

Environmental Justice in the Special Jurisdiction for Peace (JEP)

Understanding competition over land and natural resources as underpinning the Colombian conflict is a fundamental step both for recognising environmental justice as a component of the peace-building process, and for taking action to guarantee non-repetition. The JEP is taking an innovative racial, ethnic and territorial approach to the inclusion of the environment in the transitional justice process. This approach acknowledges the importance of the relationship established by Afro-Colombian, Indigenous and campesinos communities with their territories, and investigates the degradation of local natural resources as a violation of the communities' collective rights. Three of the currently open macro-cases investigate the damage caused to the environment in the context of the armed conflict: macro-cases 002, 004 and 005. Moreover the JEP has established a "Commission on Territory and the Environment" to investigate the links between the conflict and environmental degradation and to promote a reflection on a territorial and environmental approach within the various bodies of the JEP.

Background

In a statement to the press given on 5 October 2019, Giovanni Alvarez Santoyo, director of the [UIA \(Investigation and Accusation Unit\)](#), declared that the JEP is committed to recognising the environment as a "silent victim of the conflict". Indeed, the armed conflict has left significant marks on the Colombian landscape, disrupting local socio-ecological systems, dispossessing communities of access to natural resources and contributing to the degradation of land, rivers and forests. Guerrilla groups have played a role in blocking the expansion of extractive projects in areas of the country such as the Amazon and Putumayo. At the same time, however, the need to finance military actions resulted in the unsustainable exploitation and degradation of natural resources. Illegal mining, coca plantations and other extractive activities that cause severe contamination, deforestation and soil degradation, represented a significant revenue stream for the actors involved in the conflict. Specific targeted attacks have also caused massive environmental damages,



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such as those carried out by armed groups against the oil pipelines of Ecopetrol and other companies, spilling millions of litres of oil. Moreover, the practice of aerial fumigation to eradicate coca plantations implemented by the government, has had severe impacts on the soil, crops and the biodiversity of fumigated areas.

Macro-case 002

Macro-case 002, opened in July 2018, aims to understand the history of the conflict in the municipalities of Ricaurte, Tumaco and Barbacoas, in the department of Nariño. In particular, it focuses on the Indigenous territories of the Awà and Eperara Siapiadaara communities and on the territories under the jurisdiction of the local Afrocolombian Communitarian Councils. The socio-environmental and territorial damages caused by the conflict approximately between 1 January 1990 and 1 December 2016, are among the events under investigation. For the first time, in this macro-case the ethnic territories themselves and, in particular, the Awà “Katsa Su”, 27 indigenous territories and 5 Afro-colombian territories are recognised as victims of the conflict. For the Awà, the “Katsa su” represents the motherland, a living territory, and the source of “buen vivir”. Its inclusion among the victims of the conflict represents a recognition of the constitutional principle of legal pluralism and an advancement in relation to the ethnic chapter of the peace agreement. The work of the indigenous magistrate Belkis Izquierdo, of the Ikju Arhuaco people, has been of fundamental importance in this investigation and, in an interview given in February 2020 she declared: “The concept for ethnic communities is of the territory as inseparable from people. We want to strengthen a line of thought that allows us to understand that all living beings, not only human beings, have the right to exist”.

Environmental Justice

There have been many important advancements made in relation to environmental justice in macro-case 002. Nevertheless, the JEP faces challenges both to the effective inclusion of environmental rights in the process of transitional justice, and to the guarantee of truth, reparation and non-repetition in relation to environmental damages. The environmental crimes codified in the Colombian Penal Code, such as



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damage to local natural resources, and environmental contamination generated by the exploitation of mineral and hydrocarbon deposits, are not explicitly mentioned in peace legislation and it is not clear if the prosecution of such crimes will fall under the competence of the JEP. Despite these challenges, events related to environmental damages are being investigated in statements made before the JEP by actors of the armed conflict, in particular within the macro-cases cited above. The magistrate Izquierdo argues that the right to reparation of ethnic communities whose territories have been affected by the conflict could be guaranteed by proposing alternative routes of reparation such as reforestation, landmine removal and other interventions, designed with the collaboration of ethnic communities.

Embrace Dialogue welcomes the efforts made by the JEP to acknowledge the environment as a victim of the conflict and to recognise environmental justice as a fundamental component of the process of transitional justice.



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