

Environmental protection of the Amazon in post-conflict setting: an opportunity for peace in the era of climate change

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1. Armed conflict, environment and natural resources

1.1. An overview of links

Connections between armed conflict, environment and natural resources, are multidimensional and complex. According to United Nations Environment Program, since the 1980s until the beginning of the century, it was feasible to trace eighteen civil wars and internal unrests that were

linked or associated directly or indirectly to natural resources.¹ While it would be a mistaken assumption to reduce armed conflicts as resource wars, considering that political, social and identity factors remain key, natural resources may play a ‘conspicuous role’ in armed conflict.² They may motivate or contribute to the outbreak of strife and also, in many cases they perform as the factors through which violence may be financed or sustained. Furthermore, conflict has often led to abuses of wildlife and natural areas, and in this sense, environment could be deemed as aggrieved. However, in some cases, warfare represents an opportunity, and wildlife ends up benefiting from civil unrest.³ Simply put, environment, understood as resources or a natural entity (nature), may be a cause of conflict and its booster, as well as a *victim* but also a beneficiary of human violence.

Contributing to the outbreak of conflict. Probably, the *cause-effect dimension* is one of the most contested links between natural resources and armed conflict. This is explained, on the one hand, because a strife unlikely have a simple or unique cause, and, on the other, because literature on the subject has little or no consensus to support the most commonly cited causal mechanisms. Some critics arise on the basis of lack of evidence,⁴ others over deficiencies in testing hypothesis that explain the resource-conflict correlation.⁵ Although it is not the aim of the article to explore

¹ FROM CONFLICT TO PEACEBUILDING: THE ROLE OF NATURAL RESOURCES AND THE ENVIRONMENT, (United Nations Environment Programme ed., 2009).

² Philippe Le Billon, *The political ecology of war: natural resources and armed conflicts*, 20 POLITICAL GEOGRAPHY 561–584 (2001).

³ For the purpose of this article, it has follows the classification proposed in CÉSAR A. RODRÍGUEZ GARAVITO, LA PAZ AMBIENTAL: RETOS Y PROPUESTAS PARA EL POSACUERDO (2017).

⁴ Michael L. Ross, *What Do We Know about Natural Resources and Civil War?*, 41 JOURNAL OF PEACE RESEARCH 337–356 (2004).

⁵ Michael L. Ross, *How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases*, 58 INT. ORG. (2004), http://www.journals.cambridge.org/abstract_S002081830458102X (last visited Jan 9, 2020). 35

in depth this issue, the following ought to be mentioned: that there is no environmentally deterministic relationship at hand to imply that an armed conflict is an environmental conflict. Moreover, this does not mean that natural resources do not influence⁶ or exacerbate the outbreaking of the strife.⁷ Three main pathways that shed some light can be drawn:⁸

First, tensions can emerge from the unfair distribution of wealth derived from “high- value” extractive resources, by initiating or revitalizing pre-existing wars. For instance, in spite of other multiple grievances, the actions of the separatist group Free Aceh Movement during the three decades of civil conflict in the Province of Aceh, Indonesia, were also linked to the operations and distribution of benefits from the local liquid natural gas facility. Despite the significant resource earnings, just a few development benefits were perceived in the province, in contrast to the most revenues that went to the central government in Jakarta. This social reality produced a sense of unfairness which was seized by the armed group to stir resentment towards the central government. As a result, the Free Aceh Movement shaped a narrative of deprivation and economic oppression to divide Acehnese from those who were not, and set up a fight against environmental degradation as a foundation of the group’s main demands.⁹

Secondly, many discontents may surface no longer because of the unequal distribution of revenues derived from natural resources, but because of the unequal access or direct use of scarce

⁶ Michael L. Ross, *The natural resource curse: how wealth can make you poor*, in NATURAL RESOURCES AND VIOLENT CONFLICT: OPTIONS AND ACTIONS 17–42 (Ian Bannon & Paul Collier eds., 2003), <http://public.eblib.com/choice/publicfullrecord.aspx?p=3050616> (last visited Jan 9, 2020).

⁷ Le Billon, *supra* note 2.

⁸ UNITED NATIONS ET AL., THE ROLE OF NATURAL RESOURCES IN DISARMAMENT, DEMOBILIZATION AND REINTEGRATION: ADDRESSING RISKS AND SEIZING OPPORTUNITIES (2013).

⁹ *Id.*

resources. In these contexts, it is common that local demand for resources like land, forests, water or wildlife exceeds the available provisions; or some use of the resources compete with other uses.¹⁰ Pressure over natural resources may be accompanied or qualifying by environmental disasters or factors that may intensify the turmoil, namely droughts, floods or landslides.¹¹ In this respect, it is interesting to explore the role of climate change as a “threat multiplier” over events of the known Arab Spring. Although insufficient by itself to cause the upheavals, the severe weather, as part of the background behind the food crises and price inflation, was an ‘aggravating factor’ of the social, economic, political and religious drivers of citizen anger.¹² Similarly, Syria may be other example on how natural events may worsen already unstable situations. Droughts were deemed along with poor governance and unsustainable agricultural policies, relevant in pushing people towards “revolution”.¹³ Among others, Sudan becomes a notorious case of a violent competition for natural resources between agriculturalists, nomads and pastoralists. Water scarcity, climate variability and the steady loss of fertile land as consequence of overgrazing and deforestation have been determinants of the conflict, in a region “where some 75 percent of the [growing] population are directly dependent on natural resources”.¹⁴

Finally, it may have a link between those states dependent on the extraction of a narrow set of natural resources and the political fragility that ensues this economic model. In such regimes, institutional arrangements and clientelist networks are established around the resource sector,

¹⁰ FROM CONFLICT TO PEACEBUILDING, *supra* note 1.

¹¹ RODRÍGUEZ GARAVITO, *supra* note 3.

¹² Sarah Johnstone & Jeffrey Mazo, *Global Warming and the Arab Spring*, 53 SURVIVAL 11–17 (2011).

¹³ Colin P. Kelley et al., *Climate change in the Fertile Crescent and implications of the recent Syrian drought*, 112 PROC NATL ACAD SCI USA 3241–3246 (2015).

¹⁴ FROM CONFLICT TO PEACEBUILDING, *supra* note 1.

shaping power politics and thus, privileging some groups and marginalizing others. “Resource dependent countries thus tend to have predatory governments serving sectional interests (...).”¹⁵ With a sense of disenfranchisement, citizens may see political change as the pathway to satisfy aspirations, or at least, express their grievances. Even when the adopted avenue has not necessarily been a violent one, these societies do face a greater risk of brutal unrest, being captured by *the resource curse*.¹⁶

Financing and sustaining conflict. Natural resources could also play a role for financing, perpetuating or sustaining the strife. Availability of ‘high-value’ resources and feasibility of its capture and exploit, have represented for armed groups to secure directly the assets for financing the fight. This has been the case with diamonds, timber, minerals and cocoa in countries like Liberia, Sierra Leone, Angola or Cambodia.¹⁷ In other cases, when natural resources are not easily exploitable or are less profitable to produce, armed groups may display extortion strategies or illegally impose taxes to those who extract, transport, or have the control of the market resource.¹⁸ This may be the case of rubber plantations in Liberia.¹⁹ Additionally, in modern wars -often play out in remote areas-, combatants can seize natural environment and wild areas, like deep forests, mountains, and other rugged landscapes to hide from the enemies and avoid attacks.²⁰ Besides,

¹⁵ Le Billon, *supra* note 2, at p. 567

¹⁶ Le Billon, *supra* note 2, and Ross, *supra* note 6.

¹⁷ FROM CONFLICT TO PEACEBUILDING, *supra* note 1.

¹⁸ Ross, *supra* note 5.

¹⁹ UNITED NATIONS ET AL., *supra* note 8.

²⁰ Thor Hanson et al., *Warfare in Biodiversity Hotspots*, 23 CONSERVATION BIOLOGY 578–587 (2009).

these natural spots provide armed factions with basic supplies as water, animals, plants and wood to satisfy their dietary and shelter needs.²¹

Nature as an aggrieved. Alongside these roles of natural resources to influence eruption or persistence of the violence, it has been proven the environment to be seriously affected by war. Direct and intentionally, destruction of nature can be deliberated for military purposes. This is better known as “ecocide”²². Vietnam war, besides human tragedy, was also an ecological disaster due to aerial application of Agent Orange and other herbicides by United States forces that “defoliated 14% of that country's forest cover and over 50% of its coastal mangroves”²³. In the name of the security, tactical assaults were carried out to deprive the enemy of shelter and sustenance, leading to a severe impact in biodiversity. As consequence of chemical contamination by herbicides, high- diversity forests were replaced with an extensive low-diversity grasslands, highly productive mangroves disappeared and mudflats gained control over ecosystem, as well as significant declines in both freshwater and coastal fisheries took place.²⁴ In other cases, there are attacks whose intentional target may not be nature but ends up for causing a collateral environmental damage. In 1999, air strikes by NATO were targeted within the Former Yugoslavian Republics of Serbia and Montenegro. One of the places bombed was the industrial complex of Pancevo, releasing 80,000 tonnes of burning oil. Besides the black rain reported, toxic blend was leaked into the environment. Air, soil and water were contaminated by thousands of tonnes of ethylene dichloride, metallic mercury, vinyl chloride monomer and liquid ammonia, bringing

²¹ RODRÍGUEZ GARAVITO, *supra* note 3.

²² Jeffrey A. McNeely, *Conserving forest biodiversity in times of violent conflict*, 37 *ORYX* 142–152 (2003), at p. 145.

²³ Hanson et al., *supra* note 16, at p. 584.

²⁴ McNeely, *supra* note 22.

severe risks to human health and natural environment.²⁵ In addition, indirect harms against nature have been documented as consequence of humanitarian crisis. It is not reasonable to expect from refugee and displaced communities measures in order to mitigate environmental impacts while they are trying to survive. During the civil war in Rwanda in the mid-1990s, almost 1 million refugees occupied lands in Virunga National Park²⁶ and during the time they were living there, deforested some 300 km² of the park in a desperate search for building encampments, feeding and gathering firewood.²⁷ As McNeely states “the conclusion is unsurprising: war is bad for biodiversity”.²⁸

Nature as a beneficiary. Despite the fact that nature typically suffers during warfare, it may also be a beneficiary of the chaos created by armed unrest. During war time, due to the altered human activity patterns, and high-grade of insecurity, certain places become in zones “off limits”²⁹ both for state intervention and economic activity, and human settlements.³⁰ These buffer zones, created *de facto* and inadvertently, have provided extraordinary conservation opportunities. Positive impacts of war can be seen in Thailand and Peninsular Malaysia. In the context of emerging insurgencies from the mid-1960s to mid-1970s, the military closed the border on the Malaysian side, avoiding public access and potential logging activity in the Belum Forest Reserve. This enabled an area of thousands of hectares, abundant in wildlife resources, remained untouched by economic and civil pressures.³¹ Other outstanding example was the demilitarized

²⁵ FROM CONFLICT TO PEACEBUILDING, *supra* note 1.

²⁶ *Id*, at p. 146

²⁷ Hanson et al., *supra* note 16, at p. 584.

²⁸ McNeely, *supra* note 22.

²⁹ *Id*, at p. 146.

³⁰ Hanson et al., *supra* note 20, at p.579.

³¹ McNeely, *supra* note 18, at p. 147.

zone between North and South Korea that brought a uninhabited 4 km-wide area for years, becoming in a biodiversity sanctuary.³² Furthermore, positive impacts of war may also originate intentionally from armed factions. This has been the case of those armed groups that set up social rules, including environmental ones, as mechanism to enhance control over territory. This pattern appears in the Colombian case which will be discussed below.

1.2. Conflict and environment connections in the Colombian case

Armed conflict in Colombia has been also governed by these environment-conflict dynamics. The contemporary violence in Colombia is far to be lineal,³³ and could be better described as a series of violence³⁴ that had its emergence during the period known as “La Violencia” in the 1940s-50s, followed by a low-intensity conflict in the 1960s, to finally be transformed in a multidimensional conflict since the 1980s between guerrillas, paramilitary groups and state armed forces.³⁵ Undoubtedly, conflict in that period was significantly pictured by ideological-political differences, including the anticommunist ideas prevailing in some political circles highly influenced by the legacy of the Spanish Civil War and pressures of the Western Bloc amidst Cold War tensions.³⁶ However, this hatred between parties may had more deep-rooted causes: the struggle for land. Historical fight for accessing to this resource and its equitable distribution has been considered both motive for the outbreaking and persistence of Colombian conflict.³⁷ Hence, land grabbing as

³² Hanson et al., *supra* note 16, at p. 584.

³³ Adriana Rincón, *Fórmulas de paz en Colombia (1948-2012)*, 10 EXPEDITÍO (2012).

³⁴ LAS VIOLENCIAS, INCLUSIÓN CRECIENTE, (Jaime Arocha, Fernando Cubides, & Jimeno Myriam eds., 1998).

³⁵ MARC W. CHERNICK, *ACUERDO POSIBLE: SOLUCIÓN NEGOCIADA AL CONFLICTO ARMADO COLOMBIANO* (3. ed ed. 2012).

³⁶ Javier Giraldo, *Aportes sobre el origen del conflicto armado en Colombia, su persistencia y sus impactos, in* CONTRIBUCIÓN AL ENTENDIMIENTO DEL CONFLICTO ARMADO EN COLOMBIA (Eduardo Pizarro Leongómez & Comisión Histórica del Conflicto y sus Víctimas (Colombia) eds., Primera edición ed. 2015).

³⁷ GMH, ¡BASTA YA! COLOMBIA: MEMORIAS DE GUERRA Y DIGNIDAD (2013) at, p. 21.

one of the most prominent manifestations of the conflict is not a coincidence.³⁸ Even though confrontation for land has been a *constant* in the warfare, in later period of the conflict, violence has onset around exploit or capture revenues of “high-value” resources like oil, gold or coca, and in some regions, booms of palm oil and banana production have fostered hotbeds of violence.³⁹ While the conflict has had an environmental dimension, this does not aim to qualify Colombian conflict as an environmental conflict. Even though the undeniable close link with land, origins of this prolonged war have been fueled by several dynamics of political exclusion.⁴⁰

Natural resources have been also seized in Colombia by armed groups for financing and sustaining the unrest. This has been the case of crops used for illicit purposes and drug trafficking;⁴¹ irregular emerald trade and exploitation⁴², and illegal gold mining.⁴³ Moreover, through extortion strategies, illegal charging of taxes and illicit partnerships with companies, corrupted politicians and military, armed factions have been also benefited from legal economic activities, such as cattle raising, extractive industries and monoculture tree plantations.⁴⁴ Colombian geography, featured

³⁸ NELSON CAMILO SÁNCHEZ LEÓN, *TIERRA EN TRANSICIÓN: JUSTICIA TRANSICIONAL, RESTITUCIÓN DE TIERRAS Y POLÍTICA AGRARIA EN COLOMBIA* (Primera edición ed. 2017).

³⁹ RODRÍGUEZ GARAVITO, *supra* note 8, at p.21.

⁴⁰ Monopoly of the system by traditional parties; a political system incapable of integrate social, cultural and agrarian claims; continuous oppressive strategies against social protest and popular mobilization in tandem with restrictions of freedoms given by an almost permanent state-of-siege during the second half of the last century; electoral frauds against emerging alternative political forces or physical extermination of the political opponent, have been some documented strategies that illustrate how political marginalization has been a paramount trigger and perpetuating factor in this armed confrontation. *See in* CONTRIBUCIÓN AL ENTENDIMIENTO DEL CONFLICTO ARMADO EN COLOMBIA, (Eduardo Pizarro Leongómez & Comisión Histórica del Conflicto y sus Víctimas (Colombia) eds., Primera edición ed. 2015).

⁴¹ Juan Fernando Vargas & Angelika Rettberg, *Costos del conflicto y consideraciones económicas para la construcción de paz*, *in* CONSTRUCCIÓN DE PAZ EN COLOMBIA 239–272 (1. ed ed. 2012).

⁴² Gutiérrez, F. y Barón, M. (2008). Órdenes subsidiados: coca, esmeraldas. La guerra y la paz. Colombia internacional, 102-129.

⁴³ Echandía Castilla, C. (2013). Narcotráfico: génesis de los paramilitares y herencia de bandas criminales. *Informes FIP*, 19.

⁴⁴ JORGE GIRALDO & JUAN CARLOS MUÑOZ MORA, *INFORMALIDAD E ILEGALIDAD EN LA EXPLOTACIÓN DEL ORO Y LA MADERA EN ANTIOQUIA* (1. ed ed. 2012).

by extensive wildlife landscapes; rugged terrains, deep forests; and impenetrable jungles, has been used strategically by guerrillas and paramilitary groups for hiding both their camps and illicit activities -coca crops and its processing labs as well as victims of kidnapping-.⁴⁵ Certainly, weak governance institutions and, in many cases, a complete institutional 'vacuum' in these regions, have also contributed to these groups maintain control over territory.⁴⁶

As a result of a war of more than 5 decades, ecosystems and wildlife in Colombia have undergone significant environmental pressure and damages. Remote zones where armed groups have settled overlap with the most biodiversity-rich areas in the country. In 2013, presence of illegal groups was recorded in about half of Natural National Parks -spots designated for conserving purposes-. Camps settlement and development of illegal activities entail usage and processing of resources, which, for obvious reasons, have not been regulated neither could be deemed as sustainable. According to official statistics, 58% of deforested hectares between 1990 and 2013 took place in war zones.⁴⁷ Among main causes of deforestation have been identified illegal mining, crops used for illicit purposes, illegal logging, forest fires and extensive cattle ranching.⁴⁸ In mid-2010s, 56% of deforested area was transformed in grass cover for livestock activities.⁴⁹ A severe environmental degradation is also due to attacks against oil pipelines by rebel groups, particularly National Liberation Army -ELN-. Since 1980s, it is calculated that about 170 billions of gallons of

⁴⁵ RODRÍGUEZ GARAVITO, *supra* note 8, at p. 25.

⁴⁶ *Id.*

⁴⁷ DNP DEPARTAMENTO NACIONAL DE PLANEACIÓN, *Conpes 3850. Fondo Colombia en Paz* (2015).

⁴⁸ De acuerdo con el Instituto de Hidrología, Meteorología y Estudios Ambientales (Ideam) (2015),

⁴⁹ Al respecto véase Ministerio de Ambiente y Desarrollo Sostenible (2013).

oil- an amount comparable to the Gulf of Mexico oil spill in 2010- have spilled over 30% of water basins of national territory.⁵⁰

As strategy of the fight against drugs, herbicides whose active component is glyphosate have been sprayed by air over crops used for illicit purposes. More than 2 millions of hectares have been sprayed since mid-1990s.⁵¹ However, given that aerial application is difficult to be performed in a controlled manner, and *illicit crops* are mainly localized in biodiversity-rich areas and among *legal crops*, several ecosystems, wildlife and farming activities suffer the same fate. And this, without taking into consideration that the negative impacts for human health are still under discussion.⁵² Moreover, until 2014, about 50% of towns in the country were impacted by illegal mining and in the 28% of natural sanctuaries protected took place extractive activities.⁵³ As a result, almost 2000 of rivers have been affected,⁵⁴ reducing its navigability or being contaminated by oils, chemical substances and hazardous residues like mercury.⁵⁵

In terms of indirect impacts, almost 8 millions of internally displaced people (IDPs) have been moved towards cities and countryside, putting pressure over accessing and using resources.⁵⁶ Along with this, phenomenon of economic boom around crops used for illicit purposes and illegal

⁵⁰ DNP DEPARTAMENTO NACIONAL DE PLANEACIÓN, *supra* note 47.

⁵¹ MINISTERIO DE JUSTICIA Y ODC, *Reporte de drogas de Colombia* (2015).

⁵² REUTERS, *In glyphosate review, WHO cancer agency edited out "non-carcinogenic" findings* (2017), <https://www.reuters.com/investigates/special-report/who-iarc-glyphosate/>.

⁵³ DNP DEPARTAMENTO NACIONAL DE PLANEACIÓN, *supra* note 47.

⁵⁴ *Id.*

⁵⁵ DEFENSORÍA DEL PUEBLO, *Crisis humanitaria en el Chocó: diagnóstico, valoración y acciones de la Defensoría del Pueblo* (2014).

⁵⁶ UNHCR THE UN REFUGEE AGENCY, *Global Trends: Forced Displacement in 2018*, <https://www.unhcr.org/5d08d7ee7.pdf>.

mining has led some population to move towards these areas, often highly biodiverse, bringing more and unplanned environmental impacts.

Due to the violent and unsafe context in the most biological diversity sites in Colombia, such as the Amazon, the biogeographical Chocó and Catatumbo zone⁵⁷, conservation activities have become virtually impossible. Placing landmines or, killings and threats against rangers in natural sanctuaries⁵⁸, have been used by armed actors as strategies to discourage institutional presence. Additionally, in this setting, government's interests are focused on ending armed conflict, giving priority military budget above any conservation policy.⁵⁹

Almost invariably, armed conflict causes severe and negative impacts on nature. Although significant grade of environmental degradation in Colombia evidence this pattern, paradoxically, violence has also had a protecting effect over environment. Active presence of armed actors in biodiversity-rich areas and the war dynamics fostered the conservation of these ecosystems. As examined above, these territories became 'off limits', being unreachable by state, civilians or companies for exploitation of natural resources, development large-scale projects or even for human settlements. Among others, this has been the Amazon case. The fact that in Colombia until 2012 Amazon was better preserved than in neighboring countries was due not only to legal protection through Indigenous Reservations and Natural National Parks, but also *de facto* limit that violence imposed.⁶⁰ Parallel with these inadvertent or accidental benefits, illegal armed

⁵⁷ RODRÍGUEZ GARAVITO, *supra* note 8, at p. 13.

⁵⁸ McNeely, *supra* note 18, at p. 148.

⁵⁹ Hanson et al., *supra* note 20.

⁶⁰ RAISG RED AMAZÓNICA DE INFORMACIÓN SOCIOAMBIENTAL GEORREFERENCIADA, *Amazonía bajo presión* (2012), www.raisg.socioambiental.org.

groups, as part of the social control over territory, also set rules linked with conservation practices. To mention some, they have limited wood extraction, hunting and fishing, as well as, expansion of agricultural frontier in forest areas⁶¹. In some cases, non-compliance with the rules entailed sanctions, from public scorn to extrajudicial execution.⁶² These intentional conservation dynamics were identified in la “Serranía de La Macarena”, a site in amazon region where converges four National Natural Parks. For long time, La Macarena housed The Revolutionary Armed Forces of Colombia (FARC-EP) headquarters, and while was target of several environmental pressures like aerial bombing by government and use of anti-personnel landmines, it was also protected from agriculture activities by the rebel actors.⁶³

In the Amazon region, before 2016 Final Peace Agreement -FPA- was signed between Colombian government and the guerilla of FARC-EP, deforestation rates were almost invariable: in 2013, 68,725ha were deforested; in 2014, 63,280ha disappeared; in 2015, rates dropped to 56,962ha; and in 2016, increased slightly to 70,074ha. Despite the fact the Amazon has been the most affected zone in the country by deforestation, in the war time between FARC-EP and Colombia military forces, loosing rates of cover forest in the area were relatively static. However, with peace agreement signing and the disabling of the armed conflict in most of places where FARC-EP were situated, deforestation numbers increased alarmingly to the point of doubling. Just in one year,

⁶¹ RODRÍGUEZ GARAVITO, *supra* note 3.

⁶² Carlos Andrés Durán, *Gobernanza en los Parques Nacionales Naturales colombianos*, 32 REVISTA DE ESTUDIOS SOCIALES 60–73 (2009).

⁶³ McNeely, *supra* note 18, at p. 148.

between 2016 and 2017, the deforestation of Amazon jungle went from 70,074ha to 144,147ha. In 2018, rates decreased just slightly, having lost 138,176ha.⁶⁴

Undoubtedly, armed conflict had destructive effects over forests in Amazonas, being degraded at the hands of land grabbing, illicit crops, illegal mineral, wood extraction and ravages of war. However, so far, peace time has proved to be even worse. As Hanson put it: “The implications of war for biodiversity conservation are complex, multiscale, and not limited to conflict zones or the time period of active hostilities”.⁶⁵ Once armed conflict was disabled and FARC combatants were disarmed and demobilized, many ‘voids’ were left in territories historically colonized by war, such as the Amazon region. Post-conflict in this sense, became into an opportunity for other criminal groups and illegal colonizers to capture these territories, in which a lack of institutional or government presence dwells. Of course, this does not mean warfare is positive neither inestimable merits of the transition to peace should not be supported or shielded. Rather, the aim of this mention is to highlight that disabling the armed conflict could enable environmental conflicts, hence, the urgency for exploring mechanisms to halt these and seek remedy for harms against nature, considering that these environmental tensions can trigger new waves of violence, the relapse into conflict and the incapability to carry out conservation efforts.

⁶⁴ IDEAM COLOMBIA, *Resultado Monitoreo de la Deforestación 2018* (2018), <http://www.ideam.gov.co/documents/24277/91213793/Deforestaci%C3%B3n/6a0a48b5-b5cb-4683-823a-3352be9b2700>.

⁶⁵ Hanson et al., *supra* note 16, at p. 579.

As examined below, if natural resources played a significant role in the outbreaking and maintaining the Colombian unrest, unprecedented deforestation of amazon region today and all illicit activities behind it (gold mining, coca crops processing or land grabbing for extensive livestock) are fertile ground for new conflicts or exacerbating existing ones. It is not a novelty that if sustainable livelihoods and ecosystem services continue degraded or damaged, it would become increasingly difficult to maintain a stable or durable peace.⁶⁶ Reconstitution of the environmental governance is a powerful tool that can consolidate but also hamper pos-conflict settings, if it is simply neglected or disregarded.⁶⁷ In fact, some preliminary research has shown that, in the first years of post-conflict, unrests linked with natural resources have a much higher risk to not consolidate peace than those which are not interconnected with environmental dimensions.⁶⁸ May these cycles of violence be broken out in the Colombia pos-conflict setting? Did transitional justice -TJ- architecture envisage mechanisms to address environmental degradation as a consequence of war or anticipate pressures that the post-conflict brought about on the most biodiversity-rich spots?

2. Environmental dimensions in transitional justice mechanisms in Colombia

⁶⁶ Ken Conca & Jennifer Wallace, *Environment and Peacebuilding in War-torn Societies: Lessons from the UN Environment Programme's Experience with Postconflict Assessment*, 15 GG 485–504 (2009).

⁶⁷ *Id.*

⁶⁸ Helga Malmin Binningsbø & Siri Aas Rustad, *Resource Conflicts, Resource Management and Postconflict Peace* (2007),

https://www.researchgate.net/profile/Siri_Rustad/publication/254712751_Resource_Conflicts_Resource_Management_and_Postconflict_Peace/links/54732b380cf24bc8ea19bcb0/Resource-Conflicts-Resource-Management-and-Postconflict-Peace.pdf.

2.1. The 2016 Final Peace Agreement: “Making the environmental peace”

Environmental dimensions or those related with natural resources are mainly addressed in 2016 Final Peace Agreement -FPA- by chapters I and IV.⁶⁹ On the one hand, chapter 1 contains the agreement on “Comprehensive Rural Reform” whose purpose is fomenting structural change in the countryside, and creating conditions of well-being for the rural population. Particularly, the rationale behind this pact is to reverse the effects of the conflict and to change the conditions that have enabled persistence of violence in Colombia’s regions. In other words, to resolve one of the root-causes of the conflict: the unresolved issue of land ownership, the unfair concentration of these lands, and the exclusion of the rural population. In order to tackle this issue, several mechanisms were created to guarantee the access to land, such as, a Comprehensive Rural Reform Land Fund for the free distribution of land (3 million hectares of land available during its first 12 years of existence); comprehensive purchase subsidies and special purchase credits. Additionally, it was noted that land restitution and land titling would be programs to combat unlawful possession and ownership, as well as to restore land rights to communities and victims of the armed conflict. Furthermore, for implementing the Comprehensive Rural Reform, many national plans should be carried out, such as Infrastructure and land improvement, whose aim is to enhance road, irrigation, electricity and connectivity facilities. It is worth noting these infrastructure plans should take into account “preparatory measures to mitigate the risks of

⁶⁹ COLOMBIAN GOVERNMENT & FARC-EP, *Final Agreement to end the armed conflict and build a stable and lasting peace* (2016), <http://especiales.presidencia.gov.co/Documents/20170620-dejacion-armas/acuerdos/acuerdo-final-ingles.pdf>.

climate change”. This is the only part where climate change is mentioned in Final Peace Agreement.

Stakeholders in the FPA emphasized in the appropriate use of land in “accordance with the criteria of environmental sustainability, land suitability, territorial planning and community participation.”

As a corollary, it was agreed the implementation of environmental zoning plan to delimit the agricultural frontier and protect reserve areas, by characterizing their use and proper environmental management. This is the case of forest reserve areas, areas of high biodiversity, fragile and strategic ecosystems, watersheds, moorland (*páramos*) and wetlands, and other water-related sources and resources. With this purpose, it was set up the need of supporting rural communities currently living alongside or within these reserve areas, by structuring plans for their development, “including re-settlement programmes or programmes for community rehabilitation of forests and the environment, which are compatible with and contribute to the objectives of closing the agricultural frontier and preserving the environment”. Among these programs, any sustainable form of organization of the rural population and economy are welcome, such as: the provision of environmental services, sustainable food production and silvopasture systems and reforestation. Finally, the Development Programmes with a Territorial-Based Focus (DPTFs), National plans for Comprehensive Rural Reform and Peasant Enterprise Zones (PEZ) are more mechanisms that brought FPA with the aim of closing the gap between rural and urban areas, by transforming the countryside, and communities living there: men and women in the small-scale farmer, indigenous, black, Afro-descendent, *raizal* and *palenquero* communities.

On the other hand, chapter IV includes the agreement on the “Solution to the Illicit Drugs Problem”. On this issue, stakeholders agreed in a cross-cutting approach, by stating that a definitive solution to this problem requires more than fighting against organized crime associated with drug trafficking and money laundering. Firstly, this issue requires to address the crops made for illicit use in a distinct and differentiated manner, by understanding the persistence of the crops is in part linked to the existence of conditions of poverty, marginalization, and weak presence of institutions in those territories where they are produced. In this sense, structural transformation of the countryside contained in chapter 1, and all the measures aimed at improving the well-being and quality of life of the rural populations affected by these crops, benefit purposes of chapter IV agreement. Additionally, a new National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes was arranged in order to prioritize voluntary substitution of these crops, rather than continue using aerial spraying of herbicides such as glyphosate to clear illicit fields. A paramount factor on this program is its participative construction, in other terms, substitution alternatives and new legal activities should be defined together with the communities. In the municipalities bordering areas of particular environmental interest, or in cases where illicit crops are within National Natural Parks, programmes of substitution have a special component relating to sustainable and environmental regeneration, allowing any rural productive project form whenever to be compatible with protection policies and mitigation of ecological impacts.

Undoubtedly, FPA envisages an environmental dimension related to the historical land issue and the crops used for illicit purposes. These topics were addressed from a cause- effect correlation as well as from a perspective in which these natural resources have financed, perpetuated and sustained the strife. In this sense, FPA sought to set up measures in order to dismantle the

irregular, unjustified and illegal dynamics through which natural resources have been used for more than fifty years of armed conflict. In doing so, progressive environmental justice mechanisms were enshrined, such as land redistribution, or the prioritization of voluntary substitution rather than the use of aerial herbicides whose effects to healthy environment are still highly controversial. However, FPA says little about how to deal with environmental degradation or destruction at hands of war or how to seize the conservation opportunities that conflict represented in terms of anticipating and preventing harms to nature in pos-conflict setting. Chapter 5 of FPA that contains measures to guarantee justice, truth, reparations and non-repetition to victims of armed conflict, just timidly mentioned actions. FARC-EP ex-combatants, as part of the concrete contributions to reparations, may participate in infrastructure rebuilding work in the areas most affected by the conflict and in programmes to clear such areas of anti-personnel mines or explosive remnants, as well as take part in projects to substitute crops used for illicit purposes, and engage in programmes to repair environmental damage, namely reforestation.

Even though those mechanisms acknowledged and seek to grapple with the negative impacts of warfare in nature, the endeavor seems to be insufficient. First, because considering the dimensions of the strife in Colombia, it seems to be unrealistic that just 13,000 FARC-EP ex-combatants are able to redress the environmental damage that left more than half century of war, particularly when their duty of ensuring comprehensive reparations is primarily aimed to victims of serious human rights violations and breaches of international humanitarian law. And second, stating that responsibility to redress environmental damages rests exclusively on former FARC-EP population is to ignore during the conflict were many more actors of the conflict, armed and non-armed, who jeopardize natural goods, such as paramilitary groups, companies and the state itself

through its military and security forces, or in some case, corrupted politicians. These few remarks along with the general absent in FPA of management environmental impacts, evidence a clear sign: environmental issues were relegated in peace making stage (agreement), but they cannot be avoided in peace building phase.⁷⁰

2.2. The post-conflict setting: “Building environmental peace through courts”

Environmental reality in the pos-conflict has exceeded the peace agreement margins. And it is in this setting where domestic rights-based claims, in an attempt to reverse war effects but specially to halt the voracity against nature in pos-conflict setting, have played a key role in achieving environmental protection and addressing climate change.

Two years ago, 25 children and youth coming from different regions in the country, with the support of a Colombian ONG, filed a rights-based legal action (“tutela”) claiming that deforestation in the Amazon, the main source of greenhouse gas emissions driving climate change in the country, was threatening their constitutional rights to a healthy environment, life, health, food, and water.⁷¹ On the basis of domestic legal tools and some environmental principles of international law such as precaution, intergenerational equity, solidarity between nations, participation and best interests of the child, plaintiffs stressed that they, as part of the future generations will suffer the worst climate change effects, and therefore, government must stop

⁷⁰ RODRÍGUEZ GARAVITO, *supra* note 3.

⁷¹ The whole text in spanish of lawsuit can be consulted in <https://www.dejusticia.org/wp-content/uploads/2018/01/TutelaCambioClim%C3%A1tico.pdf>

deforestation and guarantee participatory mechanisms in order to guarantee zero deforestation also for next generations.

The “tutela”, envisaged in article 86 of the 1991 Political Constitution, is a legal mechanism in Colombia to protect fundamental rights. Through this mechanism, children argued omissions of Colombian government in protect the Amazon region from deforestation resulted in the increment of greenhouse gas (GHG) emissions.⁷² Using official statistics, they showed the main cause of GHG emissions in the Colombian Amazon region is deforestation.⁷³ In turn, with more public and official information,⁷⁴ they evidenced that these type of emissions could alter climate indicators such as changes in temperature as well as the increasing and declining of precipitations. This disruption is precisely the manifestation of climate change. Consequences of climate change not only affected their right to a healthy environment -In Colombia this is a human right according to article 79 of Constitution-⁷⁵, but they also asserted with this right affected, their rights to life; to human health; to food and water proved to be negatively impacted as well. Thus, they displayed how interconnected dynamics of deforestation in the Amazon, the GHG emissions and consequential phenomena of climate change could impact other regions at national level in the next years, in terms of natural disasters like droughts and floods; effects on agriculture and livestock industries; water and food availability and human diseases.

⁷² IDEAM COLOMBIA, *Inventario Nacional y Departamental de Gases Efecto Invernadero* (2016), <http://documentacion.ideam.gov.co/openbiblio/bvirtual/023634/INGEI.pdf>.

⁷³ *Id.*

⁷⁴ IDEAM COLOMBIA, *Nuevos escenarios de cambio climático para Colombia 2011-2100* (2011), http://documentacion.ideam.gov.co/openbiblio/bvirtual/022964/documento_nacional_departamental.pdf.

⁷⁵ ASAMBLEA NACIONAL CONSTITUYENTE, *Constitución Política de Colombia* (1991).

Worth noting that they sued as direct and future generation affected by climate change. They affirmed to expect developing their adult lives during the period 2041-2070, when annual temperature of country will increase 1,6°C.⁷⁶ In this sense, they concluded to be living the same collective experience and to be the next generation that will face the harmful effects of climate change. In order to give strength to concept of future generations, besides Colombian constitutional jurisprudence on the topic, they brought international instruments as Stockholm Declaration of 1972,⁷⁷ Brundtland Report⁷⁸, Rio Declaration of 1992,⁷⁹ and the Paris Agreement of 2015.⁸⁰

Additionally, in order to decide the case, plaintiffs asked to take into account not only an anthropocentric dimension for protecting nature, but also the biocentric and eco-centric ones. Furthermore, 25 children suggested to the judge that the case was examined under the light of the following environmental principles, some of them developed in international law: the precautionary approach (e.g. principle 15- Rio Declaration); In *dubio pro nature*⁸¹; solidarity with other human beings, other living beings⁸² and other nations (e.g. Article 3- OAS Charter- 'Tratado de Cooperación Amazónica' of 1978); intergenerational equity⁸³ (e.g., 'Stockholm Declaration' and

⁷⁶ IDEAM, PNUD, MADS, DNP, CANCELLERÍA, FMAM, *Tercera comunicación nacional sobre cambio climático* (2017), http://documentacion.ideam.gov.co/openbiblio/bvirtual/023732/RESUMEN_EJECUTIVO_TCNCCL_COLOMBIA.pdf.

⁷⁷ UN GENERAL ASSEMBLY, *Declaration of the United Nations Conference on the Human Environment* A/RES/2994 (1972).

⁷⁸ UN GENERAL ASSEMBLY, *Report of the World Commission on Environment and Development: Our Common Future* A/42/427 (1987).

⁷⁹ UN GENERAL ASSEMBLY, *UNConference on Environment and Development* A/CONF.151/26 (1992).

⁸⁰ *UN Framework Convention on Climate Change* COP REPORT No. 21, ADDENUM, AT 21, U.N. DOC. FCCC/CP/2015/10/ADD, 1, (2015).

⁸¹ Corte Constitucional de Colombia, Sentencia C-449 de 2015.

⁸² Corte Constitucional de Colombia, Sentencia T-622 de 2016.

⁸³ CORTE CONSTITUCIONAL DE COLOMBIA, *supra* note 81.

The 1995 IUCN Draft Covenant on Environment and Development); environmental participation (principle 10- Rio Declaration), and the best interests of the child.⁸⁴

Court of first instance refused the lawsuit.⁸⁵ But in the appeal, the Colombian Supreme Court granted the petition.⁸⁶ The high Court acknowledged the global and transnational effects of the Amazon deforestation and emphasized that paramount ignorance and inefficiency of the State in tackling the problem not only affected plaintiffs' but also global populations rights. Since plaintiffs argued they will be the ones to suffer the disastrous climate effects, the high court not only stressed in the necessity of stopping deforestation for present generations but also in creating an "intergenerational pact for the life of the Colombian Amazon". The aim of the pact is reducing deforestation to zero and mitigate GHG emissions, and it should be integrated by plaintiffs, affected communities, as well as research and scientific organizations. Moreover, it was ordered to the municipalities of the Amazon to update their Land Management Plans within a five-month period, and to develop an action plan to reduce deforestation to zero with measurable strategies. At regional level, the Colombian Supreme Court also ordered the environmental authorities, to issue an action plan to reduce regional deforestation.

Finally, understanding the gravity of the lack of protection, the high court not only ruled in favor of the plaintiffs but also ordered an enhanced protection for the Colombian Amazon, stating it as

⁸⁴ ASAMBLEA NACIONAL CONSTITUYENTE, Article 44, *supra* note 75.

⁸⁵ Sala Civil Especializada en Restitución de Tierras del Tribunal Superior del Distrito Judicial de Bogotá, Sentencia de tutela de primera instancia Rad. 11001-22-03-000-2018-00319 (February 12, 2018).

⁸⁶ Corte Suprema de Justicia Sala de Casación Civil, Sentencia de Tutela de Segunda Instancia Rad. 11001-22-03-000-2018-00319-01 (April 5, 2018).

an “entity subject of rights”. Somehow, this ruling entails the downfall of the anthropocentric approach towards nature by a “biocentric” and “eco-centric” one. On the basis of how essential is the Amazon for the global future and the serious threats that was facing, the high court declared its rights to be protected, conserved, maintained, and restored.

However, acknowledgement of some ecosystems or natural phenomena as “subjects to rights” is not a novelty in Colombian legal system. A first and close antecedent was article 3 of Decree 4633 of 2011 (article 3). In the context of reparations to victims of the armed conflict, it was recognized that “For indigenous peoples, the territory is a victim, taking into account their worldview and the special and collective bond that unites them with Mother Earth”. However, same article specified later that rights holders will continue to be indigenous communities and peoples, and their members.

It was after, in 2016, when an ecosystem was effectively acknowledged as subject of rights. By the same time FPA was signed, through Judgement T-622 of 2016,⁸⁷ the Constitutional Court of Colombia declare the ‘Atrato River’ Basin (Chocó) had the rights to be protected, conserved, maintained and, in the specific case, restored. The ‘tutela’ lawsuit, filed by ethnic communities of the Atrato River Basin, showed evidence that government entities had violated their fundamental rights to the territory and culture. According to them, lack of institutional control over illegal mining activities in the river that overlaps with ancestral territories, was threatening their traditional ways of life. In the judgement, the Court highlighted correlation between the ‘Atrato

⁸⁷ CORTE CONSTITUCIONAL DE COLOMBIA, *supra* note 82.

River' and armed conflict: "the rise of illegal mining of gold and other precious metals [in the Basin of the Atrato River and its tributaries] has opened up alarmingly - as a financier of the armed conflict - which is generating worrying socioenvironmental conflicts that materialize in an indiscriminate struggle for the control of territories and natural resources." As a result, region and communities were enduring forced displacement, degradation of ecosystems, reduction of forests, extinction of endemic species and pollution of rivers, among other factors that place the natural and cultural heritage of the country at high risk."⁸⁸ Along with these harms caused by illegal phenomena, the high Court pointed out that "policies and legislation had emphasized access for economic use and exploitation to the detriment of the protection of the rights of the environment and of the communities."⁸⁹ The Court detected a 'protection gap' of the river as ecosystem but also as the natural territory that enabled communities to develop their cultural rights, understanding that there was a "bio-cultural" relationship worthy of protection by Constitution. Thus, the legal formula was to recognize the river as subject of rights and to declare it will be represented by a member of the plaintiff communities and a delegate of the Colombian State, who would be its guardians.

3. Environmental claims in post-conflict: a diagnosis

⁸⁸ *Id.* See translation available at Dignity Rights Project <http://files.harmonywithnatureun.org/uploads/upload838.pdf>

⁸⁹ *Id.*

At present, it is not easy to make a comprehensive assessment of the scope of these judgements. Particularly, in the Supreme Court's landmark order to protect the Colombian Amazon, we are still following how government is dealing with mandates of the decision. However, national institutions have not taken sufficient action, and, meanwhile, deforestation threats to the Amazon forest continue to grow. Despite of that, it can be noted a few remarks and some preliminary lessons about these claims.

First, their judicial success is partly due to the interdisciplinary proposal that is behind them. Both of them, but particularly the Amazon's lawsuit engaged in a robust conversation with other disciplines. Environmental claims demand, beyond the law, to be able to joint efforts, disciplines, experiences, as well as scientific and traditional knowledge. It is in this sort of experiments that scholars, activists, communities, and scientists intersect to mobilize judicial system and state institutions around the rights' protection and strengthening of the rule of law, especially in those "off limits" territories or "no man's land".

Second, no effort is small. Even though concrete outcomes and protection mechanisms are still diffused, these claims have portrayed an environmental shift. While the Brazilian Amazon was burning dramatically last year, in Colombia the Amazon's lawsuit and Supreme Court's landmark decision were giving an opportunity to take action to shield the rainforest. Environmental activism is not anymore, a concern exclusively of civil society or academia. One may talk about a "judicial environmental activism". Judges and tribunals are becoming more conscious of their role in the environmental protection architecture. Many of them have understood that climate change is a

human rights issue, and as such judicature has to be involved. And not only the high judicature. As a ripple- effect, some appeals tribunals, those who are widespread by regions in Colombia and may have a deep knowledge of the relations between communities and ecosystems, are following Supreme Court's judgement. It is the case ruled by Tribunal Administrativo del Tolima on May 30, 2019.⁹⁰ The tribunal ordered to stop mining exploration and exploitation in three important rivers for the region: Coello, Combeima and Cocora, and additionally declared them a "subjects of rights" of protection, conservation, maintenance and restoration. This judgement could be even more controversial, since it entails legal activities of mining companies. However, the Tribunal noted that although these industries operate legally, may be equally harmful for a healthy environment.

Third. Under International Environmental Law and International Law of Human Rights there is no clarity on how to bring a case before international courts or mechanisms to prevent or mitigate climate change and the key phenomena behind it, such as deforestation. However, sources of international law do offer significant rules on substantive obligations, states duties or environmental principles. Binding or not at a domestic level, they continue to be precious tools and often find 'echo chamber' through judicial reasoning. This phenomenon occurs even with international normative standards that do not fall under the recognized sources of international law, such as *soft law*.⁹¹ Undoubtedly, in both cases, 'Atrato River' and the Amazon, many international standards were argued to support the claims and most of them were admitted by

⁹⁰ EL Espectador, *Tribunal del Tolima otorga derechos a tres ríos y detiene la minería de oro*, <https://www.elespectador.com/noticias/medio-ambiente/tribunal-del-tolima-otorga-derechos-tres-rios-y-detiene-la-mineria-de-oro-articulo-864683>.

⁹¹ Machiko Kanetake, *Soft Law*, in INTERNATIONAL LAW IN DOMESTIC COURTS: A CASEBOOK 311–348 (André Nollkaemper et al. eds., First edition ed. 2018).

courts. Of course, it has to be admitted that ‘tutela’, in terms of proceedings, is a very flexible mechanism, which helps to make a case on the basis of more imaginative and creative strategies. In any case, despite the hurdles in using international mechanisms to mobilized rights-based arguments to protect the environment and address climate change,⁹² international law contains paramount substantive standards that continue fostering this protection at a domestic level. This is not to say that international human rights mechanisms or international criminal law do not have more perspectives to offer in order to prevent or mitigate climate change. It is just a remark about the progressive impacts that those instruments and standards provide to domestic landscape. In fact, domestic rights-based claims find their limits on the geopolitical scope of each nation. Our geopolitical borders do not coincide with the scope of environmental phenomenon and its effects. Environmental crisis is a global issue that should be solve in global terms. Here is where international law community should continue to explore pathways between states.

Fourth. Certainly, we are still exploring the effects of the legal formula that acknowledged rights to ecosystems like rivers or rainforests. Nevertheless, there is a common element in judgements that depicts the main consequence of these orders and may distinguish from regular orders to protect environment. The real effect is to guarantee a more robust participation to those communities who are part of the protected territory; are directly affected or hold a legitimate interest. Declaring the Amazon or Atrato River ‘subjects of rights’, besides to incorporate to the legal system an eco-centric perspective on how we interface with nature, in practical terms, entails

⁹² Justine Bendel, *Bringing Deforestation before an International Court?*, BLOG OF THE EUROPEAN JOURNAL OF INTERNATIONAL LAW EJIL: TALK! (2019).

to open more participation rooms for communities than regular exiting ones. Both the Amazon and 'Atrato River' have legal guardianships that are integrated with government representatives but also plaintiffs or community leaders. In regular conditions, the latter are excluded of direct mechanisms of participation, and the only or official representative who has the power to discuss and decide over natural resources and environment is the Colombian state. One exception could be the prior consultation of indigenous peoples, but this mechanism is limited by several factors such as the ethnic status of the community; the kind of the affectation to them or the narrow hypothesis in which people can use veto right. Theoretically, legal formula of acknowledgment "subject of rights" to a natural entity, should involve the possibility for communities to participate and decide about the present and future of the ecosystem. There seems to be no more limit in their mandate that protect, conserve, maintain and, in the specific case, restore the natural entity. A broad mandate. This approach, undoubtedly, represents a deepening of participatory democracy.

In the specific case of Amazon, despite the fact plaintiffs, as interested group in protecting, are part of the "intergenerational pact for the life of the Colombian Amazon", none indigenous community of the Amazon are part of it. This is a huge gap of protection, because any resolution to preserve or restore nature should be consulted with *it*, and in practice, this can be developed by whom know better *it*, namely, *its* communities.⁹³ In terms of rainforest protection, indigenous

⁹³ Dejusticia, Gabriela Eslava, *Naturaleza: ¿víctima del conflicto?* (2019), <https://www.dejusticia.org/naturaleza-victima-del-conflicto/>.

reservations have proved to be the most effective conservation model so far in the Amazon region,⁹⁴ above any environmental government programme.⁹⁵

Fifth. Finally, under transitional justice rationale, if nature has already been recognized as “subject of rights”, it might be asked, is there any possibility for ecosystems that endured negative impacts of war, such as the Amazon, to be acknowledge as victims of the armed conflict? If so, Could the Amazon be redressed and restored as consequence of the harm suffered?⁹⁶ Since the Amazon is not only a ‘subject of rights’ but was also severely impacted by dynamics of war as examined above, there seems to be no hurdle to declare the Amazon as victim of armed conflict and consequently, to be entitled to reparations. This assert is just a consequence or ‘the echo’ of incorporating an eco-centric perspective in the legal system. Its resonance also reaches transitional justice architecture. Indeed, beyond reparations, TJ mechanisms could be adapted to guarantee justice, truth and non-repetition for the nature. Worthy of note that last year, Special Jurisdiction for Peace in Colombia, through its Investigation and Prosecution Unit, declared “Environment as a silent victim of the armed conflict” in the framework of an investigation carried out in the south of the Country (Nariño). Although this is an ongoing process, the Unit asserted “to be engaged seeking for it reparation mechanisms and guarantees for non- repetition”.⁹⁷

⁹⁴ LA RED AMAZÓNICA DE INFORMACIÓN SOCIOAMBIENTAL GEORREFERENCIADA (RAISG), MAPBIOMAS & MAPBIOMAS AMAZONIA, *Lanzamiento de la Colección 1.0 de mapas anuales de la cobertura y uso del suelo del 2000 a 2017 de la Pan- Amazonía* (2019), <http://amazonia.mapbiomas.org/>.

⁹⁵ GAIA Amazonas, *RESGUARDOS INDÍGENAS: LA CLAVE PARA PROTEGER LOS BOSQUES EN LA AMAZONÍA* (2019), https://www.gaiaamazonas.org/noticias/2019-11-05_resguardos-indigenas-la-clave-para-protger-los-bosques-en-la-amazonia/.

⁹⁶ Gabriel Eslava, *supra* note 93.

⁹⁷ Sala de Reconocimiento de Verdad Jurisdicción Especial para la Paz de Responsabilidad y de determinación de los hechos y conductas, Caso No.002 (2018), <https://www.jep.gov.co/Sala-de-Prensa/Documents/Auto%20004%20de%202018%20AVOCA%20CONOCIMIENTO%20DE%20LA%20SITUACION%20DE%20TUMACO,%20RICAURTE%20Y%20BARBACOAS.pdf>.

4. Conclusions

Environmental crisis on post-conflict settings may threaten precious ecosystems, biodiversity-rich spots or natural resources more than war did. Voracity against nature after the signing of the 2016 Final Peace Agreement in Colombia, exceeded transitional justice architecture designed for ending more than fifty years of conflict. However, this crisis has been boosting imaginative litigation strategies at domestic level that have mobilized rights-based arguments to protect fragile ecosystems, and address climate change, by denouncing deforestation and illegal mining. This has been the “Atrato River” Case and the Climate Change Lawsuit to protect the Amazon. In both cases, ecosystems were declared as “subjects of rights” and they were entitled of the rights to be protected, conserved, maintained and restored. Undoubtedly, this legal formula embodies a change of view on the relationship between human beings and nature, from the anthropocentric to the eco-centric one. In practical terms, these judgements also encompass the strengthening of participation for communities who are part of the protected territory; are directly affected or hold a legitimate interest. Theoretically, this should represent an enhanced protection and an opportunity to future conservation. But also, these judgments have an extra value or represent an additional opportunity: they are part of the peace building scenario. Colombia Final Peace Agreement has been considered as one of the most comprehensive in the international sphere of transitional justice. However, many environmental dimensions were relegated in this phase of peacemaking -except for the chapters dedicated to the land issue and crops used for illicit

purposes-. Nevertheless, peace epitomizes an endeavor that is not exhausted in a peace agreement. Of course, this has been a condition *sine qua non* for the transition, but it is not the main object. The most important object is what happens after agreement. Peace itself is an opportunity for change. In this sense, it is an unfinished task, always 'under construction'. Peace is a dialectic process, fueled by crisis and setbacks, but also by progressive, transformative and imaginative initiatives. In this setting has come rulings to protect "Atrato River" and "the Colombian Amazon" rainforest, two ecosystems that in the 'era of unpredictable climate change'⁹⁸ may be "threat multiplier" or the fertile ground to continue building the peace.

⁹⁸ Karen Hulme, *Using a framework of human rights and transitional justice for post-conflict environmental protection and remediation*, in ENVIRONMENTAL PROTECTION AND TRANSITIONS FROM CONFLICT TO PEACE 119–142 (Carsten Stahn, Jens Iverson, & Jennifer S. Easterday eds., First edition ed. 2017).