

Exploring the Nexus between Transitional Justice and Ecoterritorial Conflict Resolution: Time for an Ecoterritorial Turn in Transformative Transitional Justice?

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ABSTRACT[∞]

This article explores the nexus between ecoterritorial conflict resolution and transformative transitional justice, against the background of (neo)extractivism and the Peruvian case of half a century of oil violence. Our argument is twofold. On the one hand, we argue that transitional justice can act as a conceptual and analytical lens to better understand and further (claims for) change while also countering the invisibilization of ecoterritorial struggles of Indigenous and local communities who resist the framing of their lives and ecosystems as sacrificable or disposable. On the other hand, we argue that reading ecoterritorial struggles through the lens of transitional justice also has implications for the paradigm itself. The article is rooted in the first author's longstanding work with Indigenous communities in the Peruvian Amazon who engage with transitional justice discourses and practices as part of their struggle against oil violence.

KEYWORDS: Ecoterritorial conflict, Indigenous peoples, (neo)extractivism, transformative transitional justice

INTRODUCTION

On 9 August 2020, International Indigenous Day, three Indigenous men, Chemilton Flores Crispin, Elix Ruiz Ortiz and Wiliam Lopez Ijuma, were killed by police while participating in

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a protest against oil facilities on their territory in the Peruvian Amazon. These violent events form part of a larger decades-long struggle in the context of extractivism in Peru's historical oil circuit. In Peru, and Latin America more generally, extractivist modes of appropriation and accumulation of natural resources that benefit the Global North have not only left a legacy of destruction, dependence and poverty but also given rise to an increasing number of ecoterritorial conflicts. These are struggles and tensions rooted in extractivist violence committed against bodies, nature and territories. Peru is generally considered to be a neoliberal democracy that achieved peace after an episode of violent internal political conflict. However, unrelenting extractivist violence and the 'social 'minefields' emerging from this continue to shape the country, especially those territories far away from the urban centers.¹ In this context, Indigenous peoples and rural communities resisting extractivism and defending their rights are often portrayed by state and nonstate actors (such as corporations) as anti-developmentalists, terrorists or extortionists.

In this article, we seek to add to work by various scholars who have documented Peru's historical oil circuit, by considering it an *aparadigmatic* transitional justice setting. This means a context unlike the ones for which the transitional justice paradigm was initially developed, notably because of the absence of a clear political transition, but where certain stakeholders nevertheless call on the approach and normative objectives of transitional justice. In this case, it is Indigenous peoples in the context of the ongoing ecoterritorial struggle.² We examine (a) what the effect is or can be of applying transitional justice rhetoric and practices to this struggle and (b) which lessons can be drawn from this for the broader field of transitional justice.

The first author lived in the Peruvian Amazon from 2009 to 2018 where she worked alongside Indigenous peoples and participated as a close companion (*hermana*) in numerous dialogues between communities, state and nonstate actors in Peru's historical oil circuit.³ For this article, we draw on her engagement between September and December 2016 in the Saramurillo dialogues to which she, on request of the Indigenous groups, contributed as an observer and advisor. She was thus actively involved in creating practices on the ground. Although this involvement preceded her decision to do research, we consider this type of longstanding and active commitment invaluable for a deeper understanding rooted in the realities of those seeking justice and accountability. As such, this article offers an ethnography written from 'below' and, at least partly, 'from within.' Both approaches assist in practising 'participant comprehension.'⁴ The second author is a North-based transitional justice scholar with fieldwork experience in the broader region who was primarily involved in the analytical work for this article. The article further relies on primary and secondary sources, such as Indigenous statements, local press releases, state documents and NGO communication, all of which are publicly accessible.

¹ In July 2022 the Peruvian Ombudsman reported 208 conflicts of which 131 (63%) were socio-environmental (of which 85 were linked to mining/oil activity). Defensoría del Pueblo, *Reporte Mensual de Conflictos Sociales n° 221* (July 2022), <https://www.defensoria.gob.pe/wp-content/uploads/2022/08/Reporte-Mensual-de-Conflictos-Sociales-n.%C2%B0-221-julio-2022.pdf> (accessed 13 September 2022); César Rodríguez-Garavito, 'Ethnicity.gov: Global governance, Indigenous Peoples, and the Rights to Prior Consultation in Social Minefields,' *Indiana Journal of Global Legal Studies* 18(1) (2011): 263–305.

² Tine Destrooper, Gissel Line Engbo and Carlson Kerstin Bree, eds., *Innovation and Consolidation in Transitional Justice: Learning from Aparadigmatic Contexts* (London and New York: Routledge, 2023); Dustin Sharp, 'Emancipating Transitional Justice from the Bonds of the Paradigmatic Transition,' *International Journal of Transitional Justice* 9(1) (2014): 150–169.

³ The first author was often treated by the communities as a *hermana* (sister). This resonates with what Zibechi calls '*hermanarse*,' to refer to an intimate and intense way of accompanying social movements, based on '*el compartir*,' the sharing of entire days and living and eating together. Raúl Zibechi, *Descolonizar el pensamiento crítico y las rebeldías. Autonomías y emancipaciones en la era del progresismo* (Mexico: Bajo Tierra Ediciones, 2015), 283. However, we claim no similar experiences of harm, of being or knowing and are aware of the author's particular positionality arising from *sentipensar* (feeling-thinking) or *corazonar* (warmed-up reason) rather than from presumed neutrality. Boaventura de Sousa Santos, *The End of the Cognitive Empire: The Coming of Age of Epistemologies of the South* (Durham and London: Duke University Press, 2018).

⁴ Wood (1998) as cited in Marianne Maackelbergh, 'Doing Is Believing: Prefiguration as Strategic Practice in the Alterglobalization Movement,' *Social Movement Studies* 10(1) (2011): 1–20.

Below, we first set out the theoretical framework. Then, we introduce the context of Peru's oil circuit and the struggles surrounding it with a specific focus on how and why the transitional justice paradigm has been used. Finally, we further explore the nexus between transitional justice and ecoterritorial conflict and conclude by identifying future research avenues.

THEORETICAL FRAMEWORK

Our analysis of Peru's historical oil circuit and the violence and justice efforts surrounding it lies at the intersection of three theoretical perspectives: (1) experiential epistemologies and the vernacularization of human rights, (2) critical transformative transitional justice and (3) (neo)extractivism and ecoterritorial conflict.

Experiential Epistemologies and Actor-oriented Approaches

This article inscribes itself in literatures seeking to give prominence to perspectives and epistemologies from the Global South. This implies that we start from experiential epistemologies, meaning the lived knowledges that often do not even appear as knowledge in light of dominant epistemologies.⁵ These practical, empirical, popular and vernacular knowledges, emerging from the lived experience – including experiences of harm, violence and resistance to it – are not produced as knowledge-practices separated from other social practices but are instead firmly rooted in those social practices. More specifically, Santos argues that:

many epistemological souths having in common the fact that they are all knowledges born in struggles against capitalism, colonialism, and patriarchy [...] The epistemologies of the South concern the knowledges that emerge from social and political struggles and cannot be separated from such struggles.⁶

Taking these experiential epistemologies as a starting point for our analysis means that we start from the lived realities and practices of rights-holders and approach them as the meaning-makers and drivers of their own struggle for accountability and justice. By starting from these 'actual struggles informed by people's own understandings of what they are justly entitled to,'⁷ we seek to move beyond the accepted normative parameters of mainstream justice debates, question established conceptual categories and expand the range of claims and strategies that are validated as justice efforts.⁸ By inscribing ourselves in this literature, we seek to contribute to a deeper understanding of what justice can mean for communities experiencing realities of extractivism.⁹ The implication of this position is that we propose to study how people articulate rights claims in specific situations and which strategies they deem most relevant for this.¹⁰ This approach renders visible actors, processes, perceptions, problems and solutions that would remain underexposed if we only focused on dominant epistemologies of formal institutions.¹¹

This approach also relates to debates about how local understandings and practices can give meaning to global discourses and practices in the domain of rights and justice.¹² As Goodale

⁵ Santos, *supra* n 3.

⁶ *Ibid.*

⁷ Célestine Nyamu-Musembi, 'Towards an Actor-oriented Perspective of Human Rights,' in *Inclusive Citizenship: Meanings and Expressions*, ed. Naila Kabeer (London: Zed Books, 2005), 31–49.

⁸ *Ibid.*

⁹ See further.

¹⁰ Paul Gready and Simon Robins, 'From Transitional to Transformative Justice,' *International Journal of Transitional Justice* 8(3) (2014): 339–361.

¹¹ Elke Evrard, Gretel Mejía Bonifazi and Tine Destrooper, 'The Meaning of Participation in Transitional Justice: A Conceptual Proposal for Empirical Analysis,' *International Journal of Transitional Justice* 15(2) (2021): 428–447; Ellen Desmet, 'Analysing Users' Trajectories in Human Rights (Law): A Conceptual Exploration,' *Human Rights and International Legal Discourse* 8(2) (2014): 121–141.

¹² Sally Engle Merry, *Colonizing Hawaii: The Cultural Power of Law* (Princeton: Princeton University Press, 2000).

argues, 'local practice, is essential to the development of living ideas of human rights,' and the views of non-elites are important to consider because they conceptualize rights and justice more consequentially than elites.¹³ These practices may also feed back into more formal discourses and practices about rights and justice and can become a source of new norms regarding human rights and justice. They are as such not detached from spaces and discourses organized by the state but seek to shape these in ways that emphasize and contextualize the role of the state as a duty-bearer and guarantor of rights. This relates to the second theoretical perspective.

The Expansion of the Transitional Justice Paradigm: Transformative and Ecosystemic Approaches

The second strand of literature upon which this article builds is transitional justice. Over the past three decades, transitional justice has become the dominant paradigm to address questions about how to deal with violent pasts and disrupt dynamics that contribute to violence.¹⁴ While having its origin in postconflict and postauthoritarian settings, transitional justice soon expanded its reach and developed into a set of widely disseminated norms, standards and practices, encompassing a broad range of initiatives such as accountability mechanisms, truth-telling, reparations and measures of nonrecurrence.

The comprehensiveness, versatility and multifacetedness of these mechanisms, combined with the fact that transitional justice's normative aims are so broad and viscerally appealing that they can easily be moulded to various contexts, made the paradigm relevant in a broader range of settings than those for which it was initially developed.¹⁵ These *aparadigmatic* instances of transitional justice are cases where transitional justice is called upon, even in the absence of a clear political transition.¹⁶ These could be contexts of ongoing armed conflict, decolonization struggles or any other situation where stakeholders explicitly turn to transitional justice's rhetoric, normativity or approaches to further their aims. What these *aparadigmatic* cases have in common is that transitional justice is reinterpreted, used innovatively and adapted to the specific contexts and objectives, often without the state as a partner. As such, these cases also challenge the dominance of the state-centred transitional justice paradigm and invite a return to transitional justice's disruptive roots and its rootedness in social movement struggles.¹⁷ When we use the notion of transitional justice in this article, we refer to these approaches, rhetoric and normativity of transitional justice, rather than to the institutionalized, formalized state-accredited transitional justice mechanisms that have come to be considered as the 'transitional justice toolkit.'

The expansion of transitional justice to *aparadigmatic* cases also underlines the importance of a transformative and ecosystemic understanding of transitional justice. Transformative approaches to transitional justice problematize the professionalization of transitional justice and its predominant concern with criminal justice and discrete violations of civil and political rights, underlining instead the need to start from what victims of gross human rights violations prioritize, which is often related to addressing root causes of conflict, socio-economic justice and more encompassing approaches to justice.¹⁸ This is particularly relevant in cases of historical or ongoing harm, such as presented in this article, in which gross and continued environmental

¹³ Mark Goodale, 'Introduction: Locating Rights, Envisioning Law Between the Global and the Local,' in *The Practice of Human Rights: Tracking Law Between the Global and the Local*, ed. Mark Goodale and Sally Engle Merry (Cambridge: Cambridge University Press, 2007), 1–38.

¹⁴ Rosalind Shaw and Lars Waldorf, eds., *Localizing Transitional Justice* (Stanford: Stanford University Press, 2010).

¹⁵ Kieran McEvoy and Lorna McGregor, *Transitional Justice from Below: Grassroots Activism and the Struggle for Change* (Oxford and Portland: Hart, 2008), 6.

¹⁶ Destrooper, Engbo and Bree, *supra* n 2.

¹⁷ Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (Cambridge: Cambridge University Press, 2017).

¹⁸ Greedy and Robins, *supra* n 10; Rodrigo Uprimny Yepes, 'Transformative Reparations of Massive Gross Human Rights Violations: Between Corrective and Distributive Justice,' *Netherlands Quarterly of Human Rights* 27(4) (2009): 625–647.

harm, often overlooked in traditional transitional justice settings, is considered a root cause of conflict that adds more layers to ongoing violence impacting Indigenous bodies and territories in very specific ways.¹⁹ Ecosystemic approaches look beyond the state and formal institutions as central drivers of transitional justice and acknowledge the various informal transitional justice spaces and practices/efforts, what these mean for those driving or navigating them and how they relate to one another and to the objectives of the struggle.²⁰ This focus should not overshadow the continued importance of state-sanctioned spaces for many victims but rather serves as a means to approach these as part of a broader ecosystem of justice efforts.

Both transformative and ecosystemic approaches respond to critiques about paradigmatic transitional justice being too state-centred, not sufficiently accounting for harm caused by non-state actors²¹ and not adequately being able to account for and connect distant pasts or ongoing violence.²² These reinterpretations of the state-centred steady-state transitional justice paradigm are arguably happening by actors on the ground engaging with transitional justice in new and innovative ways, seeking to push its boundaries.

These ways of 'doing' transitional justice are the focus of this article and explain why we focus on the nexus between ecoterritorial struggles and transitional justice. Since we acknowledge the potential pitfalls of applying (especially a steady-state version of) transitional justice in these cases, we do not prescriptively argue that activists *should* turn to transitional justice, but rather start from the reality that they *are* turning to (a transformative and ecosystemic version of) transitional justice, and explore what this means for these struggles and notably whether it offers an avenue for re-imagining approaches to (latent) conflict transformation.

(Neo)extractivism and Ecoterritorial Conflict

A third strand of literature undergirding this article covers (neo)extractivism and ecoterritorial conflict, aiming at a deeper understanding of the escalating violence against bodies, territories and nature worldwide, and of the surge, especially in Latin America, of conflicts over the use and governance of territories where activities that deteriorate nature are imposed.²³

Extractivism is widely known as a mode of appropriation and accumulation determined by practices of dispossession and uncontrolled extraction of nature that started to develop centuries ago, driven by colonialism and capitalism's logic of commodification.²⁴ Many countries in the Global South, including in Latin America, continue to rely on the extraction and export of natural resources, and a 'commodities consensus' and 'development illusion' underlie many socio-economic policies.²⁵ More progressive governments in the region started to experiment

¹⁹ Rachel Killean and Lauren Dempster, 'Mass Violence, Environmental Harm and the Limits of Transitional Justice,' *Genocide Studies and Prevention* 16(1) (2022): 11–39.

²⁰ Evrard, Bonifazi and Destrooper, *supra* n 11.

²¹ For an example of imagining transitional justice mobilization against corporate actors, see the case of the Ogoni people against Shell: Christopher Byrnes, Elizabeth Deligio, Brother Anthony Kote-Witah and Charity Ryerson, "'We All Stand Before History': Corporate Impunity as a Colonial Legacy—The Case of the Niger Delta,' *Harvard Human Rights Journal* (2019), <https://harvardhrj.com/2019/04/we-all-stand-before-history/> (accessed 5 May 2022).

²² For an example, see the mandate of the Tunisian Truth and Dignity Commission which includes colonial violence as well as ongoing marginalization of regions. Simon Robins et al., 'Transitional Justice from the Margins: Collective Reparations and Tunisia's Truth and Dignity Commission,' *Political Geography* 94 (2022): 102565. For more on temporality, see Zinaida Miller, 'Temporal Governance: The Times of Transitional Justice,' *International Criminal Law Review* 21(5) (2021): 848–877; Marit De Haan and Tine Destrooper, 'Using Restorative Justice to Rethink the Temporality of Transition in Chile,' *International Journal of Restorative Justice* 4(2) (2021): 206–228.

²³ Maristella Svampa ed., *Cambio de época: Movimientos sociales y poder político* (Buenos Aires: Clacso-Siglo Veintiuno Editores, 2008).

²⁴ Alberto Acosta, Esperanza Martínez and William Sacher, *Salir del extractivismo: Una condición para el Sumak Kawsay. Propuestas sobre petróleo, minería y energía en el Ecuador. Alternativas al capitalismo del siglo XXI*, Fundación Rosa Luxemburgo (Quito: Abya-Yala, 2013).

²⁵ Synneva Geithus Laastad, 'The Janus Face of Local Extractivism,' *The Extractive Industries and Society* 8(2) (2021): 100903; Murat Arsel, Barbara Hogenboom and Lorenzo Pellegrini, 'The Extractive Imperative and the Boom in Environmental Conflicts at the End of the Progressive Cycle in Latin America,' *The Extractive Industries and Society* 3(4) (2016): 877–879; Maristella Svampa,

with a renewed model known as neo-extractivism to bring in more state control and supposedly strengthen regional and domestic independence. In practice, however, this model failed to subvert the dependence on foreign operating companies and fluctuating international commodity markets.²⁶ It exacerbated the destructuring of regional economies, pollution of ecosystems and biodiversity loss while intensifying land dispossession and concentration, eviction and displacement of rural and Indigenous communities and violations of processes of citizen decision making.²⁷

On a local level, this often consolidates enclave economies with unruly arrangements between state and corporate actors.²⁸ In such local contexts, extractivism may become dominant to every aspect of daily realities, penetrating the ways in which communities understand themselves, their culture, language and history.²⁹ While this article chooses to start from Indigenous practices and epistemologies, rather than from an institutional perspective, it also warns against essentializing and calls attention to the onto-epistemic violence inherent to extractivism's 'coloniality of power.'³⁰

Extractivism's combination of material and immaterial violence often occurs gradually, out of sight and in a delayed and dispersed way such that it is not viewed as violence at all, for instance by urban elites or those in the centres of decision making. This 'slow violence' often creates extensive social, structural and environmental damage without creating the type of spectacle that can harness (inter)national outcry and attention.³¹ Even on more spectacular moments, for instance when oil spills occur and affected communities stay unattended, (inter)national outcries are rare, making it clear that certain bodies and territories are considered as disposable and justifiable sacrifices.³²

Yet, extractivism can also trigger direct violence and conflict which we refer to here as ecoterritorial, rather than socio-environmental, because this term foregrounds the underlying disputes over valuation of bodies and territories and draws attention to local perceptions and practices regarding territoriality that often differ from what is (legally) recognized.³³ It unveils what local communities really fight for: the (future) control over bodies and territories and a vision on how to live on (together).³⁴

This is all the more true in the case of Indigenous peoples and rural communities whose identities, cosmologies, actions and understandings of harm continue to be shaped by the relationship with their territory and all beings inhabiting it.³⁵ Therefore, in these cases, (environmental) harm caused by extractivism may need a thicker understanding that goes beyond common anthropocentric approaches, expanding notions of crime, victimhood and (types of) distorted relations.³⁶ In the case of Amazonian communities, for instance, this needs to include

Neo-extractivism in Latin America: Socio-Environmental Conflicts, the Territorial Turn, and New Political Narratives (Cambridge: Cambridge University Press, 2019), 66.

²⁶ Ibid.

²⁷ Maristella Svampa, 'The Eco-territorial Turn in Latin America: A Conversation with Maristella Svampa,' interview by Johannes Waldmueller, *Alternautas: (Re)searching Development*, 2021, <http://www.alternautas.net/blog/2021/3/31/the-eco-territorial-turn-in-latin-america-a-conversation-with-maristella-svampa> (accessed 5 March 2022).

²⁸ Tami Okamoto Mendoza, 'Enclave Extraction and Unruly Engagements: Oil Spills, Contamination and the Cocamilla Indigenous People in the Peruvian Amazon' (MS diss., Norwegian University of Life Sciences, 2011).

²⁹ Nelson Maldonado-Torres, 'On the Coloniality of Being: Contributions to the Development of a Concept,' *Cultural Studies* 21(2–3) (2007): 240–270.

³⁰ Anibal Quijano, 'Coloniality of Power and Eurocentrism in Latin America,' *International Sociology* 15(2) (2000): 215–232.

³¹ Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge: Harvard University Press, 2011).

³² Ibid.; see also Randle C. DeFalco, *Invisible Atrocities: The Aesthetic Biases of International Criminal Justice* (Cambridge: Cambridge University Press, 2022).

³³ Svampa, *supra* n 25.

³⁴ Rocío Silva Santisteban, *Mujeres y conflictos ecoterritoriales* (Lima: DEMUS, 2017), 188.

³⁵ Marisol De la Cadena, *Earth Beings: Ecologies of practice across Andean worlds* (Durham: Duke University Press, 2015); Cecilie Vindal Ødegaard and Juan Javier Rivera Andía, eds., *Indigenous Life Projects and Extractivism: Ethnographies from South America* (Cham: Springer Nature, 2019), 289.

³⁶ Killean and Dempster, *supra* n 19.

specific attention to the harm done to the water that occupies a specific place in their daily realities and cosmologies.³⁷ Such a thicker understanding of (environmental) harm may help to centre stage extractivism's onto-epistemic violence and its entanglement with socio-economic, cultural and collective rights violations.

Indigenous interactions with and responses to extractivism have varied and struggles unfold in an infinite number of forms: from 'declared' struggles deliberately and explicitly organized to 'everyday forms of resistance,' and from struggles focused narrowly on immediate consequences of extractivism to those seeking to counteract the available 'scripts' that dictate who actors are and can become.³⁸ The term ecoterritorial thus functions as a conceptual lens to examine conflicts inflicted by the distortion of essential relations between peoples to their territory and to foreground the extent to which, especially for Indigenous peoples, territory and territoriality are linked to autonomy and self-determination, and to the enjoyment of collective, socio-economic and environmental rights.³⁹

In what follows, we focus on the Peruvian Amazon to examine such a complex ecoterritorial conflict on Indigenous territory in the context of half a century of oil extractivism.

PERU'S HISTORICAL OIL CIRCUIT: VIOLENCE, STRUGGLE AND TRANSITIONAL JUSTICE IN ECOTERRITORIAL CONFLICT

The violent deaths of the three men mentioned above in August 2020 are part of a broader reality of violence perpetrated against Indigenous peoples since the 1970s by the state and corporations in the context of oil extractivism. This section starts with a general description of Peru's historical oil circuit, the violence surrounding it and the ongoing Indigenous struggle against it. The last section zooms in on the role of transitional justice in this conflict.

The Historical Oil Circuit

The term 'historical oil circuit' was first coined by Indigenous peoples to refer to the extensive and widespread network of oil blocks, facilities and pipelines that has crisscrossed the Northern Peruvian Amazon, notably the Loreto and Amazonas departments, since the 1970s. Blocks 8 and 192/1AB represent Peru's oldest and most productive sites, and Blocks 64, 67 and 95 are more recent sites, with realities less impacted in terms of destruction and dependency.⁴⁰ Loreto represents a third of the country's territory and is the most forested, biodiverse and culturally diverse region, home to 27 Indigenous peoples.⁴¹ The oil circuit overlaps with ancestral territories of different Indigenous peoples, including Kukama-Kukumilla, Achuar, Quechua, Kichwa, Urarinas, Wampis and Awajun. It also affects various Amazonian river basins, including the Marañón, Pastaza, Tigre, Corrientes, Chambira, Puinahua, Morona and Napo.⁴²

³⁷ Patricia Urteaga Crovetto, Frida Segura Urrunaga and Mayra Sánchez Hinojosa, *El derecho humano al agua, los pueblos indígenas y el petróleo* (Lima: Pontificia Universidad Católica del Perú, 2019).

³⁸ Santos, *supra* n 3; Maro Pantazidou, 'De-Constructing Marginality with Displaced People: Learning Rights from an Actor-Oriented Perspective,' *Journal of Human Rights Practice* 5(2) (2013): 267–290.

³⁹ Svampa, *supra* n 25.

⁴⁰ Also realities of resistance to oil as such are different from the newer Blocks. For example, in Block 64, opposition to oil as such has been ongoing. Perú Equidad, 'El Lote 64, un mundo de conflictos,' 2019, <https://equidad.pe/publicacion/el-lote-64-un-mundo-de-conflictos> (accessed 2 April 2022); Martí Orta-Martínez, Lorenzo Pellegrini and Murat Arsel, "'The Squeaky Wheel Gets the Grease'?: The Conflict Imperative and the Slow Fight Against Environmental Injustice in Northern Peruvian Amazon,' *Ecology and Society* 23(3) (2018): 7–20.

⁴¹ Peru is, after Brazil, the Latin-American country with the second largest extension of tropical forest. The country has 48 Indigenous peoples, of which 45 are Amazonian. Ministerio de Educación, 'Lenguas originarias del Perú,' 2018, <https://centroderecursos.cultura.pe/es/materiales/libro> (accessed 25 January 2022).

⁴² It is beyond the scope of this article to address Indigenous peoples' complex and dynamic territorial and socio-political organization in the circuit. We choose to use overarching denominators such as Indigenous peoples and communities.

Although oil activity has significantly reduced in recent years due to recurring Indigenous action and shifts in international prices and demand, it continues to be nationally promoted.⁴³ Moreover, the Amazon is the primary site for future operations, despite its ecosystemic vulnerability and importance for tackling climate and biodiversity crises. This can primarily be explained by the historical continuity of extractivism in the Amazon which commenced with other waves of violent resource extraction, such as the highly disruptive 'rubber boom' in the 19th and 20th centuries.⁴⁴

Most of the oil production has been in the hands of transnational corporations (TNCs) and their subsidiaries. This includes US-based Occidental Petroleum (OXY), Pluspetrol (a company with an obscure corporate structure and antennae in Argentina, the Cayman Islands and the Netherlands) and Canada-based Pacific Stratus/Frontera Energy in the older Blocks 192/1AB and 8. Companies such as Petrotal, Perenco and Geopark have been active on the newer sites. State-owned PetroPerú is also an important player and has been in charge of the 1106 km long Northern Peruvian pipeline since the 1970s.

While the historical oil circuit is primarily used to refer to a material reality, it also entails human and nonhuman survivors of (accumulated) pollution, the rubble, ruins and waste, the many layers of violence and the struggles and memories of loss.⁴⁵ One of those losses are the 21 children who died in less than two years in the Kichwa community of Vista Alegre in the 1990s, after having consumed water and fish from a nearby creek close to a leaking oil well and for whom justice was never served.⁴⁶ Indigenous *Radio Ucayali* states that:

the circuit of death, known as the oil circuit, is the succession of promises that triggered the deterioration of the health of thousands of Indigenous people in the Peruvian Amazon, as well as the destruction of forests, rivers and the extinction of entire peoples. Promises of development, before and during oil exploitation, end up killing everything.⁴⁷

Slow and Direct Violence Surrounding the Oil Circuit

Evidence of severe environmental harm and its consequences for public health has been published since 1984, when the National Office for Natural Resource Assessment first established that Block 192/1AB was 'the most polluted region in the country.'⁴⁸ Levels of heavy metals above the permissible limits (which can lead to allergic reactions, hypertension, cardiovascular and neurological disease and different types of cancers) have been found in human blood and urine samples. For decades, the main cause was the dumping of waste water with high levels of contaminants directly into rivers. Indigenous communities rely heavily on this water for fishing, drinking, cooking, washing and bathing, and have a spiritual connection with it.⁴⁹

⁴³ Daily production in 1979 was 128,000 barrels per day, compared to 9,300 barrels in 2020, according to local economist Roger Grandez. *Resurgir Amazonico*, 'Remando por Loreto. Análisis sociopolítico, económico y ambiental de la región,' 2021, https://issuu.com/keneamazon/docs/remando_por_loreto/1 (accessed 5 February 2022); OXFAM, 'The Shadow of Oil,' 2020, <https://peru.oxfam.org/latest/policy-paper/shadow-oil> (accessed 5 March 2022).

⁴⁴ María Antonieta Guzmán-Gallegos, *Conflicting Spatialities: Networks, Mediation and Alterity in the Making of Indigenous Territories in Ecuadorian Amazonia* (Oslo: Unipub, 2010).

⁴⁵ María Antonieta Guzmán-Gallegos, 'Controlling Abandoned Oil Installations: Ruination and Ownership in Northern Peruvian Amazonia,' in Ødegaard and Andía, supra n 35; Mario Rufer, 'La memoria como profanación y como pérdida: Comunidad, patrimonio y museos en contextos poscoloniales,' *A Contracorriente: Una revista de estudios latinoamericanos* 15(2) (2018): 149–166.

⁴⁶ Jose Alvarez, blog, 2009, <https://www.servindi.org/actualidad/cronica/S163> (accessed 25 January 2022).

⁴⁷ Radio Ucayali, 'Circuito de la muerte, 50 años de explotación petrolera en Loreto,' 30 September 2022, <https://www.youtube.com/watch?v=-LsZMMIOToC> (accessed 20 October 2022).

⁴⁸ María Antonieta Guzmán-Gallegos, 'Between Oil Contamination and Consultation: Constrained Spaces of Influence in Northern Peruvian Amazonia,' *Third World Quarterly* 38(5) (2017): 1110–1127.

⁴⁹ Laastad, supra n 25; Defensoría del Pueblo, 'Salud de los pueblos indígenas amazónicos y explotación petrolera en los lotes 192 y 8: ¿Se cumplen los acuerdos en el Perú?,' 2018, https://www.defensoria.gob.pe/grupos_de_proteccion/poblacion-indigena/ (accessed 5 January 2022); Martí Orta-Martínez et al., 'Impacts of Petroleum Activities for the Achar People of the Peruvian Amazon: Summary of Existing Evidence and Research Gaps,' *Environmental Research Letters* 2(4) (2007): 04S006; Raúl

While recurrent Indigenous actions led to a prohibition on this dumping of waste water directly into rivers which significantly reduced communities' daily exposure to contaminants, oil spills are still frequent and have occurred with more frequency in recent years.⁵⁰ Moreover, consumption of wildlife, which feed on contaminated soil, remains an important exposure route. Other major sources of exposure include the dumping of solid waste and drilling of mud near dwelling places as well as the abandonment of open waste pits without effective remediation of polluted areas.⁵¹ Similarly, Indigenous action led to the elaboration of, with UNDP support and Indigenous participation, two Independent Technical Studies (hereafter ETIs, according to their Spanish acronym).⁵² The ETIs confirm the ineffective remediation so far and, while a full account for wildlife loss and aquatic life distortions seem impossible, highlight the need for more localized, ecosystemic and socio-environmental approaches for future remediation which should consider the Amazon's extreme fragility.

The harm described interferes with peoples' right to health, clean water, a healthy environment, as well as with cultural, economic and territorial rights and the right to self-determination. It affects Indigenous culture and identity and pushes peoples to find new ways to subsist in local contexts characterized by a 'misery of missing alternatives',⁵³ with most local income opportunities related to oil production and submitted to oil companies' good will and divide-and-rule tactics.⁵⁴ Moreover, the presence of oil companies renders Peru's remote Northern Amazon visible for the central government, which is not otherwise inclined to secure basic rights in these remote territories. The state's 'politics of abandonment',⁵⁵ a daily reality to Amazonian and Andean communities in Peru, explains their fraught relationship with oil and other extractivist activities, which are sometimes mobilized as a bargaining chip in their relations with the state.⁵⁶ The term *local extractivism* then captures how, in spite of all this harm, Indigenous peoples provide unqualified labour to the oil companies, run communitarian companies to provide services to them, immerse themselves in market valorization, actively promote continued oil production and often abandon ancestral ways of living, typically based on valorization of use and communal mechanisms of reciprocity and solidarity.⁵⁷

Peru's oil circuit has also been characterized by high levels of more direct violence, ranging from the illegitimate use of police force to criminalization and defamation of Indigenous

Yusta-García et al., 'Water Contamination from Oil Extraction Activities in Northern Peruvian Amazonian Rivers,' *Environmental Pollution* 225 (2017): 370–380; Lily La Torre López and Beatriz Huertas, *Sólo queremos vivir en paz!* (IGWIA, 1998).

⁵⁰ In 2016 alone, an estimated 14,000 barrels were spilt into the environment, and between 2000 and 2019 at least 474 spills occurred on the Northern Peruvian pipeline and Blocks 8 and 192/1AB. Instituto Chaikuni, 'The Black Snake of Peru's Amazon: The Northern Peruvian Pipeline,' 2018, <https://chaikuni.org/news/the-black-snake-of-peru-s-amazon-the-north-peruvian-pipeline> (accessed 17 April 2022); Congreso de la República del Perú, 'Informe Final de la Comisión Investigadora Multipartidaria para determinar las responsabilidades de los funcionarios y personas naturales e instituciones públicas y privadas que resulten responsables por los derrames de petróleo ocurridos en el Oleoducto Norperuano,' 2017, https://www2.congreso.gob.pe/Sicr/TraDocEstProc/Expvirt_2011.nsf/66799c003a60955705257f88006a7c7e/d8893a587abd8e72052583c3006fd61c?OpenDocument (accessed 17 April 2018).

⁵¹ Laastad, supra n 25; Martí Orta-Martínez et al., 'First Evidences of Amazonian Wildlife Feeding on Petroleum-contaminated Soils: A New Exposure Route to Petrogenic Compounds?' *Environmental Research* 160 (2018): 514–517.

⁵² UNDP, 'Estudio técnico independiente del Lote 8- Diagnóstico socioambiental y lineamientos estratégicos para la remediación de los impactos de las operaciones petroleras en el ex Lote IAB en Loreto, Perú,' 2022, <https://www.undp.org/es/peru/publications/estudio-tecnico-independiente-del-lote-8> (accessed 18 October 2022); UNDP, 'Estudio técnico independiente del ex Lote IAB- Lineamientos estratégicos para la remediación de los impactos de las operaciones petroleras en el ex Lote IAB en Loreto, Perú,' 2018, <https://www.undp.org/es/peru/publications/eti-del-ex-lote-1ab> (accessed 18 October 2022). Both ETIs are elaborated in collaboration with the Peruvian Ministry of Energy and Mining.

⁵³ Murat Arsel, Lorenzo Pellegrini and Carlos Mena, 'Maria's Paradox: Oil Extraction and the Misery of Missing Development Alternatives in the Ecuadorian Amazon,' in *Immiserizing Growth: When Growth Fails the Poor*, eds. Paul Shaffer, Kanbur Ravi and Richard Sandbrook (Oxford: Oxford University Press, 2019), 203–225.

⁵⁴ Perú Equidad, 'El daño no se olvida: Impactos socioambientales en territorios de pueblos indígenas de la Amazonía norperuana afectados por las operaciones de la empresa Pluspetrol,' 2017, <https://equidad.pe/publicacion/el-dano-no-se-olvida/> (accessed 5 March 2022).

⁵⁵ Mattias Borg Rasmussen, 'Tactics of the Governed: Figures of Abandonment in Andean Peru,' *Journal of Latin American Studies* 49(2) (2017): 327–353.

⁵⁶ Laastad, supra n 25.

⁵⁷ Laastad, supra n 25; Alberto Chirif, 'Reflexiones sobre el buen vivir,' 29 August 2022, <https://www.servindi.org/actualidad-opinion/29/08/2022/reflexiones-sobre-el-buen-vivir> (accessed 10 October 2022).

protesters. In addition to the example cited above, in March 2008 Indigenous protestors occupied the Andoas airport in the heart of Block 192/1AB to draw attention to their demands towards oil companies and the state. In the ensuing confrontation with the police, a police officer was killed and 48 Indigenous men were arrested and detained for several days at the oil installations. Some of them were tortured and imprisoned for months. In December 2009, after a long trial, the Indigenous men were released by the local judge who argued that a court should not be the place to resolve social conflict.⁵⁸

In response to these multiple forms of violence, communities have explored various avenues, including standard judicial mechanisms and extrajudicial negotiations (dialogues) with both state and corporations. While it is beyond the scope of this article to elaborate on the inaccessibility and inadequacy of Peru's judicial system to Indigenous communities seeking justice, it is relevant to mention that this system is slow and bureaucratic and that implementation of favourable sentences is often weak. This may help to explain communities' engagement in extrajudicial paths, often using protests strategies such as the occupation of airports and oil facilities or river blockades, to create political space and (re)start dialoguing with state and corporations. This is the focus of the next section.

Cycles of Open Conflict, Dialogue and Unfulfilling (Unfulfilled) Agreements

Protests in the oil circuit have regularly led to the signing of agreements. Examples are the aforementioned uprising in Block 95 in 2020, or the Saramurillo river blockade in 2016. In the latter case, a series of oil spills on the Northern Peruvian oil pipeline pushed an alliance of Indigenous peoples from various affected river basins to gather at the Saramurillo community and block the Marañón river for 117 days, causing shortages in supplies in nearby urban centres. This eventually led to the Saramurillo Accords, which we return to in the next section. Also, between 2006 and 2019, in Block 192/1AB, at least seven agreements were signed between communities and the state as a result of cycles of protests and dialogues.⁵⁹ Indigenous demands tend to revolve around the provision of clean drinking water, basic health and educational services, territorial rights and compensation, rehabilitation of polluted areas, improvement of oil facilities and pipelines, recognition of Indigenous environmental monitoring and sharing in the oil benefits. They are often embedded in a reality of oil exploitation, as well as imagining a *Plan de Vida Postpetroleo*.

While these processes have led to some improvements, such as the ban on dumping waste water, compliance is low because of the nonbinding nature of the agreements, which also tend to erase Indigenous perspectives on harm, solutions, time, power and truth and do not capture either the spirit or the richness of the days-long assemblies from which they sprout. For instance, several full days of dialoguing in Saramurillo resulted in no more than nine written pages. We return to this in the next section. As such, dialogues and the agreements resulting from them often become elements of further (epistemic) violence and disgruntlement, and fuel new protests.⁶⁰ Because of these dynamics, dialogues and agreements have been framed by Indigenous peoples and their allies as attempts by the state to (temporarily) anesthetize protests rather than as attempts to address conflicts' root causes.⁶¹ Indigenous peoples' choice to engage in these dialogues and to continue to seek state accountability despite these problems can be understood against the background of their overarching and persistent demand to the state to guarantee a

⁵⁸ Juzgado mixto de la Provincia de Datém del Marañón, 2009, Expediente N° 2008-00109-0-1903-SP-PE-2.

⁵⁹ Laastad, *supra* n 25; Anthony Bebbington and Martin Scurrah, '7. Hydrocarbon Conflicts and Indigenous Peoples in the Peruvian Amazon: Mobilization and Negotiation along the Río Corrientes,' in *Subterranean Struggles: new Dynamics of Mining, Oil, and Gas in Latin America*, ed. Anthony Bebbington and Jeffrey Bury (Austin: University of Texas Press, 2021), 173–196.

⁶⁰ Orta-Martinez, Pellegrini and Arsel, *supra* n 40.

⁶¹ Sarah Kerremans, 'Mecanismos de diálogo en Lote 192 en la Amazonía peruana: Analgésicos en tiempos de caída del oro negro,' *Revista Latina Americana de Derecho y políticas ambientales* 5(5) (2017): 173–183.

'right to have rights,' not only as full citizens but also as human beings.⁶² This 'right to have rights' narrative not only challenges the narrow definition of who is seen as a rights-holder but is also used to challenge the definition of who is a duty-bearer. On the one hand, it is used to foreground the responsibility of the state vis-à-vis all beings; on the other, it is used to pull corporate actors and their duties fully into the conversation. For instance, this happens through demands for three-way dialogues and agreements (which have only been achieved infrequently) or demands that the state fulfil its role as guarantor of rights by holding corporations accountable.

We interpret this Indigenous engagement as a continuous challenge of the state's pacification strategy and as envisioning conflict *transformation* and transition towards a joint, sustainable future. To this end, transitional justice rhetoric and logics have been mobilized. This is the focus of the next section.

The Emergence of Transitional Justice in Peruvian Eco-territorial Struggles

In this section, we zoom in on those instances where transitional justice elements have been called upon in the struggle over Peru's oil circuit. It is important to underline that transitional justice is not alien to the Peruvian context. In response to the political internal conflict between the 1980s and 2000, the country embarked upon a typical transitional justice process that included the establishment of a formal Truth and Reconciliation Commission (2001), as well as several prosecutions, reparation orders and institutional reform processes.⁶³ This experience with paradigmatic – yet far from perfect – transitional justice, even if not specific to the Loreto region, may play a role in the current turn to transitional justice praxis and rhetoric in an attempt to further Indigenous struggles, which have become most obvious with regards to various truth-seeking initiatives. In this domain there is a proliferation of both informal and formal practices aimed at documenting the harm.

A first observation is that Indigenous communities have extensively experimented with various kinds of informal truth practices, which would all fit within transitional justice's 'truth pillar' while not taking the form of a formal institutionalized truth mechanism. Their objectives are the same though: documenting human rights abuses, laying the groundwork for accountability and acknowledging harm. Yet, their methods are different as they bypass the state that is implicated in these violations or the epistemic structures that often do not accommodate their views.⁶⁴ While these informal truth practices align with Indigenous perspectives regarding the power and veracity of the spoken word, they can also be understood in the context of informal truth practices increasingly complementing formal processes when the latter are deemed inadequate or insufficient. As such, they fit the abovementioned ecosystemic understanding of transitional justice which foregrounds how actors navigate a variety of spaces.

One example of informal truth practices in Peru's oil circuit is the documenting and circulation (often with support from strategic allies, mostly through social media, local press and alternative media platforms, by written or visual means) of Indigenous testimonies and statements. For instance, in the *Black Snake Report* of 2018, Mariluz Canaquiri Murayari, a Kukama-Kukamiria leader of the Marañón river, testified that:

We are being slowly killed. The impact is very severe and it affects all aspects of our lives, our culture as well. The river is the heart of life, that is why we consider it sacred. There live all the

⁶² Hannah Arendt, *The Origins of Totalitarianism* (New York, [1951] 1973).

⁶³ Rebecca Root, *Transitional Justice in Peru* (Springer, 2012).

⁶⁴ For more on informal truth practices and their relationship with formal truth practices, see Matthew Fuller and Eyal Weizman, *Investigative Aesthetics: Conflicts and Commons in the Politics of Truth* (London: Verso Books, 2021) and Brigitte Herremans and Tine Destrooper, 'Moving Beyond Formal Truth Practices and Forensic Truth in the Syrian Conflict: How Informal Truth Practices Contribute to Thicker Understandings of Truth,' *Journal of Social & Legal Studies* (2022): 1–21, who underline the relevance of these informal practices in paradigmatic transitional justice settings where the state is not a reliable or realistic partner for organizing truth processes.

living beings, the fish and the great animals that give life like the mothers of the river, such as the boas, the *rayamamas* [giant rayfish], the *purahuas* [giant boas that live in the depths of the river]. [...] It is thanks to the spirits of the water that our *curanderos* [shamans] are able to heal us. All of this and more is being destroyed by the oil contamination.⁶⁵

Also, the abovementioned dialogue spaces are often shaped by Indigenous peoples in ways that envision truth-telling and truth-listening as much as concrete solutions. Indigenous peoples have recurrently convoked these on their territory to make state representatives sense their lived realities. Moreover, the scenery is often set up as a traditional assembly, presided by the leaders and state representatives, surrounded by an audience of community members of all ages. The opportunity is taken to speak up and share stories of harm and loss, referring, for instance, to the disappearance and poisoning of the mammals and fish, to the destruction of their livelihoods that constitute their market, pharmacy and futures and to the distortion of the water and plant spirits. Typically, these spaces also have a symbolic and ritual character: the traditional *masato*, a fermented drink based on yuca, is shared and state representatives are often invited to wear Indigenous garments.⁶⁶ The agreements resulting from these meetings make these non-scripted practices of truth-telling and truth-listening, happening far from the capital and the formal institutions, all the more important. They have a transformative outlook, linking past and present violence, *presencing* socio-economic and environmental harm and proposing transformative solutions. These truth practices are important to highlight as beyond questions about their impact in terms of actual cessation of oil violence: they represent attempts to structure the process, even if only temporarily, on Indigenous terms and therein contain an element of acknowledgement and empowerment.

At the same time, their very place- and context-specificity means that truths *presenced* in the territory do not easily travel beyond it. This allows the state to instrumentalize these spaces for pacification without further consequence while simultaneously contributing to a hostile public discourse regarding Indigenous protestors and anesthetizing the struggle by moulding it into technical commissions and working groups typically far away from the territory.⁶⁷

This reality helps to explain Indigenous actors' call during the Saramurillo river blockade in 2016 for a formal truth commission. According to the initial Indigenous statement, a truth commission would need to be established to examine four decades of violations of individual and collective rights, addressing 'what happened, why it happened, who is responsible, what are the mechanisms and structures that allowed it and what must be done so that it does not happen again.'⁶⁸ Because of this demand, after many days of dialogues and negotiations, the Saramurillo Accords (December 2016) stipulated that within a week, the Ministry of Justice and Human Rights would issue a resolution to create a working group that would determine the scope and mandate of such a commission to construct a historical account of 40 years of

⁶⁵ Instituto Chaikuni, supra n 50 at 28. We choose this example because of the first author's prior engagement in Instituto Chaikuni. More Indigenous voices of Peru's oil circuit can be found via (not exhaustive): Indigenous Radio Ucayali (<https://radioucayali.org/>); Indigenous facebook pages such as @orpioaideseper, @monitoreoambientalfeconat, @PueblosAfectados and @aidecobap; Observatorio Petrolero (<https://observatoriopetrolero.org/>); La Candela del Ojo-blogspot (<https://lacandeladelojo.blogspot.com>); and alternative online media platforms Servindi (<https://www.servindi.org/>) and La Mula (<https://lamula.pe/>).

⁶⁶ Patricia Urteaga-Crovetto, 'Rituals for Dispossession: Indigenous Peoples, Oil and Negotiations in the Peruvian Northern Amazon Basin,' in *Extractive Industries and Human Rights in an Era of Global Justice: New Ways of Resolving and Preventing Conflicts*, ed. Amissi M. Manirabona and Yenny V. Cárdenas (Toronto: LexisNexis, 2019), 267–296. For images of the Saramurillo protest and dialogue setting, see <https://amazonwatch.org/news/2017/0223-saramurillo-justice-this-time-for-the-indigenous-peoples-of-the-peruvian-amazon> (accessed 18 October 2022).

⁶⁷ Ibid.

⁶⁸ Juan Carlos Ruiz Molleda, 'Una Comisión de la Verdad debe investigar contaminación petrolera,' 2016, <https://www.servindi.org/actualidad-noticias/11/12/2016/comision-de-la-verdad-que-investigue-contaminacion-petrolera-contra> (accessed 10 January 2022) (authors' translation).

oil activity.⁶⁹ Moreover, this original agreement guaranteed a fundamental rights perspective as well as the participation of Indigenous peoples, corporations and state, as part of an intercultural and democratic dialogue. However, Supreme Resolution No. 017–2017-PCM (February 2017) reframed the whole initiative as part of Peru's promotion of corporate social responsibility and of a dialoguing model in their relations with Indigenous peoples.⁷⁰ It thus erased its rootedness in Indigenous struggle and demands for historical truth and broader justice. Unsurprisingly, little progress has been made on its implementation, although Indigenous demands for a truth commission continue to be made.

The *Instituto de Derecho Legal* (IDL), one of Peru's most prominent human rights organizations that often accompanies Indigenous organizations in negotiations and strategic litigation, insists on the relevance of a truth commission regarding oil exploitation in the Amazon. It argues that:

these commissions arise when there have been systematic and serious violations of human rights, promoted or tolerated by the State, against certain sectors of the population. Certainly, the idea is not to dig and reopen old wounds, or generate conflicts or confrontations among the population. Quite the contrary, the idea is to seriously investigate these violations, and above all to identify the institutional structures, in order to adopt the necessary reforms, so that they do not happen again in the future.⁷¹

Similarly, another Peruvian NGO, *Instituto de Defensa Legal del Ambiente y el Desarrollo Sostenible* (IDLADS), underlines the importance of a truth commission to preserve historical memory and to contribute to the nonrecurrence of these environmental disasters, 'by collecting testimonies of the victims of oil spills in Loreto and Amazonas and by making their real impact on indigenous' life, health and culture visible.'⁷²

As such, it transpires that truth-seeking is considered highly relevant for Indigenous communities, but the ways in which their demands in this regard have been coopted by the state underlines the importance of thinking *beyond* the state and of also foregrounding informal truth initiatives and exploring the interaction between these various initiatives. Also, other demands befitting the framework of transitional justice have been made, from prosecutions to repair and nonrecurrence. These fall beyond the scope of this article.

Beyond the oil circuit, some experts supporting Indigenous struggles have called for a truth commission about the atrocities that took place in the Amazon during the 'rubber boom' to deepen understandings regarding the continuity of (colonial) extractivism.⁷³ In the next section, we take the finding that transitional justice is considered relevant by stakeholders as a stepping stone to reflect on the broader nexus between transitional justice and the ecoterritorial struggle in the Peruvian Amazon.

⁶⁹ Juan Carlos Ruiz Molleda, 'Para que servira la comision de la verdad en materia de hidrocarburos,' 2017, <https://juancruizm.lamula.pe/2017/07/17/para-que-servira-la-comision-de-la-verdad-en-materia-de-hidrocarburosxx/juancruizm/> (accessed 10 January 2022) (authors' translation).

⁷⁰ Presidencia del Consejo de Ministros, 'Resolución Suprema N 017-2017-PCM,' 1 February 2017 (authors' translation).

⁷¹ Ruiz Molleda, *supra* n 69.

⁷² Instituto de Defensa Legal del Ambiente y el Desarrollo Sostenible – IDLADS, 'El litigio estratégico por los pueblos indígenas afectados por derrames de petróleo en la Amazonía Peruana: Caso del Oleoducto Norperuano,' 2022, <https://idladsperu.org.pe/litigio-estrategico-por-los-derrames-de-petroleo/> (accessed 25 March 2022) (authors' translation).

⁷³ Alberto Chirif and Juan Carlos Ruiz Molleda, 'Una Comisión de la Verdad debe investigar qué paso con los pueblos indígenas en la etapa del caucho,' 2021, <https://www.caaap.org.pe/2021/06/03/una-comision-de-la-verdad-debe-investigar-que-paso-con-los-pueblos-indigenas-en-la-etapa-del-caucho/> (accessed 15 May 2022).

EXPLORING THE NEXUS BETWEEN TRANSITIONAL JUSTICE AND ECOTERRITORIAL CONFLICT

In this section, we explore (a) the merits and challenges of transitional justice for these struggles and (b) how interaction with ecoterritorial struggles could feed into the transitional justice paradigm to make it more future-orientated.

The Relevance of Transitional Justice for Ecoterritorial Struggles

The previous section showed how Indigenous and other actors in the Peruvian Amazon mobilized transitional justice and its truth pillar as part of ecoterritorial struggles. While this should not be taken at face value as the most appropriate approach per se, just as standard justice mechanisms remain important, it is important to understand what transitional justice mobilization as a dynamic and evolving practice could bring to these struggles.

First, like paradigmatic cases of transitional justice, ecoterritorial struggles are also contexts in which difficult truths about violence and harm must be unearthed while demands look both back and forward, often revolving around reparations for and recognition of gross violations that took place and measures to avoid recurrence. While a state-centric paradigmatic understanding of transitional justice is arguably of limited relevance, transformative, actor-oriented and bottom-up approaches envisioning socio-economic, environmental and collective justice align with the logic of ecoterritorial struggles.⁷⁴ These transformative strands of transitional justice consider longer timelines, slow and structural violence and more complex root causes of harm.⁷⁵ In the Peruvian case, this transformative outlook manifests itself in the proposal to link truth initiatives about oil violence to initiatives about the rubber boom to presence the *longue durée* and colonial roots of extractivist violence and to disrupt these cycles of harm.⁷⁶ This redirects our focus to the many ways in which more 'spectacular and recognizable' forms of violence are exponents of more structural and slow forms of violence and how far-away harm is often intertwined with more recently committed harm.⁷⁷ In this context, transformative transitional justice scholarship could even be interpreted in a more disruptive way, one that is in line with transitional justice's original disruptive ambition of replacing practices and institutions that produce violence with nonviolent, peaceful and tolerant ones. As a paradigm intended to address legacies of large-scale violence, transitional justice was always intended to disrupt the dynamics that contribute to violence.⁷⁸ Especially in Latin America, where transitional justice originated in the 1980s' popular responses to abuses committed by authoritarian regimes against their own citizens, disruption has been an integral part of bottom-up transitional justice demands.⁷⁹ While transitional justice may not be the approach to end oil violence once and for all, it offers a discourse and normative framework that can accommodate the process in such a way that acknowledges Indigenous onto-epistemologies (see informal truth initiatives mentioned above) and envisions disruption of historical and ongoing harm. It could help shift the terms of political discourse and explore alternative political horizons.

⁷⁴ On these different strands, see, for example, Gready and Robins, supra n 10; Joram Tarusarira, 'The Anatomy of Apology and Forgiveness: Towards Transformative Apology and Forgiveness,' *International Journal of Transitional Justice* 13(10) (2019): 206–224; David Taylor, *Victim Participation in Transitional Justice Mechanisms: Real Power or Empty Ritual?* (Utrecht: Impunity Watch, 2014); Patricia Lundy and Mark McGovern, 'Whose Justice? Rethinking Transitional Justice from the Bottom Up,' *Journal of Law and Society* 35(2) (2008): 265–292.

⁷⁵ De Haan and Destrooper, supra n 22; Thomas Obel Hansen, 'The Time and Place of Transitional Justice,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: Edward Elgar, 2017), 34–51; Catherine Turner, 'Transitional Justice and Critique,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: Edward Elgar, 2017), 70.

⁷⁶ Byrnes et al., supra n 21.

⁷⁷ Alexander Laban Hinton, 'Justice, Temporality and Shame at the Khmer Rouge Tribunal,' in *Temporality and Shame: Perspectives from Psychoanalysis and Philosophy*, ed. Ladson Hinton and Hessel Willemsen (New York: Routledge, 2018), 186–213.

⁷⁸ Shaw and Waldorf, supra n 14.

⁷⁹ Rowen, supra n 17.

Similarly, transformative transitional justice's engagement with and foregrounding of the lived realities of victims and disenfranchised groups holds the promise of contributing to the resistance against the marginalization of and epistemic violence against Indigenous peoples. It has further potential to counter the invisibilization and erasure of concrete struggles of communities whose lives and ecosystems are framed as disposable. In this sense, a transformative and ecosystemic approach to transitional justice organized as dynamically interacting formal and informal spaces could create spaces wherein Indigenous voices can be heard on their own terms. Furthermore, as in other contexts wherein transitional justice has been drawn upon as a tool to stretch the boundaries of what is imaginable in terms of justice, existing mechanisms and the judicial realm, transitional justice here holds the promise of formulating more ambitious and alternative justice narratives.⁸⁰ This is particularly relevant in a situation of widespread corporate impunity for environmental and human rights violations. Here, transitional justice could offer a framework for forging new pathways to hold these actors accountable. Along these lines, Byrnes, who examined (legal) access to remedy in the case of the Ogoni people in the Niger Delta against Shell, suggests that transitional justice could be a framework for new strategies against corporate impunity if it engaged with (decolonial) Indigenous understandings of harm, time and power, and by, for example, touching upon corporations' intellectual property rights.⁸¹ Here too, there seem to be benefits to the mobilization of a transformative strand of transitional justice primarily related to peoples' sense of organizing the process in ways that do justice to their needs, priorities and onto-epistemologies.

When actors in these paradigmatic transitional justice contexts, like ecoterritorial conflicts, mobilize the rhetoric and approaches of transitional justice, this challenges also the original moorings and central working hypotheses of transitional justice. That is our focus in the next section.

Forging an Ecosystemic Turn within the Transitional Justice Paradigm

In this section, we explore how the transitional justice mobilization in ecoterritorial conflicts can push the boundaries of the transitional justice paradigm itself.

First, the case presented in this article underlines the importance of several ongoing evolutions within the domain of transitional justice. For instance, the long, intermittent and complex timelines of harm and slow violence underline the importance of critical transitional justice scholarship that seeks to move beyond transitional justice's traditional focus on short periods of conflict and human rights violations and on the idea of a unique 'transitional moment.' In line with transformative transitional justice scholarship, it affirms the importance of social and economic justice and supports evolutions towards more recognition and consideration of social and economic rights. Similarly, it supports the growing attention for informal truth (and justice) practices as part of the struggle for justice and as an inherently transformative and potentially disruptive act. This is in line with transitional justice's growing preoccupation with victim participation and victims' role in setting up informal bottom-up transitional justice initiatives, as part of a broader transitional justice ecosystem consisting of both formal and informal spaces. Simultaneously, the case holds up a warning sign about seeing these bottom-up and informal initiatives as an alternative to state accountability. In that sense, this struggle makes a case for a genuine ecosystemic understanding of justice initiatives whereby there is an acknowledgement of the extent to which every node of this justice ecosystem is crucial for a more comprehensive form of justice to emerge. The case makes it very clear that, if transitional justice were to lose

⁸⁰ Brigitte Herremans and Tine Destrooper, 'Stirring the Justice Imagination: Countering the Invisibilization and Erasure of Syrian Victims' Justice Narratives,' *International Journal of Transitional Justice* 15(3) (2021): 576–595; Mihaela Mihai, 'Epistemic Marginalisation and the Seductive Power of Art,' *Contemporary Political Theory* 17(40) (2018): 395–416.

⁸¹ Byrnes et al., supra n 21.

its focus on state accountability and enforceability of obligations, this would have serious negative repercussions for those at risk of having their rights violated and could risk watering down available protections. At the same time, the case highlights how these informal spaces can be antidotes to the co-optation of certain processes by the state. This point merits attention in a context where state-centred approaches to transitional justice are increasingly under pressure, either because of an unwillingness of the state or because of a more principled insistence on the importance of grassroots initiatives.

In addition to underlining the importance of existing evolutions in critical transitional justice studies, the case also pushes us to take some of these evolutions one step further. While throughout this article we have referred to an ecosystemic understanding of transitional justice as a metaphor for assessing the different spaces of transitional justice as nodes in a network, this case highlights the importance of integrating ecosystemic thinking more firmly in transformative transitional justice scholarship and practice. First, the case moves beyond the current transformative approach in that it underlines the need to adopt a broader understanding of environmental harm that considers direct and indirect violence done not only to humans but also to nature and ecosystemic relations. Second, the case offers a vocabulary to reconstruct the transitional justice paradigm in ways that may be relevant beyond Indigenous struggles, notably because it draws attention to (underlying) ecoterritorial conflicts and to their inherent global and historical dimensions. It thus draws attention to the need for a more holistic approach to conflict transformation that integrates accountability mechanisms for both state actors and corporations – all while envisioning just futures with guarantees for territorial rights, respect, creation and/or restoration of ecosystemic relations and more complex and interrelated understandings of justice focused on vital processes and the common good relations.⁸² The presented transitional justice praxis by Indigenous actors can thus offer a useful corrective to and expansion of some of the current evolutions in the field. It can notably be a way to push transformative transitional justice further towards a more restorative and ecosystemic approach that seeks to disrupt cycles of harm while acknowledging a variety of onto-epistemologies.

CONCLUDING REMARKS

Tensions over territorialities and ecoterritorial conflicts rooted in ever-expanding extractivism and continued coloniality are on the rise worldwide. Judicial or extrajudicial avenues, such as conflict resolution or dialogue mechanisms, often fail to effectively/holistically address realities of local – Indigenous – communities, which find themselves often confronted with a cunning game of mutually reinforcing impunity between states and corporations.⁸³

In this article we explored the potential contribution of transitional justice rhetoric and initiatives to these communities' ecoterritorial struggles as well as what this transitional justice mobilization in ecoterritorial conflicts means for the field and practice of transitional justice itself. By starting from what actually happens, we sought to think through new and more ambitious, transformative and context-sensitive ways of thinking about transitional justice's normative objectives and moral anchoring.

With regards to transitional justice's relevance in ecoterritorial struggles, we single out transformative transitional justice's attention for longer and vernacular temporalities that capture root causes of harm, its ambition of (political) disruption and its ability to presence lived realities as

⁸² Such as Good Living (Buen vivir), the Rights of Nature (Derechos de la Naturaleza), the Defense of the Commons (Bienes Comunes) and the Ethics of Care (Ética del Cuidado). Svampa, *supra* n 25.

⁸³ Ruben Carranza, 'Plunder and Pain: Should Transitional Justice Engage with Corruption and Economic Crimes?' *The International Journal of Transitional Justice* 2(3) (2008): 310–330; Johannes Waldmueller, 'Lost Through Translation: Political Dialectics of Eco-Social and Collective Rights in Ecuador', in *Human Rights Transformation in Practice*, ed. Tine Destrooper and Sally Merry (Pennsylvania: Pennsylvania University Press, 2018), 101–127.

well as alternative justice and accountability avenues, including corporate actors, as the most relevant ways in which transitional justice rhetoric and initiatives can support this kind of struggle. Its contributions are thus primarily related to processes and to the acknowledgement of other ways of engaging, which can accommodate Indigenous onto-epistemologies.

With regards to what this mobilization in ecoterritorial struggles could mean for the field of transitional justice itself, we argue that it invites a return to the foundations of transitional justice, which started as a disruptive practice in opposition to the state before being successfully appropriated by the state. In this specific case, it also invites a more ecosystemic understanding, both in a literal sense and in terms of how we approach the various elements of justice processes.

As such, while we identify several promising synergies, further research into the nexus between transitional justice and ecoterritorial struggles is needed. For example, it could be examined what the recasting of existing transitional justice mechanisms on the basis of alternative epistemologies, in particular Indigenous and ecosystemic ones, would look like in practice, how it would re-shape the existing (institutional) transitional justice toolkit and how this could enhance protection, accountability and eventually lead to a more restorative approach to justice that furthers transitional justice mobilization in the global struggle for justice against extractivism.