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Territory, Natural Rights, and Global Environmental Justice

This chapter first considers how comunidades negras confront necropolitical ecologies, including the Two-Headed Monster, and catalyze global environment justice movements. Then, within the context of Colombia after the 2016 peace agreement with the FARC, it details how natural entities are increasingly recognized as having their own rights. Finally, it raises concerns about the implications for the different kinds of rights discussed in the chapter, especially regarding global environmental justice. More specifically, this chapter addresses the following questions:

- How do rural ethnic communities, especially comunidades negras, leverage territorial rights, international agreements, and transnational actors to achieve global environmental justice?
- What are natural rights and how have they materialized in the context of the violence experienced by comunidades negras after the 2016 peace agreement?
- How does the recognition of natural rights impact comunidades negras (i.e., an example of a particular environmental justice community) and prospects for global environmental justice?

In answering these questions, this chapter addresses the increasing use of *environmental justice* in global environmentalist discourses and builds toward the possibilities of a "global environmental justice" framework (the subject of the final chapter).

While the first few chapters of the book recount stories of visions told to me during fieldwork, and the previous chapter described a vision of my own invention (i.e., the Two-Headed Monster), the section after the next utilizes visions in a different manner. To describe how comunidades negras are emblematic of global environmental justice communities, I use popular tales of visions to present the

different ways that comunidades negras *do* global environmental justice. However, first it will be necessary to address what is meant by *global environmental justice*.

WHAT IS GLOBAL ENVIRONMENTAL JUSTICE?

In this book's introduction I noted four major themes in my review of the literature on global environmental justice:

1. The study of globalized EJ movements
2. The study of transnational forms of environmental racism and resistance
3. The framing of the Anthropocene / climate change as a global EJ issue
4. The theorization of the spatial dimensions of EJ

This book touches on all those themes, especially 1, 2, and 4. However, I have intentionally avoided (and will continue to avoid) defining global environmental justice throughout the rest of this book.

Scholars have been writing about the need to conceptualize global environmental justice for roughly two decades now,[1] yet most have avoided explicitly defining it. Prominent EJ scholar David Schlosberg argues that definitions of EJ are fundamentally flawed because they have inadequately addressed the global dimensions of local EJ struggles. He states, "A thorough notion of global environmental justice needs to be locally grounded, theoretically broad, and plural—encompassing issues of recognition, distribution, and participation."[2] Schlosberg acknowledges that a major challenge in defining global environmental justice is that, even within a local geographic location, justice is conceptualized differently across legal systems, civil society, and academia.[3]

Another reason why scholars are hesitant to define global environmental justice is that EJ itself is driven by the grassroots activism of marginalized populations impacted by pollution. As England-based EJ scholar Gordon Walker points out, globally there is much skepticism about embracing an EJ framework that originated in the United States, a country massively implicated in environmental problems that have contributed to climate change.[4] So in addition to hesitation about universalizing a framework for the world, scholars have misgivings about determining what environmental justice looks like from the vantage point of their elite (academic) institutions of the Global North. Walker further points out that as information about environmental justice circulates throughout the world, it is subject to local reinterpretation and reframing.[5]

Catalan political ecologist Joan Martínez-Alier argues that *global environmental justice* may be considered an umbrella term for a wide spectrum of ecological struggles such as climate justice, water justice, food sovereignty, popular epidemiology, biopiracy, and many more.[6] In other words, there are a number of ongoing struggles that EJS scholars might label "global environmental justice" but whose individual movements have not necessarily been labeled as such.

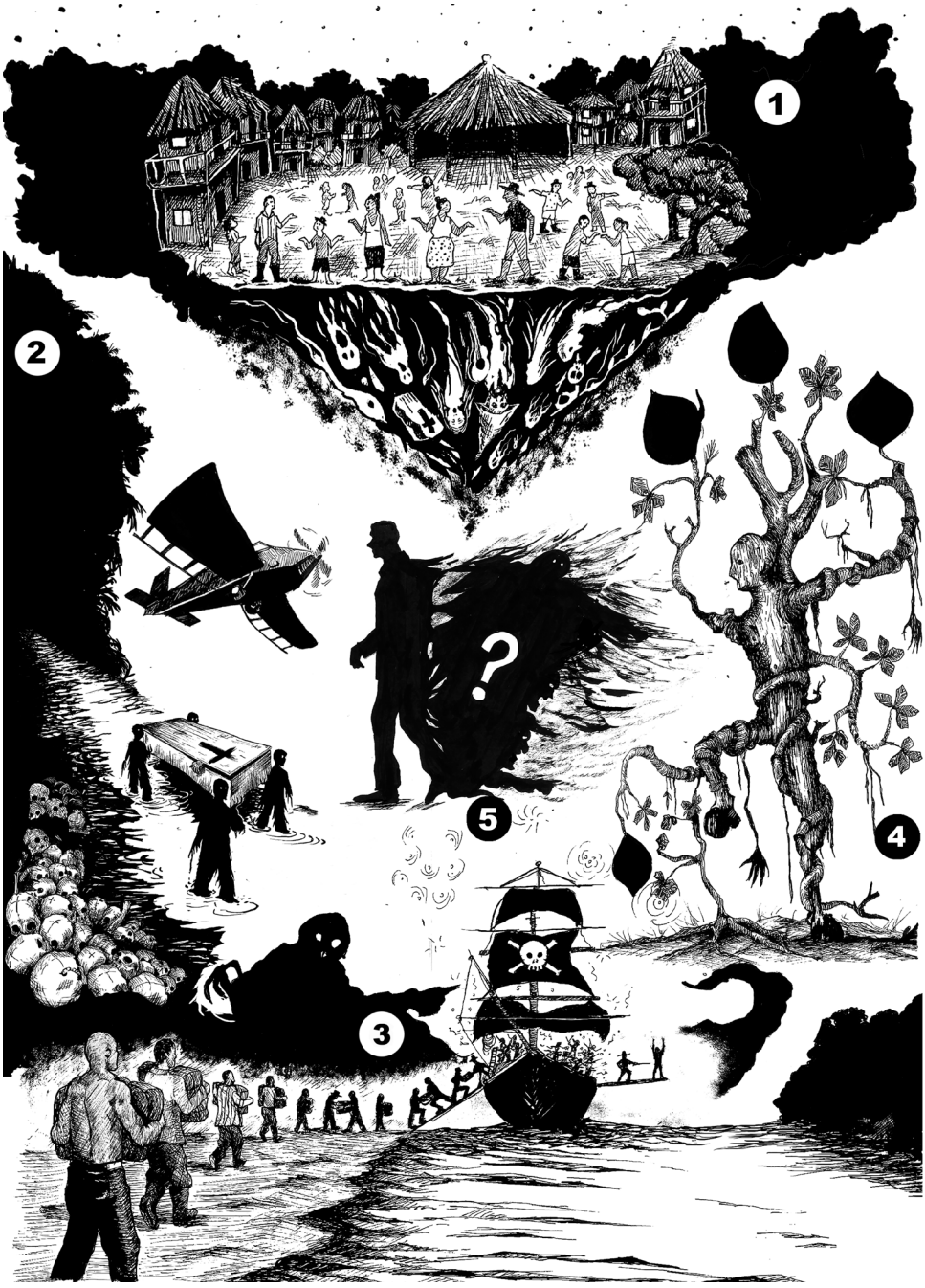

FIGURE 14. The defense of territory (illustrated by Jose E. Arboleda).

Scholars participate in the expansion of global environmental justice by circulating ideas learned about local environmental justice struggles. In this sense, environmental justice and global environmental justice are process-driven conceptual frameworks. A truly global environmental justice framework should cohere around the lessons learned from activists and activist scholars engaged in such struggles across the globe.

So, while I *have not* done the work necessary to approximate a definition of global environmental justice (i.e., engaging activists and activist scholars all over the world to see what we might come up with), I have analyzed my own research through the lenses of critical EJS.

Figure 14 is a visual representation of this effort. It is a composite image representing five different ways that comunidades negras *do* environmental justice, in my opinion. The respective illustrations within the image can be understood as individual stories, which correspond to the sections discussed in this part of the chapter (numbered 1–5). Collectively, this composite image also conveys the importance of understanding environmental justice as a historical continuity with more-than-human dimensions.

THE DEFENSE OF TERRITORY AND THE REBORN

Collectively titled rural ethnic communities of the Americas—comunidades negras and peoples of Indigenous reservations—leverage international agreements and collaborate with transnational actors to fight for global environmental justice in five important ways:

#1) Denounce necropolitical ecologies (e.g., extractive economic activities, megaprojects, and the effects of illicit drug production/prohibition) as a threat to the territory. The top part of figure 14 depicts a comunidad negra and spirits of the underworld, appearing to drain downward, into the lower part of that image. Are the people of the community becoming ghosts? Are the roots of the community disappearing? Will the movement downward result in the reappearance of those spirits in other places? None of the abovementioned explanations/questions are mutually exclusive, and all point to a similar concern expressed by the people I interviewed, a concern for the survival of comunidades negras. Concerns about the disappearance of the oral tradition of visions, therefore, also reflect greater concerns about the disappearance of traditions that unite people and Afro-Pacific culture in general, which is constantly shifting toward more urban spaces with dramatically different sets of socio-ecological relations.

In the discourse of the Process of Black Communities (PCN), an organization foundational to the creation of comunidades negras in Colombia, this concern for survival is articulated as the "defense of territory." For example, the PCN organized a workshop titled *Encuentro AfroPazífico* on the anniversary of the passing of Law 70 in Piendamó, Cauca. Implemented in 1993, Law 70 formalized the Colombian

government's recognition of collective land titles for comunidades negras based on a specific identity connected to those geographic spaces. As geographer Offen, who observed aspects of the titling process, notes, "The law does this, essentially, by elaborating a 'black ethnicity,' something constituted by culture (traditional production systems), history (palenques and self-liberation), and geography (rural riverine and Pacific)."[7] The formal titling of comunidades negras that began in the 1990s established these new political subjects with their own representative bodies, the *concejos comunitarios* (community councils). The Encuentro AfroPazífico workshop was comprised of residents from eight comunidades negras throughout the southwestern Pacific region that came together to discuss different issues plaguing their respective communities.

In honor of the occasion, PCN leader José Santos Caicedo spoke about the history and continued importance of "the territory": "We are a community, a comunidad negra, because we have a shared history and because our grandparents and great grandparents had to sacrifice so much in the construction of this country. . . . The construction of freedom requires territory. So, every man and woman from our community will have to continue this struggle. Because if it is not our reborn that will have our territory to construct freedom, it will be the multinationals, the governments, the insurgents, and the paramilitaries that will want those territories to hand them over to others."[8]

Territory—from this point of view—then not only signifies the space in which life takes place but also the struggle to protect lives and ways of life. The phrases *construction of freedom* and *continue this struggle* place the participants of the workshop in socio-historical context. Many comunidades negras were first formed by Afro-descendants fleeing slavery, also known as maroon societies (e.g., societies termed *palenques, quilombos, mocambos, cumbes, ladeiras*, or *mambises* in the non-English-speaking Americas).[9] To "continue this struggle" is to continue to construct what Bledsoe terms "spaces free from assumptions of black inhumanity and the varied concrete manifestations of these assumptions,"[10] which include all forms of violence that infringe upon the freedom, well-being, and livelihoods of Afro-descendants in the Americas. Human rights and socio-environmental justice are built into the modern-day "defense of territory" in the face of outsiders seeking to dispossess comunidades negras of this inheritance.

The defense of territory also entails the power to determine how life is carried out, which is why scholars note that "territory" more closely resembles the concept of territoriality for comunidades negras.[11] Comunidades negras are defined by this resistance, which spans past, present, and future generations. As Arturo Escobar explains:

> The Afro-Pacific concept of renacientes, "the reborn," referring to the continual renewal of life, embodies a local way of thinking about the sustainability of the life-worlds of the region's black communities. It is important to point out that appealing to ancestrality as a principle has nothing to do with a desire to "remain mired

> in the past," as critics often adduce. On the contrary, although defending territory for the sake of the renacientes is conceived in terms of an ancestral mandate, it is oriented toward the future—a future, however, in which the communities will be able to decide on their ways of life autonomously.[12]

Thus, returning to José's speech, the "multinationals, the governments, the insurgents, and the paramilitaries"[13] not only threaten the erasure or removal of Afro-descendants from comunidades negras, but also undermine or outright destroy the political potential of comunidades negras as places "in which the communities will be able to decide on their ways of life autonomously."[14] "Defending the territory" is therefore understood as a highly dangerous undertaking within the respective historical continuities of Afro-descendant and Indigenous peoples that has been ongoing since the colonization of the Americas.

Following José's speech, fellow PCN leader Harrison Cuero gave a PowerPoint presentation about current challenges to "the territory" in the Pacific region. He highlighted coca cultivation, aerial eradication, and illegal mining as the three most pressing issues affecting the comunidades negras present at the workshop. "Illegal mining" is a massive issue in the Pacific nowadays, especially in ethnic territories. The giant excavation machines that are brought in wreak havoc on forests and pollute waterways with mercury that is used to separate the gold from other minerals.

Armed groups (FARC, BACRIM) began mining for gold in the late 2000s, when the price of gold soared, as an alternative source of income and as a means to launder illicit income. In 2018, sixty-six percent of alluvial gold production in Colombia lacked technical or legal permissions.[15] Illegal mining operations are particularly concentrated in comunidades negras, which contain forty-seven percent of illegal mining activities in territories requiring prior consultation or special permission for mining (the other two areas are Indigenous reservations and national parks).[16] Illegal mining disrupts traditional gold mining practices that are far less environmentally harmful and serve as a source of modest income.[17]

When speaking of the cumulative impacts of coca cultivation, aerial eradication, and illegal mining on comunidades negras, a community council member of Río Cajamabre, Buenaventura, likened "the territory" to a piñata repeatedly being bashed: "So, there are now other logics functioning with regard to the use of territory—violence, coca, illegal mining—every one of these logics has brought . . . it's like the territory is a piñata that you take hits at. There comes a point when the piñata cannot take any more hits and the goodies spill out. And when that piñata breaks, everyone jumps in to tear it open."

So, while the piñata is the territory in this analogy, the goodies are the natural resources that external actors—guerillas, paramilitaries, BACRIM, multinationals, state subsidiaries—are vying for. And the hits are the extractivist "logics" transforming the territory physically and culturally.

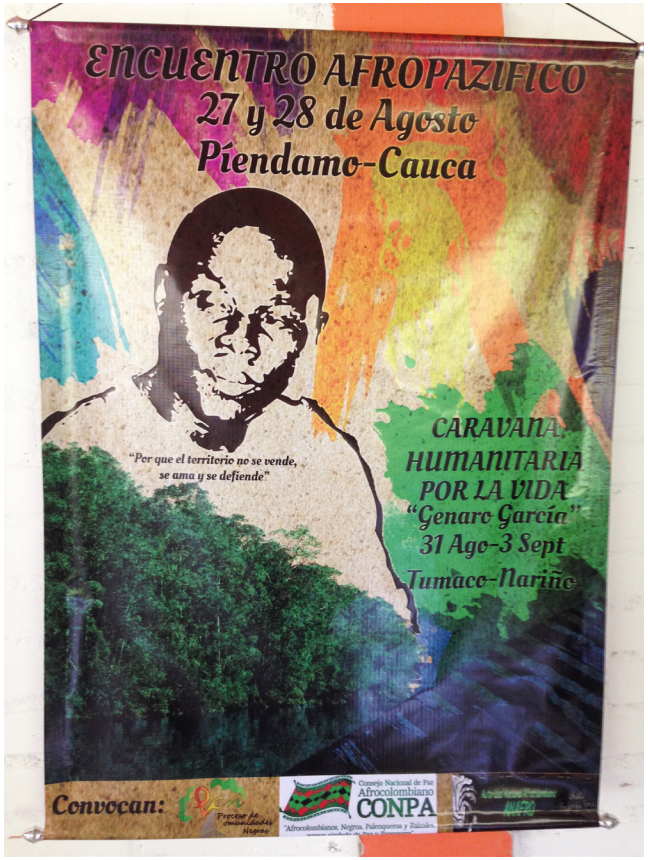

FIGURE 15. Poster for Encuentro AfroPazífico (photo: Author).

The *Caravana Humanitaria por la Vida* (Humanitarian Caravan for Life), mentioned on the right side of figure 15, took place a few days after Encuentro AfroPazífico. The caravan—constituted of Afro-descendants, Indigenous, and campesinos—traveled from Pasto to Tumaco to deliver food and supplies in the wake of multiple FARC attacks on Tumaco. The man pictured in the poster is Genaro García, former PCN leader and president of the community council of Alto Mira y Frontera near Tumaco, Nariño. Described as a tireless defender of comunidades negras, he was assassinated on his way to meet with FARC officials on August 3, 2015.[18] In 2008, the assassination of two community council members prompted many residents to flee the community. Despite threats from the FARC, Genaro continued to pursue the legal recognition of Alto Mira y Frontera as a comunidad negra, a process that was initiated in 2012.[19] The quote beneath the image of Genaro states, "The territory is not for sale, it is to be loved and

defended." The phrase *not for sale* specifically refers to the collective will to stand strong in the face of those attempting to leverage comunidades negras through violence and bribery (e.g., described in the introduction, when the least wise person in the community is offered money to "rent the land").

Genaro's death, along with the deaths of hundreds of other Afro-descendant and Indigenous leaders in recent years, is symptomatic of the "ecogenoethnocide" described in chapter 1.[20] It is irresponsible for scholars, journalists, and government officials (i.e., those capable of affecting the perception of Colombia's problems) to frame the physical violence of the civil war, drug trafficking, and the War on Drugs as phenomena *independent* of the exploitation and contamination of those same ecological spaces where the violence is taking place. For the PCN, both forms of violence constitute the incursion of capital and development projects.[21] The 2016 peace accord between the Colombian government and the FARC has not slowed this onslaught. In fact, the disbandment of the FARC created a vacuum of control over rural spaces, which has resulted in numerous BACRIM (criminal bands) fighting over control over those spaces. Afro-descendant and Indigenous community leaders have been murdered at a shockingly higher rate, with more than 500 human rights defenders slain in the years since the agreement was signed.[22]

For instance, in 2018 social leaders Jhonatan Cundumí Anchino and Jesús Orlando Grueso Obregón were murdered in Guapi, Cauca, for promoting the gradual and voluntary substitution of illicit crops as members of the National Coordinator of Coca, Poppy and Marijuana Growers (COCCAM). This initiative, part of the fourth point of the 2016 peace accord signed in Havana, specifically threatens the viability of coca cultivation in the region, which would be replaced by legal crops. Both men had joined the newly formed Common Alternative Revolutionary Force, now known as the Commons, the political party formed from the disbanding of the FARC. They advocated for illicit crop substitution despite receiving death threats and were gunned down by soldiers of one of the remaining guerilla groups in Colombia, the National Liberation Army (ELN).[23] Thus, while denouncing "extractive economic activities, megaprojects, and the effects of illicit drug production/prohibition," as emphasized above, may not be a bold undertaking for most citizens of the Global North, speaking out in this context will often result in death in the Global South.

Denouncement should be considered an initial step toward the formation of a "global environmental justice community" because it often occurs through open letters sent to international organizations and posted on social media accounts that circulate throughout the globe. For example, the reason I began research on the topic of aerial eradication is that I was forwarded a letter from an organization, COCOCAUCA, that described this War on Drugs strategy as the cause of death of an elderly man: "On August 20, 2012, helicopter gunships of the National Army and small planes conducted chemical warfare in the collective territory of the comunidades negras of Alto Guapi—Pacific coast of Cauca. . . . As a result of this

operation of chemical warfare, residents commented that grandfather Francisco Paz Cuenú, 80 years-old (who was in good health), fell ill and died at 4:00 a.m. on August 21, 2012 after that damn fumigation poison had fallen on the community."[24]

This excerpt of the letter contains three phrases that relate to "global" environmental justice studies. Two of these phrases, *chemical warfare* and *that damn fumigation poison*, can be discussed collectively. These phrases denounce aerial eradication as not only a malevolent practice, but one also purposefully carried out by institutions directed by the Colombian government (the Colombian government is explicitly called out later in the letter). Rather than urge the Colombian state to solve this injustice, the letter identifies the state as the principal perpetrator of injustice. As EJ scholar Laura Pulido suggests, "What is needed is to begin seeing the state as an adversary that must be confronted in a manner similar to industry."[25] Furthermore, and in relation to another assertion made by Pulido, the specific choice of the words *chemical warfare* and *that damn fumigation poison* emphasizes the *degree* of culpability of the state. Regarding the water crisis in Flint, Michigan, Pulido explains, "I use the word 'poisoning' deliberately. 'Contamination' can erase agency and consciousness. Poisoning suggests a deliberate and indeed evil act."[26] The heaviest assertion within this passage is the blaming of aerial eradication for the death of an elderly man. Such an assertion would likely fall under the list of "myths about aerial eradication" listed by the staff of the US Embassy (described in chapter 3). EJ scholars can assist in denouncement by investigating the merit of such claims and challenging official claims when appropriate.

For instance, INL officials contend that people blame aerial eradication for all sorts of maladies and environmental problems that are completely unfounded. The failure of licit crops can be attributed to fungi, insects, or cultivation chemicals that have nothing to do with aerial eradication. Rather than view the numerous claims against the aerial eradication program as an indictment of the program, INL officials regard the controversy as a lack of communication between the Colombian government agencies in charge of the program and a rural population with limited knowledge of how the program works.[27]

A perfect example of an assertion that had not been taken seriously as a repercussion of aerial eradication is the loss of *chontaduro* (peach palm) in the comunidades negras near Buenaventura. Peach palm was once a profitable, locally grown product in the communities of Río Calima, Valle del Cauca. Though it is still widely consumed in the southwestern Pacific region, it is now imported from elsewhere. Mario, a farmer whose land has never been sprayed, claims his chontaduro palms had been indirectly harmed by aerial eradication. His hypothesis is that beetles migrated from aerially fumigated palm trees in neighboring communities to his farm. Forced out of its original habitat, this beetle, locally referred to as *picudo negro*, is now hollowing out sections of chontaduro palms in its new habitat, thereby killing the trees.

The picudo negro occupied a new habitat when its original habitat was polluted. The displacement of this insect appears to have been disastrous for peach palm trees. As Samuel, another resident of Río Calima, complained, "We were rich in the cultivation of peach palm, and today there is not any, now it comes from Cauca, and it is not as tasty as ours." "The territory" encompasses all that exists within its boundaries, which includes humans, flora, and fauna.

The territory also encompasses more-than-humans, such as the visions mentioned at the beginning of this book (e.g., El Duende and La Tunda). Why are they relevant to the territory and the defense of territory? As detailed in chapter 1, the cultured space of human activity is intrinsically connected to the underworld of the supernatural in the ontologies of the Pacific region. Visions help establish an ethics of how people should interact with or treat others (humans and nonhumans) within their communities. For this reason the visions can also function as a means to warn against the necropower of *extractive economic activities, megaprojects, and the effects of illicit drug production/prohibition*.

#2) Defend the territory from within. The story of *El Guando* (alternatively spelled *El Guango*) is an example of an oral tradition meant to protect the territory from within. Featured in a popular Colombian children's book of visions, this story chronicles a solitary old man in the Pacific region whose reputation is that of a grumpy, greedy, and sickly individual without family. The old man refused to participate in communal traditions such as *velorios* (wakes), bragging that he preferred to stow away money rather than help carry the dead. To that end, he refused to help others in financial need and buried his money in a place that only he knew about. He insisted that when he died his body should be thrown into the river so that the vultures could feast on his remains. However, when he passed away, the entire community pitched in to cover the cost of his burial, holding a velorio for him despite his wish to be thrown into the river. His remains were transported to the cemetery in a casket (sometimes described as a *guando*, the term for a rustic stretcher) of *guadua* (local bamboo). During the procession, his remains got progressively heavier for the pallbearers to carry—so heavy that they collapsed a bridge while crossing it. The entire procession fell into the river and disappeared. Only the priest, children, and pregnant women who had remained at home survived the incident.[28] The souls of the dead were converted into a menacing vision, the apparition of the funeral procession that appears to those wandering through isolated and dark areas. For instance, Juan was once attacked by El Guando late at night while accompanying a friend who was on his way to serenade a young woman in a nearby village. They saw a bright light at three kilometers distance that approached rapidly, and he said that once he heard the sound of the maracas (the bones rattling in the coffin), he knew what they had to do. They recited prayers while lying face down in the form of a cross to protect themselves while this being passed over them.

The vision serves as a reminder of the destructive capacity of an individual only looking out for themself. An alternate version of this story, found in a collection of visions for an older audience, explains that the victim of El Guando is paralyzed by fear and hears a voice say, "*Meta el hombro, compañero!*" (Lend your shoulder, buddy!) This is a reference to the old man's refusal to help others, physically or financially. This alternate version also describes the kinds of people who come across El Guando: "The guando appears to the late-nighters, the drunkards, the greedy and cruel; to the petty, to the enemies of doing good for others and to those who will stop at nothing to make money."[29]

Though no one I have interviewed has explicitly made this connection, I find a striking resemblance between the lessons learned from El Guando and the arguments I have heard against coca cultivation in comunidades negras. In the first place, the person who decides to cultivate coca, especially at a large scale and without the permission of their fellow community members, is labeled selfish and greedy. Though not burying their money in the ground like El Guando, they conspicuously spend money on themselves and provoke resentment in the process. Second, unsanctioned illegal activities such as coca cultivation foster distrust among community members. Interviewees complained that because of the distrust, people are less inclined to help each other. "Lending a shoulder" or "lending a hand" for the sake of helping one's fellow neighbor in comunidades negras is known as *minga* (originally a Quechua term for collective action or work). A common complaint is that there was more minga before coca arrived in the region, both physically and financially. Finally, this greedy, selfish behavior ultimately leads to the downfall or destruction of the community. The entire funeral procession is swallowed by the river in the story of El Guando because of his lack of concern for anyone besides himself. Similarly, the individual cultivating coca or conducting other illegal activities is putting the rest of the community at risk. In the case of coca cultivation, some of the physical risks are the following: the infiltration of violent outsiders, contamination attributed to cultivation, contamination attributed to coca paste production, and contamination attributed to aerial eradication. In addition to transforming how people relate to each other, coca cultivation and other illegal activities are often associated with unwanted socioeconomic activities such as prostitution and gambling. Collectively these repercussions are analogous to the community being swallowed whole and becoming a ghost of itself.

The left side of figure 14 depicts my interpretation of El Guando as a vision associated with the cultivation of coca *without* the blessing of the community. The aerial eradication plane is flying over the funeral procession walking at the bank of a river. On the upper left side, you see the trees of the mangroves, and at the shore you see skulls, symbolizing the death and destruction associated with the old man's selfishness.

In "A History of the Environmental Justice Movement," Cole and Foster describe three traits that EJ activists have in common: (1) activists are motivated by the

conditions of the communities that they live in, (2) activists largely hail from poor and working-class backgrounds, and (3) activists are oriented toward achieving social justice.[30] Leaders and activists of comunidades negras possess those baseline traits as well. However, similar to formally recognized Indigenous reservations, comunidades negras are held to an environmental standard that environmental justice communities outside of this context are usually not held to. Comunidades negras, in the mold of Indigenous reservations elsewhere throughout the Americas, are granted collective land titles based on a unique relationship to the ecological spaces they occupy. In addition to having ancestral ties also to these spaces, these communities must also prove that they are environmental stewards.

Conceptualized through the lens of environmental justice studies, the leaders and activists of comunidades negras and Indigenous reservations, "motivated by the conditions of the communities that they live in," as Cole and Foster describe, are tasked with establishing an ecological ethics that fulfills state requirements for environmental stewardship *and* attends to the material needs of people often living without basic services such as potable water, electricity, hospitals, schools, etc. On the one hand, there is the pressure to carry on ways of living that are symbiotic with the surroundings, which can potentially lead to the essentialization or romanticization of comunidades negras. There is also the pressure to modernize and to develop economic activities that will generate wealth, create more infrastructure, and better connect these communities to domestic and international markets. Both sets of pressures materialize within and outside of these respective communities, but open communication and respect are key to consensus on important decisions that will affect everyone. The "*Process* of Black Communities" acknowledges that negotiating these pressures while remaining united is an ongoing struggle.[31]

Two examples of comunidades negras and coca cultivation demonstrate how consensus can result in dramatically different sets of ecological ethics and outcomes that defy essentialization. The first example is the comunidad negra of Río Yurumanguí near Buenaventura, which has a reputation for strong PCN leadership. In 2007, residents confronted an outsider who had cultivated twenty-seven hectares of coca within the boundary of their comunidad negra. Worried that the Colombian police would simply fumigate without warning, the community came together in the spirit of minga. Despite protests by the outsider, who falsely informed the Colombian police that the community was collaborating with the FARC, the community manually eradicated the coca before their land could be aerially fumigated.[32] In contrast, the second example, the comunidad negra of El Carmelo, on the Río Guajuí near Guapi, has *voluntarily* cultivated coca *and* engaged in illegal mining in recent decades. In the late 1990s, coca cultivation spread to the Pacific region after massive aerial eradication campaigns limited cocaine production elsewhere, such as the Colombian Amazon.[33] Coca cultivation was the principal economic activity in El Carmelo until 2005 when, to

distance itself from the problems associated with this illegal activity, the community decided to participate in *Familia Guardabosque*, a crop substitution program sponsored by the United Nations. However, aerial eradication operations eventually expanded to the Pacific region as well, and the community's plots of *legal* substitute crops were aerially fumigated. In 2011 the residents of El Carmelo then decided to invest their resources in gold mining, first in traditional pan mining and later in large-scale mining operations that require heavy machinery. Despite conducting this activity on their own collectively titled land, they were still subject to the government bureaucracy required for *legal* mining permits. In other words, mining in their own community was considered *illegal* according to Colombian law. The irony of this situation is that it is easier for a foreign company, equipped with requisite finances and legal team, to *legally* mine in the Pacific region than it is for a comunidad negra. After considering the soil and water damage incurred by their own mining operations as well as the news that the Colombian government was unable to reinstate aerial eradication operations in 2021, the community of El Carmelo recently decided to concentrate its resources in cultivating coca again.[34]

These contrasting examples demonstrate that there is no set blueprint for defending the territory from within or establishing the ecological ethics of comunidades negras. As environmental justice communities, they face the unique challenge of achieving community consensus while balancing external perceptions with internal needs. While the residents of Río Yurumanguí collectively eliminated the threat of aerial eradication by manually eradicating the coca of an outsider, the residents of El Carmelo collectively decided to conduct *illegal* activities when the *legal* pathways to economic improvement were not viable.

Should the comunidad negra of El Carmelo be considered an environmental justice community if it willfully conducted environmentally harmful economic activities? Or is this an example of an environmental justice community looking beyond state mechanisms (government bureaucracies) capable of proliferating the very necropolitical ecologies they are threatened by? Regardless of how those of us with enough environmental privilege to avoid these circumstances might judge this example, the community has articulated its version of defending the territory. At the very least, the profits generated by El Carmelo's economic activities went toward the community itself and not toward the expansion of the necropolitical actors seeking to displace its residents. Furthermore, in self-determining its economic activities, it thwarted outside actors from extracting El Carmelo's most valuable resource, its resolve as a community.

#3) Defend the territory externally. The story of *El Buque Fantasma*, also sometimes referred to as *El Buque Maravelí*, can be interpreted as a threat to the territory that prompts an external mechanism of defense. It is the vision of a ghost pirate ship that travels by night, frequently spotted during Holy Week, when various visions take advantage of Christ's absence from earth to cause havoc. Although the ship enters ports quietly, it is mostly known for sights and sounds

of revelry—parties, dancing, laughter, screams, and "irreverent" behaviors.[35] The following passage describes its passengers and crew:

> Legend has it that they are old bandits, murderers, cunning, spiteful and vengeful types; sectarian politicians, religious types who have lost their way, and merchant thieves. It is the theater of witches and traitors, of people in coats and boot leggings.
>
> The captain calls the list, and the prisoners respond, "present!" It is the frightful hour. To hear one's name is to understand that one becomes part of that world of galley slaves, of those left for dead. The wave of emotions incurred will lead to annihilation within weeks.
>
> Among these travelers with skinny legs, emaciated arms, sagging chests, wrinkled faces, and bulging eyes, are placed one's enemies. People in Tumaco often heard the names called of those who exploit for rubber and cocoa, while people in Barbacoas often heard the names of those made famous through the slave trade. . . .
>
> Be it suggestion or another force, the person whose name is called dies prematurely. He begins to weaken and become sad, he becomes morally angry and avoids all struggle. Leisure takes a hold of his life and his thoughts race. Hearing this mysterious call, the voices from beyond the grave, his heart is excited and he becomes fatigued. Feelings and sleeplessness, concerns and memories, everything that eats away the soul, shakes it and disjoins it, leads to loneliness and abandonment.[36]

It is said that to stare at the ship is to lose oneself completely; it is to lose one's memory, to become frail, and never to return.[37] Perhaps because to stare at the revelry of the ghost ship is to daydream about the festivities taking place and to forget how that wealth was accumulated. The transfixed become part of the challenge of defending the territory from within, those susceptible to falling into a morally corrupt lifestyle, forgetting their values and relationships in the process.

The names heard in the towns Tumaco and Barbacoas are representative of external threats to the territory. They are the foreign (Spanish-descended) enemies of the local Afro-descendant and Indigenous populations of this southwestern corner of Colombia. Plantation owners (i.e., "those who exploit for rubber and cocoa") and slave traders capitalized on the non/human resources of the region for their own benefit, generating excesses of wealth that financed the kinds of hedonistic activities taking place on the ship. The names called were those associated with the necropolitical ecologies of the colonial era, extracting value to expand the occupation and exploitation of the region. The description of the person doomed to "annihilation" is a projection of the thoughts and feelings wished upon the plantation owner or slave trader. The people of Tumaco and Barbacoas hope that the deeds of these men lead them to feel remorse, to feel sadness, and to prematurely die a lonely death.

El Buque Fantasma therefore is symbolic of another challenge of comunidades negras as environmental justice communities, the challenge of defending the territory from infiltration and exploitation by external actors. Pirates are known for robbery on the high seas, and for thwarting the colonial power's extraction of

natural resources from the colonies. They operate outside of the law, trafficking contraband and extracting from the extractors. One modern-day equivalent of the ghost pirate ship could be a drug-trafficking vessel, which takes a variety of forms. It may take the appearance of freight smuggled through a legal cargo ship leaving the port of Buenaventura. It may take the appearance of a submarine designed specifically for transporting illegal cargo. Or it may take the appearance of a modest fishing vessel towing an illegal shipment in a submarine-like container. The DEA's massive efforts to deter illegal drug trafficking from South America to Miami (via the Caribbean) eventually paved the way for another major drug corridor through Central America and Mexico. Colombia's Pacific coast is a convenient embarkation point for "noncommercial" (not registered by port authorities) "maritime events" (boat routes) suspected of drug trafficking.[38]

Similar to the ghost pirate ship, the drug-trafficking vessel enters and exits port inconspicuously. However, the traffickers themselves, a mix of people from emergent Colombian criminal bands and Mexican cartels, are inclined to host their hedonistic festivities ashore. Impressionable youth, enticed by the money, women, and general extravagance of the trafficker lifestyle, are those susceptible to becoming transfixed by the ghost ship in this analogy.

The lower portion of figure 14 situates El Buque Fantasma in the context of modern-day drug trafficking. The contraband being loaded onto the pirate ship is kilos of cocaine, a product extracted from the Pacific via violence and pollution. The ship is surrounded by haunting specters that remind the viewer that this deadly operation is cloaked in darkness, both literally and figuratively. Those who pose a threat to this transaction are forced to walk the plank (depicted on the right side of the ship).

The physical geography of Colombia's Pacific coast facilitates outsider access to its shores. In the following passage, Colombian anthropologist Eduardo Restrepo explains how coca paste (described as "alkaloid") is transported from laboratories (adjacent to coca fields) directly and indirectly (via the port of Buenaventura) to Central America and Mexico: "The morphology of the southern Pacific Coast, replete with estuaries and mangroves, crossed by countless rivers and tributaries that penetrate deep into rainforests, facilitates the travel of small rapid boats with which to transport the alkaloid to Central America, and from there, to North America. At the same time, the continuous flow of cargo vessels transporting timber coming from the dozens of sawmills camouflage the drugs headed to the port of Buenaventura."[39]

The estuaries also provide sanctuary for boats evading the Colombian Coast Guard and other authorities. For instance, in the Chocó, the department (province) that occupies the bulk of Colombia's Pacific coast, I visited the Nabugá Waterfall on the land of the Emberá Indigenous peoples. I was part of a group of tourists that had to request permission to visit the waterfall. We were greeted by the community upon disembarking from our boat onto the beach. Within a

minute we were also met and questioned by a group of soldiers, encamped near the Emberá village. Once away from soldiers, I asked one of the villagers guiding us to the waterfall why the soldiers were there. They explained that drug traffickers would often hide in the nearby estuary and had murdered villagers in the past. The soldiers were there to protect the Emberá from future violence.

Most residents of comunidades negras I have spoken with have expressed distrust in the Colombian armed forces, including the police. The general perception among PCN leaders is that the safest way to eliminate illicit crops is to prohibit outsiders from intruding on their collectively titled lands. This perspective is rooted in a general distrust of the Colombian military, which aside from its history of permitting paramilitary groups to perpetuate violence against poor rural communities, is perceived as unwilling to protect the boundaries of comunidades negras. Escobar mentions the military's history of passivity in the context of coca cultivation in the Pacific: "Not infrequently, one finds in some areas a river controlled by guerillas next to another controlled by paramilitaries, both pushing people to plant coca, while the army keeps watch a few kilometers downstream."[40] Mario Angulo, the director of the PCN office in Buenaventura, expressed similar frustrations while reflecting on the history of counternarcotics in Buenaventura:

> If we consider the current state of counternarcotics policy, instead of resolving the problem what has really happened is the problem has worsened. Before, here in the Pacific, there was only trafficking but now the plant is being cultivated and processed. The police have actually limited the mobility of the farmer and not the people responsible for the production. In our case in Buenaventura, in the communities of Calima and Anchicayá, native residents were not responsible for the majority of the production; outsiders were primarily responsible. Native residents were the auxiliaries and they helped secure supplies. The supplies were transported through the territory without any problems, but the difficulties occurred when they tried to send remittances. . . . Our point is that there has never been a military decision to rid the territory of coca cultivation and trafficking, because if they wanted to do that, they could have done that already. The only way to reach the Pacific from the interior is through Buenaventura or Tumaco. So, if you controlled those roads, the Pacific region would be free of all this; not just the coca crops but also the illegal mining.[41]

In sum, Mario believes that aerial eradication would have never been necessary if the Colombian military had prevented traffickers from entering the region in the first place. Alfonso of Río San Francisco, Guapi, similarly complained: "The government should be responsible for removing these outsiders cultivating coca or bringing in their mining machinery!"

Inspired by an organization in the Chocó, PCN leader José Santos Caicedo proposed the idea of forming a local armed guard as a physical defense of the territory from unwanted intruders: "The National Autonomous Congress of the Black Community in Quibdó commissioned a mechanism, *la Guardia Cimarrona* [the Maroon Guard], which is similar to the state's armed forces. It was formed so that

there is no trespassing on or meddling in their territory. We, as members of community councils, should create our own security structure, which would allow us to exercise control. So that when someone enters our territory, they are required to ask us permission and we may authorize or reject their request to enter."[42]

In other words, if the Colombian military is not going to protect comunidades negras by keeping illegal armed actors out of their territory, then they should take steps toward guaranteeing their own safety.[43] Yet to date, no such self-defense organization has been formed in the comunidades negras of the southwestern Pacific region.

In the meantime, the primary strategy for comunidades negras and peoples of Indigenous reservations to defend their respective territories (i.e., prevent the intrusion of outsiders and unsanctioned activities) is to demand consulta previa (prior consultation). As detailed in chapter 3, however, the officials I interviewed in the Colombian Ministry of Justice and the Counternarcotics Police (DIRAN) had insisted that comunidades negras were subject to aerial eradication without prior consultation. Despite this insistence, demanding the right to prior consultation has persisted as a viable option for the defense of territory.

Colombia ratified the International Labour Organization's Indigenous and Tribal Peoples Convention 169 in 1991, the same year the country adopted its new constitution. Article 6 of Convention 169 stipulates that "governments shall consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly."[44] However, since Convention 169 was ratified but not explicitly written into the new Colombian constitution, "prior, free and informed consultation" (i.e., the way "previous consultation" is often phrased in Colombia) has been established through jurisprudence. In other words, the activities that require prior consultation with comunidades negras or peoples of an Indigenous reservation are determined by court cases that interpret this international agreement. Those court rulings then set precedents for what "appropriate procedures" are moving forward.

To date, twenty-four countries across the world (most of which are in the Americas) have ratified Convention 169 since its creation in 1989.[45] Collectively titled Indigenous and Afro-descendant communities in these countries have demanded prior consultation for a wide range of circumstances beyond the War on Drugs. Some common reasons why prior consultation has been invoked include activities not commissioned by communities themselves, such as dam construction, roadway construction, pipeline construction, mining operations, etc. *Prior consultation should therefore be recognized as a vitally important instrument of global environmental justice*. Why an instrument of environmental justice? The mandate to determine what is best for a collectively titled community rests with each community itself. The countries that initially ratified Convention 169 did so acknowledging that their Indigenous populations had been subject to settler violence,

often perpetrated for the sake of unsanctioned activities such as those mentioned above. Such activities, just a few examples from a much wider spectrum of violently imposed megaprojects and extractive operations, certainly fit the definition of environmental racism.

Why should prior consultation be considered an instrument of *global* environmental justice? In the first place, Convention 169 is an international agreement that spans the countries that have ratified it and exists as a source of pressure for countries that have not ratified it yet. That pressure emerges from nation-states and global citizens who now can identify a transgression such as the infamous construction of the Dakota Access Pipeline as a "violation of prior consultation," even though the United States has not ratified the agreement. Second, the parameters of prior consultation are constantly being determined in courts throughout different nation-states as well as in transnational courts. For example, the original version of Convention 169 was not necessarily meant to apply to Afro-descendant peoples. Two court decisions by the Inter-American Court of Human Rights in the 2000s classified the Moiwana and Saramaka communities as people of African descent assimilated to "tribal peoples" in Suriname. These rulings provided precedent for people of rural Afro-descendant communities elsewhere to be consulted about activities conducted within their collectively titled lands.[46] The timing of this decision at least partially explains why it has been challenging for many comunidades negras to be granted prior consultations. Though the Colombian government began the process of formally recognizing comunidades negras in the 1990s and ratified Convention 169 in 1991, prior consultation only became a viable option for these communities as legal systems, both nationally and internationally, slowly churned out favorable precedents (decisions in favor of prior consultation).

In the context of aerial eradication, many comunidades negras have long insisted that they should be granted prior consultation. For example, another excerpt from the COCOCAUCA letter that inspired me to conduct research on aerial eradication states:

> We demand that the Colombian government suspend these devilish actions and initiate a process of agreement with the communities on its counter-narcotics policies, that it proceeds to respect and abide by the agreements and pacts signed by Colombia with the international community, such as prior, free and informed consultation based on ILO Convention 169.
>
> We are alerting the national and international communities about the events that are happening so that they may urge the national government to immediately suspend all forms of violations, including fumigations.[47]

The letter (written in 2012) not only invokes the terms of Convention 169, but also calls upon the international community to apply pressure on the Colombian government to abide by the agreement.

After enduring decades of aerial eradication, some communities are finally being granted prior consultation to determine the best pathway forward. For instance, a 2021 ruling by the Superior Court of Pasto halted the reinstatement of aerial eradication operations in Nariño, which had been the most heavily fumigated department in recent history. The court mandated that operations could only resume if the comunidades negras and peoples of Indigenous reservations targeted for fumigation were consulted, per the fourth point of the 2016 peace agreement with the FARC, which favors eradication via the "voluntary substitution of illicit crops."[48]

The denial or disregard of prior consultation is also a critical element of ongoing court cases that fit the mold of "global environmental justice." *My involvement in one such case* and *access to information in another case* began with a very memorable encounter. Per the recommendation of a PCN leader, I called Silvano, a council member of the comunidad negra Río Anchicayá, who I could barely understand over the phone. I intended to talk to Silvano about how his community has been impacted by aerial eradication. When we met in person, however, I immediately regretted setting up the interview. We were to meet in downtown Cali for lunch. After waiting for 45 minutes with no sign of Silvano and no response to my phone calls and texts, I ordered lunch and proceeded to eat. A few bites into my meal, a flustered Silvano arrived, complaining that his previous meeting had run long and that his cell phone had died. I offered him a menu, and he proceeded to look at it in silence while I rambled through an introduction of my research. I asked him some questions about himself, but he did not say a word for a few minutes, looking upset that I had begun to eat without him and disinterested in the menu. He eventually ordered and continued to sit in silence for what felt like eternity. When his lunch was served, he devoured it quickly. Blood sugar level restored; he then spoke uninterrupted for five minutes. He repeatedly encouraged me to talk to an attorney named Germán Silvano explained that the attorney was representing his community in the case of a dam that had been opened and had flooded his community with sediment. I could not understand why he wanted me to talk to this attorney so badly, because the dam incident had nothing to with aerial eradication. However, Silvano was adamant that the attorney had another case that would interest me. It turns out that both court cases have been fundamental to my understanding of defending the territory externally, which in turn prompted me to think about a global environmental justice framework.

Soon after my interview with Silvano, I met Germán Ospina, a gregarious attorney who has frequently used the term *justicia ambiental* (environmental justice) to refer to the cases he has worked on. He asked me a series of questions about my research and then enthusiastically explained that he was working on a collective-action court case in the department of Cauca, where 27,000+ Colombians were suing the Colombian Police for health and environmental damages caused by the aerial eradication of

coca. Germán was excited to meet someone with my expertise. In fact, because my research centered on the disconnect between aerial eradication policymakers and the comunidades negras most impacted by spraying, I was the most informed person he had ever engaged on the subject. Germán invited me to Popayán, the capital of Cauca and the location of the court ruling on this case, to look at the evidence. With the judge's permission, I was granted access to roughly thirty boxes of evidence. As this was my first time reviewing the evidence of any court case, I was immediately overwhelmed by the sheer amount of numbers and details contained in those boxes. For the defendants—the Colombian Counternarcotics Police (DIRAN), which is the branch of the Colombian Police that conducts aerial eradication operations—evidence primarily consisted of the paperwork filed for the approval of each aerial eradication mission as well as the logistics of each complete, incomplete, or aborted mission (e.g., details such as flight time/date, GPS coordinates, wind speed, amount of chemical sprayed, amount of fuel expended, etc.).

After analyzing the evidence, I found that DIRAN is absolving itself of admitting any wrongdoing in the case by demonstrating that officials, as well as the pilots contracted for aerial eradication, followed protocols. In other words, how could there be health and environmental damages if those conducting operations followed the established rules? However, what is not explained in the defense's box of evidence is that protocols are not only subject to interpretation, but also biased against poor rural Colombians. Since a court of law cannot see what the pilot saw during their mission, aerial eradication operations are legible only through the paperwork mandated for each mission. If an aggrieved farmer wished to file a complaint, they were required to document similar information, such as the time/date of the spraying, the GPS coordinates of their farm lot, calculations for the value of the crops damaged, etc. In other words, the farmers—people with drastically less financial and technological means to collect data and download/upload the paperwork via the internet (many farmers were lucky if they had electricity)—were being asked to furnish proof on the same scale as that provided by the well-equipped staff of aerial eradication operations.[49]

Unknowingly in the moment, I had taken my first step toward becoming part of a transnational environmental justice court case. Since comunidades negras were a subset of the plaintiffs in the aerial eradication case, I was particularly interested in how those communities leveraged their status as collectively titled rural ethnic communities in their demands for restitution. Since then, I have also wondered how the term *environmental justice* has been operationalized outside of the context of its place of origin (i.e., communities of color demanding restitution for environmental racism in the United States).

I recently asked Germán how he understands *environmental justice*, a term quickly gaining popularity throughout the world, including in the 2022 Colombian presidential election. Germán replied:

> I use that, not only for environmental justice, but also for social justice. That term was used by President Petro when he spoke of the three axes of his government policy: peace, social justice, and environmental justice. So of course, the cases of Anchicayá and aerial fumigation fall between environmental and social justice. I understand environmental justice through formal justice, through institutions . . . we generally talk about vulnerable people, which is a social issue. So, with these communities, what justice does is prevent or repair damage that has been caused, generally not by these social groups. And environmental justice in the same sense seeks to prevent or repair damage that has been caused to the environment.[50]

Germán defines environmental justice quite literally, as many outside the realms of environmental justice movements and studies do. He understands it to mean legal justice for people vulnerable to environmental damages that they did not cause. Germán, drawing from President Petro's use of the term, also importantly points out that environmental justice is related to social justice, though he does not explicitly signal race or other social categories that make environmental justice inextricable from social issues. He also does not mention a critical element of environmental justice, which is that environmental justice movements stem from the activism of the communities suffering environmental racism. Beyond a lack of familiarity with environmental justice literature, this omission might also be attributed to the way Germán became involved in this court case.

In 2006 Germán became involved in the aerial eradication court case when an official from the United Nations investigating the claims invited him to join the case. The United Nations sponsors "laboratories for peace" across different regions of Colombia with the dual intent of providing reconciliation for communities afflicted by the armed conflict and strengthening the capacity of local institutions. The laboratory for peace in the department of Cauca helped organize local leadership and facilitated a large meeting for the multitude of communities impacted by aerial eradication. To avoid competition between different communities, each filed its own grievance against DIRAN. *La campesinada* (the peasantry) comprised the bulk of the plaintiffs represented in the court case, which made Germán's work more difficult because these communities were far less organized than resguardos indígenas. This was particularly so because Germán traveled to each community represented in the case, one at a time, to explain how the legal proceedings would unfold. The case was originally presented in court in 2010 and continued to expand as aerial eradication operations continued over the years. It has also expanded geographically as new communities subject to aerial eradication have been added to the case. In 2012, the comunidades negras of the Pacific coast of Cauca, who were increasingly subject to the impacts of aerial eradication as these operations expanded, were added to the case.[51]

With so many people represented across so many communities, Germán opted for the legal strategy of *prueba diabólica* (diabolic proof), which, in modern legal terms, means that no one can be forced to demonstrate the impossible, to defend

their rights and claims. In other words, the legal strategy was not to prove that all these communities met the standard "to not to be fumigated." Rather the strategy was to establish that aerial eradication should have never been conducted because it caused so much damage.[52] The evidence for the plaintiffs, therefore, largely hinges upon what was damaged because of the sprayings. Damages include material losses, such as amounts of crops ruined, as well as the immaterial, such as the loss of access to areas important for cultural practices. So, while the defendants (DIRAN) provided the court of Popayán with boxes and boxes of aerial eradication operations paperwork, the evidence of the plaintiffs (the 27,000 Colombians represented in the case) mostly consisted of estimates. As the lead attorney, Germán has sought assistance and engagement from several organizations, including the following:

- *La Defensoría del Pueblo*—The Department of Advocacy for the People, a Colombian government office, facilitated and financed the acquisition of evidence of damages (distributed resources to other organizations).
- *Universidad del Cauca*—A group of researchers from the local university, experts from various academic fields, submitted reports on the kinds of damages incurred.
- Earth Economics—This transnational NGO utilized econometrics to assess the value of damages.
- BioDiversa—This transnational NGO assisted in determining damages and assessing value of natural resources.
- *Abogados sin Fronteras*—Lawyers without Borders supported the argument that the plaintiffs were victims of the armed conflict.
- *Corporación Viso Mutop*—This international drug policy organization assisted with the comprehension of international agreements.

The last two organizations have been instrumental in leveraging international agreements and drawing international attention case to the case. The other organizations in the list have primarily been concerned with assessing the monetary value of what was damaged by aerial eradication.

While many aspects of this court case are complicated, assessing the value of what was damaged is an extremely subjective process that must *appear* as objective as possible to the Colombian court system. The reason these processes are so complicated is that the value of any given resource or practice cannot be abstracted from a cultural context. For instance, the monetary value of a banana plant to someone in the capital city of Colombia might simply be the cost of the bananas the plant produces. The value of the same plant for a comunidad negra in the Pacific region could include the same base cost of the bananas produced but could also potentially include the value of other aspects of the plant that are useful for shelter (e.g., leaves are used for thatched roofing), medicinal remedies (e.g., different parts of the plant are used to treat a wide variety of ailments), and traditional

beliefs (e.g., women of comunidades negras are encouraged to eat bananas during pregnancy). However, for those other values of the banana tree to become legible in a different cultural context, anthropologists and other social scientists must collect data to determine how each resource is valued within the context of the respective communities. This is another reason why comunidades negras have collaborated with external organizations, particularly those that can promote the acceptance and legibility of their knowledge production in courts of law.

#4) Collaborate with external actors and organizations that elevate or validate locally produced knowledge. *El Hojarasquín* is a vision that appears as the amalgamation of man, flora, and fauna. He is known for both disappearing people in the forest and helping people find their way out of the forest. He is sometimes depicted as a tree with limbs like a human as well as the hooves and claws of an animal (see the right side of figure 14). El Hojarasquín will invert his steps to leave hoof prints that lead hunters astray, protecting the animals under his guardianship.[53] His body contains flowers such as "intoxicating poppies," fruits such as "erotic pears," and shrubs such as "myrtle for prosperity."[54] As explained in a popular children's book, "El Hojarasquín enjoys the presence of the Amazons and the Indigenous people, he views settlers with suspicion, he confronts those who want to steal his medicinal secrets; he entangles intruders with vines until they are lost and then he returns them [to where they came from]."[55] Similar to other visions discussed in this book, especially La Madremonte and La Patasola (chapter 1), El Hojarasquín sets boundaries for Euro-American settlers seeking to exploit the resources of new areas. At the same time—as an entity with human, animal, and plant traits—El Hojarasquín blurs the boundaries of the typologies established by biologists and other scientists classifying elements of the "natural world." While the effects of some of his natural resources (e.g., "intoxicating poppies") have been studied, El Hojarasquín possesses far more medicinal secrets that have yet to be discovered by scientists. He is therefore representative of the challenge of determining the value of environmental damages across different cultures when the questions, What should be considered damage? and What exactly was damaged? subordinate local knowledge to the dominant culture's assessments.

Returning to the collective-action aerial eradication court case, it would be impossible to calculate the value of everything (e.g., natural resources, agricultural products, animal products, medicinal products, etc.) that was lost or damaged in a court case of this scale. Furthermore, just to produce estimates of the damages requires a monumental amount of effort, coordination, and trust. When ecosystems are compromised by invasive activities such as aerial eradication or hydraulic mining, there is a tendency to undervalue that which is not commoditized because in general things not produced as commodities are undertheorized.[56] Claudia Leal, historian of the Pacific lowlands of Colombia, critically identifies this trend as a problem with agrarian studies, which "often treat land as an abstraction, even if the land that peasants eagerly desire and fight for has specific traits and might

actually include marshes or forests valuable for reasons different than their capacity to sustain crops."[57]

In 2008, *Asociación Manos Negras* (AsoManosNegra), an Afro-Colombian women's organization for the defense of the environment and Black culture, published a study on the effects of aerial eradication in the municipalities of Timbiquí and Guapi, both in the department of Cauca. AsoManosNegra conducted 883 surveys, which determined that 3,238 hectares and 6,282 people of the two municipalities had been impacted by aerial eradication. The report also contained testimony from thirty-six interviews and observations from seventeen visits to farm plots that had been fumigated. The findings detail the following: the percentage of people impacted in each municipality, the kinds of food crops ruined, the kinds of farm animals affected, the various human health problems caused, other plant life damaged, marine life damaged, and soil contamination. The organization summoned local government agencies, a local research institute, and the community councils of the respective comunidades negras to discuss these findings.[58] The leader of this process, AsoManosNegra founder Yolanda García, eventually testified in court about the effects of aerial eradication in Cauca. She remembers that, despite her sending the report to the government offices present in the court that day, officials of the Ministry of Justice and other government ministries denied ever seeing the report and doubted its standards of technical validity. They asked her how she, "an ordinary resident of the Pacific," would know about the effects of aerial eradication, and they denied that the chemical sprayed contained glyphosate. Despite the monumental effort and coordination required to generate their report, AsoManosNegra's attempt at highlighting the problems associated with aerial eradication was not taken seriously.[59] In other words, the data collected by Afro-Colombian women—with firsthand knowledge of how aerial eradication impacted the most vulnerable members of the community, such as children, pregnant women, and the elderly—were not worthy of consideration by a powerful group of men who do not live in this area subjected to this controversial War on Drugs strategy.

Given the poor reception of this report as well as other community-led research reports on aerial eradication, which is a commonplace phenomenon in the context of environmental injustices happening throughout the globe, Germán understood the importance of collaborating with transnational actors and organizations with greater perceived qualifications. To that end, he contacted Earth Economics to provide calculations of damages for the collective-action case.

The 2018 damage assessment report published by Earth Economics lists ninety-three *veredas* (hamlets) spread across seven different municipalities in the Cauca department, totaling 236,699 hectares of land impacted by aerial eradication.[60] In order to provide the Superior Court of Popayán with a range of estimates for the total amount requested in the settlement, Earth Economics utilized calculations from regions with similar topographies (e.g., croplands, forests, pastures, water,

wetlands, mangroves) elsewhere in the world. The value of those respective topographies was assessed via an "ecosystem services" model, which considers how changes in an ecosystem will impact human welfare in monetary terms: Costanza et al., the authors of a foundational article on the topic, explain, "Ecosystem services consist of flows of materials, energy, and information from natural capital stocks which combine with manufactured and human capital services to produce human welfare. . . . In general, changes in particular forms of natural capital and ecosystem services will alter the costs or benefits of maintaining human welfare."[61] For example, values were generated based on the size and type of topography associated with some of the following ecosystem services:

- Climate stability
- Cultural value
- Reduction of natural disasters
- Energy and raw materials
- Food
- Habitat for species
- Medicinal plants
- Recreation and tourism
- Soil quality
- Soil retention
- Capture, transport, and supply of water
- Water quality
- Water storage[62]

Although highly imperfect, because it does not capture every way that natural resources are utilized, the framework documents elements of local understandings of the value of specific resources within categories legible to state institutions such as the superior courts.

Within the academic context, these organizations, such as Earth Economics, that assess and calculate the damages are addressing two related dilemmas of two related fields, political ecology and environmental justice studies. The first dilemma is incommensurability, which is the notion that there is no common unit of measurement for the value of ecological resources.[63] For instance, Yolanda García made these observations about the complaint form that farmers were required to fill out for wrongful damages caused by aerial eradication: "Communities do not even talk about hectares because it is not a measurement they use. They talk about other measurements we have never heard of before. Meanwhile, we will say that my piece of land goes from the ravine to the river. People do not know exactly how many hectares or how many square meters . . . it is a totally technical language that is not of the communities."[64]

Furthermore, if a resource is attributed a monetary value for the sake of environmental reparations, in what sense does this monetization transform the

perception of that resource? If, hypothetically speaking, a banana tree were valued way more than a mango tree, would this valuation lead to more banana cultivation, thereby impacting the diversification of crops in the community moving forward?

The second dilemma is how locally produced knowledge is assessed outside of its cultural context. To be clear, elevating or validating locally produced knowledge is implicitly hierarchical because it assumes that the dominant cultural group can and should determine the worth of the information produced by the subordinate group. The fact that external actors and organizations have been instrumental to demonstrating the repercussions of aerial eradication is emblematic of the distrust between comunidades negras (and other peoples impacted by aerial eradication) and government institutions, such as DIRAN or the US Bureau of International Narcotics and Law Enforcement Affairs (INL). For instance, comunidades negras have been complaining about the damages incurred by aerial eradication for decades. Their claims for reparations require legitimation from social scientists because the Colombian legal system, largely constituted of educated urban whites and mestizos, is inclined to marginalize evidence of aerial eradication damages provided by poor rural communities, such as comunidades negras, within "hierarchies of credibility."[65] One of the main reasons why the ecosystem services approach has been successful in court cases throughout the world is that the sheer volume of numbers collected and calculated is impressive and ascribes a level of technical authority way beyond the means of peasant communities.

Collectively, these dilemmas speak to the difficulties of articulating a global environmental justice framework. In the first place, the term *incommensurability* also applies to the concept of justice. "Justice" for some communities may look like reparations for what was damaged or lost. However, justice should not be narrowly defined by financial settlement in courts of law. Nor can justice be understood as the termination of environmental degradation in one location if that ultimately results in the degradation of a new location. Consider the fact that coca cultivation arrived in the Pacific region after the Colombian Amazonian region was heavily fumigated and *cocaleros* (peasant coca growers) launched a massive campaign to stop the spraying.[66] Second, environmental justice movements must think beyond state-based solutions to environmental racism because government mismanagement, negligence, or outright discriminatory laws/policies/practices are often at the root of the injustice being suffered.[67] At the same time, environmental justice communities should not have to rely on external actors to elevate or validate local epistemologies, which means that they should not be wedded to state-sanctioned forms of knowledge validation. The hierarchies of credibility that marginalize the knowledge production of comunidades negras are an extension of what Escobar describes as the patriarchal Western perception of nature: "In this culture, which engulfs most modern humans, we live in mistrust and seek certitude through control, including control of the natural world."[68] Escobar, therefore, emphasizes

the importance of seeing "patriarchy as an active historical reality" to subvert this hierarchical order.[69]

One potential pathway through these dilemmas for the articulation of a global environmental justice framework is to consider how EJ communities such as comunidades negras are critical to transforming the global landscape of environmental rights.

#5) Promote pluriversal understandings of environmental justice. Another way to conceptualize why visions—such as El Duende or La Tunda or visions in general—are seen less or talked about less is to think in terms of "ontological space." Perhaps there is simply less room for supernatural visions or whatever lies outside the boundaries of the scientifically provable nowadays. The concept of "the pluriverse" is an academic acknowledgement of what countless societies implicitly know; there are many alternatives to modern western ways of thinking and existing. *The pluriverse* acknowledges the ubiquity of ontologies and epistemologies that challenge the singularity of the modernizing *universe*. This includes the recognition of the following: preexisting ontologies of the Global South,[70] counter-hegemonic political movements throughout the world,[71] and efforts to incorporate these knowledges into new ways of being in the Global North.[72] Ultimately, noted decolonial scholar Mignolo explains, "pluriversality becomes the decolonial way of dealing with forms of knowledge and meaning exceeding the limited regulations of epistemology and hermeneutics."[73]

The center of figure 14 depicts this question of ontological possibilities and space. It shows "modern man" exiting an ontological space where elements of the supernatural exist (behind him). He is stepping forward (presumably, in a modern direction), but the reader's vision is drawn to the question mark in the middle. The question, Will the visions survive the Anthropocene? is tied to the question, Will other ways of existing in the world survive the Anthropocene?

While conversations about the pluriverse are mostly confined to the realm of academia, sometimes the pluriverse makes itself apparent in unexpected ways. For instance, my parents were originally confused by the idea of the book you are reading but eventually understood why I have woven elements of the supernatural or more-than-human into this narrative about environmental justice. They recently returned from a vacation in Cancún, México, where a local taxi driver took them to the Mayan ruins of Tulum. Along the way, the taxi driver explained that one of the overpasses they were crossing, the Nizuc-Cancún bridge, had an interesting history. In the 1990s construction crews tried to build the overpass multiple times, but their efforts were continually sabotaged. Finally, a Mayan community member suggested that the construction crew consult the local shaman.[74] The shaman explained that the overpass was being torn down because the construction had offended the *Aluxes*, supernatural spirits that are not always visible but occasionally take the form of small children or little people, with a wide spectrum of physical characteristics.[75] The shaman suggested that the construction crew make

an offering to the Aluxes, in the form of miniature pyramids beneath the overpass. Once the miniature pyramids were constructed, the overpass was completed without further complications.[76] Though this account takes place outside the context of comunidades negras and the War on Drugs in Colombia, it provides some insights on pluriversal understandings of environmental justice.

In the first place, *in an environmentally just world, all communities should have the power to determine whether pollution or major environmental transformations are in their best interests*. Though Mexico has yet to formally ratify Convention 169 (and may never do so), a representative of the local community (the shaman) was consulted about how to proceed with the construction of a road through an Indigenous region, nicknamed "the Mayan Riviera." One mistake that environmentalists frequently make (i.e., outside the context of an environmental justice framework) is to assume what is best for any given community. Some communities might be okay with a factory that pollutes the area they live in if that factory is a major source of employment. Likewise, it is often assumed that peoples of Indigenous reservations and comunidades negras are anti-capitalist, when that is not always the case. Capitalism is so often blamed for the destruction of Indigenous space, when as anthropologist Fabricant notes, "what is somehow left out of this conversation is the ways in which indigenous peoples have contributed to the development of capitalism and benefited from extractive industries that have wreaked havoc upon the natural environment."[77] Residents of comunidades negras are by no means an exception to this reality. Highway construction will eventually transform the region in numerous ways, connecting the Pacific lowlands to the extensive road network of the Andean highlands. Presently, there are only two roads that connect the Pacific region to the Andes: (1) the highway connecting Buenaventura and Cali and (2) the highway connecting Tumaco and Pasto. Increased roadway connectivity could ultimately allow greater access for local products to national and global markets. It could also facilitate access to the region by outsiders who are intent on exploiting the region, which is already a massive problem. The residents I interviewed about this subject were relatively split on whether new roadways will ultimately be beneficial or harmful to comunidades negras. Disagreements about such projects are sometimes symptomatic of the ideological disconnect between organizations establishing the basis for the collective titling of land (e.g., the PCN) and individuals motivated by financial gain or simply surviving. Regardless, it should be the communities themselves that determine whether the benefits of their decisions outweigh the drawbacks.

Second, *in an environmentally just world, thinking "pluriversally" is the norm*. The incident near Tulum is an example of how two very different ontologies (e.g., of the modern West and of the Maya of the Yucatán Peninsula) can coexist in the same space. For academics and environmentalists, *thinking pluriversally* means conceding that the industrialization and modernization of the planet (i.e., in the Anthropocene) is not sustainable for humanity nor for many endangered species.

Likewise, knowledge systems are also subject to extinction and have been violently rooted out in the Americas since the beginning of colonization.[78] Engaging and learning from societies that already live sustainably is vitally important to mitigating the damage already done to the planet. Thinking pluriversally means that such engagement flows multi-directionally and not within the top-down model of knowledge exchange promoted across most academic disciplines.

Finally, *in an environmentally just world, both humans and nonhumans should be accounted for in the collective of any given community*. The nonhumans (e.g., the Aluxes) near Tulum expressed their agency by sabotaging the construction of the overpass until an offering (e.g., the miniature pyramids) was constructed in their honor. Since the construction of the offering, there have been no further issues with the construction or safety of the overpass. In the related realms of environmentalism and environmental studies, there is an emerging global trend in the designation of rights for natural entities, also known as natural rights. It is important to consider how these rights originated and what the implications are for environmental justice communities such as comunidades negras and peoples of Indigenous reservations. To what extent have these respective groups participated in movements for natural rights? Are these groups concerned that natural rights might infringe upon previous consultation or other forms of territorial autonomy? How will these rights be guaranteed, especially in areas, such as the Pacific region, where human rights continue to be disregarded?

ENVIRONMENTAL JUSTICE COMMUNITIES AND NATURAL RIGHTS

There are several different kinds of "natural rights" that have been established or are in the process of becoming established throughout the globe. This section will discuss three specific forms of natural rights relevant to environmental justice for comunidades negras in post–peace agreement Colombia.

#1) A natural entity with rights. I first became aware of the recognition of rights for natural entities, also known as natural rights, because many aspects of the aerial eradication court case were informed by a completely different environmental justice court case. On July 21 of 2001, the Energy Company of the Pacific (EPSA) opened the floodgates of the Lower Anchicayá Dam to purge the dam of sediment that had accumulated during its operation. According to the plaintiffs, the comunidad negra of Río Anchicayá, "the damages caused by the irresponsible actions of the EPSA have been incalculable, both for the river and for our communities, which have an ancestral connection. This is why, in the past 19 years, various national and international organizations have described the impacts as a human and environmental tragedy of immeasurable dimensions, which placed our communities and our river in danger of extinction."[79]

FIGURE 16. A river with rights (illustrated by Jose E. Arboleda).

Germán (the same lawyer as in the aerial eradication case) was asked to participate in the Anchicayá trial when a friend working in Buenaventura's city hall (the Anchicayá River is within the jurisdiction of that municipality) complained that the victims had no representation for the damages caused. Apart from the difficulty of acquiring transportation to the comunidad negra of Río Anchicayá, the community was trapped in a war zone. Germán had to pass through military checkpoint after military checkpoint to conduct interviews with local leaders and residents. Another attorney was also involved in the case but moved on after their initial criminal suit failed after five years of proceedings, leaving Germán as the lead attorney when the case was appealed.[80] Twenty-two years and many appeals later, the case finally ended in a massive settlement for the residents of Río Anchicayá. Many of the original claimants have passed away or have moved on to other places. In the months leading up to the payouts for the victims and the legal team, Germán received death threats. To protect his family, he moved out of the country.

As in the aerial eradication case, Earth Economics was instrumental in calculating the value of what was damaged. However, a major difference between this case and the aerial eradication case is that one specific community endured the brunt of the damage caused by the opening of the dam. So, while the ecosystem services model factored in some of the value of the rivers contaminated by aerial eradication, the Anchicayá River was the principal site of damage for this court case. In the Pacific region, where comunidades negras relate to one another via the network of rivers[81] and live according to the "logic of aquatic space" (e.g., tides determine when activities such as travel on the river can be undertaken or when shellfish can be collected),[82] the river is fundamental to life itself. During the court case, transnational organizations such as International Rivers and the Earth Law Center strengthened that argument by citing examples of rivers granted rights

elsewhere in the world. For example, the first such river granted rights in the world was the Whanganui River of New Zealand in 2007, via a constitutional law specifically passed to protect the river. In 2016, a Colombian court granted rights to the Atrato River in a decision that was not made public until 2017. Later in 2017, a court in India granted rights for two rivers, the Ganges and the Yamuna, to protect them from industrial pollution.[83]

The underlying legal logic for the designation of rights for natural entities is that these entities, such as rivers, have value unto themselves, not just for human beings. Felipe Clavijo Ospina, a Colombian professor of law and natural rights, describes this logic as the ecocentric response to the anthropocentric model of valuing natural entities according to their worth within a capitalist system. However, Ospina points out the ecocentric theory of natural rights is potentially dangerous and often not representative of the belief systems of the ethnic peoples most impacted by such rights. As he sees it, the underlying problem is that "sometimes a basic principle is forgotten; human beings are part of nature as an ecosystem as a product of the evolution of species."[84] This sentiment is echoed in statements such as this one from the Maori of New Zealand: "I am the river, and the river is me."[85] Likewise, a resident of the comunidad negra of Río Anchicayá expresses a similar thought in this reflection on the opening of the dam: "Such a decision triggered hundreds of thousands of cubic meters of accumulated putrefied mud to be thrown into our river, our mangroves, recreation pools, territories, bodies, families, minds, and spirits."[86] In other words, to pollute the river is to pollute everything within the community, including that which cannot be seen (e.g., minds and spirits).

The danger of the ecocentric model of natural rights is that it simply reinforces the nature-society divide that plagues most variants of environmentalism today. Whereas the underlying logic for the legal designation of natural rights is that the river needs to be protected because it is an important part of nature, the underlying logic for riverine ethnic peoples of the Pacific region of Colombia is that the river is inseparable from the ecological community. Figure 16 illustrates this relationship by anthropomorphizing the form of a river, depicting the kinds of activities conducted in the river, and showing how the river connects communities across geographic space.

When laws are designed to protect nature or natural entities unto themselves, peoples with an already symbiotic relationship with their surroundings are often disregarded and/or outright displaced. Clavijo Ospina argues that there is potential for natural entities with rights to meaningfully improve the conditions of all beings; however, ecocentric terminology must first be deconstructed to expose the underlying nature-society divide before it can be reconstructed in a manner that meaningfully integrates natural entities as new subjects of law.[87] The State in almost all cases is the arbiter of who or what has a beneficial relationship with "nature." Returning to the example of aerial eradication in Colombia, this War on Drugs strategy was prohibited in national parks, prohibited in Indigenous reservations

FIGURE 17. Paintings in PCN office in Buenaventura (photo: Author).

(unless previous consultation had been conducted), and *permitted* in comunidades negras. For comunidades negras, the underlying message understood from this differential treatment was disregard for both their human rights and their value to the biodiversity of the region.[88] Would a river having rights change that perspective if the residents of that river did not feel that they had rights themselves? Even the lawyer (Germán) representing this comunidad negra did not feel safe in Colombia, so why would people of a rural ethnic community, with considerably less privilege and mobility, feel more secure if the river had rights?

#2) The territory as victim of the Colombian armed conflict. Another emergent form of natural rights is the recognition of territories as entities with rights. Such rights affirm the conviction of *el territorio* as the source of life. Figure 17 is a photo of two paintings that are hanging side by side in the PCN office in Buenaventura. They state, "Because this land is ours, completely ours" (painting on left side) and "Territory is life and life is not possible without the territory" (painting on right side).

The legal genesis for the recognition of territories as entities with rights in Colombia is Decree-Law 4633 of 2011, also known as the Law for Victims of Indigenous Communities. Article 45 of this law stipulates: "The territory, understood as a living whole that sustains identity and harmony, in accordance with the worldview of indigenous peoples and by virtue of the special and collective bond they maintain with it, suffers damage when it is violated or desecrated by the internal armed conflict and its related and underlying factors."[89]

This decree-law was followed by a second, Decree-Law 4635 of 2011, that declares the recognition of territories as entities with rights for Afro-descendant communities, including comunidades negras, *raizales* (from the island of San Andrés), *palenqueras* (descendants of maroon societies), and Afro-Colombians who do not pertain to the previous categories.[90] Anthropologist Daniel Ruíz-Serna explains a key difference between the two decree-laws: "In the indigenous case, the decree mentions in its object and scope the '*protection*, comprehensive reparation and *restitution of territorial rights*,' while that of black communities mentions '*assistance*, comprehensive reparation and *restitution of lands*.'"[91] He further points out that the differences in wording of the respective decree-laws are not just semantic. For instance, the "restitution of territorial rights" of Decree-Law 4633 includes language on how the armed conflict has impacted peoples of Indigenous reservations' special ancestral and harmonious relation with *la madre tierra* (Mother Earth), whereas the "restitution of lands" outlined in Decree-Law 4635 largely focuses on the damages to the environment and property of comunidades negras.[92]

Similar to what I wrote about in chapter 1, Ruíz-Serna's argument is that the effects of the armed conflict extend beyond the human realm of both sets of ethnic communities as well as peasant communities that are not collectively titled: "The consequences of the armed conflict extend beyond human rights, since the war has also affected a heterogeneous set of non-human agents that are a fundamental part of the experiences that Indigenous, Black and even peasant communities have maintained with the places they inhabit."[93]

And though Ruíz-Serna recognizes that both decree-laws are worded vaguely, he maintains that the differential wording limits the recognition of nonhumans as members of comunidades negras impacted by the armed conflict. This kind of "ontological blind spot" once again demonstrates the limits of the State as the arbiter of justice. In this case the Colombian state, articulated as a pluriethnic and multicultural nation per the 1991 constitution, has created two sets of laws grounded in the state's perceptions of these respective ethnic peoples versus, for instance, how comunidades negras articulate the impacts of the armed conflict on both humans and nonhumans.[94]

Nevertheless, Ruíz-Serna is optimistic that the ontological challenges presented by recognizing the rights of territory, such as determining who speaks for the land, are outweighed by the gains. Understood as a matter of "political ontology," territories with rights are an invitation to see the world through different ontological lenses, providing opportunities for those communities that have suffered the most during the armed conflict to demonstrate how humans and nonhumans are vitally important to each other.[95] They also open the possibility for further legislation that attempts to strengthen the rights of Indigenous and Afro-descendant communities.

For instance, per the terms of the 2016 peace agreement signed in Havana, Cuba, the Special Jurisdiction for Peace (JEP) was created as a transitional organization that sentences those who participated in the Colombian armed conflict

(e.g., former FARC members, members of the Colombian military, other combatants, as well as government officials and other individuals who facilitated war crimes). JEP Case 002 addresses approximately 105,000 victims impacted by the armed conflict in the municipalities of Tumaco, Ricaurte, and Barbacoas in the department of Nariño between 1990 and 2016. Seventy-eight percent of the land in those municipalities pertains to comunidades negras and Indigenous reservations.[96] This is a landmark case in Colombia because, in addition to addressing crimes against humanity, the JEP is including "socio-environmental and territorial damages" as part of the charges against the accused. For instance, Case 002 recognizes damages against *Katsa Su*, the name for the "great territory" of the Awá Indigenous people in the Nariño department of Colombia. The recognition of Katsa Su as a victim of the armed conflict is important because it *both* establishes that it sustains life for the Awá, who are also victims of the armed conflict, *and* recognizes the Katsa Su as a natural resource unto itself.[97]

Numerous other activities beyond direct warfare between Colombian armed forces and guerilla forces are often associated with the term *armed conflict*. For instance, an article about Awá resistance lists "illicit coca cultivation, mining, logging, megaprojects, fossil fuels, and other monocultures, such as oil palm" as the activities of armed actors vying for control of Colombia's resources. The article also mentions "aerial campaigns spraying glyphosate" (i.e., aerial eradication) as both a form of damage to the Katsa Su and an activity conducted as part of the armed conflict.[98] Germán has utilized a similar argument to draw international attention to the aerial eradication court case still underway in Cauca. However, since that case encompasses resguardos indígenas, comunidades negras, and peasant communities (i.e., not one *specific* territory), he has cited a form of natural rights that conceptualizes victims of the armed conflict on a greater scale.

#3) The environment as a silent victim of the armed conflict. The 1991 constitution laid the groundwork for establishing special protections for the natural environment in Colombia.[99] It specifically states that the natural environment is important for the social development of Colombians, in terms of rights to both health and quality of life.[100] Judgement C-595 of 2010, a ruling by Colombian constitutional court magistrate Jorge Iván Palacios, further elaborates. It states that the defense of the environment is one of the principal objectives of the Colombian government because it is pertinent "to the efficient provision of public services, health and natural resources as a guarantee of the survival of present and future generations."[101]

A 2018 update on the collective-action aerial eradication case, compiled by researchers at La Universidad del Cauca, expresses many of the same sentiments as Judgement C-595: "The collateral effects generated by aerial spraying with glyphosate are multiple . . . the effects are not only biological, but there are also social, economic and cultural effects, thus exacerbating the far-reaching impact on the populations affected and on the ecosystems they inhabit."[102]

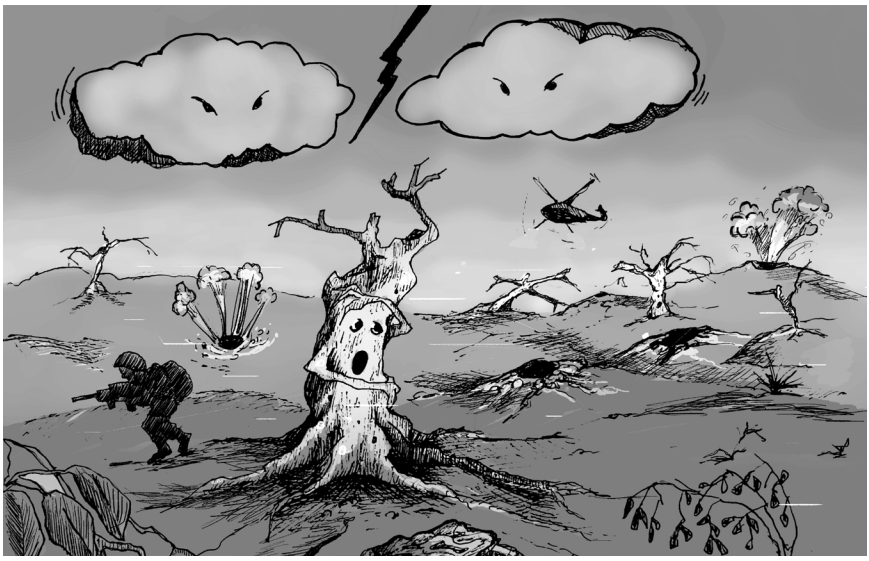

FIGURE 18. Nature as a not-so-silent victim of the armed conflict (illustrated by Jose E. Arboleda).

The 2018 update also references how aerial eradication is just one form of chemical contamination in the region, in addition to all the chemicals employed in the cultivation of coca and processing of coca paste. Whereas DIRAN targeted specific areas for spraying because coca cultivation is an illegal activity (outside the context of traditional cultivation in select Indigenous communities), this court document argues that the biological as well as "social, economic and cultural effects" of *both* forms of contamination are devastating across all aspects of life. This argument supports my own imagination of the Two-Headed Monster (chapter 3) as an entity whose destruction transgresses the bounds of human and "the environment."

In 2019, citing JEP Case 002 as well as geospatial analysis of the deforestation caused by coca cultivation, the JEP published Communication 009, which declared the environment as a "silent victim" of the armed conflict. Later, in 2022, the JEP published a special report titled "The Environment as a Silent Victim" to detail the environmental impacts of the armed conflict that have occurred *after* the peace agreement with the FARC. The report states three main reasons why the natural environment merits recognition as a victim of the armed conflict: (1) "the destruction of the environment constitutes a form of multi-offensive crime . . . it simultaneously violates the rights of entire populations to life, water, health and housing"; (2) over seventeen departments and eighty-five municipalities have declared the environment as a subject of rights; and (3) "from a philosophical point of view . . . in order to achieve a stable and lasting peace, it is necessary to abandon the anthropocentric paradigm, where human beings guided by greed end

up destroying the environment because it uses it to maximize its economic and profit-driven benefits."[103]

The arguments set forth in the Río Anchicayá court case support the reasoning established by the JEP. For instance, a virtual seminar for the case titled "Rights of the Dammed," sponsored by the United Nations, featured a quote from a community council member of Río Anchicayá: "Nature is for comunidades negras a 'social being.' As a living being, nature imposes the rules and laws, the disrespect of nature provokes punishment determined by nature."[104]

While *nature* and *the environment* are often used interchangeably in natural rights discourses, it is noteworthy that the term *nature* was employed in this context. Much in the same way that comunidades negras conceptualize themselves as part of the "biodiversity" of the region and not existing independently of it,[105] this statement articulates "nature" as part of the social fabric of the community.

Furthermore, the statement not only depicts nature as the subject of rights, but similar to the visions discussed earlier in this book, depicts nature as a being that acts on its own accord to punish those who disrespect it. In that sense, nature is reminiscent of visions such as El Hojarasquín and La Madremonte, who employ elements of nature (i.e., entangling vines or ferocious winds) to thwart human settlement. It is worth repeating that the visions themselves are highly geographically specific and establish dominion over particular land and water forms. For instance, the aquatic counterpart to La Madremonte is La Madre de Agua, who emerges from lagoons, springs, and brooks to charm youth with her beauty. Likewise, in the case of the comunidad negra of La Barra, north of Buenaventura, the sea is conceptualized as having distinct character traits:

> In La Barra, according to people, the beings and elements of the coast coexist with the tantrums of the sea: it is known that it is jealous of the sand and that is why it steals it, brings it back and reshapes the beach. The surrounding jungle also gives back what the tide takes. In this sway, which is very similar to the movement of the sea itself, whose character is that of a living and willful agent, the land sculpted by water shapes coastal societies such as La Barra, which at the same time name, appropriate, and modify it.[106]

Examples such as these emphasize the interplay between humans, nonhumans, and the forces of nature. They also exemplify the fact that "nature" or "the environment" is considered a "silent" victim of the armed conflict because its wants or concerns are not understood outside of the ontological context of the communities that profess to have a mutual understanding with nature or the environment. In other words, these communities understand the forces of nature to have agency and to speak loudly in ways simply imperceptible to those living outside of the same geo-ontological context.

Figure 18 depicts nature or the environment as both a victim (the tree in the center of the image) and a being with agency (the menacing clouds) within

the context of the Colombian armed conflict. While the landscape is barren in the aftermath of the destruction, the disposition of the clouds suggests thunderstorms (anger) and a return to life (i.e., what will grow from the ashes after rained upon).

NATURAL RIGHTS AND GLOBAL ENVIRONMENTAL JUSTICE?

The bulk of this chapter has conceptualized comunidades negras as "global environmental justice communities," citing five different ways that they leverage their status as collectively titled ethnic communities across political borders and ontologies. The rest of this chapter has detailed three ways natural rights have emerged in Colombia, a country that continues to be plagued by necropolitical ecologies, even in the aftermath of a major peace agreement. This final section of the chapter will highlight three critiques of natural rights that must be addressed for this new form of environmentalism to meaningfully function as a form of global environmental justice.

#1) Challenge anthropocentric and ecocentric articulations of natural rights by conceptualizing socio-environmental rights for ecological communities. As Clavijo Ospina explains, natural rights have emerged as an ecocentric response to an anthropocentric model of environmentalism that strictly values elements of ecosystems according to their worth to human beings. The anthropocentric model of environmentalism is part of the fabric of modern Western societies; it is implicit to the social contract that divides human nature from nonhuman nature, regarded as either threats or resources for humans.[107] This model can be traced back to the philosophies of Descartes and Kant, who argued that only "man" possesses a soul and the capacity of reason. By the same logic, nonhuman animals and devalued humans possess neither and therefore lead more mechanical existences.[108] The ecocentric model of natural rights runs the risk of the opposite effect, conceptually removing human beings from the definitions of "natural environment" and "biodiversity," which, in the past, has translated to the physical displacement of local populations throughout the world (e.g., the removal of Indigenous peoples to create national parks in the United States,[109] the removal of local peoples to create wildlife preserves in Tanzania,[110] the removal of peasants for the creation of Parque Tayrona in Colombia[111]).

In the specific context of Colombia, the articulation of "biocultural rights" is an attempt at reconciling natural rights with the rights of rural ethnic communities such as comunidades negras. Colombian scholars Ramírez-Hernández and Leguizamon-Arias explain:

> The recognition of biocultural rights is considered an alternative vision of the collective rights of ethnic communities in relation to their natural and cultural environment, that is, it does not refer to the recognition of a new right but rather to

> the reconfiguration and scope of those already existing in the matter contained in articles 7, 8, 79, 80, 330 and 55 of the Constitution, in the words of the Colombian Constitutional Court "biocultural rights are not new rights for ethnic communities, instead, they are a special category that unifies their rights to natural resources and culture, understanding them integrated and interrelated."[112]

In theory, *biocultural rights* seems to negate both the anthropocentricism of mainstream environmentalism and the ecocentricism of natural rights in a "reconfiguration" that adequately resolves the critiques of these -centrisms. However, critics of the biocultural rights model argue that it is also flawed in two major respects: (1) It suggests that the destruction of natural and cultural environments in Colombia began with the armed conflict, when, in fact, the destruction of natural and cultural environments has been implicit to the structural violence of the State itself. (2) The biocultural model of rights, similar to ethnic territorial rights, is highly geographically restricted.

#2) Resolve the geographic dilemma of both natural and ethnic territorial rights. The geographic dilemma of natural and ethnic territorial rights is that both sets of rights, or even the potentially merged version of such rights (e.g., biocultural rights), are bound to specific geographic spaces. In the case of comunidades negras, this dilemma is monumental because the vast majority of Afro-descendants in Colombia live in the country's rapidly growing cities. Does a person raised in a comunidad negra become a completely different person if they willingly move or are forcibly displaced to an urban neighborhood? Likewise, should a bird that seasonally migrates or a river that flows across multiple borders have more rights in one location versus another?

One potential pathway through this dilemma is an ontological shift. Many Indigenous peoples of the world conceptualize themselves as belonging to the land or territory versus having dominion over land or territory (i.e., private property and political boundaries). However, such a shift also assumes that people conceive of themselves as elements of a bigger collective. Given the countless wars that have occurred in the name of differences in belief systems, it would be naïve to expect peoples of different belief systems to suddenly shift toward a consensus that ultimately challenges human dominance, particularly the dominance of wealthy white heterosexual males, in the hierarchy of modern Western societies. Perhaps the lack of a specific religious affiliation is one reason why "Mother Earth" has been a popular entity for environmentalists to rally around. Mother Earth encompasses everything on the planet, is often depicted as a sentient being, and appears to translate across ontological contexts throughout the world.

#3) Abstain from conflating earth spirits across ontological contexts. It is important to emphasize, however, that Mother Earth only *appears* to translate across ontological contexts throughout the world. It is a common mistake for environmentalists, and people in general, to conflate Mother Earth with earth spirits from other cultures, such as *Gaia* from ancient Greece or *Bhumi* in Hinduism or

Pachamama in Andean South America. While there may be similarities between these entities, the dominant culture will often project its values onto the earth spirit beings of other cultures, often minimalizing important differences in the process. Such differences have major implications for socio-environmental justice movements and likewise matter to environmental justice studies.

For instance, in 2008 Ecuador became the first country in the world to recognize Pachamama as a legal being with rights as part of its new constitution. The following year, Bolivia followed suit with a similar set of laws, introducing the rights of Mother Earth.[113] While the terms are often used interchangeably, it is important to note that the meanings of the respective terms are contested, even among Quechua and Aymara-speaking peoples of the Andes. *Pachamama* is the Quechua term for "the vitality that animates the earth,"[114] and though it is often depicted as a woman, "the relation between masculinity and femininity, what indigenous people call *chachawarni*, is not always one of rigid opposition."[115] Miriam Tola, a decolonial scholar analyzing socio-environmental movements through feminist lenses, explains: "Although the precolonial Pachamama was usually translated as Earth-Mother or World-Mother and connected to fertility, it was not primarily defined through the qualities of purity and moral virtue that characterised the Virgin Mary. Throughout the period of European colonisation, however, this Andean being was associated with the Virgin and turned into a nurturing mother."[116]

Tola further argues that this colonial interpretation of Pachamama has persisted and permeated the present, which is reflected in former Bolivian President Evo Morales's characterization of Pachamama as "the subject of rights that is threatened by the unbridled commodification of the material world" and "the earth as a mother in need of saving."[117] Though Evo Morales is widely respected as Bolivia's first Indigenous president and his speeches on this topic have been well received, Tola's underlying point is that Pachamama has been transformed into a gendered and passive subject of rights that has very little to do with its Indigenous Andean ontology of origin. In doing so, the Bolivian state has asserted its authority to place the "gifts" of Pachamama (e.g., oil, gas, and lithium) under state control, thereby perpetuating an extractive ecological relationship with the planet.[118]

In developing a global environmental justice framework, it is key for scholars to pay attention to how earth spirits, as a category of nonhumans or more-than-humans, are operationalized. And, since environmental justice movements emanate from the struggles of the disenfranchised, it is of the utmost importance that EJ scholars are highlighting the perspectives of activists contesting the State's definitions of the nonhumans becoming the subjects of rights.