

# Living and sacred Territory is a victim of Colombia's armed conflict: Indigenous legal systems, self-determination and co-theorising law beyond the eco-centric turn

Environmental Law Review

1–25

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DOI: 10.1177/14614529261461538

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## Abstract

This article examines the recognition of Indigenous Territory as a living, sacred, and sentient victim within Colombia's transitional justice process, centred on the landmark 2019 decision of Colombia's Special Jurisdiction for Peace (JEP) recognising the Awá Territory, *Katsa Su*, as a victim of the armed conflict in Macro-Case 02. While this decision has often been read through the lens of the eco-centric legal turn, we argue that such framings risk obscuring the Indigenous legal systems and principles of self-determination from which this juridical innovation emerges. Co-authored by an Indigenous magistrate of the JEP and a legal anthropologist, the article develops a dialogical, co-theorising socio-legal methodology grounded in situated solidarities and convergence spaces, including co-creative audio-visual storytelling. Rather than treating Indigenous legal knowledge as empirical data, we approach Indigenous judicial practice, territorial knowledge and Indigenous legal reasoning, what we term Territory with a capital T, as theory-generating in their own right. Centring Indigenous legal systems and territorial ontologies, we argue, enables environmental law and transitional justice to become sites for advancing Indigenous self-determination and recognising multiple systems of life constituted through human and more-than-human relations, moving beyond the limits of the eco-centric legal turn.

## Keywords

Indigenous legal systems, transitional justice, Indigenous self-determination, environmental harm, documentary making, legal pluralism, socio-legal scholar activism, situated solidarities, leadership resistance, decolonial research

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## Introduction

In contemporary legal and socio-legal scholarship, there is growing recognition that law and legal analysis are never neutral.<sup>1</sup> Rather, scholars increasingly emphasise that legal knowledge is shaped by underlying commitments, normative orientations and aspirations for social change. This recognition has given rise to calls to expand the canon of academic legal knowledge and to integrate forms of knowledge produced outside universities and traditional academic hierarchies.<sup>2</sup> Such calls are particularly salient in contexts where law is expected to respond to profound socio-environmental harm, structural violence and historically silenced ontologies, such as those of Indigenous peoples.

We, the authors, take that call seriously. This article is co-authored by Indigenous lawyer Belkis Izquierdo Torres, since 2018 magistrate of the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP) in Colombia and rapporteur of Macro-Case 02, and Lieselotte Viaene, a legal and environmental anthropologist based in Europe. The JEP serves as the judicial mechanism through which former members of the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia–Ejército del Pueblo, FARC-EP), members or former members of the Public Forces (military and police), and civilian third parties who voluntarily submit to its jurisdiction are investigated, tried and sanctioned for crimes committed before 1 December 2016. Within this framework, Macro-Case 02 – opened on 10 July 2018 and still ongoing at the time of writing – addresses serious human rights violations committed in the municipalities of Tumaco, Ricaurte and Barbacoas, in the department of Nariño in southern Colombia. The case is structured around two main lines of investigation, one concerning the former FARC-EP guerrillas and the other relating to the conduct of the Public Forces.

In November 2019, Belkis issued the first judicial decision of its kind, known as Auto SRVBIT-079, granting the request of the *Awá* Indigenous people. Through this decision, the *Awá* Territory – *Katsa Su* – was formally recognised within Macro-Case 02 as a victim of the Colombian armed conflict.<sup>3</sup> This recognition constitutes a ground-breaking legal innovation, as it accords an Indigenous territory the same rights – such as truth, justice, reparation and guarantees of non-repetition – that are granted to individuals and collective subjects affected by the conflict.

The article emerges from almost a decade of our dialogical learning relationship between judicial practice and activist scholarship, between inter-cultural legal thought and critical legal anthropological scholarship, and lived experience, self-reflexivity and theoretical conceptualisation. Each of us contributes from our professional and personal trajectory with Indigenous peoples in Latin America. While Lieselotte brings a long empirically driven academic and policy research trajectory on Indigenous peoples' rights, transitional justice, extractivism and the human–nature nexus in Guatemala, Peru, Ecuador, Colombia and Nepal, Belkis, as a Indigenous judge, contributes by advancing inter-jurisdictional and inter-legal dialogue between Indigenous legal systems and Colombia's transitional justice framework. This dialogue makes it possible to centre crimes against Territory, nature and sacred sites within judicial investigations, as exemplified by the recognition of *Katsa Su* as a victim in Macro-Case 02.

In the co-directed short documentary *Aty Seikuinduwa: Judge Between Worlds* (2025) (henceforth *Aty Seikuinduwa*), Belkis reflects on the legal and ethical reasoning underpinning this recognition:

to recognize the Territory as a victim means that we recognize that the Territory is alive, that it is a sentient being, that it is a subject of rights. We recognize that within the context of the armed conflict, it has suffered, it has been

<sup>1</sup> MP. Assis and M. Canfield, 'Introduction to Special Issue: Practising Activist Socio-Legal Scholarship: Navigating Tensions and Crafting Approaches' (2025) 21 *International Journal of Law in Context* 4.

<sup>2</sup> Ibid., and MP. Assis and L. Eslava, 'Investigación Militante: Thinking-Doing-Living Law and Society in Troubled Times' (2025) 21 *International Journal of Law in Context* 4.

<sup>3</sup> For the full text see: <[https://herramientaspedagogicas.jep.gov.co/archivos-vivos/wp-content/uploads/2024/10/C\\_02\\_LT\\_8.-Auto-SRVBIT-079-del-12-Nov-2019.pdf](https://herramientaspedagogicas.jep.gov.co/archivos-vivos/wp-content/uploads/2024/10/C_02_LT_8.-Auto-SRVBIT-079-del-12-Nov-2019.pdf)> (accessed 23 February 2026).

damaged, and it is still in pain. And that it is necessary that it has a voice in the judicial process so that the damages are acknowledged. So that there a legal consequence.<sup>4</sup>

This legal decision must also be situated within broader international legal and political struggles over the conceptualisation of ‘environment’, ‘nature’ and ‘ecology’, which has become a key site of contestation over knowledge, meaning and belonging.<sup>5</sup>

An emblematic illustration of these tensions is found in the headline ‘The JEP recognises nature as a victim of the armed conflict’, which was used by the Colombian newspaper *El Espectador* in an interview with Judge Belkis a few months after the publication of Auto SRVBIT-079.<sup>6</sup> During the interview, Belkis explained the *Awá* people’s cosmovisions and principles concerning territory and the reasoning behind this innovative legal recognition. Two pressing questions were raised in this interview, both for Colombia and for the field of transitional justice in general: ‘how is this [territory as victim] going to be applied to environmental justice?’, and ‘how is this [territory as victim] going to be applied to establishing the truth of the armed conflict?’ Yet, despite Belkis’ careful explanation of the meaning and juridical significance of territory from the *Awá* cosmovision, the newspaper journalist ultimately reverted to the dominant legal category of ‘nature’ in the headline.

Reading this epistemically ‘ambiguous’ title prompted us to reflect on the conceptual tensions and blurred boundaries between legal categories such as ‘territory’, ‘nature’ and ‘socio-environmental harm’ within Colombia’s transitional justice process. Recent Colombian jurisprudence by its Constitutional and Supreme Courts recognising rivers, wetlands and other ecosystems as subjects of legal rights has generated significant visibility both in public discourse and in the press.<sup>7</sup> It is likely that this ‘legal hype’<sup>8</sup> surrounding these legal innovations described as the rights of nature influenced the newspaper headline, which substituted the more familiar category of nature in place of the Indigenous concept of territory.

This emerging jurisprudence, alongside the JEP’s legal work, has attracted considerable national and international scholarly attention, including doctrinal analysis and critical socio-legal scholarship on environmental law, transitional justice and legal mobilisations by Black and Indigenous communities.<sup>9</sup> These debates increasingly converge around what has internationally been described as an ‘ecocentric legal turn’: a shift within

<sup>4</sup> Teaser (2023) ERC RIVERS documentary “Aty Seikuindwa. Judge between Worlds” (to be released in 2026) <<https://www.youtube.com/watch?v=XH78n-0K9Ww&t=6s>>; more info about the documentary: <<https://rivers-ercproject.eu/aty/>>.

<sup>5</sup> L. Viaene, P. Doran and J. Liljeblad, ‘Editorial Special Section: Transitional Justice and Nature: A Curious Silence’ (2023) 17 *International Journal of Transitional Justice* 1.

<sup>6</sup> *El Espectador*, ‘La JEP reconoce que la naturaleza es víctima del conflicto’ (6 February 2020) <<https://www.elespectador.com/ambiente/la-jep-reconoce-que-la-naturaleza-es-victima-del-conflicto-articulo-903153/>>.

<sup>7</sup> The Constitutional Court has recognised the need to protect the environment by itself in several Judgements (such as Judgment C – 595 of 2010, Judgment C – 632 of 2011, Judgment T – 080 of 2015) and more recently has indicated that it can be the subject of rights in Judgment T – 622 of 2016, which has been accepted by the Supreme Court of Justice in judgements of 5 April 2018 and by the ordinary jurisdiction recognising as subjects of rights: Magdalena River, Páramo de Pisba, La Plata River, Coello, Combeima and Cocora Rivers, Otún River, Pance River and Cauca River.

<sup>8</sup> L. Viaene, ‘Can Rights of Nature Save Us from the Anthropocene Catastrophe? Some Critical Reflections from the Field’ (2022) 9 *Asian Journal of Law and Society* 2.

<sup>9</sup> On the Colombian context, see e.g.: XS. Camargo, ‘The Ecocentric Turn of Environmental Justice in Colombia’ (2019) 30 *King’s Law Journal* 2; L. Ordóñez-Vargas, L.-C. Peralta-Gonzalez and E. Prieto-Rios, ‘An Ecocentric Turn in the Transitional Restorative Justice Process in Colombia’ (2023) 17 *International Journal of Transitional Justice* 1; MX. González-Serrano, ‘The Atrato River as a Bearer and Co-creator of Rights: Unveiling Black People’s Legal Mobilization Processes in Colombia’ (2024) 49 *Law & Social Inquiry* 4; J. Galindo and H. Herrera, ‘From Environmental War Crimes to Ecocide: Lessons from Colombia’s Transitional Justice’ (2025) *The International Journal of Human Rights*, 1–27; R. Killeen and E. Newton, ‘Transitional Justice and Other-than-Human Harm: Lessons from Colombia’ (2026) 30 *The International Journal of Human Rights* 1. Recently, legal scholars Huneeus and Reuda-Saiz have proposed the concept of ‘ecocultural approach’, referring to the judicial work of the JEP regarding recognising Territory as a victim of armed conflict. See: A. Huneeus and P. Rueda-Saiz, ‘Environmental Protection in War: Beyond Humans and War’ (2026) *Harvard International Law Journal* 67.

environmental law and related fields towards decentring the human subject and extending legal recognition to non-human entities and ecosystems.<sup>10</sup> This turn encompasses emerging legal practices and academic debates such as Earth jurisprudence, the rights of nature and ecocide.

Yet, important blind spots remain in this growing body of socio-legal literature in Colombia and globally. First, although the eco-centric legal turn is frequently presented as transformative and often portrayed as grounded in Indigenous non-dual philosophies of nature, these developments too often rely on the selective appropriation of Indigenous thought to legitimise legal innovation while marginalising Indigenous legal systems as sources of law in their own right. As a result, the expanding body of Indigenous scholarship in law and the social sciences continues to occupy a peripheral position within mainstream debates on ecological jurisprudence and the rights of nature.

Second, the practices, voices and analytical reflections of Indigenous lawyers – both litigators and judges – working at the intersection of Indigenous legal orders, state law and resistance to extractive economies, often in post-conflict contexts – remain greatly under-represented in academic debates on this eco-centric legal turn. This is particularly striking given that these debates unfold amid interlinked crises, including climate emergency, biodiversity loss and large-scale transformations of land and territory driven by extractive economies, which disproportionately affect Indigenous peoples.

This article seeks to address both blind spots. We argue that Indigenous legal actors are not only participants in litigation and judicial processes, but also co-producers of socio-legal knowledge and theory. Existing literature on socio-legal scholar activism has largely focused on the relationship between academics and social movements,<sup>11</sup> while anthropological engagements with litigation and courts have often framed anthropologists as cultural or expert witnesses within judicial processes.<sup>12</sup> This article moves beyond both positions. Rather than positioning one author as observer and the other as observed, or one as theorist and the other as empirical source, or one as the academic expert and the other as the judge, we engage in a co-authored and dialogical practice of co-theorising.

Drawing on Lieselotte's research with Indigenous litigators<sup>13</sup> in Guatemala and Nepal, and on the proposed concept of 'transformative connectors of worlds before the courts',<sup>14</sup> in this article we approach Indigenous lawyering – and Indigenous judging – not as an expression of the eco-centric legal turn, but as a distinct form of legal and political agency grounded in Indigenous legal systems and the principle of self-determination. This form of legal agency connects plurilegal realities within and beyond state law. Indigenous legal actors do not merely translate cultural difference; they actively reconfigure the legal field from within and in tension with legal institutions historically rooted in Euro-Western colonial as well as liberal frameworks – both from outside and within the courtroom – as part of broader struggles for self-determination.<sup>15</sup>

<sup>10</sup> J. Liljeblad, 'Clarifying Indigenous Approaches to Ecocide' (2025) 14 *Transnational Environmental Law* 3 and J. Gilbert, E. Macpherson, E. Jones and J. Dehm 'The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's "Greening" Agenda' in D. Dam-de Jong and F. Amtenbrink (eds) *Netherlands Yearbook of International Law*, vol 52 (T.M.C. Asser Press 2023).

<sup>11</sup> Assis and Canfield above at n 1.

<sup>12</sup> L. Holden, 'Anthropologists as Experts: Cultural Expertise, Colonialism, and Positionality' (2022) 47 *Law & Social Inquiry* 2 and C. Loperena, M. Mora and RA. Hernández-Castillo, 'Cultural Expertise? Anthropologists as Witness in Defense of Indigenous and Afro-Descendant Rights' (2020) 123 *American Anthropologist* 3.

<sup>13</sup> L. Viaene, 'Indigenous Legal Expertise, Sacred Rivers, and Hydropower Development Projects in Third Pole Country Nepal' (2023)

14 *Jindal Global Law Review* and L. Viaene and MX. González-Serrano, 'The Right To Be, to Feel and to Exist: Indigenous Lawyers and Strategic Litigation over Indigenous Territories in Guatemala' (2024) 28 *The International Journal of Human Rights* 4.

<sup>14</sup> Viaene and González-Serrano, *ibid*.

<sup>15</sup> See also: Episode 2 'Indigenous Lawyers: Weaving Rights', Weaving Water podcast ERC RIVERS project <<https://rivers-ercproject.eu/podcast/>>.

Rather than treating Indigenous legal knowledge as empirical ‘data’ to be translated into academic theory, we approach Indigenous legal reasoning, judicial practice and territorial knowledge as theory-generating in their own right. In this sense, this article advances a transdisciplinary socio-legal methodology that centres Indigenous legal actors as co-producers of academic knowledge and integrates audio-visual practices as a mode of legal inquiry and theorisation.

More broadly, this writing practice aligns with ongoing theoretical calls to decolonise law and the social sciences through collaborative forms of knowledge production with peoples and communities historically marginalised by colonial power relations.<sup>16</sup>

Our article is divided into two sections. The first section establishes the methodological, ethical and collaborative foundations of our work, building upon the concepts of situated solidarities, convergence spaces and resistance leadership in this specific context. The second examines how Colombia’s transitional justice process is engaged, challenged and reimagined through Indigenous legal and knowledge systems and the principles of self-determination. Through our collaborative and dialogical approach, we analyse how legal frameworks, judicial practices and Indigenous ontologies intersect to challenge dominant conceptions of law, territory and evidence. In particular, we examine the JEP and its engagement with Indigenous peoples’ rights; the need for legal creativity required to move beyond rigid, positivist legal frameworks; the reconceptualisation of Territory – which we deliberately write with a capital ‘T’ as a living, relational, sacred and sentient being rather than a bounded object of legal governance;<sup>17</sup> and the incorporation of Indigenous territorialised knowledge into evidentiary practices.

More broadly, the article extends our ongoing effort to weave together legal, anthropological and Indigenous ways of knowing through an inter-legal dialogue around Ingold’s question of how to ‘take the other seriously’.<sup>18</sup> We apply this challenge specifically to judicial contexts, where Indigenous understandings of justice, truth, harm and reparation often exceed the onto-epistemological horizons of Euro-Western legal positivism, generating discomfort and misunderstanding.<sup>19</sup> We argue that centring Indigenous legal systems and territorial ontologies enables environmental law and transitional justice to become sites for advancing Indigenous self-determination and recognising multiple systems of life as constituted through multiple human and more-than-human relations, moving beyond the limits of the eco-centric legal turn.

## **Situated solidarities, convergence spaces and leadership resistance within transitional justice praxis and scholarship**

Our writing deliberately departs from positivist doctrinal legal analysis, not out of disregard for its value, but because the questions we address – territory, justice, harm and voice – cannot be adequately grasped within

<sup>16</sup> A. Anghie, ‘Rethinking International Law: A Twail Retrospective’ (2023), 34 *European Journal of International Law* 1; S. Alam, S. Ataputta, CG. Gonzalez and J. Razzaque, *International Environmental Law and the Global South* (Cambridge University Press 2015); LT. Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (Zed Books 1999); V. Thambinathan and EAK. Kinsella ‘Decolonizing Methodologies in Qualitative Research: Creating Spaces for Transformative Praxis’ (2021) 20 *International Journal of Qualitative Methods*.

<sup>17</sup> In similar vein is the Indigenous practice in Australia of capitalising ‘Country’. Margo Ngawa Neale, senior Indigenous art and history curator at the National Museum of Australia says: ‘Country is more than a view of landscape; it is a belief system and a worldview. For First Nations people, your identity is totally related to Country, your own Country where your particular clan comes from. We spell it with a capital C because it is not country as with Israel or America — it is not a surface thing, it is not cartographic. We see Country as a personage, as a living being. It holds the wisdom and knowledge and all the features are the result of the ancestral beings who have travelled the country and created it’ <<https://www.abc.net.au/news/2023-10-04/significance-connection-to-country-songlines-indigenous-culture/102925228>> (accessed 23 February 2026).

<sup>18</sup> T. Ingold, *Anthropology: Why it Matters* (Polite Press 2018).

<sup>19</sup> L. Viaene, ‘The Internal Logic of the Cosmos as ‘Justice’ and ‘Reconciliation’: Micro-Perceptions in Post-Conflict Guatemala’ (2010) 30 *Critique of Anthropology* 3.

its epistemic boundaries alone.<sup>20</sup> Instead, we draw on a combination of qualitative methodologies, including autoethnography, narrative research and audio-visual storytelling. While these methods are well established and widely recognised in disciplines such as anthropology, human geography and feminist studies, they have only recently been gaining visibility and legitimacy within legal scholarship. These approaches treat reflexivity, positionality and storytelling not as methodological add-ons, but as constitutive of analysis itself and as a way of producing knowledge that is situated, relational and attentive to lived experience.<sup>21</sup>

Through autoethnography, anthropologists connect personal and embodied experience with broader cultural, legal and political structures, allowing analysis to emerge from lived engagement rather than external observation.<sup>22</sup> Narrative research treats stories not as illustrative material but as epistemic forms through which meaning, memory and legal consciousness are articulated.<sup>23</sup> Audio-visual storytelling extends this approach by engaging visual and sonic dimensions as co-constitutive of knowledge, particularly in contexts where legal and ecological relations are experienced through land, territory and sensory engagement.<sup>24</sup>

In the context of the nexus of environmental law and transitional justice, these methodologies are particularly relevant because they make visible dimensions of environmental harm and territorial relations that are often rendered invisible within doctrinal legal analysis. They also allow for a more relational understanding of human–nature inter-dependence, especially in contexts shaped by extractivism, environmental conflict and plural legal orders.

### *Weaving situated solidarities and co-theorisation in the fields of legal practice and academic research*

This methodological choice is particularly fitting for a co-authored piece involving an Indigenous judge who articulates her perspective from a positionality grounded in lived experience with Indigenous legal systems, cultural identity and conventional legal training. This allows Belkis to speak from the logic and rationality of her own epistemic and ontological position without forcing her voice into disciplinary conventions

<sup>20</sup> Similar argument has been made by several contributions in the Special Section co-edited by Viaene, Doran and Liljeblad, see above n 5.

<sup>21</sup> L.J. Chua and M.F. Massoud (eds) *Out of Place: Fieldwork and Positionality in Law and Society* (Cambridge University Press 2024).

<sup>22</sup> K. Tomaselli, L. Dyll-Myklebust and S. van Grootheest, 'Personal/Political Interventions via Autoethnography. Dualism, Knowledge, Power, and Performativity in Research Relations' in S. Holman Jones, T.E. Adams, and C. Ellis (eds), *Handbook of Autoethnography* (Routledge 2013) and L. Viaene, C. Laranjero and M.N. Tom, 'The Wall Spoke When No One Else Would: Auto-Ethnographic Notes on Sexual-Power Gatekeeping within Avant-Garde Academia' in E. Pritchard and D. Edwards (eds), *Sexual Misconduct in Academia. Informing an Ethics of Care in the University* (Routledge 2023). Within the ERC RIVERS project, this methodological approach has been applied and developed involving PhD researcher and lawyer M.X. González-Serrano on legal mobilisation and river rights in Colombia above at n 9, as well as L. Viaene, 'Law, More-than-Human Agency, and Audiovisual Storytelling: Decentering Western Research Ethics through Working-Class Scholar-Activism and Embodied Rituality' (2025) 21 *International Journal of Law in Context* 4. For other autoethnographic research practice in the field of law, see: L. Gariglio, 'Doing (Prison) Research Differently: Reflections on Autoethnography and "Emotional Recall"' (2018) 8 *Oñati Socio-legal Series* 2; J. Mira and J. Nieva, "'No encontrábamos las herramientas legales para continuar". Reflexiones autoetnográficas acerca de la práctica profesional en la Clínica Jurídica CAREF-CELS-UBA, Argentina' ("We could not Find the Legal Tools to Continue". Autoethnographic Reflections on the Professional Practice at the CAREF-CELS-UBA Legal Clinic, Argentina) (2024) 14 *Sortuz: Oñati Journal of Emergent Socio-Legal Studies* 1.

<sup>23</sup> H. Whalen-Bridge, 'The Lost Narrative: The Connection Between Legal Narrative and Legal Ethics' (2010) 7 *Journal of the Association of Legal Writing Directors* and L. McAlpine, 'Why Might You Use Narrative Methodology? A Story about Narrative' (2016) 4 *Eesti Haridusteaduste Ajakiri. Estonian Journal of Education*.

<sup>24</sup> L. Mulcahy, 'Eyes of the Law: A Visual Turn in Socio-Legal Studies?' (2017) 44 *Journal of Law and Society* 111; R. Buchanan and R. Johnson, 'Strange Encounters: Exploring Law and Film in the Affective Register' (2009) 46 *Studies in Law, Politics, and Society* 33 and Viaene above at n 22.

that risk flattening its epistemic and ontological specificity. More broadly, it unsettles hierarchical distinctions between theory and experience, scholarship and practice, and academic and non-academic knowledge, foregrounding an ethical orientation towards balance and harmony for the well-being of past and future generations of the Territory instead.

From this orientation, we draw on Nagar and Geiger's notion of 'crossing borders with situated solidarities',<sup>25</sup> which conceptualises reflexivity as a relational and processual practice rather than a fixed positional statement. In this sense, boundary-crossing between legal practice and academia and Indigenous and non-Indigenous knowledges requires an ongoing engagement with positionality that is attentive to 'the place-based nature of intellectual praxis'<sup>26</sup> and to the uneven power relations that shape knowledge production. Situated solidarities seek to reconfigure academic fields in relation to the social, political and epistemic fields inhabited by those with whom we collaborate, rather than treating these as external sites of 'data' extraction or as subjects of study detached from their contexts.<sup>27</sup>

Practising situated solidarities requires rethinking dominant standards of academic productivity, authorship and theoretical legitimacy. It involves sustained dialogue across geographical, institutional and disciplinary borders on how alternative theorisations emerge from engagement with concrete political struggles, and how the tensions, disjunctures and asymmetries that inevitably arise in such encounters can become productive sites for reconfiguring the purposes and meanings of scholarly practice.

### *Convergence spaces as methodological practice*

Building on this notion of situated solidarities, we conceptualise our long-term collaboration as a set of 'convergence spaces',<sup>28</sup> drawing on the work of geographer Paul Routledge. Convergence spaces are processual spaces of encounter in which actors with different temporalities, positionalities and scalar frames of reference forge solidarities in uneven, contingent and often messy ways, grounded simultaneously in similarity and difference. These spaces are not harmonious or fixed; rather, they are sites where collective visions are articulated, relational politics of solidarity are negotiated and practical forms of collaboration emerge amid asymmetrical power relations. They enable the circulation of ideas, experiences and strategies across institutional and epistemic boundaries, while also making visible the tensions and frictions that such encounters inevitably entail.

Our dialogical relationship began almost a decade ago, in Colombia in 2017 during a seminar on transitional justice and legal pluralism organised by the Judicial School of the Superior Council of the Judiciary. At that time, Belkis, the organiser of the seminar, was an assistant judge of the Superior Council of the Judiciary, which was responsible for coordination between the National Judicial System and the Special Indigenous Jurisdiction, while Lieselotte shared insights from a decade of long-term collaborative ethnographic research with Indigenous Mayan Q'eqchi' survivors of genocide in Guatemala, who were confronting ongoing threats from extractive development projects. While Colombia's 1991 Constitution recognised ethnic and cultural diversity and its judiciary had developed a body of multi-cultural jurisprudence, Belkis's 2014 appointment as the first Indigenous assistant magistrate marked a historic milestone in the Colombian judicial branch.

<sup>25</sup> R. Nagar and S. Geiger S, 'Reflexivity and Positionality in Feminist Fieldwork Revisited' in *Politics and Practice in Economic Geography* (Sage 2007).

<sup>26</sup> Ibid.

<sup>27</sup> See also: P. Routledge and KD. Derickson, 'Situated Solidarities and the Practice of Scholar-Activism' (2015) 33 *Environment and Planning D: Society and Space*.

<sup>28</sup> P. Routledge, 'Convergence Space: Process Geographies of Grassroots Globalization Networks' (2003) 28 *Transactions of the Institute of British Geographers New Series* and *ibid*.

This initial encounter constituted the first of several meeting points – in person and virtual – over the next almost 10 years in which our distinct trajectories and identities – judicial, academic, activist, Indigenous and European – began to intersect. Over time, these encounters evolved into convergence spaces through which situated solidarities were enacted, tested and sustained. We argue that our collaboration can be understood analytically through four inter-related convergence spaces, which together constitute the methodological and ethical backbone of this article.

*First convergence space: Indigenous ontologies, Territory and transitional justice across Guatemala, Colombia and Nepal.* Our first convergence space emerges from the intersection of experiences from Guatemala, Colombia and Nepal in relation to Indigenous peoples' struggles within transitional justice processes. At the above-mentioned seminar, Lieselotte shared how, during her PhD fieldwork in the mid-2000s, she learned that the Indigenous Maya Q'eqchi' refer to what Western social and legal scholars conceptualise as 'internal armed conflict', 'genocide' and 'gross human rights violations' as *nimla rahilal* – severe suffering experienced not only at the individual physical and emotional levels, but also collectively and relationally with more-than-human beings.<sup>29</sup> This includes harm to what is perceived as sacred or endowed with dignity (*loq laj*), such as sacred mountains (*Tzuultaq'a*), maize (*loqlaj ixim*) and rivers (*loq laj nim ha*). From a Q'eqchi' onto-epistemological perspective, the bombings of the *Tzuultaq'a*, the human bodies in the Chixoy River and the destruction of maize fields are not merely environmental harm but also violations of the life of these sacred more-than-humans.

Later, during a human rights impact assessment of the *Xalalá* hydropower dam project (2014–2015), Q'eqchi' communities described the planned dam as another *nimla rahilal*, both for the displacement it would provoke and for the destruction of fertile lands, sacred sites and the living Chixoy River, including water sources and farmlands essential to survival.<sup>30</sup> She concluded her talk back in 2017 in Bogotá by noting that, in Guatemala's transitional justice process, there was no political or legal openness to recognising this radically different ontological reality.

At the time of the seminar, the creation and mandate of the JEP were being debated publicly as part of the broader Integral System of Truth, Justice, Reparation and Non-Repetition.<sup>31</sup> Indigenous and ethnic groups successfully secured the inclusion of the 2016 Peace Agreement's late-added Ethnic Chapter, guaranteeing recognition of their rights and territories within this transitional justice process.<sup>32</sup> The Agreement brought to an end more than five decades of armed conflict with the FARC, which had disproportionately affected Indigenous and Afro-descendant peoples. In compliance with this Ethnic Chapter, a few months later Belkis was appointed as one of 38 judges, including three other Indigenous judges, in the newly created JEP. Lieselotte immediately understood what Belkis sought to translate into legal language within the Colombian transitional justice context.

A first joint short essay, published in English and Spanish in 2018, emerged from this encounter, arguing for the decolonisation of transitional justice relating to Indigenous territories and highlighting how dominant legal frameworks failed to engage with Indigenous ontologies that challenged modern divisions between

<sup>29</sup> Viaene above n 19.

<sup>30</sup> L. Viaene, *La Hidroeléctrica Xalalá en territorios maya q'eqchi' de Guatemala ¿Qué pasará con nuestra tierra y agua sagradas? Un análisis antropológico-jurídico de los derechos humanos amenazados* (2015), Herent Municipality (Belgium), Human Rights Centre, Ghent University (Belgium) and L. Viaene, 'Indigenous Water Ontologies, Hydro-Development and the Human/More-Than-Human Right to Water: A Call for Critical Engagement with Plurilegal Water Realities' (2021) 13 *Water* 1660.

<sup>31</sup> The Integral System is composed of the Commission for the Clarification of Truth, Coexistence and Non-Repetition, the Special Jurisdiction for Peace and the Unit for the Search for Persons Reported Missing in the Context of and Due to the Armed Conflict.

<sup>32</sup> AI. Rodríguez Iglesias, 'Las voces étnicas en el Acuerdo de Paz de Colombia: una resistencia ontológica' (2019) 39 *Relaciones internacionales*.

culture and nature, human and non-human, and belief and reality.<sup>33</sup> While that early work identified critical initial tensions when the JEP started to function, this new article engages with deeper challenges and moves further by advancing a new analytical and jurisprudential paradigm. This article reflects an analytical and conceptual shift that has emerged through sustained dialogue, judicial practice within the JEP and scholarly activist research.

During her judicial work at the JEP, and through continuous inter-jurisdictional dialogue with Indigenous authorities in the territories, Judge Belkis has engaged with a series of questions: who represents and gives voice to the spiritual fathers and mothers, to the guardians of the world? How does justice reflect lived realities? How can these worlds co-exist within legal institutions shaped by colonial modernity? These questions are not rhetorical. They structure her judicial reasoning and inform her engagement with transitional justice in Colombia. This dynamic is captured in the title of our co-directed documentary *Aty Seikuinduwa*. This film is an intimate portrayal of *Aty Seikuinduwa*, Judge Belkis's spiritual name, meaning 'mother beyond the darkness', and shows how she brings the living land, multiple life systems and Indigenous spiritual practices into the state courtroom – being a judge between worlds.

This short film forms part of the Twin documentary project 'Human rights beyond the human?',<sup>34</sup> (Figure 1) which includes Nepali's twin, *Marsyangdi Wile Ri'iba: May you live as long as the river*. Drawing on Lieselotte's ethnographic fieldwork between 2023 and 2024 on the construction by the government of the 220 kV Marsyangdi Corridor transmission line, located in Lamjung and Manang district of Northern Nepal, which was financed by a loan from the European Investment Bank, the film explores the tensions between Indigenous ancestral wisdom, the agency of land's invisible guardians and the relentless force of 'progress' driving Nepal's hydropower economy.<sup>35</sup>

**Second convergence space: bridging theory and praxis through collaborative knowledge production.** Our second convergence space is our continuous efforts, through judicial practice on the one hand and academic research on the other, to bridge the theory–praxis divide in the field of Indigenous rights, environmental law and transitional justice, with an explicit orientation towards transformative justice.<sup>36</sup> In July 2018, shortly after Belkis's appointment as a judge of the JEP, Lieselotte was awarded a Starting Grant from the European Research Council to develop a 5-year research project entitled RIVERS – *Water/Human Rights Beyond the Human?*. The project explores Indigenous water ontologies, plurilegal encounters and inter-legal translation through fieldwork in Nepal, Guatemala, Colombia and at the United Nations.<sup>37</sup>

Over the course of this international research project and Belkis's judicial work as a judge within the JEP, we co-organised discussion seminars and engaged in joint writing collaborations. We started this new writing during the COVID-19 lockdowns in 2020, resulting in a first Spanish version with the main title 'A legal impossibility: Territory-living being, victim of the Colombian armed conflict', which was published in 2024.<sup>38</sup> A major outcome of this collaboration is the already mentioned short documentary *Aty*

<sup>33</sup> B. Izquierdo and L. Viaene, 'Decolonizing transitional Justice from Indigenous Territories' (2018) *Peace in Progress*, N 34, Instituto Catalán Internacional para la Paz (ICIP).

<sup>34</sup> Synopsis and trailer, see: <<https://rivers-ercproject.eu/twindocumentary/>>.

<sup>35</sup> For more on Nepal, see: L. Viaene and S. Ningleku, 'When Sacred Land Meets the Law: Stories of Legal Resistance from Nepal and Colombia' (2025), *Indigenous Debates*, IWGIA and Viaene above at n 13.

<sup>36</sup> On transformative justice in the transitional justice field, see: P. Gready and S. Robins, *From Transitional to Transformative Justice* (Cambridge University Press 2019).

<sup>37</sup> Due to COVID-19, the project was extended twice, leading up to 82 months and bringing its conclusion to February 2026. For more information about the research design, activities and publications, see: <[www.rivers-ercproject.eu](http://www.rivers-ercproject.eu)>.

<sup>38</sup> BF. Izquierdo Torre and L. Viaene 'Una im-posibilidad legal: el Territorio-ser viviente, víctima del conflicto armado colombiano. Algunas reflexiones desde un dialogo colaborativo interdisciplinar' (2024) 27 *Eunomia. Revista en Cultura de la Legalidad*.



**Figure 1.** Official documentary posters: Marshyangdi Wile Ri'iba (Nepal) and Aty Seikuinduwa (Colombia) ©ERC RIVERS project.

*Seikuinduwa*, co-directed by us together with filmmakers Mariona Guiu and Rocío Westendorp.<sup>39</sup> The documentary is not merely a form of academic dissemination of research results, but an integral component of our situated solidarity and collaborative knowledge production.<sup>40</sup> Through audio-visual storytelling, it enables dialogical reflection to be translated across academic, judicial and aesthetic registers, while foregrounding Indigenous onto-epistemologies and relational ethics that are often marginalised in legal scholarship (Figure 2).

*Third convergence space: resistance leadership.* Our third convergence space concerns the forms of collective resistance we have developed – as young women in newly acquired leadership positions – within and against the heteropatriarchal, racialised and class-bound power structures that shape both the judiciary and academia in Europe and the Global South. Both of us navigate highly politicised institutional

<sup>39</sup> For more info, see: <<https://rivers-ercproject.eu/aty/>>.

<sup>40</sup> These films are made by a team of Indigenous and non-Indigenous filmmakers and another set of creative collaborators, bringing a strong authorial lens rooted in identity and cross-cultural dialogue. The pre-production, production and post-production of both documentaries spanned from March 2023 till July 2026. Together, this transdisciplinary team of academics and artists brings a bold, ethical and interdisciplinary approach to storytelling and impact – bridging film, research and advocacy.



**Figure 2.** Pagamento ritual at a sacred *Ka'dukwū* and film shooting in Sierra Nevada de Gonawindúa (Santa Marta), Colombia, July 2023. © Dwiawin Maku Zalabata/ERC RIVERS project.

environments marked by historical exclusion, hierarchy and normative expectations regarding authority, expertise and legitimacy.<sup>41</sup>

Against this background, we engage with the notion of ‘resistance leadership’,<sup>42</sup> which conceptualises resistance not as a problem to be managed, but as a form of leadership capable of challenging and transforming structures of domination. For example, in the documentary, Belkis reflects on the importance of continuing a path of resistance within the judiciary as an Indigenous woman and lawyer, drawing on the spiritual fathers and mothers of the Territory in which she was born – the Sierra Nevada de Gonawindúa (Santa Marta) – as well as on the historical struggles of Indigenous peoples in Colombia for self-determination. In parallel, Lieselotte, as a First-Generation working-class scholar, has argued elsewhere

<sup>41</sup> These dynamics have, in both our trajectories, included experiences of lawfare – namely the strategic mobilisation of criminal, disciplinary and administrative legal procedures aimed at constraining, disciplining or delegitimising our professional agency. While not discussed in detail here, these experiences inform our understanding of resistance leadership within institutional settings.

<sup>42</sup> HM. Zoller and GT. Fairhurst, ‘Resistance Leadership: The Overlooked Potential in Critical Organization and Leadership Studies’ (2007) 60 *Human Relations* 1331.

for an academic heart-based resistance – that is, forms of counter-hegemonic knowledge production grounded in critical care, relational accountability, emotional reflexivity and ethical responsibility – as a way of challenging traditional heteropatriarchal power hierarchies of middle and elite class knowledge as well as extractive academic practices.<sup>43</sup>

*Fourth convergence space: spiritual practice and relational ethics.* Our fourth and final convergence space concerns individual as well as shared, dialogically negotiated spiritual practices that inform our ethical commitments and relational understandings of life, Territory and justice. This convergence space is central to our collaboration and to *Aty Seikuinduwa*, which follows and chronicles Belkis's intertwined spiritual and legal journey. The documentary shows that her judicial work does not unfold in isolation within institutional settings in Bogotá, but is sustained through an ongoing relationship with both her legal team and her spiritual authorities – Mamos (spiritual leaders) in her ancestral Territory and spiritual leaders of the *Awá* people.

These parallel forms of spiritual accompaniment are not supplementary to Indigenous legal reasoning; they are constitutive of how Indigenous norms and justice are conceived, enacted and lived. As Belkis explains in the documentary, 'rituality is what can really open up knowledge from other places—not only from reason, but also from that connection with sacred sites. It is an exercise of feeling deeply'. This articulation, as will be discussed with more detail later on, challenges dominant legal epistemologies that privilege rationality, abstraction and procedural form over relationality, and embodied knowing. It also destabilises the modern separation between the personal and the professional, the spiritual and the legal.

Belkis's reflection in the film that 'my personal, family, collective, and territorial life is not separate from my professional life. It nourishes me' resonates deeply with Lieselotte's own interwoven spiritual practices as a long-term Buddhist and yoga practitioner and her intellectual academic trajectory. Drawing on this shared sensibility, Lieselotte's academic work aligns with recent calls by Escobar, Osterweil and Sharma for 'the necessity of a return of the sacred and spirituality for relational life and politics'.<sup>44</sup> As she has argued elsewhere, academic research that engages with the non-human and more-than-human cannot meaningfully proceed without taking the interconnectedness of life and ethical relationality seriously.<sup>45</sup> This approach also responds to emerging critiques of the exclusion of spirituality within academia. As Escobar et al. observe, activist and critical scholarship – particularly within the academic left – often reveals unexamined commitments to the rational premises of secular humanism, rendering it resistant to epistemologies that allow space for the ineffable, the unknowable and the sacred.<sup>46</sup> In contrast, embracing the sacred, as Indigenous scholars Kealiikanakaoleohaililani and Giardina argue, enables researchers to challenge epistemologies that fragment life into discrete domains.<sup>47</sup>

Within this convergence space, spirituality is positioned not merely as belief, identity or cultural background, but as an epistemic and ethical practice that sustains our situated solidarities, grounds collective responsibility and enables long-term commitments across difference. For example, during our film shooting in July 2023, when we accompanied Belkis to her ancestral lands, the process began – at the request of Mamo Menjawin, an Arhuaco spiritual leader from Busintana, the first place we filmed – with a collective ritual asking permission not only from the community but also from the living land itself to carry out the

<sup>43</sup> Viaene above n 22 and Viaene, Laranjero and Tom above n 22.

<sup>44</sup> A. Escobar, M. Osterweil and K. Sharma, *Relationality. An Emergent Politics of Life Beyond the Human* (Bloomsbury Visual Arts 2024).

<sup>45</sup> Viaene above n 22 and L. Viaene, 'Asking the Land the Land for Permission', RIFS Blog, 17 August 2026. Available at: <https://www.rifs-potsdam.de/en/blog/2026/08/asking-land-permission> (accessed 21 August 2026).

<sup>46</sup> Escobar, Osterweil and Sharma above n 44.

<sup>47</sup> K. Kealiikanakaoleohaililani and CP. Giardina, 'Embracing the Sacred: An Indigenous Framework for Tomorrow's Sustainability Science' (2016) 11 *Sustainability Science*.



**Figure 3.** Encounter with Nepali Indigenous film crew and Judge Belkis Izquierdo Torres, Sierra Nevada de Gonawindúa (Santa Marta), Colombia, February 2026. © ERC RIVERS project.

filming. This practice reflected an understanding of Territory not as an object or backdrop of representation but as a living relational entity requiring reciprocal engagement and ethical accountability.<sup>48</sup> Similarly, in February 2026, when the Nepali Indigenous filmmakers visited Colombia as part of the screenings of the Twin documentary and met Belkis in her ancestral Territory of Gonawindúa, we participated in a welcoming ritual involving *ayu* – the sacred coca plant – as well as a collective act of asking permission from the Territory.<sup>49</sup> These encounters created a space of relational exchange between Indigenous peoples from distinct geopolitical and cosmological contexts, grounded in shared experiences of territorial struggle, spiritual practice and resistance to colonial violence.

In this sense, our individual and shared spiritual practices become inseparable from our broader collaborative project of decolonising law, rethinking Territory and expanding the horizons of environmental and transitional justice beyond the eco-centric legal turn. Rather than being external to legal analysis, these practices shape how responsibility, relationality and human–nature inter-dependency are understood and enacted within our collaborative research and filmmaking process (Figure 3).

### **Why Indigenous legal systems and self-determination matter in transitional justice**

Having discussed the methodological, ethical and collaborative foundations of our work, in this second section we examine how Indigenous legal systems and the principles of self-determination are enacted, contested and reimagined within Colombia's transitional justice process. Indigenous scholar Zoe Todd

<sup>48</sup> For a detailed description, see: Viaene above n 22.

<sup>49</sup> See: Returning to the Territory: From Nepal to Colombia (2026) <[https://youtu.be/OE59biHcX00?si=RL\\_NugGZZsjeM-nS](https://youtu.be/OE59biHcX00?si=RL_NugGZZsjeM-nS)>.

reminds us that Indigenous thinkers have, for millennia, engaged with ‘sentient environments, with cosmologies that enmesh people into complex relationships between themselves and *all* relations’.<sup>50</sup> Indigenous legal scholars have pointed out, however, that dominant non-Indigenous legal approaches are structurally ill-equipped to accommodate these subjectivities.<sup>51</sup> This limitation is rooted in what has been described as ‘juridical coloniality’<sup>52</sup> (*colonialidad jurídica*), understood as the ongoing continuity of Euro-Western legal principles, concepts and politico-juridical categories that shape law. This juridical coloniality operates, on the one hand, through the positivisation of land, sub-soil, minerals and water as exploitable objects and, on the other, through hierarchical distinctions that subordinate Indigenous onto-epistemologies and non-human beings within extractivist legal regimes.<sup>53</sup>

In response, Indigenous legal scholars have developed concepts such as ‘the lifeworlds of law’,<sup>54</sup> ‘Indigenous jurisprudence’<sup>55</sup> and ‘grounded normativity’<sup>56</sup> to articulate how law, for Indigenous peoples, does not emanate from abstract institutions but from the land itself. From this perspective, land is a source of ‘Indigenous norms, laws, and governance; a root of economic and socio-cultural order; an origin of cosmology, metaphysics, and spirituality; a foundation for framing Indigenous expression, teaching, and argumentation; and a repository of Indigenous memory, history, and lessons’.<sup>57</sup>

It is precisely at this point that those tensions emerge when Indigenous legal orders encounter state law in contexts shaped by extractive economies. For example, recent critical legal anthropological research on mining, hydropower and oil exploitation in Indigenous territories in Latin American countries such as Mexico,<sup>58</sup> Guatemala<sup>59</sup> and Ecuador<sup>60</sup> reveals recurring judicial disputes between Indigenous water and territorial onto-epistemologies, on the one hand, and dominant state-centric, technocratic and extractivist legal rationalities, on the other. Similar tensions are documented in our Nepali twin documentary *Marsyangdi Wile Ri’iba: May you live as long as the river*, which follows Indigenous communities resisting infrastructure projects through ritual consultations with land guardians, exposing how legal processes often fail to account for Indigenous relational responsibilities towards living territories. These conflicts expose the deep ontological and epistemological asymmetries embedded in legal adjudication when Indigenous worlds are brought before the courts.

Our film *Aty Seikuinduwa* illustrates how these Indigenous principles are not merely theoretical, but can be enacted within judicial practice. It shows that there are ways to represent living Territory, multiple life

<sup>50</sup> Z. Todd, ‘An Indigenous Feminist’s Take On The Ontological Turn: “Ontology” is Just Another Word For Colonialism’ (2019) 29 *Journal of Historical Sociology* 1, 6.

<sup>51</sup> Liljeblad above n 10.

<sup>52</sup> J. Garzón, P., Pluralismo jurídico, derecho indígena y colonialidad jurídica: repensando el derecho desde la colonialidad del poder (2019) 8 *Ius Inkarrí. Revista de la Facultad de Derecho y Ciencia Política* 215–26.

<sup>53</sup> NT. Saito, ‘Tales of Color and Colonialism: Racial Realism and Settler Colonial Theory’ (2014) *Florida: A&M University Law Review* 10; Garzón, 2019; MX. González-Serrano, D. Montalván-Zambrano and L. Viaene, ‘Hacia la descolonización del régimen extractivo: patrones y límites de la judicialización de conflictos mineros’ (2022) 72 *Iconos -Revista de Ciencias Sociales*; Viaene, Doran and Liljeblad above n 5.

<sup>54</sup> A. Mills, ‘The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today’ (2016) 6 *McGill Law Journal/Revue de droit de McGill* 4.

<sup>55</sup> CF. Black, *The Land is the Source of the Law. A Dialogical Encounter with Indigenous Jurisprudence* (Routledge 2011). See also: the work of Canadian legal scholar: Anker (2017).

<sup>56</sup> G. Coulthard and L. Betasamosake Simpson, ‘Grounded Normativity/Place-Based Solidarity’ (2016) 68 *American Quarterly* 2.

<sup>57</sup> Liljeblad above 10 at n 3.

<sup>58</sup> Y. Bravo Espinosa and M-T. Sierra Camacho, ‘The Dispute for Other Legal Knowledges in the Judicial Field: Indigenous Territorial Ontologies and Mining Extractivism in Guerrero, Mexico’ (2024) 29 *The Journal of Latin American and Caribbean Anthropology*.

<sup>59</sup> Viaene above n 30 and Viaene and González-Serrano above n 13.

<sup>60</sup> J. García Ruales, ‘Forest Moralities, Kindred Knowledge and *Sacha Runakuna: Kawsak Sacha* as Law’ (2024) 28 *The International Journal of Human Rights* 10.

systems and Indigenous spiritual practices within the courtroom. The film raises fundamental questions: What happens when voices for invisible guardians enter the halls of legal power? How can judicial decisions incorporate Indigenous knowledge without reducing it to metaphor or symbolism? And how do these worlds – legal and spiritual, institutional and territorial – co-exist in legal practice?

These questions unfold within the institutional context of Colombia's JEP, which the Deputy Prosecutor of the International Criminal Court has recognised that 'the design of the JEP is a pioneer in the world'.<sup>61</sup> To date, the JEP has recognised – within the judicial process of this Macro-Case 02 – several territories as victims of the armed conflict, including the *Katsa Su* territory of the *Awá* people, the *Eperara Euja* territory and the collective and ancestral territory of Afro-Colombian Community Councils, encompassing approximately 705,543 hectares.<sup>62</sup> These recognitions mark a profound jurisprudential shift, opening space for Indigenous legal systems and territorial life to be acknowledged as central subjects within transitional justice.<sup>63</sup>

Within this institutional framework, Indigenous legal and knowledge systems have entered the core of transitional justice through the presence and leadership of Indigenous judges. Between 2020 and 2022, Belkis served as President of the JEP's Ethnic Commission, a body tasked with ensuring the effective implementation of the Ethnic Chapter of the 2016 Peace Agreement. She later served as Vice-President of the JEP between 2022 and 2024. These institutional roles have positioned her at the intersection of Indigenous legal thought, judicial decision-making and the internal governance of the judicial pillar within Colombia's transitional justice system.

This section builds on Belkis' judicial practice and leadership to examine how Indigenous legal knowledge systems – rooted in Territory as a living source of law – reshapes key dimensions of Colombia's transitional justice. It explores how Indigenous legal reasoning challenges dominant legal frameworks, demands legal creativity and reconfigures judicial investigation and evidentiary practices, consultation processes and Indigenous understandings of harm, responsibility and reparation. This section positions Indigenous legal systems as an essential source through which state justice can respond meaningfully to the diversity of peoples and territories. In doing so, it allows for the articulation of a counter-hegemonic legal order to the dominant legal paradigm – one capable of transforming transitional justice from within.

### *From Indigenous territorial rights to Territory as a living being with multiple life systems*

International human rights law – most notably through ILO Convention 169 of 1989 and the 2007 UN Declaration on the Rights of Indigenous Peoples – has progressively recognised Indigenous peoples not only as holders of individual rights but also as subjects of collective rights. These include rights to land, territory and natural resources; to self-determination; to the administration of justice; and to their own social, political and legal institutions. Indigenous peoples' relationship to land has been legally framed as a 'special relationship' – collective and multi-dimensional – justifying territorial rights as essential to cultural survival.

However, Indigenous legal scholars have critiqued these instruments as results of compromise that preserve the hegemony of state sovereignty and limit Indigenous self-determination, often neglecting Indigenous legal agency.<sup>64</sup> In practice, Eurocentric legal thought, liberal individualism and Western legal

<sup>61</sup> Comunicado 153 de la JEP, 'El diseño de la JEP es pionero en el mundo': Vicefiscal de la Corte Penal Internacional, 2 de noviembre 2020.

<sup>62</sup> Also 19 collective subjects of rights have been accredited, among which are the *Awá* and *Eperara Siapidara* peoples (approximately 32,838 people); Community Councils of the Afro-Colombian Black People (approximately 67,268 people); organisations of women and people with diverse sexual orientations and gender identities and expressions (approximately 737 people) and a peasant organisation (approximately 5004 people).

<sup>63</sup> For more on JEP Case 02: <https://www.jep.gov.co/macrocasos/caso02.html> (accessed 21 August 2026).

<sup>64</sup> Liljeblad above n 10.

culture continue to dominate the interpretation and application of Indigenous collective rights, making substantive self-determination difficult to realise.<sup>65</sup>

It is precisely this structural limitation that becomes visible within the context of the JEP. As Belkis explains in the film: ‘A national normative system is being applied—a system in which Indigenous justice does not fit’. She identifies a core tension: state law is rigid, individualised and anthropocentric, while Indigenous legal and knowledge systems understand harm, responsibility and justice through multiple, interconnected systems of life. ‘The law is conceived for a human person’, she notes, ‘but it does not consider the multiple systems of life that are encompassed when Indigenous peoples speak of Territory’. It is precisely for this reason that the JEP, through transitional regulations, has promoted mechanisms of inter-jurisdictional coordination and inter-cultural dialogue that represent unprecedented advances in the Colombian legal system.<sup>66</sup>

This legal reasoning thus takes an ontological leap beyond the dominant individual human rights-based framework. As she further explains: ‘The [Indigenous] cosmovision understands Territory as both spiritual and physical—one is the shadow of the other. You cannot treat them separately’. Territory is inhabited not only by humans but by visible and invisible beings: spirits of water, fire, mountains and ancestral guardians, whose existence is constitutive of legal order. This is why Indigenous legal systems speak of multiple systems of life, rather than nature as an external and separate object.

It is from this shared analytical and judicial practice that we propose the conceptual shift to Territory with a capital ‘T’. This move seeks to go beyond existing legal formulations of Indigenous territorial rights in Colombian and international law, Colombian constitutional jurisprudence and the Inter-American system.<sup>67</sup> This proposal requires the navigation of unknown legal waters – moving beyond what law conventionally allows and engaging in legal creativity to disrupt Euro-Western colonial legal registers. The concept of Territory (capital T) first emerged explicitly during the co-organised online Speech Circle (*Círculo de la Palabra*): Reparation of Territory and Nature as Victim in August 2020 (Figure 4), while also building on an ongoing process of dialogue among Judge Belkis’ Tanuriwa team,<sup>68</sup> *Awá* Indigenous Peoples and their Territories, combined with sustained academic reflection.<sup>69</sup> There, Belkis emphasised that Indigenous Territories are subjects of law with identity and dignity: they feel, express themselves, suffer harm and seek restoration, just as humans do. The Circle closed with a Payment Offering [pagamento] led by Mamo Mejawin, who invited participants to reflect on reciprocity and balance: ‘When we speak of payments, it is not only to give thanks, but to restore harmony...it is not nature—it is us; it is part of our essence’. This intervention foregrounded that justice, from an Indigenous perspective, is relational, spiritual and collective, rather than compensatory or extractive.

At this point, the distinction becomes clear: territory (lowercase t) refers to territorial rights – as recognised in the above-mentioned international human rights instruments and Colombian jurisprudence – understood primarily as serving the well-being of the human collective. Territory (capital T), by contrast, refers to

<sup>65</sup> Garzón above n 52.

<sup>66</sup> BF. Izquierdo and A. Jiménez, ‘El impacto del pluralismo jurídico en la calificación jurídica de la JEP’ in *La JEP vista por sus jueves* (2022–2023) (Jurisdicción Especial para la Paz 2024).

<sup>67</sup> In Colombia, in its 1991 Political Constitution, territory appears as a fundamental axis of the State and its political-administrative organisation, especially through figures such as territorial entities (e.g. departments, municipalities, districts and Indigenous territorial entities) related to the administration and exercise of state power. It’s Constitutional Court has progressively expanded this understanding, particularly in relation to Indigenous peoples. Thus, territory ceased to be understood solely as a physical space and began to be recognised for its special cultural and environmental relationship. This is evidenced in decisions such as Judgment T-380 of 1993, in which the Court affirmed that for Indigenous peoples’ territory is essential to their worldview; and in Judgment SU-039 of 1997, which links territory to the integrity and cultural survival of peoples.

<sup>68</sup> This refers to Judge Belkis Izquierdo Torres’ legal team at the JEP.

<sup>69</sup> For its recording, see: <[https://youtu.be/lApjX\\_Ulvys?si=Hw0vxEustqHnCo4k](https://youtu.be/lApjX_Ulvys?si=Hw0vxEustqHnCo4k)>.

**CÍRCULO DE LA PALABRA**

**ARMONÍA DE LA MADRE TIERRA:  
REPARACIÓN DEL TERRITORIO Y  
LA NATURALEZA COMO VÍCTIMA**

**14 DE AGOSTO**  
Colombia y Ecuador: 9am  
Brasil: 11am  
Guatemala: 8am  
España: 4pm

**PARTICIPANTES:**

 **Jovita Tzul Tzul (Guatemala)**  
Abogada y notaria maya K'iche', Instituto Amaq'

 **Cecilia Baltazar (Ecuador)**  
Abogada indígena Kichwa, Corte Constitucional

 **Mauricio Ye'kwana (Brasil)**  
Representante del pueblo Ye'kwana y Yanomami en Brasil y Venezuela. Associação Hutukara

 **Lieselotte Viae (Bélgica-España)**  
Antropóloga jurídica, Universidad Carlos III de Madrid

**MODERADORA:**

 **Belkis Izquierdo Torres (Colombia)**  
Magistrada Arhuaca de la Sala de Reconocimiento de Verdad y de Responsabilidad y Determinación de Hechos y Conductas de la Jurisdicción Especial para la Paz (JEP) y Coordinadora de la Comisión Étnico-Racial

**Ceremonia de cierre por el Mamo Meijabin**  
desde el **Centro de Investigaciones Busintana, Colombia**  
(11am, Colombia)



**CONECTARSE VIA**

 **ZOOM:** <https://us02web.zoom.us/j/89461126318>

 **Facebook live:** RIVERS ERC PROJECT

Organizado por la **Comisión Étnica-Racial de la Jurisdicción Especial para la Paz (JEP)** y el **proyecto ERC RIVERS (UC3M)**

En el marco de la Semana de los pueblos indígenas en el Sistema Integral de Verdad Justicia Reparación y no Repetición (SIVJNR - Colombia)

**RIVERS**  
Verdad Justicia Reparación y no Repetición  
Agua (Derechos Humanos, JEP) año de la humanidad

**uc3m** | Universidad Carlos III de Madrid

 **erc**  
European Rights Centre

Obra: "canto cielo azul" - Artista indígena Inga Kindi Lajtu, 2020, Colombia

**Figure 4.** Online Speech Circle (Círculo de la Palabra): Reparation of Territory and Nature as Victim, August 2020.

Territory itself as a living and sentient subject of law, comprising multiple systems of life. Within Territory are preserved and continually developed each people's Law of Origin (*Ley de Origen*), ancestral territorial organisation, self-government and systems of Indigenous knowledge.<sup>70</sup> Territory exists in an inseparable relationship with the people, forming a living fabric/weaving that includes – but is not centred on – the human. A first collaborative theorisation of this distinction was developed in our earlier Spanish-language publication (2024) on Territory as a living victim of armed conflict.<sup>71</sup> In this article, we further develop this conceptual distinction by situating it more explicitly within debates on ecological jurisprudence, Indigenous self-determination and the limits of the eco-centric legal turn. We argue that living and sacred Territory should not be understood as an eco-centric expansion of law, but rather as the juridical expression of Indigenous legal knowledge systems and the right to self-determination of Indigenous peoples.

### *JEP and free, prior and informed consultation*

The right to free, prior and informed consultation (FPIC) has long occupied a central – and contested – place in legal and socio-legal debates on Indigenous peoples' rights in Latin America, particularly in the context of extractive and infrastructure projects affecting Indigenous territories. Extensive scholarly and jurisprudential work has shown that state-led consultation – when implemented at all – is frequently reduced to a procedural formality, instrumentalised to legitimise development agendas rather than to enable genuine Indigenous decision-making.<sup>72</sup> As James Anaya, former UN Special Rapporteur on the Rights of Indigenous Peoples, emphasised in one of the earliest landmark reports to the UN Human Rights Council, the duty of states to consult is essential precisely to avoid the imposition of decisions on Indigenous peoples and to protect their collective rights.<sup>73</sup> Indigenous peoples, Anaya stressed, are not mere stakeholders to be informed about impacts on their lands, cultures and livelihoods; they are rights-holders and decision-makers. From this perspective, FPIC is not an endpoint but a complex, relational process that requires time, good faith and the building of mutual trust between states and Indigenous communities.

Within Colombia's peace process, the understanding and scope of FPIC acquired renewed legal and political significance through the Ethnic Chapter of the 2016 Peace Agreement. The Ethnic Chapter explicitly reaffirmed the State's duty to respect the fundamental right of prior consultation for Indigenous and other ethnic peoples, anchoring transitional justice in principles of legal pluralism, self-determination and intercultural dialogue. Rather than treating ethnic peoples as passive beneficiaries of peace, the Agreement recognised them as collective political subjects whose participation was indispensable to the legitimacy and sustainability of the transitional justice process.

<sup>70</sup> Indigenous Peoples in Colombia speak of the Law of Origin (*Ley de Origen*) or Greater Law (*Derecho Mayor*), although the terminology in Spanish and in their own Indigenous languages may vary. However, the underlying foundation is the same: Territory as a living being in which everything converges, where all forms of life are alive and are subjects of rights.

<sup>71</sup> Above at n 38.

<sup>72</sup> Due Process of Law Foundation (DPLF) and Oxfam, *Right to Free, Prior and Informed Consultation and Consent in Latin America. Progress and challenges in Bolivia, Brazil, Chile, Colombia, Guatemala and Peru* (DPLF and Oxfam 2015), R. Flemmer and A. Schilling-Vacaflor, 'Unfulfilled Promises of the Consultation Approach: The Limits to Effective Indigenous Participation in Bolivia's and Peru's Extractive Industries' (2016) 37 *Third World Quarterly* 1, L. Viaene, 'La transformación de la matriz energética de Guatemala vs. los derechos humanos de los pueblos indígenas maya' (2015) 16 *Iberoamericana: América Latina-España-Portugal* 59.

<sup>73</sup> UN General Assembly, Human Rights Council, Promotion, and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, James Anaya (UN DOC A/HRC/12/34, July 2019). Available at: <<https://docs.un.org/en/A/HRC/12/34>> (accessed 23 February 2026).

One of the most innovative – and unprecedented – features of Colombia’s transitional justice model is that the Integral System of Truth, Justice, Reparation and Non-Repetition – composed of the Commission for the Clarification of Truth, Co-existence and Non-Repetition, the Unit for the Search for Persons Reported Missing, and the JEP – subjected its own internal legal framework to a process of prior consultation with ethnic peoples. To our knowledge, this is the first time in Colombia, and likely in Latin America, that a High Court of Justice has submitted its internal regulations, procedures and instruments to prior consultation with Indigenous and other ethnic peoples, including Black, Afro-Colombian, Raizal, Palenquero and Roma peoples. Between late 2018 and early 2019, the JEP conducted extensive prior consultation processes across rural territories in 32 departments and 98 municipalities, involving thousands of participants and diverse forms of territorial dialogue. For the JEP, compliance with FPIC was understood as an opportunity to build institutional legitimacy and to guarantee the centrality and meaningful participation of victims within transitional justice.

Building on this mandate, the JEP subsequently submitted key legal instruments to prior consultation, including its Internal Regulations, its Law of Procedure and Protocol 01 of 2019 on inter-jurisdictional coordination and inter-cultural dialogue between the JEP and the Special Indigenous Jurisdiction. Through the work of the JEP’s Ethnic-Racial Commission – between 2020 and 2022, coordinated by Belkis – these legal texts were translated into practical tools for inter-cultural and inter-legal engagement. As then-President of the JEP, Judge Patricia Linares, noted at the official presentation of the consultation results, this process constituted ‘a first outcome of a horizontal dialogue that reaffirms obligations towards Indigenous Peoples and seeks to materialise, from their lived experiences, contributions to the understanding and practice of peace’.<sup>74</sup>

A concrete outcome of these consultations was the publication, in August 2019, of the compilation *Ethnic and Cultural Diversity, Legal Pluralism and Prior Consultation*.<sup>75</sup> This document – the first of its kind since the adoption of Colombia’s 1991 Constitution – laid the foundations for coordination and articulation between the JEP and Indigenous and Afro-descendant systems of justice. A central element of this process was the reaffirmation of the Special Indigenous Jurisdiction as an autonomous, collective and fundamental right of Indigenous peoples, exercised through their own authorities, norms, procedures and territories under Article 246 of the Colombian Constitution.<sup>76</sup> Particularly innovative was the formal recognition of Afro-Colombian systems of justice. Prior consultation thus emerged not merely as a mechanism for co-existence, but as a space for negotiating collaboration among multiple legal orders within a unified transitional justice framework.

For the JEP, this protocol of inter-jurisdictional and inter-justice coordination crystallised into a concrete relational ‘route’ that guides judicial interaction with Indigenous authorities and authorities of other ethnic peoples throughout the judicial process, especially in the context of the different macro-cases. As Belkis explains in the documentary, ‘it is necessary [for judges] to get out of the office frame a little bit—to feel the Territory, to smell the Territory’. In practice, this horizontal dialogue has been operationalised through multiple mechanisms, such as culturally relevant notification practices; inter-jurisdictional coordination proceedings; the use of interpreters and translators; forms of judicial representation differentiated

<sup>74</sup> <<https://www.jep.gov.co/Sala-de-Prensa/Paginas/La-JEP-publica-compilacion-de-las-normas-e-instrumentos-concertados-con-los-pueblos-indigenas.aspx>> (accessed 23 February 2026).

<sup>75</sup> This compilation is available at: <<https://www.jep.gov.co/DocumentosJEPWP/protocolo.pdf>> (accessed 23 February 2026).

<sup>76</sup> Furthermore, according to Article 12 of Law 270 of 1996 the jurisdictional function is exercised as its own, habitually and permanently by the Special Indigenous Jurisdiction through persons endowed with constitutional investiture to do so, in this case the traditional authorities. See also: L. Braconnier Moreno, ‘El diálogo entre la Jurisdicción Especial para la Paz y la jurisdicción especial indígena en Colombia: ¿la fábrica de una justicia transicional intercultural?’ in M. Gutiérrez Quevedo and AM Olarte Delgado (eds), *Pluralismo jurídico y derechos humanos: perspectivas críticas desde la política criminal* (Universidad Externado de Colombia 2021).

by Indigenous peoples; precautionary and protection measures grounded in an ethnic-differential approach; and the participation of Indigenous authorities in judicial processes – whether as victims, as ethnic authorities or as authorities exercising their own jurisdiction.<sup>77</sup>

The implementation of these mechanisms requires continuous dialogue with Indigenous knowledge systems and legal systems, which in the Colombian context are articulated through what is known as the Law of Origin (*Ley de Origen*). As Belkis and members of her legal team reflect in the documentary, this is not merely a procedural adjustment but a profound transformation of judicial reasoning and practice – one that demands listening to Indigenous territorial authorities, engaging with spiritual and relational understandings of harm and recognising land and territory as living subjects within the justice process. Or, as Belkis explains in the film: ‘Taking the Territory, talking about the Territory within the state’s court system, is about understanding the law from the heart, from the land, the Territory’.

### *Legal creativity to challenge dominant Western legal frameworks*

During the process of drafting Auto SRVBIT-079 in 2019, legal creativity became indispensable alongside inter-cultural dialogue and Indigenous knowledge, grounded in the constitutional principles of legal pluralism, ethnic and cultural diversity the collective Indigenous peoples’ rights and domestic environmental law. This creativity did not emerge as a voluntary innovation, but as a necessary response to the limitations of dominant legal frameworks when confronted with Indigenous ontologies. From this foundation, questions arose about how to incorporate the notions, visions and relational worlds of the *Awá* people into the legal concepts shaping this first judicial decision.

As judge rapporteur of Macro-Case 02, Belkis and her legal team engaged in sustained inter-cultural dialogue with *Awá* spiritual and territorial authorities in order to deepen their understanding of the inseparable and indivisible relationship between the *Awá* people and their Territory, as articulated through the *Awá* cosmovision. This required moving beyond Spanish legal categories and engaging with concepts articulated in the *Awá* language, whose meanings could not be fully captured through translation alone. Through continuous dialogue over time, it became clear that for the *Awá*, Territory is life and the basis for their physical, cultural and spiritual continuity as a people and collective subject of rights.

As one member of Belkis’s legal team explains in the film, this territorial methodology revealed that the destruction of an oil pipeline during the armed conflict could not be reduced to the mainstream legal notion of ‘environmental harm’. Instead, ‘the river—*Kuanka* spirit, who took care of the river—died. That is why many Indigenous authorities say there is disharmony in the land, because a spirit was killed’. As Belkis further explains: ‘This affected all the biodiversity, but also something that perhaps an ecologist does not see: the entire world of many other systems of life that are invisible, but necessary, and related to *Katsa Su*’. Another team member recalls the moment of rupture with dominant legal logic: ‘Surprise! What do the Indigenous people say? “We are victims, but the first victim is the Territory”’.

Consequently, the *Awá* authorities requested recognition not only of the *Awá* people as victims of the armed conflict, but also of *Katsa Su* Great *Awá* Territory, as a victim in its own right. To give legal expression to this inseparable relationship, it became necessary to issue a single judicial decision, rather than separate decisions for the *Awá* people and their territory. This decision marked a conceptual rupture with Eurocentric positivist legal thought, as it sought to legally translate the unity and inter-dependence of human, more-than-human and spiritual systems of life central to the *Awá* legal system.

<sup>77</sup> BF. Izquierdo Torres, ‘La participación de los Pueblos Indígenas en la Jurisdicción Especial para la Paz’ in *Cátedra UNESCO: Gobierno y gobernanza, participación restaurativa en escenarios transicionales; más allá de las mediaciones, los círculos y las conferencias* (Universidad Externado de Colombia 2023).

At the same time, we were concerned about sending a misleading message through this first judicial precedent. After careful deliberation, together we concluded that conceptual coherence required prioritising *Katsa Su* Great Awá Territory, followed by the 32 Awá Indigenous councils, in the title of the decision. This ordering was intended to reflect the ontological primacy of territory within Awá legal reasoning.

For this reason, the original text of Auto SRVBIT-079 deliberately excluded commas between ‘*Katsa Su*’ and ‘Great Awá Territory’ to signal that it constituted one indivisible subject, inseparable from the Awá people. As Belkis explains in the film, drawing on the words of a *Mamo*: ‘This is not individual knowledge. We cannot separate ourselves as individuals; we are not a sum of individuals, but part of a subject of rights that must be understood in its spiritual, cultural, and physical dimensions’.

However, when the final text was sent to the JEP’s communications department for official publication, standard grammatical rules were applied, and a comma was inserted between *Katsa Su*, great Awá territory and the 32 Awá Indigenous councils. As a result, when the Auto was published in November 2019, its title read:

To recognize as victims, in the capacity of collective rights subjects, the “Katsa Su,” great Awá territory, and the thirty-two (32) Indigenous councils Awá...

This seemingly minor grammatical intervention illustrates how reasoning grounded in Indigenous legal systems can become ‘lost in translation’ within state legal infrastructures, where linguistic conventions reassert separation and fragmentation, in tension with Indigenous law’s articulation of an inter-related and indivisible whole. In this sense, the comma becomes a marker of epistemic misunderstanding, reproducing the fragmentation of what Indigenous knowledge systems understand as a living and indivisible totality.

### *Judicial process, legal evidence and territorialised knowledge*

In any judicial context, concepts such as judicial truth, historical truth, facts, legal evidence and harm go hand in hand. In general, justice operators – whether lawyers, prosecutors or judges – tend to ‘consider matters established by the applicable standard of proof as “facts”, and then proceed to determine how the law applies to those facts’.<sup>78</sup> Legal adjudication thus presumes the resolution of disputes between real people in real situations, through evidentiary practices grounded in dominant epistemologies.<sup>79</sup> However, Indigenous knowledge systems – often labelled as belief, custom, tradition, mythology or superstition – have historically been excluded from these evidentiary regimes, as it does not conform to what Western law defines as ‘objective rationality’ or ‘scientific proof’.

In our own professional experiences, particularly in training contexts and seminars on legal pluralism in Colombia, Guatemala and Ecuador, we have repeatedly encountered intense debates with legal scholars and justice operators (both European and Latin American) concerning whether and how knowledge derived from Indigenous cultural and spiritual consultations at sacred sites, dreams, ceremonies involving sacred plants such as *ayahuasca*, or communications with animals, water, rivers, wind and fire can be recognised within legal proceedings. These encounters reveal a profound epistemic and ontological gap: for many Indigenous spiritual authorities, the knowledge produced through these practices – grounded in collective logic, relational ethics and Indigenous rationalities – constitutes valid, verifiable and authoritative knowledge that must be taken into account in the gathering of evidence and the production of proof in judicial proceedings involving Indigenous peoples and their Territories.

<sup>78</sup> A. Good, ‘Cultural Evidence in Courts of Law’ (2008) *Journal of the Royal Anthropological Institute*.

<sup>79</sup> RF. Kandel (ed) ‘How Lawyers and Anthropologists Think Differently’ in *Double Vision: Anthropologists at Law (NAPA Bulletin 11)* (American Anthropological Association 1992) 1–4.

For the *Iku* (*Arhuaco*) people, to whom Belkis belongs, knowledge – *Kunsamε* – does not emanate solely from human reasoning. Knowledge resides in the Territory (*Niwi Umuke*), in sacred sites (*U'mεnεnkenε*) and in *Seykutukunumaku* – the Black Line that connects the sacred sites of the Sierra Nevada de Gonawindúa.<sup>80</sup> All of this is regulated by the Law of Origin (*Seyn zare zanu*), the foundational ancestral order whose observance guarantees balance and harmony among all beings: animals, plants, minerals, humans, water, air, earth and fire. Interpretation, guidance and decision-making emerge through respectful communication with these visible and invisible beings, a practice carried out by spiritual authorities (*Mamos*) in specific sacred spaces that function as epistemic and legal sites. Places such as the *Ka'dukwε*, *murεndwa*, the *Kεnkurwas* and elements such as the *mεrunsama* are not symbolic objects but instruments, enabling communication and the channelling of energy with the cosmos within the fulfilment of this Law of Origin. As shown in the documentary *Aty Seikuinduwa*, *Ka'dukwε* are spiritually designated sacred places used for rituals such as payments, while *Kεnkurwas* are ceremonial structures representing sacred hills and their spiritual guardians (Figure 2).<sup>81</sup>

Following the decision Auto SRVBIT-079 of 2019, two spiritual authorities were likewise recognised as special intervenors in Macro-Case 02. Exercising the voice of the Territory within the proceedings, they were autonomously designated by Indigenous authorities, without requiring legal counsel or expert representation, in accordance with Indigenous self-governance. As one member of Belkis's legal team explains in the film: 'The Territory begins to suffer particular damage when it is uninhabited by those who have mandates and obligations derived from the Law of Origin'. Giving the Territory legal meaning thus requires giving it a voice – one articulated through traditional spiritual authorities, who possess the capacity to communicate with the land.

As Belkis further explains: 'Our [Indigenous] knowledge does not come only from human reason; it comes from the Territories, because knowledge is territorialised'.

This perspective brings us to one of the most pressing challenges within Macro-Case 02 and the JEP more broadly: how to gather, analyse and assess evidence of destruction of Territory, nature and sacred sites, and how to legally qualify serious, extensive and lasting harm when such damage is understood, articulated and experienced through Indigenous onto-epistemologies. While the JEP's legal sources include the Colombian Penal Code, International Human Rights Law, International Humanitarian Law, International Criminal Law and the Colombian Constitution, these normative frameworks remain largely unequipped to engage with evidentiary knowledge produced through dreams, spiritual consultations, ceremonies, rituals or communications with non-human beings.

To what extent can damages, disharmonies and violations to Territory – consulted and understood through fire ceremonies, song-words of birds or rituals involving *ayahuasca*, mambe, ayu (coca leaves) or other ancestral plants of knowledge – be meaningfully recognised in transitional justice proceedings?<sup>82</sup> How do national and international legal norms conceptualise severe harm to sacred sites and living Territories? And what are the legal consequences of acknowledging – or refusing to acknowledge – such harms?

These questions resonate beyond Colombia. As the Nepali documentary illustrates, among the Indigenous Gurung people, animals such as sheep and chickens are consulted to discern the will of the

<sup>80</sup> For more information on the Black Line, see: Decreto 0514 del 19 de mayo de 2026 from Ministerio del Interior <<https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%20No.%200514%20DEL%2019%20DE%20MAYO%20DE%202026.pdf>> (accessed 20 May 2026).

<sup>81</sup> Places that often contain trees and rocks, and that function as spaces of energetic communication between the visible and the invisible, the human and the non-human, and the physical and the spiritual.

<sup>82</sup> This has been one of the research questions of the mentioned RIVERS research project, see: L. Viaene, "RIVERS – Water/Human Rights Beyond the Human? Indigenous Water Ontologies, Plurilegal Encounters and Interlegal Translation" (European Research Council Starting Grant, Grant Agreement 804003, 2018). Original research design available at: [www.rivers-ercproject.eu](http://www.rivers-ercproject.eu).

invisible guardians of the land. The physical behaviour of the sheep during ritual – whether it shakes or remains still – constitutes a communicative act, translating the needs and warnings of these guardians. Here too, Indigenous legal reasoning relies on embodied, relational and non-human forms of evidence.

We argue that Indigenous peoples – through their territorialised knowledge systems and authorities – provide not only narratives about the truth but juridically relevant interpretations of harm, enabling judicial analysis across spiritual, cultural, physical, collective and individual dimensions. From our perspective, these forms of knowledge are indispensable for judges tasked with legally qualifying crimes and establishing responsibility in cases involving Indigenous Territories.

To date, those who could fulfil this evidentiary role are Indigenous spiritual leaders, as custodians of the Law of Origin and of Indigenous legal orders themselves. They guide compliance with territorial governance, self-government and the normative systems that regulate life within the Territory. Recognising their epistemic and juridical authority is therefore not an accommodation of culture, but a necessary condition for justice within plurilegal contexts.

## Final reflections

Drawing on our situated solidarities and convergence spaces – methodological, ethical and relational, this article shows how Indigenous legal systems and reasoning reshape legal thought from within Colombia's transitional justice process. Co-authoring across asymmetrical institutional positions, and rejecting extractive modes of knowledge production, enabled us to treat Indigenous judicial practice not as empirical 'data' but as a site of co-theorising law. Co-directing the documentary *Aty Seikuinduwa*, and the spiritual practices and ritual permissions that shaped its filming, were themselves sites where this co-theorising took form, not illustrations added after the fact. This approach challenges dominant academic hierarchies and affirms the importance of dialogical, processual reflexivity when engaging Indigenous peoples' rights in deeply politicised contexts. That asymmetry was not resolved by our collaboration; it was made visible, and, we hope, answerable, an ongoing labour rather than a completed achievement.

Further, we have argued that recognising Territory as a living, sacred being and victim within Colombia's transitional justice process cannot be adequately understood through the lens of the eco-centric legal turn alone. While ecological jurisprudence, rights of nature and related eco-legal developments have expanded the scope of environmental protection within law, they often remain anchored in Euro-Western legal rationalities that instrumentalise Indigenous philosophies without fully engaging Indigenous legal systems and knowledge systems as sources of law in their own right. By contrast, our analysis foregrounds Indigenous legal systems and self-determination as the primary epistemic and normative foundations through which Territory emerges as a subject of law within transitional justice. Even a single inserted comma, as the Auto's own publication history shows, can quietly re-fragment what Indigenous legal reasoning insists on holding together; the stakes of this argument are, in that sense, as small as punctuation and as large as a legal ontology.

Through the analysis of FPIC, we demonstrated how the JEP's decision to submit its own internal legal framework to prior consultation constituted an unprecedented institutional opening in Colombia. This move reframed prior consultation not as a procedural obligation but as a space for inter-legal dialogue, allowing Indigenous legal systems, grounded in the Law of Origin, to shape judicial practice, evidentiary standards and conceptions of harm.

Our analysis of judicial evidence and proof further reveals the onto-epistemological limits of transitional justice systems grounded in Euro-Western positivist conceptions of evidence. Indigenous territorialised knowledge – emerging from rituals, dreams, ceremonies, spiritual consultations and relations with visible

and invisible beings – poses a fundamental challenge to dominant legal evidentiary regimes. Taking such knowledge seriously requires more than inclusion; it demands a reconfiguration of what counts as legal knowledge and who is recognised as a legitimate legal knower.

Ultimately, this article suggests that transitional justice can become a site for epistemic and ontological transformation when Indigenous legal systems are engaged as law, not a metaphor. Moving beyond the eco-centric legal turn, we argue that centring Indigenous legal systems and self-determination opens possibilities for co-theorising through leadership resistance, recognising multiple systems of life constituted through human and more-than-human relations. That centring was itself made possible by resistance leadership: our own navigation, as women who arrived at positions of institutional authority neither designed for nor easily welcoming to us, of judiciary and academy alike, which let co-theorising happen inside institutions built to resist it, not only write about them. In doing so, this article contributes not only to debates on environmental law and transitional justice, but also to the broader efforts to recognise Indigenous legal actors as co-producers of socio-legal theory, whose practices reshape the meaning and possibilities of law itself.

### Author note

Disclaimer: The opinions expressed in this article belong to the authors and do not necessarily reflect the position of the Special Jurisdiction for Peace (JEP) of Colombia or Ghent University/RIFS.

### Acknowledgements

Belkis and Lieselotte are both first authors. This article was co-written across multiple bilingual iterations: Belkis authored and edited sections of the text directly, and shaped others through written comments and extended oral discussions (online and in-person). Early drafts were translated into English, following peer review, we discussed the reviewers' comments together before responding; and once language editing began, the revised English text was translated back into Spanish so that Belkis could review, correct, and further shape the final version. This process reflects, in practice, the co-theorising and situated solidarities this article describes in theory. This article draws in part on an earlier Spanish publication titled: Izquierdo Torres, B. F., and Viaene, L. (2024). Una im-posibilidad legal. El Territorio-ser viviente, víctima del conflicto armado colombiano. Algunas reflexiones desde un diálogo colaborativo interdisciplinar. *EUNOMÍA. Revista En Cultura De La Legalidad* (27), 72–101. <https://doi.org/10.20318/eunomia.2024.9001>

We would like to thank the four anonymous reviewers for their careful engagement with our manuscript and for their constructive and critical feedback. We are also grateful to Richard Moorsom for his intellectual engagement and careful language review across different drafts.

We express our gratitude to the guardian spirits of the Territory of Gonawindua, to Katsa Su and to Ikal Awá for guiding this journey through the Law of Origin and the multiple systems of life that sustain harmony and balance. We extend our deepest recognition to Mamo Meijawin, Mamo Kaky Gunyarey Maku, Atimama Ramona, Mamo Kwaney Maku and the Tanuriwa working team, whose words, listening and dialogue made possible this collective exercise of *corazonar*, understood as thinking-feeling with the heart and with/in the Territory, and as a practice of weaving paths towards reconciliation, dignity and the care of life.

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### Funding

The authors disclosed receipt of the following financial support for the research, authorship and/or publication of this article: This writing and publication has been made possible thanks to the ERC Starting Grant (2019–2026)

RIVERS-Water/human rights beyond the human? Indigenous water ontologies, plurilegal encounters and inter-legal translation (Grant Agreement 804003), under the European Union's Horizon 2020 research and innovation programme and the project PaxNatura-Making Peace with Nature and Making Nature a Key for Peace, financed by the Spanish *Ministry of Science, Innovation and Universities* (PID2022-142484NB-C21/PID2022-1424842022)

**Declaration of conflicting interests**

The authors declared no potential conflicts of interest with respect to the research, authorship and/or publication of this article.