic imperatives.

The part of analysis dedicated to the Colombian TJ system illustrates how from 1991 to 2016, changes in the understanding of victimhood, paired with the progressive intensification of

support to previously marginalized communities, among which notably indigenous peoples, has led to the emergence of a discourse on the consequences of the conflict on natural ecosystems and the need for reparations.

Finally, the third part of the analysis revolves around memorialization. It illustrates how the exhibition “Voces para transformar a Colombia” has pioneered the exercise of transforming the idea of the environment as a victim into a tangible reality through memorialization. The aim of this section is to reflect on the meaning and the consequences of such exercise.

These three chapters of analysis are followed by a discussion and a conclusion aiming to assess the methodology used, the validity of findings, and the possibility for future research.

## **Literature review**

- **TJ and liberal peacebuilding**

This research seeks to highlight the value of including an environmental perspective to restorative transitional justice (TJ) in post-conflict situations, to build stronger communities and enhance long-lasting peace. TJ mechanisms are often included in peacebuilding strategies. What is the nexus between these two concepts?

TJ has been defined by Teitel, one of the most prominent scholars in the field, as:

"The conception of justice associated with periods of political change characterized by legal responses to confront the wrongdoings of repressive predecessor regimes" (Teitel 2003, p.69).

Thus, TJ is the set of mechanisms used to facilitate a transition to peace after a period of conflict and human rights (HR) violation. Starting from this broad definition of TJ, Teitel has built a genealogy of the concept, illustrating the most significant changes undertaken by TJ practices over time. Modern TJ originates from the establishment of national trials as a response to the atrocities of World War I. However, it is only after 1945, with the Nuremberg Trials, that TJ gained its international dimension (Teitel, 2003). After the Cold War, TJ witnessed a shift from a punitive model, focused on individual legal accountability for war wrongdoings, to a restorative model, focused on truth and reconciliation efforts. This second phase of TJ, which has characterized the democratic transitions of the 1980s in Latin America and across the world, coincides with a progressive shift of focus from justice-seeking to peacebuilding in the international arena (Teitel, 2003). As this research will focus on restorative TJ, it is relevant to

mention how the discipline evolved since its inception to understand what the restorative approach entails and how it can be linked to peacebuilding.

Restorative TJ addresses large-scale violence and HR deprivations by means of legal mechanisms such as trials, truth commissions, amnesties, and reparations, among others. By focusing on establishing the truth, it creates momentum for victims of conflicts and their rights, thus promoting HR enforcement (Teitel, 2003). This focus on HR is anchored in a liberal understanding of what a "just" society is, an aspect that has permeated TJ practice since its inception. In fact, the very idea of universal HR that informed legal responses to the atrocities of World War II echoes natural rights theories at the core of liberal peacebuilding. The "crimes against humanity" and "crimes against peace" mentioned in the Nuremberg Charter reflected liberal ideas that can be traced back to XVII century philosophers such as Hugo Grotius, Thomas Hobbes, and John Locke, emphasizing, on the one hand, the existence of individual (natural) rights to freedom of choice, and on the other hand, the individual duty not to infringe other people's natural rights. These theories played a significant role in shaping ideas of the moral duties of states in the international arena. They also informed Kant's theory of perpetual peace, which provided the basis for modern theories of democratic peace that shape today's humanitarian interventions (Charvet & Kaczynska-Nay, 2008).

Unsurprisingly, a consistent body of literature on the nexus between TJ and peacebuilding is dedicated to identifying common "flaws" between the two fields (McAuliffe, 2017). In this regard, Sriram (2007) has illustrated how the shared goal of TJ and liberal peacebuilding to foster democratization and the marketization of local economies can be destabilizing for communities transitioning out of conflict, at least in the short term. Rather, the author claims, greater attention should be put into understanding the political and legal cultures of communities where these measures are being implemented.

Other scholars have emphasized the detrimental impacts of recurring to liberal top-down approaches to justice and peace. Andrieu (2010) makes two important considerations: first, presenting partial truths - gathered from individual memories - as comprehensive accounts of a nation's history can ultimately have a divisive effect on traumatized societies. Second, by addressing very precise types of violations, TJ risks embracing a restricted definition of "victim" (Andrieu, 2010, pp. 541-545). Such shortcoming may result in a dangerous hierarchization of harms and HR violations (Hearty, 2018, p. 893).

Despite its above-mentioned limits, TJ has been acknowledged as a fundamental part of peacebuilding efforts by scholars and international organizations active in the field (see:

Andrieu, 2010; McEvoy, 2007). By recurring to mechanisms such as truth commissions and reparations, restorative TJ puts a great deal of emphasis on the past as a way of dealing with present and future societal challenges arising from conflicts. Subsequently, memory has become a valuable tool to shed light on the truth and avoid leaving behind "unaddressed legacies of violence" that may stir conflict in the future (Andrieu, 2010, p. 538).

- **Memory and TJ**

Memory plays a central role in contemporary restorative TJ practices, following the idea that dealing with the past allows one to move forward and create the conditions for peace. Memory studies originated in Sociology and particularly in the oeuvre of Maurice Halbwach, who notoriously coined the concept of "collective memory", claiming that memory is the result of social interactions and therefore can only be conceived and produced by groups of individuals (Tamm, 2013).

This innovative concept raised a number of criticism among scholars. Some have claimed that the very act of remembering is an individual activity (see: Olick, 2016), while others have pointed out how this understanding of memory as one may result in a dangerously discriminatory generalization. In this regard, Pollak (2006) highlights the existence of a plurality of memories that are kept in the silence- the so-called "memorias subterráneas", overshadowed by one predominant collective account of the past (Pollak, 2006, p. 18).

Other scholars have analyzed the cultural aspects of memory, shifting the focus to how memory is produced and preserved for the sake of educating future generations (Assmann, 2006). Museums, libraries, archives, ceremonies are all tools used to keep a record of the past. They constitute what Pierre Nora has qualified as "lieux de mémoire" (memory sites), an attempt to reproduce what we experience in "milieux de mémoire" (the environment in which memory takes place), for educational purposes (Pierre Nora, 1989).

Such sites enable the act of remembering a shared history, which has the potential to foster unity and cohesiveness, bringing fragmented communities together. Sharing individual testimonies with an audience often revives a sense of belonging to a group. It enables individuals to gain access to others' experiences they may relate to, strengthening that collective identity that is often weakened due to a protracted conflict (MacMillan, 2009, p. 54). Moreover, gaining access to others' accounts of violence allows people to relate and empathizes with victims. It can foster reconciliation by enabling victims and perpetrators to express their

feelings of remorse and resentment and ultimately stimulate solidarity and forgiveness (Avishai, 2002).

On the other hand, such reflections on the political and cultural aspects of memory have generated fertile ground for further research on the nexus between memory and power and what determines the selection of certain memories rather than others in reconstructing the past. As shown by scholarly work, the field of memory is intertwined with the political; it is "immersed in the political struggles of the moment" (Sánchez, 2018, p. 99, my translation). Not only does memory deal with the past, but it does so in light of the desired future (Jelin, 2013, p. 79).

Given the often politicized nature of memory efforts, some have highlighted the need for caution when dealing with commonly associated terms of memory and truth. As Sarlo has put it: "there is no equivalency between the right to remember and the assertion of the true nature of a memory. Nor does the duty to remember oblige us to accept this equivalency" (Sarlo, 2005, p.57, my translation).

This brief overview of memory studies sought to illustrate, on the one hand, the value of memory to enhance cohesiveness in fragmented societies and, on the other hand, the necessity to be critical in assessing the truth about a troubled past. The following section of this paper seeks to illustrate how the link between memory, TJ, and environmental justice has been studied in the literature to present the gap this research aims to contribute to filling.

- **Environmental TJ**

The relationship between conflict and natural ecosystems has been studied by scholars in different fields, such as environmental peacebuilding and green criminology.

Environmental peacebuilding studies focus primarily on natural resources management. Researches show that cooperation for the management of natural resources enhances peacebuilding (Conca & Wallace, 2009) and, on the other hand, resource-induced instability can trigger conflict (Krampe 2017). Despite the lack of a cohesive theoretical understanding of how cooperation on environmental matters facilitates peace, scholars agree that it is crucial to include natural resource provisions in peace agreements to avoid relapses and re-escalation of violence after a long period of conflict (Dam de Jong, 2020).



Therefore, environmental peacebuilding acknowledges the critical role of natural ecosystems for communities transitioning out of conflict. Simultaneously, the discipline of green criminology seeks to protect and bring justice to the natural ecosystems that have been damaged, shedding light on environmental crimes occurring alongside HR violations.

The work of Clark (2016) brings a novel perspective to this debate by introducing the concept of "green TJ". This approach focuses on the therapeutic function of nature and its potential in addressing past harms. One example of green TJ practice is the idea of "green memorials", a type of memorialization that brings together victims and local communities through activities that put them in direct contact with nature. According to the author, greening memorials will help victims recover from the feeling of vulnerability caused by war; it will empower them, help to restore their well-being, thus enabling them to better understand and express their needs. If, on the one hand, the work of Clark expands the scope of TJ to "green responses to human harms" (Clark, 2016, p.1211), it also raises the question of how to conceive green response to human harms to the environment. This topic lacks scholarly attention and deserves, as this research claims, to be further explored.

Adding an environmental perspective to current TJ practice would allow moving past top-down approaches and a dangerous hierarchization of harms. This entails recognizing the environment as a victim and building an "environmental memory" to establish the truth and inform legal TJ aspects. Such exercise of environmental memory collection shall not be intended as a way of adding to what Theidon calls the "tyranny of total recall", a line of reasoning according to which "more memory = more truth = more justice = reconciliation" (Theidon, 2009, p. 295). Conversely, it suggests diversifying memory by adding a new perspective that will complement existing narratives.

Broadening the label of "victim" to encompass a broader range of actors, including natural ecosystems, would facilitate a shift towards a more bottom-up TJ and enhance sustainable peace. It would constitute a step forward the adoption of a resilience approach to TJ, which includes mechanisms aimed at dealing with the past and involving communities in building a stronger society, less likely to experience revamps in conflict (Kastner, 2020). Although the topic of environmental TJ may seem only of interest to a niche of academic researchers, it is becoming more and more relevant for international relations. In fact, scholars are beginning to explore how pair TJ exercises with the need to tackle climate change and ensure security for both people and the natural environment that surrounds them (see: Klinsky, 2018).

Colombia is an interesting example of a country where the environmental dimension of TJ progressively imposed itself as a reality that needed to be addressed to extirpate violence at its

roots. This research seeks to analyze the process that led to recognizing nature as a victim of Colombia's 50-year-long conflict.

### **Contextualization: memory, justice and the environment in Latin America**

Stern (2016) has highlighted how the word “memory” has come to incorporate three ideas in recent times, namely HR, truth, and justice. This simplistic association fails to acknowledge the history of the concept. Memory is not just a word which meaning fits unlimited scenarios. In each country, memory emerges at a certain point in time and represents different struggles and power relations. Memory has a history in Latin America that ought to be taken into account to understand the peculiarities of the Colombian case.

Similarly, the meaning of justice changes according to the socio-political and historical context and the degree to which people are free to claim their right to justice. The concept of justice ought to be understood locally, despite its intrinsic universality claim. In Latin American countries, justice took different connotations according to the political regime and the type of violence experienced by the local populations.

Memory discourses gained prominence in the Southern cone of Latin America in the context of democratic transitions in the 1980s. Memory emerged as the key tool to avoid the repetition of HR violations experienced under authoritarian rule. It represents the antidote to the struggles experienced in Chile and Argentina with the hiding not only of information but also of people through kidnappings. When these discourses landed in Colombia, they were adapted to completely different national struggles. As the country had not undergone authoritarian rule, memory first served as a political means to counter the State's violence during the 1960s, and only a couple of decades later, it became associated with peace and HR (Sánchez, 2018).

Another relevant contextualization to understand the Colombian TJ setting and its incorporation of environmental issues in recent years concerns the history of environmental constitutional rights in the region. Since the 1990s, Latin America has been at the forefront of environmental protection. In fact, many of the constitutional reforms that followed democratic transitions included ecologically innovative concepts that opened the floor to further environmental legislation. One of the most innovative constitutional rights that appeared in this context is the right to a healthy environment, present in the 1994 reform to the Argentinian Constitution and the 1991 Colombian Constitution. During the 2000s, environmental protection was taken into

even more serious consideration by countries like Ecuador and Bolivia, officially acknowledging the rights of Mother Earth (Boyd, 2012).

The recognition of environmental rights happened simultaneously to the acknowledgment of collective cultural rights of Indigenous peoples until then neglected as a legacy of colonialism. Some Latin American countries like Colombia, Bolivia, and Ecuador pioneered the operationalization at the national level of rights codified in international fora such as the 1989 Indigenous and Tribal Peoples Convention and the Rio Declaration on Environment and Development of 1992 (Grugel & Fontana, 2018, p. 723).

## **Methodology**

With my analysis, I aim at untangling the overlapping discourses that created the conditions to think of natural resources as victims. To do so, I have conducted a discourse analysis of relevant sources, looking both at international and local fora of discursive production. This choice is anchored in Stern and Straus' (2014) thesis concerning the paradox of human rights, which highlights how the meaning and the implementation of human rights changes according to different historical and political contexts. Their ideas can be applied to every concept that is produced at the international level with a universality claim. To avoid falling into the trap of over-simplification, it is crucial to compare local and global tensions.

The study of discourse is a common practice in International Relations. Whether they adopt post-structuralist, post-modernist, or constructivist approaches, scholars in this field share an interest in analyzing the nexus between textual and social practices and behavior (Milliken, 1999, p. 225). To illustrate the above-mentioned tensions between the local and the global, I have conducted an analysis based on a Foucauldian understanding of discursive formation.

Discourses are permeated with power. Foucault was not interested in who has power but rather in the effects it produces, how power relations are progressively built via the circulation of thoughts (Foucault, 2003, p. 28). He spoke of "regimes of truth" to describe the ultimate expression of power, namely the possibility of determining what is true and false in society. As Foucault himself puts it:

“Each society has its regime of truth, its 'general politics' of truth: that is, the types of discourse which it accepts and makes function as true; [...] In societies like ours, the 'political economy' of truth is characterised by five important traits. 'Truth' is centered on the form of *scientific discourse* and the institutions which produce it; it is subject to

constant economic and political incitement (the demand for truth, as much for economic production as for political power); it is the object, under diverse forms, of immense diffusion and consumption (circulating through apparatuses of education and information whose extent is relatively broad in the social body, notwithstanding certain strict limitations); it is produced and transmitted under the control, dominant if not exclusive, of a few great political and economic apparatuses (university, army, writing, media); lastly, it is the issue of a whole political debate and social confrontation ('ideological' struggles)" (Foucault, 1980, pp. 131-132, italics mine)

According to him, the truth is a set of scientific knowledge that has prevailed over other, disqualified pieces of knowledge- what he calls "subjugated knowledge", due to power relations (Foucault, 1980, p. 82).

As power circulates, discourses undergo constant transformation. To Foucault, discourses are not static linguistic expressions but rather practices. As such, they "systematically form the objects of which they speak" (Foucault, 1969, pp. 66-67, my translation).

In the case of TJ, the law acknowledges certain groups as "victims" having the right to reparations. It recognizes their memory as a way of establishing the truth about the past. What is crucial to understand ahead of diving into this analysis is that discourses evolve according to power relations, shaping laws and eventually identities.

Adopting a Foucauldian understanding of discursive practices means appreciating discourses as historically contingent. By describing the development of environmental discourses in a specific country, this research does not claim to generate findings that can be generalized to all countries and post-war scenarios. Conversely, it seeks to shed light on some country-specific dynamics – however, entangled with global tensions – that can stimulate further research on the topic in different national scenarios. Such clarification is important to understand the value of conducting a case study. As Maxwell (2005) has pointed out: "The value of a qualitative study may depend on its lack of generalizability in the sense of being representative of a larger population; it may provide an account of a setting or population that is illuminating as an extreme case or 'ideal type' (Maxwell, 2005, p. 245)".

- **Research design**

This research seeks to stimulate further reflections by presenting the case of Colombia, a country in which considerations on environmental rights and emerging TJ discourses converged in the 1990s. My analysis consists of three chapters aiming to enquire about the processes that led to the inclusion of environmental concerns in TJ efforts by covering the following research question and sub-questions.

*Research Question:* How did the environmental perspective to TJ emerge in Colombia?

*Sub-questions:*

1. Which global tensions played a role in constructing and attributing importance to victims and the environment as subjects?
2. How has the environment been represented in national legislation and TJ discourses from 1991 to the 2016 peace agreements and what are the local tensions behind this?
3. How have memory activities in Colombia contributed to a discursive shift?

Although the process of institutionalization of the Colombian TJ system started in the 2000s, the adoption of a new Constitution in 1991 marked a step in developing more inclusive legal frameworks. For this reason, the selected time framework for the analysis is 1991-2016.

- **Data collection and analysis**

In the attempt of reconstructing the puzzle of discursive formation and circulation of ideas on the topic of victimhood and environmental protection, I have selected and analyzed different types of primary and secondary sources, among which:

- Colombian legislation;
- United Nations (UN) official documents (e.g., declarations, reports);
- Available data on national museums and memorials.

To track significant changes in international discourses, I have chosen to analyze UN official or commissioned documents. To be more precise, when referring to the UN I refer, in fact, to "the three UNs", acknowledging the plurality of actors shaping and taking part in the organization's narratives. Crucially, the "third UN" consists of all individuals or groups formally external to the organization, whose work contributes to feeding the debates generated by the organization, such as consultants, academics, NGOs, and more (Jolly et al., 2009, p. 33).

- **Limitations**

Due to the current COVID-19 pandemic, I could not diversify my sources as much as I wanted to. Being unable to organize face-to-face interviews, I had to rely on internet sources only, which carries some challenges. Since limited access to data might have impacted the quality of my findings, I tried to mitigate this threat by trying to take different perspectives. I structured my analysis to cover three different angles of the matter and diversify sources as much as possible within the limits of availability and time.

## **Analysis**

- **Convergence of international discourses**

This section aims to analyze the growing importance of the environment in international discourses from the 1990s onwards and illustrate how such discourses are intertwined with HR discourses on which TJ practice is built.

- **A momentum for victims**

As mentioned above, HR discourses have informed TJ practice since its inception after World War I, with the Nuremberg Trials aiming to address the crimes against humanity committed in wartime. Since then, the focus of HR discourses has changed to encompass not only different types of individual rights but also the rights of individuals as members of social groups, the so-called "third generation of rights" (Sohn, 1982, p. 48)

Some fundamental collective rights that have appeared in international discourses in the 1990s are the right to truth and justice. Claims to such rights started being solicited in the southern cone of the American continent in the context of post-Cold War democratic transitions, with national commissions established first in Bolivia, then in Argentina (see: Hayner, 1994). There, a discourse progressively emerged that acknowledged truth and reconciliation as key for achieving stability and peace.

In the prologue to the report of the Argentinian truth commission by Ernesto Sabato, truth-and justice appear as the key democratic tools that will allow society as a whole to move forward:

"Truth and justice, it should be remembered, will allow the innocent members of the armed forces to live with honor; otherwise they risk being besmirched by an unjust, all-embracing condemnation. Truth and justice will permit the armed forces as a whole to see themselves once more as the true descendants of those armies which fought so heroically despite their lack of means to bring freedom to half a continent. [...] Only with democracy will we be certain that NEVER AGAIN will events such as these, which have made Argentina so sadly infamous throughout the world, be repeated in our nation." (CONADEP, 1984, Prologue).

In the Argentinian context, the emphasis on truth and justice is intended to highlight the possibility of transparency resulting from the democratic transition. These claims emerged to contrast the experience of the authoritarian rule, under which atrocities had long been hidden or disguised. Subsequently, such historically contingent concepts traveled and informed the work of other truth commissions in the region. They gained an international resonance with the establishment of the Truth Commission in El Salvador in 1992, the first of its kind to be financed and set up by the UN. The work of this commission is peculiar as it brings forward a complementary and equally important goal to truth-seeking: forgiveness.

According to the Commission:

"[...] The truth is not enough, however, to achieve the *goals of national reconciliation and the reunification* of Salvadorian society. *Pardon is essential*: not a formal pardon which is limited to not imposing penalties, but one founded on a universal determination to rectify the mistakes of the past and on the certainty that *this process will not be complete unless it emphasizes the future rather than a past* which, no matter how abhorrent the acts which occurred, cannot now be altered. "(UN Security Council, 1993 p. 185 - italics mine)

Here, the truth only serves as a first step towards peace, to be followed by forgiveness. The term "reconciliation" is preferred over "justice" as to indicate a will to achieve long-term stability. While this concept has been integrated into the global restorative TJ narrative, shifting its aim towards peace rather than justice, it constitutes another example of an idea that cannot easily be translated to all national contexts. In fact, the lexicon around forgiveness was mobilized in this specific report as there is a history of religious activism in the country (see:

Peterson, 1997) that may allow for pardon discourse to resonate better there than in countries where politics religion have been less intertwined.

The flowering of restorative TJ efforts in Latin America contributed to shaping victims as legal subjects and defining their rights. In 1997, Luis Joinet, Special Rapporteur on amnesty, presented the final report on the impunity of human rights violations to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. The document listed the acknowledgment of a collective right to truth, justice, and reparations as crucial to combat impunity and emphasized the need to implement “guarantees of non-recurrence”. Corollary to the right to know, the report mentioned a “duty to remember, which the State must assume, in order to guard against the perversions of history that go under the names of revisionism or negationism” (UN Economic and Social Council, 1997, p. 5).

The recognition of the State's "duty to remember" can be read as the first indirect acknowledgment of the potential of memory as a key TJ tool in the quest for reconciliation. It is also symbolic of the UN's attempt to renew its commitment to the protection of peoples' lives after the Rwandan genocide of 1994 and the 1995 Srebrenica massacre.

In *Eyewitness to a Genocide*, based on a first-hand experience from working at the U.S. Mission to the UN, Barnett (2012) describes how the organization, aware of the escalation of violence against civilians in the country, failed to act for the prevention of crimes against humanity. Similarly, in the case of Bosnia, the international community was unable to reduce civilians' vulnerability to violence by focusing primarily on the delivery of humanitarian supplies (Conley-Zilkic, 2014, p.69). Arguably, these two atrocious chapters of modern history have contributed to a change in UN narratives to re-affirm the organization's role as a leading actor for human rights protection by pairing giving resonance to victims' accounts and memory efforts.

In the first decade of the 2000s, the UN further embraced such strategy via the establishment of several dedicated UN Days, such as the “International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims”, the “International Day of the victims of enforced disappearance” and the “International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime”, to name a few. These observances have an educational purpose, seeking to raise awareness about past HR violations and give visibility to a broad range of victim groups. They are conceived as opportunities to allow for a larger circulation of ideas outside the (three) UN(s). In fact, they are meant to reach a non-UN public encourage them to get involved in such discourses with



their own initiatives, the success of which is to measure only in terms of knowledge share and confrontation of ideas on key issues. Ultimately, what these observances represent is a will to keep the memory of past atrocities alive. Therefore, the yearly recurrence of these observances serves a double purpose: on the one hand, it helps to normalize the remembrance of past atrocities in society, and on the other hand, it allows the UN to maintain its reputation as a global HR defender in the eyes of civil society.

The establishment of an International Criminal Court with jurisdiction over genocide, war crimes, the crime of aggression, and crimes against humanity - under which "Enforced disappearance of persons" is included (ICC, 2011, p. 3) is emblematic of the integration of HR and TJ discourses at the international level. This novel institutional set-up inaugurated a new era in TJ practice, where the latter ceased to be associated with ad hoc tribunals and formally became part of the permanent set of institutional solutions to major HR violations. This "globalization of TJ" (Teilet, 2003) contributes to the consolidation of the discourse on the importance of TJ for long-term peace.

This new narrative stresses the role of restorative TJ mechanisms in the implementation of HR. As the UN Commission on Human Rights puts it:

*"exposing the truth* regarding violations of human rights and international humanitarian law that constitute crimes; holding the perpetrators, including their accomplices, accountable; obtaining justice and an effective remedy for, and protecting, their victims; as well as *preserving historical records of such violations* and restoring the dignity of victims through public acknowledgment and commemoration of their suffering *are integral to the promotion and implementation of human rights* and international humanitarian law and to the prevention of future violations" (UNCHR, 2005, p. 1–italics mine).

This brief analysis of UN discourses sought to highlight discourses around truth, memory, and justice that arose in specific historical contexts have progressively been incorporated in global agendas for HR protection, which tends to generalize local experiences.

#### **– A momentum for the environment**

In the last 50 years, the close relationship between natural ecosystems and human activities has progressively gained relevance in international politics, with many countries experiencing the direct consequences of climate change.

The UN has helped to move the topic on top of the international agenda by organizing some key world conferences throughout the 1970s and 1990s. The first notable one of this kind was the Conference on the Human Environment of 1972, stressing the need to preserve the natural environment to ensure humans' well-being and "the enjoyment of basic human rights-even the right to life itself" (United Nations, 1973, p. 4).

Such understanding of the environment as an important resource for human well-being has led to a human-centric approach to development. The concept of human development that emerged in UN discourses in the late 1980s is a case in point. In the Declaration on the Right to Development of 1986, the right to human development is understood as implying

"the full realization of the right of peoples to self-determination, which includes [...] the exercise of their inalienable right to full sovereignty over all their natural wealth and resources." (UN General Assembly, 1986, p. 2)

On the same line of thought, the first Human Development Report released by the United Nations Development Programme (UNDP) in 1990, specifically highlighted the need to put people first by stating:

"The concept of sustainable development is much broader than the protection of natural resources and the physical environment. After all, it is people, not trees, whose future choices have to be protected. Sustainable development therefore must also include the protection of future economic growth and future human development. Poverty is one of the greatest threats to the environment" (UNDP, Human Report, 1990, p. 7).

This association between development and sovereignty over natural resources is at the core of an international attitude towards the natural world that has led to the "Anthropocene". The term has been increasingly used by scientists to describe the current geological era, one in which human activity has had significant, detrimental consequences on climate and natural ecosystems (see: UNDP, 2020).

The reason why development discourses took such human-centered turn can be traced back to the failure of the UN in addressing the needs of least developed countries in a context of global increasing debt and recession in the previous decade. As a result, during the 1980s development discourses had been dominated by an economic approach, with the Bretton Woods institutions

leading the conversation (Jolly et al.,2009, pp. 25-26). Therefore, from the 1990s onwards, we witnessed UN efforts to balance development policies by emphasizing the social aspects.

Nonetheless, while development discourses at the time were still relegating the environment to a less relevant position, the 1990s witnessed a global rise in concerns regarding climate change, which stimulated new debates on the management of natural resources. In 1988, the UN established the Intergovernmental Panel on Climate Change (IPCC), bringing together an international group of experts to produce regular assessments and provide policymakers with up-to-date scientific data on climate change (UN General Assembly, 1988). The release of the first IPCC's Assessment Report in 1990 paved the way towards the first international commitments to the reduction of greenhouse gas emissions: the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, an extension of the Convention.

These events had a "greening" effect on development discourses. The concept of sustainable development, notoriously introduced by the report *Our Common Future* as "a development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (World Commission on Environment and Development, 1987, p. 41) had a wide international resonance and put environmental preservation on top of political agendas. The UN Conference on Environment and Development (UNCED), also known as the Earth Summit, was the first international conference to acknowledge and discuss the link between environmental protection and poverty eradication, focusing on the priorities of the least-developed and environmentally most vulnerable countries. The **Rio Declaration** states that, to achieve sustainable development "environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it." (UN General Assembly (1992, p. 2).

This conference was crucial in bringing international attention to the urgency of tackling socio-economic and environmental aspects of development conjunctively. As a result, a new integrated approach to development appeared in international discourses, visible in the documents produced on the occasion of international development summits throughout the 2000s.

The Millennium Summit held in September 2000 marked the adoption of a new agenda for the twenty-first century, identifying a set of goals to be reached by 2015. The adoption of Millennium Development Goals marked a turning point in development discourse, as for the

first the International Monetary Fund, the World Bank and UN institutions were aligning their efforts in the field of development, under the shared ambition of poverty eradication, after decades of embodying somewhat incompatible stances on the topic (Fukuda-Parr & Hulme, 2011, p. 24). Another innovative aspect of the Millennium Declaration is the inclusion of "respect for nature" in the list of values driving IR, together with equality, freedom, tolerance, solidarity, and shared responsibility. What is more, the signatory countries committed to "ensure environmental sustainability" as one of the eight Millennium Goals agreed upon (UN General Assembly, 2000).

The current Agenda for Sustainable Development, adopted in 2015 to replace and update the Millennium Development Goals, is the concretization of an integrated approach to development. It addresses simultaneously social, economic, environmental, and governance aspects of development, and requires implementation efforts in both developed and developing countries. While the MDGs were merely societal goals, the Sustainable Development Goals seek to also make global governance and the economy more sustainable. The emphasis on environmental protection and restoration has been amplified, and now includes specific targets for climate action, and natural ecosystems on land and below water (see: SDGs 13-16<sup>1</sup>). This Agenda is emblematic of an holistic approach to development that expressively wishes to be all-encompassing, as summarized in the leitmotiv "leaving no one behind".

- **The environment in the Colombian TJ setting**

The SJP, set up in 2016 as part of a broader TJ system with the task of selecting the most serious violations of HR occurred in the 50-year conflict, has recently opened a case, known as caso 02. The methodology of cases operated by the SJP was established as a way of addressing the multiple levels of victimization and sub-levels of crimes occurred during the internal conflict. Such methodology consists in dividing and grouping similar experiences of violence under the umbrella of macro-cases that wish to be representative of bigger universes.

More specifically, caso 02 seeks to investigate the impact of the conflict on minority groups and the environment of remote, neglected national territories. Under this case, the SJP has already accredited the territory of two indigenous communities, Awá and Nasa as a victim of the conflict. This decision stems from the recognition of the strong interdependence between

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<sup>1</sup> <https://sdgs.un.org/goals>

territory and the people who inhabit it, hence the necessity to recognize both subjects as victims (see: JEP, 2019; JEP, 2020). This section aims at shedding light on the dynamics that led to the recognition of the environment as a relevant subject for TJ in Colombia. It seeks to unpack how the scope of TJ discourses grow to encompass the environment.

We have seen above how HR discourses constitute the cornerstone of TJ and how TJ discourses promote HR. When such international HR discourses landed in Colombia at the end of the 1970s, they were applied to the national struggles and used as a framework to expose acts of violence and repression perpetrated by the State towards the opposition. It is only in the 1990s, in a context of intensified violence between the State and militarized guerrilla and the increase in civilian casualties, that HR revendications started addressing the topic of victims (Sánchez, 2018). The Constitution of 1991 carried the ambition of putting an end to the paradoxical co-existence of war and democracy in the country (GMH, 2013) and marked a crucial step towards the establishment of victims as legal subjects. Moreover, the Constitution represents the first official acknowledgement of the "ethnic and cultural diversity" of Colombia (Presidencia de la República de Colombia, 1991, art. 7), granting Colombian citizenry to indigenous peoples who had been invisible to the State until then.

Aside from setting the basis for the revindication of specific collective rights and for stronger democratic institutions, the Constitution of 1991 mobilized some concepts that were extremely in line with international and regional discourses on collective rights and environmental protection. While the implementation of such ideas was being discussed at international summits, environmental rights had already appeared in national constitutions across Latin America. Article 79 mentions a "right to a healthy environment" and a duty of the government to protect and preserve natural ecosystems. It also stresses the need to foster a sustainable development of natural resources by cooperating with neighboring countries (Presidencia de la República de Colombia, 1991, art. 79-80).

Despite the innovative character of the Constitution, a number of factors hampered the strengthening of the country's democratic institutions in the decade that followed, such as the engagement of the government in the war against drug cartels. In a context of violence and instability, the tendency to appeal to a "state of exception" for addressing criminal matters hindered the consolidation through practice of key democratic values such as equality before the law (GMH, 2013, pp. 219-226).

It is in the 2000s, with the institutionalization of TJ mechanisms through Law 975, or Ley de Justicia y Paz, that victims become discursively associated with a specific set of rights, namely the rights to truth, justice and reparations.

This law defined a victim as:

"the person who has individually or collectively suffered from direct harms such as temporary or permanent injuries that can trigger any type of physical, mental and/or sensory disability (sight and/or hearing), emotional suffering, financial loss or the undermining of their fundamental rights. Such harms must be the consequence of actions that have violated criminal legislation, carried out by illegally-constituted armed groups" (Fiscalía General de la Nación, 2005, art. 12, p.12, my translation).

However broad this definition may at first seem, it falls short of the recognition of crimes perpetrated by actors other than members of guerrilla groups, such as state agents. Moreover, the context of demobilization of the Autodefensas Unidas de Colombia (AUC) under the Uribe government significantly influenced the content of Law 975, which formally recognized the importance of establishing the truth for the sake of peace and reconciliation, while simultaneously establishing judicial mechanisms that limited the obligation of paramilitaries to contribute to the delineation of such truth (see: Velasco, 2016).

Despite its limitations, this legislation crucially allowed victims to emerge as subjects by bringing attention to them as a group. It opened the space for revindication by those victims who felt misrepresented by the restricted definition of victimhood introduced by the government. It allowed them to develop their alternative narrative and put forward their claims. In this regard, Sánchez (2018) has highlighted how the activity of international and local actors triggered by a legislation (the above mentioned law 975) that they deemed not comprehensive enough led to improvement of the TJ system. From a Foucauldian perspective, these events illustrate how power circulates in society, allowing discourses to change as new subjects are recognized and empowered.

Law 975 also marked the institutionalization of memory as a tool of TJ. By emphasizing the right to truth, a corollary duty of the government to preserve historical memory surfaced. This led to the set-up of the Comisión Nacional de Reparación y Reconciliación (CNR) with the aim of ensuring the protection of victims' rights, and conduct a study of the reasons behind the emergence of violent armed groups (see: Fiscalía General de la Nación, 2005 art. 50).

Subsequently the CNRR created the "Grupo de Memoria Historica" (GMH), with the specific task to produce memory reports to establish the truth about the conflict.

Progressively, new sets of victims' rights started being acknowledged to complement the rights to truth, justice, and reparations. Among those, the right to see implemented in public policy a "differential approach", and the right to restitution of land in case of forced dispossession during the conflict (see: Congreso de la República de Colombia, 2011, art 28). Such differential approach recognizes the diversity of groups forming the Colombian civil society in terms of age, gender, sexual orientation, and disabilities, and stresses the need for TJ to take into account the increased vulnerability of such groups and ensure their protection from HR violations (see: Congreso de la República de Colombia, 2011, art 13).

As the concept of victim became more broad, so did the term perpetrator. In 2011, law 1448 crucially established a new official definition of the victim that includes all those who have suffered "as a consequence of violations of International Humanitarian Law or serious and manifest violations of international Human Rights standards, occurred as of 1 January 1985, in the context of the internal armed conflict." (Congreso de la República de Colombia, 2011, art. 3), thus introducing the issue of state accountability by extending the definition of victim to those who have suffered from HR violations inflicted by state agents too.

In spite of this expansion of the notion of victimhood, law 1448 remains very controversial due to the specific time reference of 1985 that it refers to. From an in-depth analysis conducted by the GMH, this new definition excludes 11.238 documented victims (GMH, 2013, p. 32). Such move leaves behind the memory of certain groups of victims and institutionalized a specific and restricted idea of what kinds of violent acts should be remembered. Ultimately, this legislation illustrates how the very idea of "past" can be artificially produced.

The institutionalization of a differential approach and the new focus on state accountability represented an attempt to deal with the historical exclusion of ethnic communities who have been particularly affected, albeit indirectly, by the armed conflict (GMH, 2013, p. 248). In this context, some long-neglected communities experienced the opportunity to see their values and experiences of the conflicts taken into account by official narratives. The adoption of decree 4633 and 4635 as an addition to the law on victims illustrate this attempt to make the national discourse on victims as inclusive as possible. To understand the recent application of the concept of victim to the environment it is crucial to compare these two decrees.

Decree 4633 is dedicated to the rights of indigenous communities, while decree 4635 covers the rights of Afro-Colombian communities. The former introduces the idea of territory as a victim of the conflict, in light of "their worldview and the special and collective bond that unites them with mother earth" (Presidencia de la República de Colombia. 2011(a), art. 3 – my translation).

Consequently, reparations must take into account

"the special collective and spiritual relationship that indigenous peoples have with their territory, as it is an essential factor for balance and harmony with nature, cultural permanence and survival as peoples" (Presidencia de la República de Colombia. 2011(a), art. 8 – my translation).

Here, the preservation of the environment is therefore understood as key for the survival of indigenous communities. It is a living entity that can – and has been - harmed in acts of violation or desecration related to the conflict during the conflict (Presidencia de la República de Colombia. 2011(a), art. 45).

Conversely, while addressing the territorial rights of Afro-Colombians, decree 4635 acknowledged "environmental and territorial damages" happened during the conflict (Presidencia de la República de Colombia. 2011(b), art. 9) and explained their relationship with territory as follows:

"Territory is recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity and their autonomous development. In cases in which the community or some of its members have lost or are at risk of losing ownership, use or access to their territory due to the conflict [...], the State will guarantee full enjoyment of those territories according to security conditions" (Presidencia de la República de Colombia. 2011(b), art. 40 – my translation).

This decree illustrates a completely different idea of territory: in this case, the environment is no longer understood as a living, independent entity, but rather as a property of Afro-Colombian people that has been violated, thus affecting their autonomy.

Therefore, the emergence of the environment as a victim seems to be strictly related to indigenous values. Their relationship with it calls not just for reparations for land dispossession, but also and foremost for the violence inflicted on it after the act of dispossession and throughout the conflict.

Although not embraced in all official legal documents, this indigenous understanding of territory circulated and informed the redaction of the final peace agreement signed between the



government and the FARC-EP in 2016. In fact, the agreement specifically adopted a territorial, ethnic and gender-based approach that is meant to take into account "the economic, cultural and social needs, characteristics and peculiarities of Colombia's territories, of women throughout their life-cycle, of rural communities and groups in vulnerable circumstances and guaranteeing socio-environmental sustainability" (National Authorities, Colombia, 2016, p. 12). This approach must be applied in the novel TJ system, the "Sistema Integral the Verdad, Justicia, Reparación y No Repetición" (SIVJRNR), established with the peace agreements.

- **Memorialization in Colombia**

The analysis conducted so far has shown the key role of memory to restorative TJ in terms of contributions to establishing the truth about past atrocities. However, the part of memory in TJ can also be appreciated in terms of symbolic reparations. The following analysis wishes to further reflect on how memory, in the form of memorialization, can contribute to reconciliation and evaluate the extent to which memory efforts have included the environment in the Colombian case.

In the last four decades, memory initiatives have flourished in Colombia: the GMH has registered 177 non-governmental memory initiatives between 1974 and 2010, taking 60 different forms of expression (GMH, 2013, p. 387). Notably, some victims' families associations like the Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) have been raising awareness on forced disappearances and working to give visibilities to their memory since the 1980s, through marches, photographic expositions, and several campaigns<sup>2</sup>. The 2000s witnessed a significant intensification of local and regional input (GMH, 2013, p. 387) due to TJ mechanisms institutionalized through Law 975. As mentioned above, the law officially recognized a "memory duty" that obliged the State to investigate and preserve the causes of violence – although limited to the insurgence of illegally constituted armed groups only (Fiscalía General de la Nación, 2005, art. 56). In this context, a growing body of memories from different actors appeared and found increasing resonance in the public sphere (Sánchez, 2018). The Movimiento Nacional de Víctimas de Crímenes de Estado (MOVICE) is an example

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<sup>2</sup> <https://asfaddes.org/audiovisual/>

of a movement made of several civil society organizations born in reaction to Law 975 to give voice to the memory of victims of state crimes<sup>3</sup>.

The language of memory has not only been mobilized by victims' associations. On the contrary, it has pervaded society in its entirety and has been adopted in different artistic representations. The broad range of contemporary creative expressions addressing violence and mourning includes photography exhibitions, songs, plays, ceremonies, paintings, sculptures, monuments, and more (GMH, 2013, pp. 387-391). Recently, on the occasion of the signature of the peace agreements between the government and the FARC-EP, some of the country's most famous artists have engaged with the theme of violence. One powerful installment was the one designed by Doris Salcedo, where the artist covered Bogotá's Plaza Bolívar with thousands of white cloths with victims' names to evoke death shrouds (Brodzinsky, 2017).

In the midst of this flowering of memory initiatives, and in line with discourses on the role of memory as a means of symbolic reparations to victims, Law 1448, the "Centro Nacional de Memoria Histórica" (CNMH) with the mandate to establish a national museum of memory. The aim was to illustrate the multiple facets of violence inflicted on thousands of people during the conflict to provide reparations and dignification to victims (GMH, 2015). The choice of building a national museum of memory has undoubtedly been influenced by similar initiatives in the region, such as the establishment of a Museum of Memory and HR in Chile in 2011 and the set-up of a commission in charge of the planning of a museum of memory in Peru in 2010 (Feldman, 2012, p. 488). Although the project fired several debates and still has to be finalized, the idea of building a museum of memory as a form of reparation is crucial. It represents the translation of restorative TJ discourses into a physical site where victimhood, socially constructed through the processes mentioned in the previous sections, is displayed. If, on the one hand, TJ discourses have contributed to shaping collective identities by creating and empowering new subjects (victims), museums may represent an opportunity for the concretization of such identities.

However diversified, these memory activities are united by a shared practice of displaying victimhood. Certainly, this practice was reinforced by the growing engagement of museums with HR issues from the 1990s onwards, which led to the flourishing of war memorials worldwide (Conley-Zilkick, 2014, p. 62). Unlike museums, which acquire and exhibit "the tangible and intangible heritage of humanity and its environment for the purposes of education,

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<sup>3</sup> <https://movimientodevictimas.org/en/objetivos/>

study and enjoyment." (ICOM, 2017, p. 3), memorials also have a moral mission. While sharing the same educational purpose, they specifically seek to generate empathy in the visitors and make them internalize the necessity to prevent future comparable sufferings. Indeed, visitors' engagement is more important in such sites than the objects exposed, and curators recur to different strategies to make them experience what victims of mass atrocities must have felt. To do so, they often recreate uncomfortable environments to take away the note of positivity that often goes with the idea of learning (Williams, 2007).

There are several examples of memorial museums that display victimhood in different ways in Colombia. Three key examples worth mentioning are the "Casas de la memoria" (houses of memory) in Medellín, Granada, and Tumaco.

The first of this kind, "El Museo Casa de la Memoria", is a project by the City Hall of Medellín, set up with the ambition of becoming a HOUSE from which to amplify the voices of victims, a MUSEUM that fosters the political role of memory and a POINT OF REFERENCE for the citizenry<sup>4</sup>. The activities and exhibitions carried out by this memorial museum represent a political will not only to educate but to create a welcoming and inclusive environment for every individual to be able to access and understand the language of memory.

The second one to mention is the "Salón del Nunca mas" in Granada (Antioquia), which claims to be "the first site of memory in Colombia built by a community"<sup>5</sup>. This memorial was built to honor the memory of community members and offer a place of shelter and mourning to families of victims. It gathers and displays pictures and data related to disappeared persons and other victimized community members to remember their identities and personal stories.

The third house of memory was established in 2013 in Tumaco, one of the areas most heavily affected by the conflict. Aside from remembering victims and providing a support system for those who have survived atrocious violence, the memorial museum is also profoundly engaged in involving the youth in memory projects to ensure that they do not grow up associating violence with normality.<sup>6</sup>

This brief overview of the three Casas de la memoria highlights the plastic, other than political, nature of the language of victimhood, a language that can be mobilized and displayed by several actors wishing to offer their perspectives of the conflict. A further illustration of this plasticity

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<sup>4</sup> <https://www.museocasadelamemoria.gov.co/en/elmuseo/acerca-de-nosotros/>

<sup>5</sup> <https://www.salondelnuncamas.com/>

<sup>6</sup> <https://casamemoriatumaco.org/quienes-somos/>

is the construction of a Park Museum of Military Forces as a reaction to the idea of building a national museum of memory based on victims' memory (Guglielmucci, 2017).

**- Towards a memorialization of the environment**

In April 2018, the exhibition "Voces para transformar a Colombia" was launched as a pilot for the museum of memory. This exhibition was built around the three axes of water, land, and the human body, exploring the nexus between the human and the natural in conflict scenarios and highlighting how conflict and injustice impact nature. More specifically, the part dedicated to water sought to unpack the role of water in some communities' experiences of the conflict (González-Ayala & Camargo, 2021). To do so, the curators included information on phenomena such as dispossession, enclosure, and pollution that occurred along the Magdalena River, the Buenaventura port, and the Altrato River - recently acknowledged as a right-bearer subject in Colombian law (Corte Constitucional de Colombia, 2016).

In terms of curatorial strategies, the exhibition recalls William's (2007) description of memorials where visitors constituted a vital element. In fact, the project specifically included the training of guides to walk people through it and involve them actively. Moreover, sounds, photographs, videos, and lights were deployed strategically to trigger visitors' senses and spark reflections (González-Ayala & Camargo, 2021). The exhibition was conceived as a "living museum", animated by the plurality of actors that contributed to the creative stage, but also by the daily active participation of both victims and visitors (Lleras et al., 2019);

Significantly, this temporary exhibition extended the concept of victimhood to natural elements and found innovative ways of describing harm to the environment from the perspective of nature itself. For instance, curators displayed several texts written in the first person - as if the water was speaking – with the double aim of clarifying what water does for natural ecosystems and to elevate water from the role of mere object of interest to a subject that deserves recognition (González-Ayala & Camargo, 2021, p.193).

The curators were confronted with multiple challenges when trying to "construct" and communicate the idea of water due to the necessity to reflect significant pieces of academic knowledge of violence and water issues while also meeting expectations in terms of symbolic reparations (Gonzalez and Camargo, p. 187). As scholars involved in the process have highlighted, the curatorial phase was a critical step as it had to ensure to deliver the symbolic

reparation established by Law 1448. Memorials, they claim, help provide this type of reparations in two ways. First, by involving victims in the exhibition from designing to displaying, they increase victims' satisfaction. Second, the close contact between victims' memory and visitors' experiences can foster behavioral changes, addressing non-repetition at its roots. (Lleras et al., pp. 546-549).

From a Foucauldian perspective, memorials are interesting to analyze as they represent the concretization of discourses as practices, such as the practice of displaying victimhood. If, on the one hand, what is being shown in memorials is socially constructed, they also constitute the ultimate representation of the openness of dialogue between subjects and objects of a discourse. The possible implications of creating such open spaces for dialogue that memorials symbolize have been summarized by González-Ayala and Camargo through the moment of "ramification" or the "(often unforeseen) reconfigurations, alliances, discussions, and objects converging at, and emerging from, the exhibition" (González-Ayala & Camargo 2021, p. 197). Ultimately, such an idea of ramification illustrates how the very design of memorials can induce a redistribution of power that may generate significant discursive changes and arguably influence the country's "regime of truth". In fact, like museums, memorials have the power of turning the object that they display and the concepts attached to it into objects of immense consumption (Foucault, 1980, p. 132). In memorials like "Voces para transformar a Colombia", giving a voice to natural elements and constructing their account of violence can serve as a step towards establishing a regime of truth in which the environment is acknowledged as a victim that requires protection and restoration.

## **Discussion**

This research sought to contribute to scholarly debates around the integration of an environmental dimension restorative TJ mechanisms. As mentioned in the literature review, restorative TJ mechanisms are built on a specific approach to post-conflict settings that focuses on truth and reconciliation (Teitel, 2003). For this reason, scholars in the field of restorative TJ have primarily concentrated on unpacking core fundamental concepts such as truth and justice. Additionally, the attention brought to the contribution of memory to eradicating hostilities and ensuring non-repetition has helped shift the interests of the discipline from justice-seeking to the achievement of long-term peace (Teitel, 2003).

By looking at the Colombian case, this research wished to highlight how taking into account the consequences of a conflict on the natural environment can enhance reconciliation in fractured societies. More specifically, building a memorial of environmental harms is an exercise that brings together actors with different experiences of violence.

However, adding an environmental perspective to TJ practice requires a shift from anthropogenic understandings of the environment as a mere resource towards the acknowledgment of natural ecosystems as independent, valuable entities. Such transformation constitutes a step towards a flexible, more comprehensive definition of victimhood that can mitigate the divisive results of implementing a classic top-down liberal definition of justice and peace (see: Andrieu, 2010).

Focusing on Colombia allowed us to explore an example of memorialization that includes the environment but goes beyond the concept of green memorial coined by Clark (2016), the only researcher to have addressed the topic of making TJ "green". In fact, while green memorials included natural elements for therapeutic purposes, "Voces para transformar a Colombia" was designed to make the environment emerge as an independent subject, a victim that ought to be recognized. The choice of Colombia as a case study was made based on the country's recent inclusion of environmental harms in investigative and memory efforts within TJ settings. This creates an opportunity to analyze and understand the path that leads to such prioritization of the environment, which might be useful to expand this research to other post-conflict scenarios.

In this context, discourse analysis proved helpful in unpacking several concepts that have progressively gained resonance at the national and international level and have shaped a particular "regime of truth" in Colombia, where the environment takes a central place.

The existing body of literature on the nexus between memory and justice shows how memory can be manipulated and politicized. This consideration oriented the choice of methodology towards critical discourse analysis and specifically towards the necessity of looking into how power affects discursive formation. As a consequence, the analysis has been conducted based on a Foucauldian understanding of discourse, which has allowed to unpack a number of dynamics. First, relying on Foucault's ideas of discursive formation and circulation of power and knowledge allowed to show how discourses formed locally and globally at a given time may overlap and construct subjects, like victims, entitled to a specific set of rights.

Second, Foucault's understanding of discourses as practices allowed to analyze the display of victimhood that characterize Colombian memory activities. As the previous analysis has shown, it took memory as a discourse, with TJ as a framework, for this practice to emerge and for memory to be translated into the tangible reality of a memorial.

Furthermore, Foucault's theory was also crucial to dive into the power relations that come to play to define what sort of past should be remembered, which types of violations should be punished, and whose memories should be collected in the attempt to reconstruct the truth about the conflict. The identification of these dynamics is crucial as it paves the way to alternative, complementary accounts of the past that circulates and can gain importance over time.

The choice of critical discourse analysis as a method carries some difficulties that may have impacted the quality of my findings. First of all, however diversified the primary sources analyzed, they are the result of a personal selection based on the author's knowledge of the topics treated. As such, they surely do not cover all the angles of the matter. The structure of the research was built to mitigate the possible bias arising from such personal selection of sources by providing an analysis of discursive formation on both the local and the global levels. However, to validate the findings of this thesis, there is room for further inquiries on the topic of truth-seeking around environmental degradation. Adopting this perspective could entail, for instance, analyzing the work of truth commissions over time to assess if and how the investigation of environmental damages had taken place in Colombia prior to the establishment of caso 02 by the JEP.

Moreover, it would have been extremely valuable to be able to recur to different methods of data collection and analysis such as direct observation to look more in detail into indigenous philosophies of life and the sacred role of the environment to them, in order to understand which of their beliefs overlap with modern ideas of sustainable development, a topic that has been so far analyzed mainly by anthropologists.

## **Conclusion**

With this thesis, I sought to contribute to the existing academic literature on restorative TJ by highlighting the importance of expanding truth, justice, and reconciliation efforts to the natural ecosystems that are damaged as a result of protracted and violent conflicts. To do so, I dived into the evolution of the Colombian TJ system in order to provide an accurate analysis of how an environmental-inclusive approach to TJ can emerge.

In my analysis, I have looked at international and local discursive formation dynamics, and I have attempted to highlight power relations that may have caused specific ideas to gain prominence in the global and the local arena.

The first chapter on international discourses has highlighted how the growing concern for climate change and the promotion of HR discourses within the framework of TJ have created a fertile conjuncture for the expansion of the concept of victimhood to natural ecosystems.

Firstly, as a political project funded on HR, restorative TJ emerged in contexts of democratic transition in Latin America, thus giving resonance to collective rights to truth and justice following authoritarian rule. Progressively, however, such historically-contingent concepts found a place in UN narratives, often associated with an emphasis on the need to avoid future repetition. This renewed interest of the organization in protecting such collective rights followed its failure to prevent massive HR violations in Rwanda and Bosnia and is emblematic of a need to re-affirm its credibility as the principal HR defender. It is in this context that the idea of "duty to remember" gains popularity in international discourses.

Simultaneously, the negative consequences of climate change became more and more evident in scientific research. By the 1990s, as the UN worked to move the conversation on development beyond the economic approach proposed by Bretton Woods institutions that had generated widespread discontent in many developing countries, environmental degradation had become a hot topic. The organization seized the opportunity to claim the leadership on development discourses by drafting development agendas that took into account social and ecological aspects alongside economic strategies thus far prioritized by the International Monetary Fund and the World Bank.

The chapter on Colombian TJ focused on the different steps of TJ legislation in the country, especially with regard to how environmental issues were addressed.

First, it illustrated how the Constitution of 1991 set the basis for the revindication of collective rights by ethnic groups by acknowledging for the first time the multiculturalism of Colombia. Moreover, it innovatively mentioned the "right to a healthy environment" (REF), creating a precedent for legal protection of natural resources.

Second, it looked at the institutionalization of TJ in 2005 through law 975, which established the rights to truth, justice, and reparations. However, this novel TJ set-up did not address the topic of crimes perpetrated by the State, which resulted in the emergence of memory as a way of countering the hegemonic account of the conflict.

Subsequently, the analysis focused on the vital role of law 1448 in establishing a differential approach for the recognition and protection of the most vulnerable societal groups, which paved the way for decree 4633 and 4635. Those decrees are of crucial importance for understanding the peculiarity of a TJ system that addresses harm to the environment too. In particular, the



comparison between the two illustrated how indigenous values and their close relationship with the natural world led to the recognition of the environment as an independent living being that deserves to be treated as victims. Interestingly, the considerations on territorial issues in the case of Afro-Colombian communities did not lead to the same significant shift in discourses. Ultimately, what emerges from the analysis in its totality is how the concept of environmental sustainability resonated with indigenous values, creating opportunities to discuss the rights of the environment.

Lastly, the third chapter on memorialization sought to show how this progressive shift of discourse did not only happen on paper through legislation but actually influenced people's lives and identities. This last part of the analysis has highlighted the role of memory in Colombian society and addressed memorialization as a means of reparation. Analyzing the exhibition "Voces para transformar a Colombia" emphasized how the discourse of the environment as a subject of rights could be consolidated by creating a space that displays an environmental memory of the conflict.

What is analyzed in this research may have significant implications for TJ as a political project. If the environment is accepted as a right-bearer subject rather than a simple stage for conflict, then a need for new, comprehensive TJ frameworks emerges. This issue is likely to present itself as an urgent need, especially in a context where achieving peace has become more and more associated with the achievement of long-term development goals that include environmental sustainability.

To conclude, it is critical to mention the limitations of this thesis. While designing my research, I was faced with the challenges imposed by the ongoing COVID-19. The fact of conducting research remotely without the possibility of being in the country of analysis indeed represented a challenge. Moreover, as I did not manage to organize online interviews to diversify my primary sources, my findings might need further research in order to be validated.

Possibilities for further research include the study of environmental harms in other conflict and post-conflict scenarios to be able to build new TJ frameworks that take the environment consistently into account.

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