

An aerial photograph of a dense, lush green forest. A large, thick, gnarled tree trunk, covered in yellowish-green moss or lichen, curves diagonally across the right side of the frame. The forest floor is a dense canopy of green trees, with some sunlight filtering through the leaves.

RESTORATIVE JUSTICE AND THE ENVIRONMENT

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Restorative Justice and the environment

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Foreword

Who Am I? This is the essential question that we all, one day, will have to ask, each in their own time and manner.

What am I doing here? The Earth is the planet that generously welcomes us during the journey of life. And are we, its inhabitants, aware of our duties in retribution? Restorative Justice, with its principles and values, invites everyone to the necessary and urgent reflexion about the assumption of individual and collective responsibilities, for the good of humanity and the other realms of nature.

And the invitation is made to all, not excluding anyone, before it is too late.

Restorative Justice has an intimate relationship with the Culture of Peace and it is worth recalling the basic principles laid down in UNESCO's Manifesto 2000 for a Culture of Peace and Nonviolence: respect life, reject violence, be generous, be open to understanding, preserve the planet and rediscover solidarity.

It is the exercise of democratic citizenship, which seeks to create a group and community of a new paradigm of human society, in which all the members of society will have the opportunity to contribute to the process of positive transformation of the intrinsic value of a human being, and that is only possible as a result of the assumption of liability in an exercise in the enhancement of the awareness of the fundamental human duties, such as living together, peacefully and with respect for the Environment and its realms.

Preserving the planet is the key to our survival as a species. Without proper habitation, the perpetuation of the race is seriously compromised.

However, for many it still seems possible to postpone conservation measures and reversal of the damage caused so far. However, the planet shows that it will no longer compromise with the mistaken conduct of public policies at a global level.

Of course, many of these changes must come from world leaders as well as governments effectively committed to the environmental agenda. Restorative Justice, however, helps us

awaken from the illusion of transferring responsibility into the hands of rulers and invites us to assume our responsibilities as subjects not only of rights but also of obligations.

Therefore, it is necessary to sow principles and values that propose the transition from individualistic and punitive model to a model of democratic and transformative public management, with the effective participation of community members, who are the main recipients of the fair resolution of conflicts.

In this avant-garde action, the seed of hope is planted in the hearts of all, especially those who have already been touched by the transformative potential of the Culture of Peace, a new existential paradigm that finds in Restorative Justice one of its most promising means to action.

There is nothing more urgent than the application of the Culture of Peace in all dimensions of human relations. Awareness about the importance of such consciousness transformation is what will enable the necessary protagonism in the effective construction of a free, fair, fraternal and solidary society that welcomes everyone and does not exclude anyone.

There is nothing more important than the restoration of our individual and collective character so that we can dream of a peaceful and fraternal destiny for the human race and the other races and realms of nature, arising from harmonious and respectful coexistence with Gaia.

The time has come to recognize who we are and what contribution we have come to make to the world, taking on the responsibilities inherent in the process of planetary transition seen now, which begins with our own animic restoration (thoughts, words and actions).

This work is a contribution of scholars who have been dedicating themselves to the dissemination and concrete application of Restorative Justice at the core of society and the Judiciary, notably in the environmental field, and its preparation counted on the outstanding participation of AJUFE for the gathering and dissemination of this precious material.

Enjoy your study!

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Preface

The idealization of the First International Seminar on Restorative Justice and the Environment, held on August 6 and 7, 2020, came from a round table held in Salvador, in December 2019, in which the potential of restorative justice to address environmental issues was raised. On this occasion the councilor Valtercio de Oliveira, judges Egberto Penido, Katia Lazarano Roncada, Marcelo Salmaso, Josineide Pamplona Medeiros and academics Nirson Medeiros da Silva Neto, Carla Boin and João Salm participated.

We note the need to disseminate our knowledge about Restorative Justice and its important role in creating spaces for dialogues on environmental issues such as: climate change, food production, sustainability and socio-environmental conflicts. We understand that restorative practices favor encounters and discoveries about our human condition of interconnection and interdependence between everything and everyone, in particular, at this time of environmental devastation in Brazil and in the world.

Thus, in order to promote the inclusion of different actors and consequent shared responsibility of formal organizations and communities in the treatment of environmental damage, we held the First International Seminar on Restorative Justice and the Environment.

The event was attended by national and international researchers, representatives of Indigenous and quilombola groups, the agricultural sector and members of the Judiciary to dialogue and reflect on the need to combine the use of natural resources, food safety and preservation of the environment.

Research related to the use of natural resources, case studies of the application of Restorative Justice in the national and international scenario to address issues related to the environment were presented, stimulating members of the Judiciary, academics, government agents, non-governmental organizations, environmentalists on the shared responsibility in the development of actions that preserve nature.

Carla Boin and João Salm

Introduction

Chapter 1

Promoting peacebuilding in Guinea Bissau: a small grants initiative in the nexus of conflict and environment, climate change and natural resource management.

In the first chapter, Janet Murdock deals with one of the projects funded by the United Nations Peacebuilding Fund in Guinea-Bissau (PBF) and developed by the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF). The author makes the chronology of the actions carried out for the development of this project of small grants for peace, showing the methodology used and the specific areas of intervention. The project involved 13 microprojects for youth and women's organizations. UNDP has hired SWISSAID in Guinea-Bissau to implement the projects at the local level.

The project aimed to develop skills of adolescents and young people from rural areas to exercise leadership, strengthening the capacity for resilience in the face of attempted political manipulation and encouraging the participation of young people in decision-making processes at the local and national level. The projects paid special attention to the training of young people to deal with conflicts related to the preservation of the environment, adaptation to climate change and management of natural resources. Finally, the author presents the impacts of each microproject and the more global benefits of initiatives of this nature.

Chapter 2

Justice after the dam rupture and environmental disasters.

In chapter 2, Ben Almassi explores how the principles and practices that have been developed in restorative justice can be a great help in healing our damaged and degraded biotic relationships. At the same time, the aftermath of environmental harm presents real challenges to how we conceive and enact restorative justice. The author states that both things are true for climate change and intergenerational relational repair, animal exploitation and interspecies repair, and even ecological restoration projects as active, embodied ways of acknowledging environmental harm and making amends. In his remarks, Ben focus specifically on restorative justice for environmental justice movements, including what environmental justice scholars and activists can take from restorative justice

and what the hard-won lessons of environmental justice can contribute to restorative justice.

Chapter 3

Individuals, community and environment: restorative justice as an inclusive structure.

In chapter 3, Chiara Perini conceptualises the environment through restorative justice lenses. She departs from the European Landscape Convention and the notion of environment according to the Italian Constitution. She then presents the “environment” as a “value” protected by law, using Green Criminology to sustain the idea of environmental crimes as “unaware victim crimes” and considering the role of RJ in letting these victims gain such an awareness thanks to RJ attention to victims’ emotions. Perini later considers environmental crime victims by examining three visions: the vision developed by criminal law; the vision developed by the Theory of Commons and the vision through Restorative Justice lenses.

Chapter 4

Agricultural production and sustainability: paths and experiences

In chapter 4, Eduardo Assad presents a study carried out in 2009 demonstrating the degradation of the natural capital of the Planet and the growth of “planetary limits” in the last 60 years with the demonstration of the dangerous conflicts that humanity would face. The author presents the concept of sustainability proposed by the Brundtland Report of the UN World Commission on Environment and Development. This concept, widely disseminated in Rio-92, defines that sustainable development is one that aims to meet the needs of the present without compromising the ability of future generations to satisfy their own needs.

It emphasizes that the sustainability of agriculture has been defended and sought by different productive sectors and by different social segments. However, he comments that it is utopian and requires public policies and collective and individual actions that consider the aspects of sustainability: environmental, economic, social, territorial and technological.

Eduardo argues that there are currently several economic and technological vectors that press Brazilian agricultural production for sustainability. It raises questions related to the increase in the deforestation rate in the Amazon. And states that it is possible to reverse this reality with the adoption of tropical agricultural technology. It emphasizes that with the creation of the ABC program, low-carbon agriculture, it is possible to change the productive model, with production integration, which in addition to reducing greenhouse gas emissions, increases production and intensifies land use.

In the end, the author points out that: “if we can reduce deforestation and maintain the water supply in Brazil, regenerating our forests, adopt integrated agricultural production practices, reduce inequality in the agricultural sector, we will be moving quickly towards more sustainable agricultural production.”

Chapter 5

Restorative justice methods for dealing with conflicts related to environmental crimes

Starting off with a portrayal of the bonds underlying environmental matters, human rights and restorative justice, Grazia Mannozi and Viola Molteni in chapter 5 reset the relationship between

the human being and the environment. Assuming the centrality of the environment as the appropriate perspective for the purposes of environmental care, the paper suggests the need for a renewed conception of Humanism, which promotes the acknowledgment of an inalienable dignity to the environment and the shift from the old anthropocentrism to a relational and environmental anthropology. Finally, the paper considers the theoretical and practical contributions restorative justice could bring to the management of environmental conflicts and proposes a recognition of “green restorative justice” methods which could apply to the resolution of environmental offenses and conflicts.

Chapter 6

Restorative justice, peacebuilding and sustainable development

In Chapter 6, Josineide Pamplona Medeiros presents the Amazon as a region characterized by contexts of high political-economic, sociocultural and environmental complexity, involving actors belonging to different ethnic-racial groups, intercultural relations, disputes over territory and natural resources. The author aims to discuss the possible experiences of Restorative Justice in Amazonian contexts that meet the aspects brought by the understanding of sustainable development, according to the perspective of the Sustainable Development Goals (SDG) present in the 2030 Agenda of the United Nations (UN), which includes four axes. The first is aimed at the eradication of poverty and hunger, the second reveals concerns about environmental degradation, touching on aspects such as sustainable consumption and production, the third is related to economic issues and the fourth touches on the promotion of peaceful, fair, inclusive and free from fear and violence societies. Josineide shows that restorative justice has a direct relationship with the last axis, especially with its materialization through SDG 16 and their goals, which must obviously be understood in a systemic and integrated way with the other Sustainable Development Goals and with the whole document that conforms to the 2030 Agenda.

The author invites us to have a broader understanding of restorative justice as a search for the transformation of conflictive patterns present in institutional, structural, cultural and historical violence, highlighting the destructive repercussions and sequelae derived from colonization, enslavement of blacks, genocide, ethnocide and the deterritorialization of indigenous peoples and traditional communities.

Chapter 7

Restorative justice for the peoples and communities of the Amazon: accounts of a black Indian from the lower Tapajós Mayke

In chapter 7, Mayke Kumaruara states that: “restorative justice is a great oar, which makes our return journey faster, so to speak. Restorative justice gives us instruments to rescue values and tell our story.” It compares the difficulties of crossing the Tapajós river to the return home of which justice is a part. From storytelling, the author presents the difficulties and suffering caused by the disqualification of the ancestral identity of the indigenous and quilombola peoples.

He says that indigenous leaders are threatened with death and that schools are pressured to give up being indigenous, or stop being quilombolas. He understands that “restorative justice, in addi-

tion to being this oar to return, also means the possibility of unity, of cohesion of these communities, so that they do not lose their strength, especially in face of a history with so much violence to which we were subjected during the terrible process of colonization.”

Chapter 8

Restorative justice and socio-environmental conflicts in the Brazilian Amazon

In “Restorative justice and socio-environmental conflicts in the Brazilian Amazon”, chapter 8 of this work, Nirson Medeiros da Silva Neto presents reflections on the challenges of using theoretical-practical references of restorative justice for the treatment of socio-environmental conflict situations in the Amazon. The article starts from an expanded vision of restorative justice that situates it in the face not only of inter-subjective conflicts, but also of those that touch on structural, institutional, cultural and historical issues, including the violence that affects the environment and the human and non-human beings in it. Socio-environmental conflicts in the Amazon region are presented as highly complex, because they involve disputes around land and natural resources, as well as mobilizing identities and territories of traditional peoples and communities, such as Indigenous people, remnants of quilombos, rubber tappers, chestnut trees, among others. In the text, the author briefly describes experiences built from the Restorative Justice Clinic of the Amazon, Federal University of western Pará, which has adopted the strategy of strengthening the communicative capacities of local peoples and communities in order to better deal with the conflicts arising from the advance of the border from the capital to the Amazon.

Chapter 9

A proposal for Environmental Restorative Justice to Repair the Relationships that Enclose the Pantanal Biome

In Chapter 9, Raquel Domingues do Amaral addresses a proposal for broad Restorative Justice at the intersection of the historical injustice suffered by the Guató indigenous people and traditional riverine people of the Pantanal, deprived of their territories, with the ecological injustice suffered by the Pantanal biome with burning, loss of biodiversity and silting of rivers; (ii) offer a reflection on the illness of the Pantanal through the point of view of the principles of rationality and ecocentric ethics, which attributes an intrinsic value to all living beings and the ecosystem; (iii) suggest a project of territorial and ecological restorations from the moral repair by healing the various relations that are intertwined in the constitution of the Biome. The research undertaken uses the deductive method, through a qualitative approach, to produce in-depth information on the subject; as for its nature, it is an applied research, as it aims to generate knowledge about environmental law for practical application, aimed at solving specific issues; and, according to the procedure, it is a bibliographic research, through the review of scientific works and articles by national and foreign authors, as well as documentary, due to the review of relevant documents. The cultural and biological integrity of the Guató indigenous people and the traditional rivers of the Pantanal is intertwined in the conservation itself of the ecological integrity of the ecosystem. The moral reparation of the relationships that adorn the Pantanal Marsh Biome through the principles of Restorative Justice must also take into account the traditional knowledge of those peoples in the construction of healing practices. The research contributes to the deepening of the concept of restorative justice for the reparation of a historical injustice of deprivation of indigenous and riverine territories, which reverberates in the

environmental degradation of the ecosystem and proposes, from a holistic and ecocentric view, healing practices of degraded relationships to achieve harmony, balance and sustainable development in the Pantanal Biome.

Chapter 10

Restorative Justice and the Environment: restoring senses

In chapter 10 Egberto de A. Penido analyzes how Restorative Justice can contribute to the preservation, restoration and enhancement of the environment, and it is urgent that such actions occur, in the face of the immeasurable escalation of devastation that the planet has been suffering. The author draws attention to the importance of being observed as the legal dimension has been contributing directly and/or indirectly to the state of unbalance, but also, how this same legal dimension can contribute to the restoration of environmental balance, provided that it is re-signified from the world view that structures it. He understands the need to think about justice in a non-cartesian way, without all of the concepts that are inherited from the enlightenment, which is the fruit of a paradigm that is predominantly materialistic-mechanistic-reductionistic; And, therefore, it is imperative that the Law pursues a dialogue, to be inspired by, and fall in line with the notion of the interdependence of all things, and of a deep respect for the essence of loving, of being human, and life, in all its forms, and in compliance with the Mystery of the world. And for the transition to an “ecojuridic” paradigm to occur, he understands that Restorative Justice, with its values, principles and guidelines, has much to contribute as long as it is understood and applied not as a “mere” methodology, but is done within a perspective of a culture of nonviolence, combined with social transformation, in a systemic, inter-and multidisciplinary way, seeking restorative actions not only in forensic environments, but in the community, in organized civil society and in partnership with other institutions. It also adds the importance of each human being treating his internal ecology in an ethical way, on a daily basis, committed to nature. He concludes, therefore, that the implementation of the “ecojuridic” paradigm presupposes processes of individual and collective transformation, through nonviolent, creative, libertarian and conscious actions, of deep respect for oneself, others and the environment.

Chapter 11

Restorative Justice: connection, responsibility and care for humans and the Environment

In Chapter 11, Marcelo N. Salmaso, presents in a synthetic manner, echoing the voices of many of the authors of the book, such as the paradigm of cross-mechanistic, based on the structures of social interaction, and institutional guidelines for the individualistic, utilitarian, consumerism, and the divide, foster competition, and destruction, with no ethical boundaries, it sets up a social system, the perpetrator of the violence, in all its forms, the expression of the physical, psychological, structural, symbolic, and cultural) to the people, especially the most vulnerable, and for the Environment. And, in response, points to the possibility of transmutation of a logic for life based on values, principles, methods and practices of Restorative Justice, which is based on a new paradigm in holistic/eco-friendly and that is in itself as an instrument of individual and social transformation, there is so much you practiced, and taught by our own indigenous peoples in the construction of a more humane and just society based on cooperation and the logic of care for self, for one another and for the Environment.

Promoting peacebuilding in Guinea-Bissau:

A small grants initiative in the nexus of Conflict and environment,
climate change and the Management of natural resources

Janet Murdock

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1. Situation analysis

Guinea-Bissau is a small country located in West Africa. The country is characterized by political instability and lack of access to basic rights for many. It is a country with a small but rapidly growing population, estimated at 1.5 million people, and the proportion of the population in the age group between 12-35 years is 45%. However, the employment rate for young people aged 15-35 was 10.6% in 2009, with a rate of 4.6% for women.

Social norms restrict the participation of women and young people in decision-making processes at all levels. Basic rights and legal support have long been denied, especially in regards to access to education, health, vocational opportunities, justice services, inheritance and land sharing. The family structure obeys the patriarchal model, in which the husband is the head of the family and ‘represents’ the wife and children in public life.

The United Nations Peacebuilding Fund in Guinea-Bissau (PBF) sought to promote peacebuilding in Guinea-Bissau with small grant projects for youth and women’s organizations at the grassroots level.

The project “mobilizing young people and adolescents from rural areas to act as leaders in the peace-building process” was one of the small grant projects funded by the PBF between 2018—2020.

The United Nations Development Programme (UNDP) and the United Nations Children’s Fund (UNICEF) implemented this project to develop leadership skills in rural teenagers and youth, strengthen their resilience to political manipulation and enable young participation in decision-making processes at the local and national level, especially on topics in the nexus of conflict and the environment, climate change and the management of natural resources.

2. Introduction and timeline

To enable implementation at the local level, UNDP hired SWISSAID in Guinea-Bissau. Several stages were established before the funding reached the organizations, thus ensuring efficiency and technicality in the assessment of the proposals.

More than 50 proposals have been received and three assessment phases were held. The first stage was a screening that selected the proposals that met the prerequisites identified in the call published in April. The second assessment was developed based on 10 criteria, such as programmatic and operations analysis.

Finally, a High Committee, composed of government representatives, United Nations officials and implementation partners validated a total of 13 proposals to receive grants. After the selection of the projects, all youth organizations participated in a workshop that allowed to finalize the implementation strategy and a work plan to ensure the implementation of strategies in 4 months. Those involved in the projects acquired a common understanding of the success factors, including gender components, and the UN's expectations for effective fund management and presentation of project results and impacts.

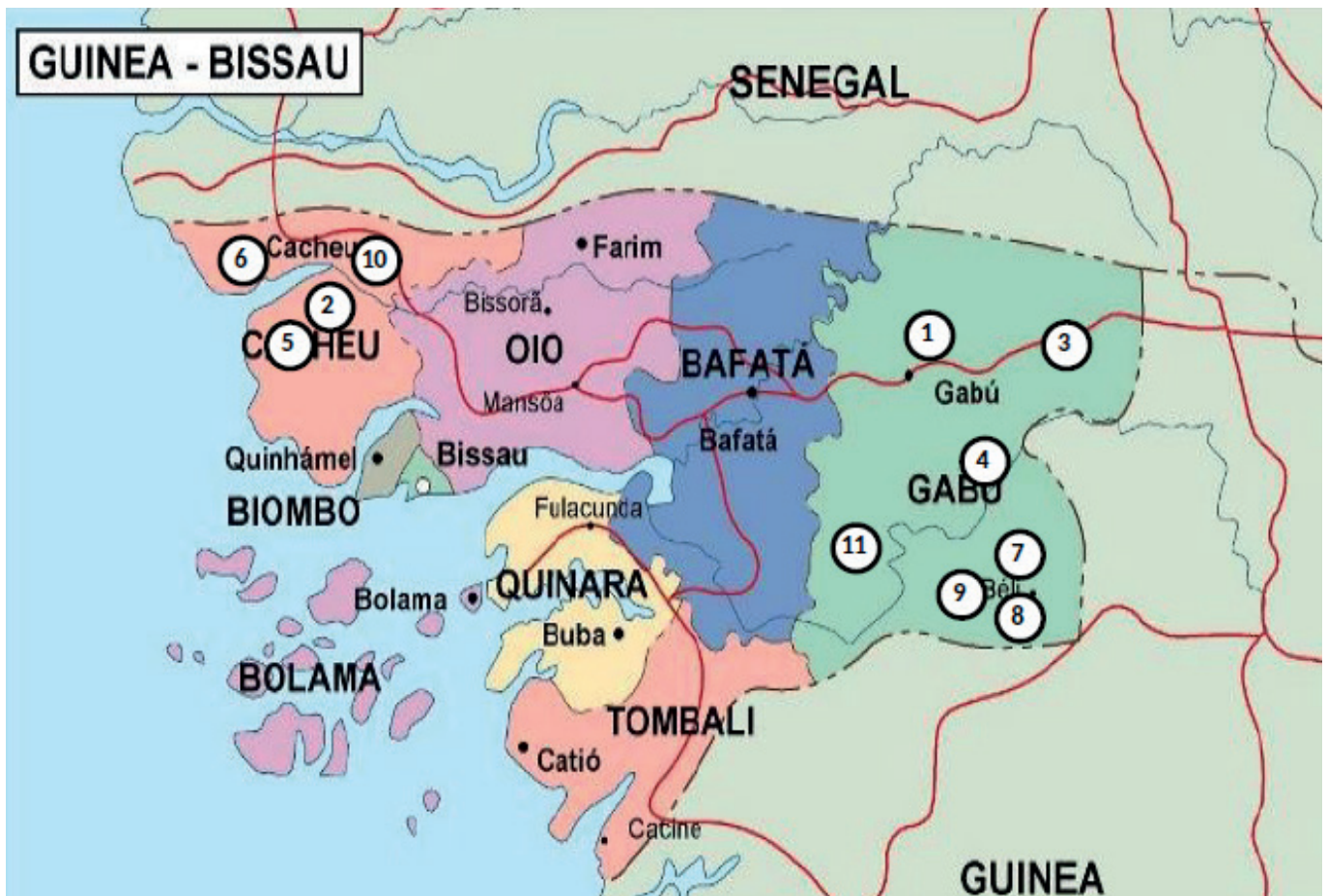
The launch event was held in May 2019 to present the project's initiatives to civil society, government, the international community and the general public. This report details the experience of the initiative implemented by UNDP through SWISSAID.



3. Methodology



4. Area of intervention & projects



- 1: Installation of the Community Structure for Conflict Resolution - (Fondinkê Na Faye).
- 2: EKUOSENODIA - (DDCC, AOFASS, REMUNE).
- 3: No Djunta Mon No Cuida De No Matu - (GJFGSRN).
- 4: A Citizenship Committed to the culture of peace and to the promotion and protection of natural resources - (FNJP).
- 5: Conflict Management for Land Ownership in Cacheu - (AJEFAC).
- 6: Peace in Cacheu - (RENAJ-Cacheu).
- 7: Environment i in health i food - (AJDAB).
- 8: Peace in Gabú - (RENAJ-Gabú).
- 9: Djoken Endam HE DJAM - (FONDIKÊ NA FAYE).
- 10: Community Forest Management - (CRJ-Cacheu).
- 11: Protection and conservation of the environment and reduction of environmental pollution - AKÊ-IFAYÉ- (AJAGB).

Trajectories for the Demining of Violence Association

Project: Installation of the Community Conflict Resolution structure
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: The Association Trajectories for the Demining of Violence worked in the Pitche sector, Gabú region, setting up four community conflict mediation committees, in order to solve problems of cattle theft, land ownership and water consumption.

Key Activities: Training, awareness and information rounds, including mediation and restorative justice Implementation of evaluation as a follow-up strategy and analysis of the work developed

Results: 30 activists trained in mediation, Restorative Justice and community conflict resolution and 4 Community Mediation committees created.

Impacts: Population more sensitized and predisposed to the peaceful and dialogued resolution of conflicts, active participation of young people, women, the elderly, representatives of local authorities and religion in the committees
Reduction of time and financial resources in conflict management.

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Next steps: Extension of Conflict Resolution Committees in other communities in the Pitche sector.

DDCC, AOFASS & REMUME

Project: EKUOSENODIA
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: This project of three organizations working collaboratively was a multidimensional intervention in a complex conflict between the villages of Djobel, Arame, Elias and Cassúh. The problem is linked to climate change in an area in the northern part of Guinea-Bissau where residents of the De Djobel tabanca live on an island that will soon be completely submerged with rising sea levels.

Key activities: Training of young people and women in conflict management and Restorative Justice, Training Workshop of local employees of the target tabancas. Door-to-door awareness of

community and traditional leaders, Meeting of community and traditional leaders by tabanca and General meeting of all community and traditional leaders.

Results: 20 women and 20 youth trained in conflict management and RJ.
Peace has been restored between the conflicted tabancas, Djobel, Arrame and Cassu.

Impacts: Interest of communities in dialogue for conflict resolution. (general meeting that brought together all the traditional leaders. Trust between the parties and minimization of fear of the people involved in the project. Free movement of people from tabancas. involved in the conflict.

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Next steps: Seek financial support for project continuity

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GJFGSRN – Group of Youth Graduated in Sustainable Management of Natural Resources

Project: No Djunta Mon No Cuida De No Matu.
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: The Group of Youth Graduated in Sustainable Management of Natural Resources (GJGSRN) project aimed at better forest management through the training of young people and residents of the communities of Sedjo Mandinga and surroundings, on the rational extraction of forest resources and the dissemination of a new technology of improved stoves as a way to mitigate the risks of climate change affecting the Imabe section.

Key Activities: Training of forest users in forest management, construction of improved stoves and resolution of environmental conflicts with RJ methods

Results: 53 young activists trained in forest management and the construction of improved stoves, More than 100 improved stoves built.

Impacts: Reduction of human pressure on forests and use of coal and firewood.
Decreased risk of burn accidents linked to kitchen stoves.
Cession of a land for Reforestation.

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Next steps: Creation of Conflict Resolution Committees to support the sustainability of the project.

Regional Forum of Youth and Population of the Gabú Region

Project: A citizen committed to the culture of peace and the promotion and protection of natural resources.

UN Receiving Agency: UNDP

Local Implementation Partner: SWISSAID

Funder: United Nations Peacebuilding Fund (PBF)

Summary: This project of the Regional Forum of Youth and Population of the Gabú region (FNJP-RG) promoted the strengthening and resilience of youth in migration issues and environmental problems in 10 communities of Pirada.

Key Activities: Training of youth activists on migration and environmental issues, Awareness campaigns in 10 communities on migration and environmental issues.

Results: 20 trained activists, 13 broadcast Radio Programs and 1 Environmental Defenders Club.

Impacts: Communities are more aware and engaged in resolution of community problems with methods of RJ.

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Next steps: To support the continuity of the project in order to provide the sustainability of the club of activists defenders of the environment.

Association of Young Students Sons and Friends of Cacheu (AJEFAC)

Project: Conflict Management for Land Ownership in Cacheu.

UN Receiving Agency: UNDP

Local Implementation Partner: SWISSAID

Funder: United Nations Peacebuilding Fund (PBF)

Summary: This project of the Association of Young Students and Friends of Cacheu (AJEFAC) aimed to reduce the phenomenon of conflicts over land ownership in 6 communities in the sector and region of Cacheu. The goal was achieved through the promotion of dialogue and peaceful solutions to conflicts related to land ownership.

Key Activities: Thematic lectures on land law and land conflicts with RJ methods. Training of activists for rural youth. Community Djumbais and Elaboration of radio programs.

Results: 35 rural youth became activists. Broadcast of 5 radio programs and adoption of a compromise pact for community social peace.

Impacts: Greater engagement of young people in the peaceful resolution of conflicts with RJ methods. Signing of a peace agreement between communities committed to bringing future land conflicts to traditional conflict resolution mechanisms.

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Next steps: Creation of conflict resolution committees to support the sustainability of the project.

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RENAJ-CACHEU

Project: Peace in Cacheu
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: The Regional Network of Youth Associations of Cacheu (RENAJ-Cacheu) contributed to the resolution of conflicts related to fish resources and cattle theft in the Cacheu region, including in the Pelundo section.

Key Activities: Elaboration of Terms of Reference and Creation of Community Conflict Prevention and Management Committee, Training of rural women, men and young people in the sustainable management of natural resources and conflict resolution, joint missions to monitor fishing activity in the Cacheu River and installation of a community coral.

Results: Re-establishment of relations between IBAP and fishing associations with the use of the Circular Process, 1 community cattle coral built in the village of Pelundo, Reactivating the supervision missions of illegal fishing in the Cacheu River and reduction of cattle theft.

Impacts: Re-establishment of relations between IBAP and fishing associations with the use of the Circular process, 1 community livestock coral built in the village of Pelundo, Reacting the supervision missions of illegal fishing in the Cacheu River, reduction of cattle theft.

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Next steps: Provide the sustainability of the project through the influence of activists in the communities.

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AJDAB-Association of Young Environmental Defenders of Boé

Project: Environment i in health and food.

UN Receiving Agency: UNDP

Local Implementation Partner: SWISSAID

Funder: United Nations Peacebuilding Fund (PBF)

Summary: The Project of the Association of Young Environmental Defenders of Boé (AJDAB) sought to strengthen the capacities and skills of members of some communities in the Boé sector in terms of conflict resolution and management of Natural Resources and counted on a forest re-population.

Key Activities: Technical training of selection and sowing of forest plants and planting of plants of two endangered species and lecture on the consequences of bauxite mining.

Results: 50 rural youths trained in the technique of sowing plants and 860 plants sown in the Wendu Wendu Tcham lagoon.

Impacts: Behavior change in rural youth and women in the management of environmental resources and slowed the degradation of land in the Boé sector.

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Next steps: Collaborate with IBAP as a way to support the sustainability of the project.

GABU

Project: Peace in Gabú.

UN Receiving Agency: UNDP

Local Implementation Partner: SWISSAID

Funder: United Nations Peacebuilding Fund (PBF)

Summary: The regional network of Youth Associations of Gabú (RENAJ-Gabú), sought to contribute to the mediation of conflicts over land ownership, existing between communities in the boé sector and improve the management of the community forest for a lasting peace in the Boé sector.

Key Activities: Training of community animators on the importance of preserving the environment and biodiversity, Community AWARENESS rounds on environmental preservation and peaceful conflict resolution Radio debates.

Results: 10 rural activists trained in environmental conflict management, 25 young people and 25 rural women trained in conflict management, Held community 'djumbai' on environmental preservation and the prevention and peaceful management of conflicts.

Impacts: Creation of 2 community conflict prevention and management committees; population more sensitized and engaged in environmental preservation; Participation of local authorities and traditional power in conflict resolution processes.

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Next steps: Continue to support community activists to provide the sustainability of the project.

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FONDINKE NA FAYÉ

Project: Djoken Endam HE DJAM
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: This Fonkinke Na Fayé project trained young people, women and members of several rural associations in the Boé sector, Gabú region, in the participatory management of conflicts related to the preservation of the environment and the sustainable management of natural resources aiming at the emergence of new leaders in the Boé Conservation Unit.

Key Activities: Training of rural men, women and young people in the Boé sector, production of radio programs and advertising spots related to environmental issues and the peaceful resolution of conflicts

Results: 10 community leaders, 14 young people, 5 forest agents, 4 members of local organizations and 5 opinion leaders trained in the management of environmental conflicts with RJ methods
2 community monitoring committees set up.

Impacts: More sensitized population with visible changes in behavior on issues of land owning conflicts. Engagement of local authorities and traditional power in conflict resolution processes.

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Next steps: Continue to support rural youth to provide greater sustainability to the project objectives.

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CRJ-CACHEU

Project: Community Forest Management.
UN Receiving Agency: UNDP
Local Implementation Partner: SWISSAID
Funder: United Nations Peacebuilding Fund (PBF)

Summary: The Cacheu Regional Youth Council (CRJ) promoted youth activism in the conservation of the Community Forest and the sustainable use of forest resources by residents of the communities of Pelundo, Segundo Bolanha, Djolmet and Canchungo.

Key Activities: Training of local animators on the importance of the environment. Community awareness rounds in the peaceful management of land conflicts cultural and popular mass Events with theater groups and local Tina groups.

Results: 45 activists trained in Forest Resource Management. 220 families in 4 communities sensitized on environmental preservation and peaceful management of land conflicts. 4 broadcast radio awareness programmes.

Impacts: Community more sensitive to issues of community forest preservation. Improved Community forest management. Assignment of a community area for reforestation in Pelundo.

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Next steps: Continue to support the identified communities in order to provide greater sustainability to the project.

Association of Young Farmers of Guinea-Bissau AJAGB

Project: Environmental protection and conservation and reduction of environmental pollution – AKÊ-IFAYÉ” (GABÚ-WASTE)
UN Receiving Agency: UNDP
Local Implementation Partner: Plan International
Funder: United Nations Peacebuilding Fund (PBF)

Summary: Faced with the situation of the poor management of waste and pollution in the city of Gabú, a project of the Association of Young Farmers in Guinea-Bissau (AJAGB) devised in order to change the attitudes of the population, and to contribute to the peace, awareness-raising and capacity-building in the management of the environment and the communities surrounding the center of the Gabú.

Key activities: Local administration, associations, activists of AJAGB, Djargas, Regional Police of Agriculture and other institutions, to collaborate in the management of garbage and protection of the environment; creation of local team to facilitate contacts with residents of the neighborhoods and local authority to determine the location of garbage tanks in the peripheral cities of Gabú; training of local activists in different themes to sensitize residents on Waste Management and peaceful management of conflicts.

Results: 40 garbage tanks distributed, 25 rural activists trained, local administrators committed to the objectives of the project.

Impacts: Population behavior change in garbage management and environmental conservation; cleaner communities; local authorities committed to better waste management.

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Next steps: With young rural activists maintain the agreement with local authorities in order to provide greater sustainability to the project.

5. Global impacts

Small grant projects for Peacebuilding, such as those implemented by UNDP through its local partner in the country SWISSAID, had a more comprehensive and transformative impact than those seen by the initiatives individually.

In addition to these excellent results and impacts, the methodology used by the program has achieved a number of significant achievements for developing countries that need to strengthen their governance systems and enable participatory democracy. Training and advice were provided in various topics such as project financing for social transformations, sharing of experiences, technical assistance, follow-up and contribution to visibility. This initiative has helped to achieve several important impacts such as:

Rural youth organizations have been legitimized by gaining recognition at local and national level for their good work in favor of environmental preservation or for a more equitable and just country.

The beneficiary groups helped spread a positive model of young people committed to the development of their country. Many groups have grown with more numbers of volunteers committed to working for peace.

Social Capital was created with 13 groups in two regions of the country experienced in the design of innovative initiatives, project execution, social communication and financial management.

Rural youth groups were empowered to engage with their local, regional and national authorities in

a respectful and productive way in favor of seeking constructive and consensual solutions to collective problems. In several cases, the government has changed its engagement strategies at the local level in favor of dialogue and less repressive acts.

Messages of peace in favor of conflict resolution through nonviolent channels reached directly to thousands of Guineans in both regions of the country and indirectly throughout the country.

Vulnerable groups with more active voice and increased self-confidence due to capacity building.

Most of the projects have reinforced through the activities the values and culture of Guinea-Bissau.

6. Good practices

Harmonised table of values for materials and services

A harmonized table of maximum values applied to services and materials used in Guinea-Bissau has been prepared to ensure the projects.

Communication

To improve communication, all projects and the Coordination Team formed a WhatsApp group. This allowed projects to inform in advance about the schedule of activities, as well as share photos and videos, providing great synergy between projects.

Standard budget model

All approved projects were submitted to a pre-induction, where NGOs reworked their proposals. The budget was divided by activity and work plan. This initiative provided extra training and better understanding of budget formulation.

Communication Guidelines

A communication guide has been prepared for all projects. The guide contained instructions on how to take better photos, table of should and should not do when taking photos of activities as well as guidelines for posts on social networks.

Social media

All projects link their posts to social media pages dedicated to the project.
facebook.com/NoBarsaPaz/ e facebook.com/mobilizarjovens.rurais.3

Capacity Building

One of the goals of organizations is, in the end, to become stronger in project management. A partner assessment was carried out to measure the financial, administrative and technical capacity of each partner, as well as constant training for the capacity building of organizations

7. Project team

Jose Levy
Deputy Resident Representative, UNDP, Guinea-Bissau

Lígia Baldé
Coordinator of the Project to Mobilize Young People and Teenagers from rural areas to act as leaders in the peace-building process.

Alfredo Handem
Former National President, SWISSAID, Guinea-Bissau

Special thanks to all organizations that signed up for the grant process in 2019 and to:

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Amadi Candé, Monitoring and Evaluation Programme Manager, Swissaid Guinea-Bissau
Constantino Correia, Director General of Forests and Fauna, Guinea-Bissau
Dedé de Andrade (Uncle Fodé), Traditional Representative of the Cacheu Region, Guinea-Bissau
Djogo Camará, Regional Forestry Delegate of Gabú (2019), Guinea-Bissau
Domingos Pereira, General Directorate of the Presidency of the Council of Ministers, Guinea-Bissau
Directors and other collaborators, Institute of Biodiversity and Protected Areas of Boé e Cacheu (IBAP), Guinea-Bissau
José Saico Embaló, Traditional Representative of Gabú, Guinea-Bissau
Mamadú Queta, National Youth Institute, Guinea-Bissau
Modibó Mané, Regional Administrative Secretary of Gabú, Guinea-Bissau
N'kitcha Na Obrna, Director General of Youth, Guinea-Bissau
N'Canha Natchinda, Grants Coordinator, Plan International, Guinea-Bissau
Youth Networks and associations at national and local level: National and Regional Council of Youth; National Youth and Population Forum; National Network of Youth Associations; and Fondikê Na Faye.
Saico Embaló, President of the Forum of the Platform of NGOs and grassroots Associations of the Region of Gabu, Guinea-Bissau
Salvação Adam, Accounting and Financial Assistant, SWISSAID
Silvia Russo, National Representative, SWISSAID, Guinea-Bissau
Tjark Egenhoff, Resident Representative, UNDP Guinea-Bissau

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Justice After the Dam Breaks

Ben Almassi

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I am grateful to be part of this gathering on restorative justice and the environment, and to learn about the work others are doing in Brazil, Italy, Guinea-Bissau, and elsewhere around the world.

I believe that the principles and practices that have been developed in restorative justice can be a great help in healing our damaged and degraded biotic relationships. I have also been intrigued to see how the aftermath of environmental harm presents some real challenges to how many of us think about restorative justice. Both things are true for climate change and intergenerational relational repair, and animal exploitation and interspecies repair, and even ecological restoration projects as active, embodied ways of acknowledging environmental harm and making amends. But here I want to focus specifically on environmental justice movements, what environmental justice scholars and activists can take from restorative justice and what the hard-won lessons of environmental justice can contribute to restorative justice.

I am joining you all from Chicago, in the United States, from a city and a nation that have long histories of environmental transformation, degradation, displacement, settler colonialism, and continuing environmental health inequities. Environmental injustice in Chicago is as old as the city itself, built on the traditional homelands of the Council of the Three Fires (Ojibwe, Odawa, and Potawatomi Nations) after the 1833 Treaty of Chicago, Black Hawk's defeat, and forced migration of the Potawatomi west of the Mississippi River.[1] There are no federally recognized tribes in Illinois today, though Chicago is now home to one of the largest urban American Indian communities in the United States.[2] Chicago has also been a destination for thousands of Black Americans during the Great Northward Migration from the American South and for immigrants from across the world. There is a through line connecting environmental injustices throughout our city's history, from Bubbly Creek and tenement housing a century ago to the Toxic Donut and public housing projects today; that line connects Jane Addams, Hazel Johnson, Barack Obama, Fawn Pocheil, and many others who have fought for environmental justice here.[3]

What the environmental justice movement has provoked even mainstream environmentalists to appreciate is that "the environment" is where we live, and different communities live in different environments.[4] As a question of justice, it matters who enjoys a disproportionate share of the benefits of resource consumption and ecological degradation and who gets a disproportionate share of

the environmental burdens that are produced. The scope of environmental justice has broadened to include food justice, indigenous justice, climate change, immigration, and many other issues.[5] Yet one thing that has stayed fairly consistent over the years, as environmental justice scholars have recognized, is that most of our energies still go to establishing the fact of environmental injustice, racism, and inequity, generally and in specific cases.[6] Less attention is paid to the aftermath of injustices, to what justice requires given that environmental inequities persist across our communities. There is certainly the notion that, ideally speaking, inequities should be evened out – environmental risks and rewards distributed more fairly across race, class, and other demographic differences.[7] But this alone is far from enough. At best this is environmental amelioration as relative improvement, doing better going forward than before), but not amelioration as rectification, restoring that which has been damaged or destroyed by past and persisting environmental injustices. Here then is one way in which restorative justice is directly relevant to environmental justice: what restorative justice practitioners know so well is that the aftermath of wrongdoing is itself a context of justice, and how we go about working to restore healthy relationality matters as much as the precipitating offense.

Consider a clear case of environmental injustice at Carver Terrance in Texarkana, Texas.[8] For many years the site was used for production and disposal of wood-treatment chemicals. In the early 1960s production ceased, commercial facilities were removed, the site was rezoned for residential use, and the first lots sold in 1967. At a time when most Texas neighborhoods still had racially restrictive covenants, owning a home in Carver Terrace was incredibly desirable for middle-class Black Americans. So when the Environmental Protection Agency declared Carver Terrance as a Superfund site in 1984, this revelation was an terrible shock. And when the EPA recommended a soil-washing technique to try to clean up the neighborhood without relocating residents, they mobilized around relocation instead. The Carver Terrace environmental justice campaign built momentum throughout the 1980s, until US President George HW Bush signed a 1990 appropriations bill allocating funds for Carver Terrace buyouts and relocations. Even for a relative success story like this one, pursuing environmental justice in terms of compensation rather than restorative justice presented problems. Residents were compensated for the value of their homes, which often was not enough to purchase another home elsewhere. The buyout process was slow and complicated, adding more years of toxic exposure. And when buyouts and relocations were complete, this close-knit neighborhood was now scattered across the state. “In the end,” Stella Capek writes, “there is no adequate compensation for the loss of a functioning community.”[9]

How can our response to the aftermath of an environmental injustice like Carver Terrance look different through a restorative-justice lens? Let’s think about that by considering some ways in which restorative justice and environmental justice are complementary.

Both attend to the non-ideal. Restorative justice is based in non-ideal circumstances. Ideally, we would never do each other wrong, but we do, and we need tools to respond constructively to wrong-doing. Environmental justice advocates also focus on non-ideal cases. They are more concerned with actually existing inequities than exemplars of ideal justice. For both restorative justice and environmental justice, the default object of analysis is not success – we begin with failure and work from there. Given injustice, how can offenders, victims, and their communities go forward? How can we repair relationships in the aftermath of injustice, not just ignore it and try to do better next time?

Both have grassroots origins followed by institutional recognition. Environmental justice in the US and throughout the world began as an alternative to mainstream environmentalism, not an extension of it.[10] Eventually the values and discourse of environmental justice saw uptake from mainstream groups and institutions like Sierra Club, Greenpeace, and the EPA, but the balance is precarious. Restorative justice likewise has a tricky relationship with institutional recognition. In some communities, restorative justice has long been essential to their justice systems;[11] in others restorative justice is a new arrival, an alternative or perhaps an addendum to the police, courts, and prison systems.[12] Institutional adoption of restorative justice practices seems like progress, but some practitioners and scholars worry about the limitations on restorative justice within the logic of criminal-justice systems.[13]

Both prioritize the subjectivities and experiences of those who have been wronged. A central feature of restorative justice is its openly and actively participatory nature.[14] Relational repair is a deliberate process and not merely a desired outcome; restorative justice builds our capacity to do justice.[15] Understanding justice in this way means taking seriously the need for offenders, victims, and other community members to actively participate in processes of amelioration.

Here then is one point of complementarity, that restorative justice reaffirms the importance of environmental justice beyond distributive justice. Environmental justice is often characterized in terms of distribution, that we should care not just about environment harms in aggregation but specifically about who takes on the risks and who gets the benefits made possible. Distributive questions are certainly important, but many activists and scholars have a pluralist conception of environmental justice.[16] The open, actively participatory nature of restorative justice helps reaffirm that environmental justice is not only about the distributions of environmental benefits and burdens, also about participation and recognition, about people speaking for themselves and having their voices heard.[17]

Another way restorative justice is complementary for environmental justice is that it reaffirms the importance of corrective justice beyond compensation. For perpetrators of environmental injustice, accepting responsibility for our actions and recognizing them as wrong might not be sufficient, but these minimal steps are necessary to even begin to set things right. Apologies and amends have an expressive aspect, communicating that environmental offenders and the larger community recognize victims' standing to call for accountability. What kinds of amends are needed is less about compensation than about what the victims of environmental injustice need to repair their damaged relationships and communities. Recall Carver Terrace, where the residents secured relocation and buyouts, despite the EPA's recommendation of soil-washing as adequate clean-up for the toxic soil. In terms of restorative justice, the fact that residents' priorities and perspectives won out is encouraging. But because each owner had to secure their buyouts and relocations individually, rather than as members of a damaged community, any sense of community repair was lost.

These are some ways in which restorative justice strengthens environmental justice. For its part environmental justice can counterbalance tendencies of romanticism and anthropocentrism in restorative justice. One criticism of restorative justice has been that it depends on a romantic view of the past conditions.[18] An environmental-justice framework helps answer this criticism, since

establishing and addressing environmental inequities necessarily calls for large-scale social transformations.

The question of anthropocentrism seems to see ambivalent answers in restorative justice and environmental justice: non-anthropocentric versions do exist, yet mainstream, institutionalized versions are often anthropocentric.[19] If normative priority is given to victims' subjectivities, and human subjectivity is easier to access, does this mean restorative justice will serve to reinforce anthropocentrism? If participatory justice is valuable for restorative justice and environmental justice, is this limited to human participation?

I suggest that taking participatory justice seriously for historically marginalized environmentally burdened human groups undercuts anthropocentrism rather than reinforces it. Not all humans are human-centered in their environmental philosophies. As Deborah McGregor, Kyle Whyte, and other indigenous scholars have argued, it is not enough just for historically marginalized groups to be allowed in: recognition justice concerns not only participating but also the values we may use in participating.[20] Taking restorative environmental justice seriously means taking recognition justice seriously. After all, mainstream delegitimization and misrepresentations of indigenous environmental philosophies are among the very historical environmental injustices in need of restorative justice. This I think is an especially exciting challenge – envisioning and putting into practice non-anthropocentric processes of restorative justice based on indigenous knowledge and values in the aftermath of environmental wrongdoings.

To conclude, let me go back to my title, which refers to two enormous environmental disasters and their aftermaths. The first is the July 1979 dam breach at the United Nuclear Corporation (UNC) uranium mill in Church Rock, New Mexico, the largest accidental release of radioactive material in US history.[21] Workers had previously reported cracks in the earthen dam wall of the tailings waste pond, reports which UNC failed to address or relay to state or federal agencies.[22] A 20-foot breach developed early one morning: within hours, millions of gallons of radioactive slurry poured across riverbeds and farmlands on the adjacent tribal lands of the Navajo Nation. Crops curdled, animals died, and thousands of people were left without potable water. The US Congress held oversight hearings on the Church Rock disaster that October, with testimony as to causes, culpabilities, and how to move forward. The UNC spokesman argued for reopening the mill as soon as possible, threatening layoffs that would hurt the local community financially. On behalf of the Navajo Nation, Frank Paul argued that it should stay closed “until such time as a safe and sane method of dealing with uranium tailings is devised, tested, and implemented.” Paul continued:

[W]e want the lands and water and people and livestock who have been contaminated by the UNC spill decontaminated. We want our land, our people, our livestock, and our way of life restored as near as possible as it was before UNC and Kerr-McGee and their friends came to our land.”[23]

No such restorative actions were undertaken. UNC was allowed to reopen its mill in November, which led to further groundwater contamination until the company closed the facility for good a year later.[24]

The second case is the November 2015 Samarco dam collapse near Mariana, Minas Gerais in southeastern Brazil.[25] As at Church Rock, the dam in question held back an enormous tailings pond, and

the dam's collapse sent a huge tidal wave of mining waste through the countryside. "The waste – a liquid mix of water, sands, and clay – killed 19 people, destroyed villages, left hundreds homeless, and killed fish and aquatic life as it flowed down the bigger River Doce to the sea more than 600km away." [26]

The aftermath of the Samarco disaster invites retributive and restitutive reactions: questions of punishment and compensation receive as much attention as the enormous ecological clean-up project itself. One lesson to take from environmental restorative justice is that as important as they may be, indemnities and compensation are no substitute for recognition and participation. Another related lesson is that the aftermaths of environmental disasters like this are themselves vulnerable to further harm. When decisions are made regarding the clean-up process, or about whether and how to resume Samarco operations, whose voices and values are prioritized, and who is excluded from the environmental governance process? I myself am encouraged by the growing recognition from Brazilian judges and legal scholars of the value of restorative justice in contexts of environmental wrongdoing, as this gathering and other recent initiatives show. [27] I am hopeful that the lessons of Church Rock and other such disasters need not be repeated in order to be learned.

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About the Author:

Ben Almassi is an Associate Professor of Philosophy at Governors State University, where he teaches courses in environmental ethics, interdisciplinary ethics, political theory, and practical reasoning; he also serves as an instructor in GSU's Graduate Certificate in Restorative Justice. His first book, *Reparative Environmental Justice in a World of Wounds*, was recently published by Lexington Books.

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Individuals, communities and the environment: Restorative Justice as an inclusive structure

Chiara Perini

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1. Foreword

Restorative justice (RJ) represents a way of managing “matters arising from the offence” ([1]), which is “inclusive” on two levels: both with regard to the different contents included in the notion of “en-vironment” as “value” to be protected; and with regard to the various stakeholders in this context. Therefore, RJ seems to be useful within an integrated strategy for responding to environmental offences: in particular, offences that constitute crimes, and therefore belong to criminal law (and, as such, to public law).

In approaching the subject, it is relevant to distinguish indeed two aspects. First, we should examine which environmental crimes to protect; in other words, what the “value” actually consists of, what we call the “environment” and what is offended in environmental crimes. Secondly, we should reflect on the subject (or subjects) to which this asset belongs; in other words, who is the victim in environmental crimes?

On both sides, it seems that RJ is in harmony with the legal evolution taking place in the European legal area (and in the Italian one, specifically).

2. “Conceptualising” the environment through RJ lenses

Traditionally, the legal context here considered conceives environmental crimes as protection tools of an intangible asset that is identified with the environment management activity by the public administration; or of material goods such as the different components making up the environment from an ecological point of view (air, water, soil, etc.).

The idea of the environment as a purely material asset has been confirmed by European Directive no. 2008/99/EC on the protection of the environment through criminal law. Through this instrument the European Union has promoted a particularly strict legal integration between Member States, binding national legislators with regard to environmental crimes. In the catalogue of criminal offences outlined by art. 3 Directive no. 2008/99/EC, the offence against the environment is once again conceived as an offence against soil, air, water, fauna and flora; or – in a mediated way - as a possible

offence against life and the physical safety of people. A similar approach has been implemented in Italian criminal law with law no. 68/2015, which reformulated environmental crimes, inserting them in the Criminal Code.

Indeed in the European legal system (as well as in the Italian one) some elements highlight the partiality of both notions: not only of the administrative conception of “environment”, but also of the one (most recent) characterised in a materialistic sense.

2.1. The European Landscape Convention (2000)

First, we should consider - in the European legal area – the European Landscape Convention (Council of Europe, 2000).

The Convention goes beyond a purely material conception of the landscape, promoting a “personalistic” vision, so to speak: landscape protection certainly requires to preserve the naturalistic complex substrate on which it rests, but derives its perimeter (also) from immaterial values, which express the dynamic link between landscape and population ([2]).

Indeed, according to the Convention, people’s perception of what their “landscape of life” is, so to speak, is central to defining a landscape from a legal point of view (Art. 1 lett. a); the “aspirations of the public with regard to the landscape” are relevant in defining the “landscape quality objective” (Art. 1 lett. c); the administrative procedure for identifying and evaluating landscapes takes into account “the particular values assigned to them by the interested parties and the population concerned” (Art. 6 lett. c).

The Convention promotes a “personalistic conception” of the landscape, in the sense that what is valued and protected is the landscape as an essential element of people’s life. In this sense, Art. 5 lett a) is very clear:

Each Party undertakes [...] to recognise landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity.

2.2. The notion of environment according to the Italian Constitution

The original text of the Italian Constitution, which entered into force in 1948, did not contain any explicit reference to the environment as a value to be protected.

The word “environment” was inserted into the Constitution only in 2001, when it has been explicitly established that the State has exclusive legislative power in the matter of “protection of the environment, ecosystem and cultural heritage” (Art. 117 c. 2 letter s) It. Const.). This reform confirmed in fact the conclusion previously reached by the Italian Constitutional Court, namely that the environment represents a value of constitutional rank, which the Italian legal system is required to protect.

The Italian Constitution promotes a “personalistic” notion of “environment”, since the need to pro-

tect the environment as a value is, first of all, affirmed in line with the need to protect the person (or more precisely, his/her health) and secondly, it is identified as an inviolable human right.

The joint reading of three rules within the Italian Constitution is the legal basis for the recognition of the environment as a constitutional value: on the one hand, Art. 9 par. 2 It. Const., which is expressly dedicated to landscape protection; on the other hand, Art. 32 It. Const., which recognises «health as a fundamental right of the individual and as a collective interest»; finally, Art. 2 It. Const., which «recognises and protects the inviolable rights of the person, both as an individual and in the social groups where human personality is expressed».

In other words: safeguarding a healthy environment is essential as a precondition for guaranteeing individuals' physical integrity and life; and the environment represents a fundamental value to be protected both for individuals and communities.

Recently the Italian Constitutional Court has gone further taking innovative decisions, which seem to come very close to the abovementioned meaning of the European Landscape Convention.

In decision n. 179/2019, concerning Law n. 31/2014 of the Region of Lombardy (Provisions for the reduction of soil consumption and for the requalification of degraded soil), the Italian Constitutional Court affirmed that:

«an evolutionary [legal] process [is underway] aimed at recognising a new relationship between the territorial community and its surrounding environment, within which the awareness of the soil as a non-renewable, essential eco-systemic natural resource has been consolidated for the purpose of environmental balance, capable of expressing a social function and of incorporating a plurality of collective interests and utilities, including those of an intergenerational nature».

2.2.1. Remarks about the “environment” as a “value” protected by law

Therefore, considering both abovementioned elements, when the law protects the environment, it also protects, on the one hand, the relationship that the individual develops with and within a given environment. Such a relationship includes not only a cost/benefit calculation (“environment” as a place to live, as a territory to be exploited, etc.), but also - so to speak - emotional issues (“emotions”). Thanks to this relationship, the individual defines his own identity.

On the other hand, the law protects the social relationships that develop in a given environment, that is, the relationships between individuals and within a community. Even at a social and community level, the relationship with the environment does not have a purely material meaning (i.e. linked to the mere utility of living and exploiting a certain environment). On the contrary, this bond is characterized by the emotions that a given environment arouses in those who live there as a “group of people”, developing a sense of belonging to that environment and playing a fundamental role in the identity of the group as a “community” ([3]).

At this point, consistency between environmental protection and RJ is very clear. Since the environment as a value safeguarded by law is equivalent to an “environment of life” and also includes

the individuals' and community's relationship with it, the response to an environmental offence should necessarily highlight the negative impact of the crime on this relationship.

As far as this task is concerned, restorative justice appears to be particularly suitable, as confirmed by RJ fundamental principles clearly set out in Council of Europe Recommendation n. 2018/8, Rules 13 e 14 ([4]). Moreover, RJ's lack of formality makes RJ a proper tool in addressing environmental offences, as stated in RJ definition both by Directive 2012/29/EU (Art. 2, par. 1, lett. d) and by Council of Europe Recommendation n. 2018/8 (Rule 3) ([5]).

2.3. The Green Criminology

In addition to the two mentioned legal elements, a third one supports RJ as a tool for better understanding the "environment" as a value to be protected and, likewise, an environmental offence as something to be restored.

This is a pre-normative criminological element, involved in the understanding of the crime dynamics that lead to the offence: the so-called Green Criminology. As is known, Green Criminology applies the criminological methodology to environmental offences, investigating the genesis of environmental crimes, as well as the "parties" to such crimes (offenders and victims) ([6]).

If you look through restorative justice lenses, it is noteworthy that, according to Green Criminology, the criminological understanding of environmental crimes needs to consider the point of view of people living in places harmed by the offence. In other words, the environmental offence cannot be fully understood, if we do not consider the point of view of individuals and communities, who recognise the harmed environment as their "environment of life".

For these parties, environmental crime is, first, a negative factor that modifies one's life. Green Criminology describes environmental crime offences as a «social experience of environmental (physical and psychological) suffering» ([7]), adopting the point of view of people involved. Considering social psychology, these are complex experiences, since they are linked, on the one hand, to collective memory processes, which recall one's own "environment of life" in idyllic terms, before the arrival of the "evil" represented by contamination, and transmit the "social and affective meaning of the place" for the population. On the other hand, these are experiences, from which a strong sense of "socio-environmental injustice" ([8]) experienced by the people emerges: people consider the offence to their "environment of life" as a violation of the fundamental values at the basis of their existence as a "community".

While the mentioned elements favour individuals and community awareness with respect to the experience of victimisation, other elements hinder such an awareness.

On one side, there is the risk perception factor: as clearly highlighted by Ulrich Beck in defining the Risk Society in the '80s of the last century ([9]), environmental crime is very often linked to risks perceivable only by scientists (however often in disagreement with each other). On the contrary, risks are not normally perceived by the population, nor by the "decision makers" (i.e. by politicians, as such in the position to take the decision to run a risk or not).

On the other side, we have the psychological mechanisms of risk neutralisation and denial at an individual and social level, caused by various factors, such as: the habit of living in a contaminated environment; the recurring dilemma between environmental and labour protection (since polluting activities create jobs); the scientific uncertainty often surrounding environmental pollution; pollution time horizon, which often goes beyond the time of individual life; mass-media communication about pollution, which is sometimes ambiguous and manipulative (for example, “green washing operations”; “official denials” of environmental offences by institutional subjects; etc.) ([10]).

2.3.1. Environmental crimes as “unaware victim crimes”

In conclusion, also thanks to Green Criminology, the traditional definition of environmental crimes as “victimless crimes” appears to be criticized.

In these crimes, the victim is there, but finds it hard to be aware of his/her status. Rather than “victimless crimes”, environmental crimes are “unaware victim crimes”.

An integrated strategy for responding to environmental offences could involve – as already stated by Directive 2012/29/EU – sharing information about available RJ services, as well as developing RJ tools tailored for community victims. This could facilitate environmental crime victims to become aware of being such.

2.4. The offence from the victim’s perspective according to Directive 2012/29/EU.

Lastly, there is a final argument which counts in favour of RJ as part of an integrated response strategy to environmental crimes, because of the RJ’s ability to focus on the environment as a value to be protected and on the environmental offence as something to be restored.

Starting from Directive n. 2012/29/EU we can note that the victim’s “rights” stem from the “needs” expressed by the victim itself, but the victim’s “needs” arise from the “emotions” experienced by the victim as a result of the offence and of entering the criminal trial ([11]).

The basis of victim’s rights in Directive 2012/29/EU

Let us look now at the mirror image, namely at the offence, which – in a simplified perspective – corresponds to the violation of a right.

If we place the offence at the point of arrival of the arrow, RJ “lenses” allow us to understand that a crucial part of the crime’s negative value clashes with the individual’s or community’s “needs” that are normally satisfied thanks to the harmed asset. Moreover, it clashes with the “emotions” which positively characterise the relationship between individual(s)/community and that asset.

The mirror image: the offence from the victim’s perspective

This makes, therefore, RJ particularly useful for understanding what is really at stake in crimes against the environment (i.e. what the “offence” is really made of). Environmental crime does not

only involve material and naturalistic aspects, which are purely objective and unrelated to a bond with people; it also involves the environment's ability to respond to the "needs" of those who live there. There are various "needs" linked to environment: the need for sustenance or, even, to create wealth starting from the environment's exploitation, but also the need to find one's "environment of life" in a given ecological context.

This last component is consistent with the European Landscape Convention's attention for the in-habitants' "perception of the landscape", as well as with the environment "personalistic conception" outlined by the Italian Constitution and with Green Criminology. However, in the response to crime, this component can be taken into account, only enriching the traditional criminal justice system with inlays of restorative justice.

3. A look at environmental crime victims through RJ lenses

The RJ perspective in answering the issues generated by the crime is adequate also on another level, that is, with regard to the involvement of various "stakeholders" in the case of environmental crimes. In this respect, we may register a legal evolution, which aims at promoting a broad and active participation of those interested in environmental protection, both as individuals and as a community.

Preliminarily, this identification process requires answering a difficult question: who is the victim in crimes against the environment? On this matter there are two relevant visions, which historically came one after another, but now coexist: the traditional vision developed by environmental criminal law; and the more recent vision developed by the theory of Commons.

3.1. The vision developed by criminal law

Traditionally, criminal law (specifically Italian criminal law) considers the environment as a «collective legal asset» («bene giuridico collettivo», in Italian) or a «widespread legal asset» («bene giuridico diffuso») ([12]). Such an expression would underline that each individual within the community is interested in environmental protection; and no one within the community can act against the environment.

The reference to the "widespread" character of the environment as a value, however, ends up weakening not only the belonging bond of the environmental asset to an identified or identifiable subject, but also the identity bond between "environment" and "individual" and between "environment" and "community". On the contrary, the emphasis is on the fact that just an indistinct group of subjects, who as such cannot dispose of the asset itself, takes account of environmental protection. This perspective has made it very difficult - at least in Italy - for those who believed themselves to be victims of an environmental crime ([13]) to participate in criminal trials. However, jurisprudence has taken charge of this interest allowing environmental associations to bring a civil action in criminal proceedings.

3.2. The vision developed by the theory of «Commons».

As well known, according to the perspective conceived by Hardin in the famous essay “The Tragedy of the Commons” (1968) ([14]), the environment is a paradigmatic “Common”. Faced with the demo-

graphic problem due to the trend growth of world population, Hardin considers the fate of natural resources tragic, as they are exhaustible goods available to all. Binding legislation is needed to promote “temperance” and sobriety in the exploitation of natural resources: such legislation is based on inter-generation responsibility, that is, of the current generation towards future generations.

However, if we consider the environment as a Common, on one side, we underline that environment belongs to everyone in the broadest sense; and, on the other side, we accept a purely materialistic vision of the environment as a consumable resource.

3.3. The vision through RJ lenses

RJ lenses may help us in completing the vision: bringing into the institutional response to crime the life and identity relationship developed by individuals/communities with and within a given ecological context; and consequently finding out which individuals and which communities have suffered “damage” (according to RJ definition) as a result of environmental crime.

In this way, the generic reference to a group of unidentified individuals as crime victims could be overcome. And at the same time, all relevant stakeholders could be involved in the dialogue about environmental offences and reparation.

This is consistent with the broad definition of “victim” stated by Rule 3 Council of Europe Recommendation n. 2018/8 (“those harmed by crime”); and with the principle of repairing harm affirmed by Rule 13 of the same Recommendation, according to which the significant damage caused by the crime is the one against “individuals, relationships and wider society”.

In environmental crime, the community is not a third party beyond offender and victim. It is a victim itself, as explained by Green Criminology talking about «social experience of environmental (...) suffering» ([15]).

Considering this criminological characteristic, some potential benefits of RJ programs ([16]) appear to be particularly significant. These expected results (once RJ is included in an integrated crime response strategy) bring with them a natural victim empowerment: the latter outcome is to be promoted powerfully in consideration of the reported nature of “unaware victim crime”, which is typical of environmental crime. Moreover, this result is in accordance with the goal of “empowering victims of crime” recently established by the EU Strategy on victims’ rights (2020-2025) ([17]).

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Notes

1. Cfr. Council of Europe, Recommendation n. 2018/8, Rule n. 3.
2. See par. 42 Explanatory Report to the European Landscape Convention: «In seeking the right balance between protection, management and planning of a landscape, it should be remembered that the aim is not the preservation or “freezing” of the landscape at a particular point in its lengthy evolution. Landscapes have always changed and will continue to change, both through natural pro-cesses and through human action».
3. See M. Aime, *Comunità*, Bologna, il Mulino, 2019, p. 18.
4. Among others, “the principle of stakeholder participation”, “the principle of repairing harm”, the principle of “deliberative, respectful dialogue”, of “collective, consensus-based agreement”, of “a focus on reparation, reintegration and achieving mutual understanding”.
5. These are principles and elements confirmed, most recently, by the second edition of the Handbook on Restorative Justice Programmes, United Nations Office on Drugs and Crime – UNODC, 2020, par. 1.1.
6. See L. Natali, *Green criminology. Prospettive emergenti sui crimini ambientali*, Torino, Giappichelli, p. 9.
7. See L. Natali, *Green criminology*, cit., p. 12.
8. See L. Natali, *Green criminology*, cit., p. 11.
9. See U. Beck, *Risikogesellschaft. Auf dem Weg in eine andere Moderne: Auf dem Weg in eine an-de-re Moderne*, Frankfurt a. M., Suhrkamp Verlag, 1986.
10. See L. Natali, *Green criminology*, cit., pp. 154-186.
11. See G. Mannozi, *Sapienza del diritto e saggezza della giustizia: l’attenzione alle emozioni nella normativa sovranazionale in materia di restorative justice*, in *disCrimen*, 2020, April 23, p. 15.
12. See G. Marinucci – E. Dolcini, *Corso di diritto penale* (3rd ed.), Milano, Giuffrè, 2001, p. 540 f.
13. Not because affected by civil, pecuniary or non-pecuniary, damage deriving from the crime (pur-suant to Art. 185 Italian Criminal Code), but because they have a particular interest in the pro-tection of the environmental asset (being therefore a “victim” in a substantial sense).
14. See G. Hardin, *The Tragedy of the Commons*, in *Science*, vol. 162, 1968, December 13, pp. 1243-1248.
15. See L. Natali, *Green criminology*, cit., p. 12.
16. For instance, providing “victims and the community with answers, their right to know and their right to the truth”; facilitating “victims’ recovery and alleviating emotional and sometimes traumatic ef-fects of crime on victims”; improving “public participation and public confidence in the criminal justice system in the communities where they exist”; increasing “community engagement”, accord-ing to the second edition of the Handbook on Restorative Justice Programs - UNODC, 2020, par. 1.3.
17. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels, 24 June 2020.

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Agricultural Production and Sustainability : Paths and experiences

This document was prepared from the presentation made during the 1st. International Seminar on Restorative Justice and the Environment

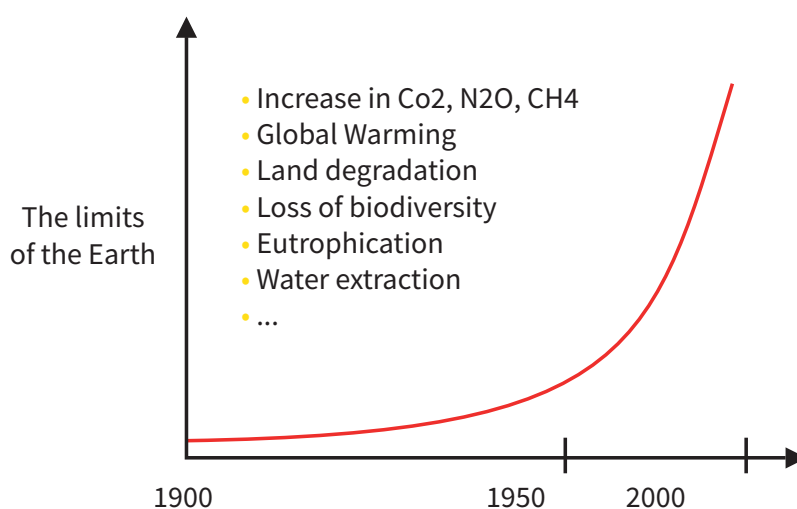
Eduardo Delgado Assad

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Background

In September 2009 in Nature magazine, Johan Rockström and colleagues proposed the ten “planetary limits”, to define the safe levels of human activity. These limits include critical emissions of greenhouse gases; loss of biodiversity; worldwide exchange of natural vegetation for planting; and other major impacts on terrestrial ecosystems. Humanity has already gone through several of these milestones and is going to extrapolate most of the rest. And the growing demand for food contributes even more to these transgressions. Figure 1 depicts the growth of these limits described by Rockstron and shows the dangerous conflicts that humanity will face, if not facing already, to reduce the impacts caused by environmental disorders.

**In the last 60 years we have observed:
dramatic degradation of the natural capital of the planet**



Revista Nature “A safe operating space for humanity”
por Rockström et al.. 24 Setembro 2009

Figure 1. The degradation of the planet's natural capital since the year 1900. Rockstron (2009)

In this context it is very timely to discuss environmental sustainability and how it affects the human being, or is part of our daily lives.

The very active discussion all over the media on sustainability at various levels of activity, requires some definitions. The term sustainability is subject to several interpretations and to establish the boundary conditions of what will be explained in this text, what is meant by sustainability will be described.

The concept of sustainability, deriving from the term sustainable development, has its roots in 1972, at the 1st World Conference on Man and the Environment, in Stockholm when, for the first time, attention was drawn to the negative impacts that the development process was (and continues) causing on the environment and the social fabric. At the time decision-makers from all over the world were warned about the need to consider the other dimensions of development, and not just the economic dimension. Subsequently, in 1987, the Brundtland Report of the UN World Commission on Environment and Development proposed the Sustainable Development Concept, which is widely disseminated in Rio-92 and is the most accepted definition to date. According to the Brundtland Report, sustainable development is one that aims to meet the needs of the present without compromising the ability of future generations to meet their own needs.

This concept arose, therefore, from the recognition that the development pattern that has as its central objective economic progress, imposes impossible situations from the biophysical point of view when designed for the future and also causes the paradox of increasing macroeconomic rates, with deterioration of socio-environmental indexes.

Since 1987, the term sustainability has gained numerous citations in the literature and over the years it has gained an overly broad meaning, justifying any activity as long as it holds resources for future generations. As a consequence, any development model can be assumed to be sustainable and the impacts increase, such as the increase in temperature on the planet, the extinction of species, the degradation of soil and water, among others, as well as the increase in the deterioration of the social fabric and the worrying indexes of hunger and obesity in various regions. These impacts lead to changes in decision-making processes, implementation and evaluation of public policies, in search of a new form of development.

Agriculture has existed for more than ten thousand years, and is based to this day, on a tripod formed by land (and its relations with its environment), people and technology, which varies throughout history and the financial resources available. Sustainable agricultural management alternatives, which allow to minimize environmental damage, often run into distinct economic interests. Moreover, even when an improvement in the relationship between agriculture and the environment is seen, through technologies considered less aggressive, this improvement is not always associated with social sustainability. That is, sustainability is being imposed much more by the contribution of the environmental issue than by the social justice side.

Sustainability in production systems, and especially in agriculture, cannot be assessed by considering only the economic dimension. Brazilian agriculture has, in fact, in recent decades, played an important role in the economy contributing about 25% of the Brazilian GDP and to a good performance of world agriculture. The sustainability of agriculture has been advocated and sought after

by different productive sectors and by different social sectors. But nowadays, it is still utopian and requires public policies and collective and individual actions that consider the aspects of sustainability: environmental, economic, social, territorial and technological. The major areas that underpin the sustainability of agriculture, despite being eroded by the debate between modernity in the agriculture and social development, and they are namely three: the reduction of the degradation of agro-ecosystems, with a strong connection to the process of modernising changes in the last 50 years; and best practices for the preservation of our natural resources; and, at the request of the consumer, the supply of healthy food. On these fronts, several other challenges are posed for agricultural sustainability, such as obtaining adequate income for producers to ensure quality of life, optimizing production with minimal external inputs and meeting the social needs of families and rural communities.

Concepts:

Economic Sustainability, which guarantees profitability for the farmer to incorporate more efficient technologies in production, through harmonious and balanced conditions between the links of agribusiness production chains, with benefits to: (i) increase production and ensure the supply to Brazilian families and expand exports and the outcome of the trade balance;

(ii) incorporate low-income producers into markets and raise well-being for their families; and, (iii) internalize national development and more effectively occupy the national territory (national security), with the permanence of producers in the field and in their supporting cities.

Social Sustainability. It is estimated that 27 million people are connected to agribusiness production chains in Brazil. For the conservation of these jobs, direct and indirect, it is essential to carry out massive training and qualification of the workforce, considering the changes in production processes (such as mechanization and automation), the precarious literacy in rural areas and the imperative need to reduce the costs of production, processing and distribution. Expanding opportunities in the field and in its supporting cities is critical to reducing migrations from the field to metropolitan regions, which always bring negative impacts on food security, public services and the urban environment.

Environmental sustainability means the adoption of good agricultural and agro-industrial production practices, in order to preserve natural resources (soil, water, biodiversity, national forests) for the next generations. As established by the new Forest Code, out of the 850 million hectares of the national territory, 320 million hectares are part of the agricultural production process. The adaptation of agricultural production to Brazilian environmental laws will have an ever greater impact on the discussions of the international market, which is increasingly demanding on non-tariff trade barriers.

Territorial sustainability, which guarantees the effective occupation of the national territory (national security), with the permanence of producers in the field and in their supporting cities, internalizing national development. In addition, and considering that agriculture is potentially an activity able to integrate with other industrial and commercial activities, the pluriactivity and multi-functionality of rural areas confer greater sustainability to agriculture.

Technological Sustainability. Considering that agriculture is heavily dependent on technologies to

increase production and productivity, and that many of the technologies, especially those that are capital intensive, cause environmental impacts, it is necessary to develop new productive processes where the technologies are less environmentally aggressive, maintaining an adequate production/productivity ratio.

Current Situation

There are several economic and technological vectors that put pressure on Brazilian agricultural production for sustainability. The first of these is the path of the low-carbon economy.

Low carbon economy is the expression of order for the economy of the 21st century and means innovative production processes and technological solutions that result in less impact on the planet's climate, with emphasis on the search for efficiency and energy alternatives, reduction of greenhouse gas emissions and management in sustainability. Brazil, due to its economic importance, its leadership in the generation of energy from renewable sources and for being the holder of mega biodiversity, can and should have a leading role in building a low-carbon economy. Of course, the path of the low-carbon economy leads inexorably to the green market. A market with low intensity of greenhouse gas emissions where the search for green bonds is intensifying more and more in the country, that is, it searches for the so-called green investments with sustainability.

In recent years, the country is also experiencing great pressure linked to non-tariff barriers, strongly associated with clean and low-carbon products. It would be naivety from the part of Brazilian agribusiness to imagine that being the second largest food exporter in the world would not suffer non-“official” market pressures, but connected to the demands of the populations that consume our products. It is clear that we must take off our products of deforestation, excessive use of agricultural defensives, non-compliance with labor legislation, disregard for environmental legislation, etc. Some of our products are under a lot of pressure and have been adapting. This is the case of beef, and some commodities. It is a slow process that requires a change in posture and adaptation to the ever demanding consumer market. Agribusiness is adapting and reacting quickly. This is a typically Brazilian characteristic. Rapid and permanent changes, despite some political setbacks that we are living in the present moment. These reactions are showing how it is possible to intensify productivity, without increasing deforestation, and seek solutions to pay for environmental services, which are consequences of various sustainable technologies, which preserve forest, permanent protection areas, less aggressive production models and which reduce greenhouse gas emissions. But an important characteristic of agribusiness is the immense inequality that exists in the sector. This inequality in no way contributed to the sustainability of the agricultural business. For example, 89% of Brazilian rural establishments are in the condition of low income or extreme poverty. They account for 15% of the gross value of production. On the other hand, 10.6% of the other establishments are in the condition of medium or high income. They represent 85.1% of the entire gross value of production. In the first case, the products offered to the Brazilian population are manioc, beans, pork, milk, poultry, corn, coffee, wheat and beef, that is, the basis of Brazilian food. In the second case, these are basically commodities, such as the soybean complex, corn, cotton, sugar cane and beef. Seeking a greater balance between income and food supply that guarantees food security for the population, it is necessary to reduce this immense inequality and strengthen, with government incentives, the family and low-income farming. It would be the establishment of public policies that

reduce the dichotomy between modernization and agricultural development. Table 1 shows the various indexes that characterize inequality in agribusiness.

Table 1. Income stratification by establishment and BVP in Brazil in 2006 and 2017.

Income group	Income extract (SME) ^{1,2}	2006				2017			
		Est.		VBP ³		Est.		VBP	
		(mil)	%	(R\$ billion)	%	(mil)	%	(R\$ billion)	%
Extreme poverty	(0, 2]	3.155,4	68,0	10,5	3,4	3.288,0	69,1	18,9	4,0
Low income	(2, 10]	991,6	21,4	31,0	10,1	1.031,6	21,7	52,3	11,0
Average income	(10, 200]	464,6	10,0	107,8	35,2	409,1	8,6	153,7	32,2
High income	>200	27,2	0,6	157,0	51,2	27,5	0,6	252,2	52,9
Brazil	Total	4.638,9	100	306,3	100	4.756,2	100	477,2	100

¹SME (equivalence minimum wage) = monthly PPV/monthly minimum wage. ²The minimum wage at nominal prices in 2006 was R\$ 300, while in 2017 was R\$ 937. ³Index for correction by the IPCA for December 2006 and September 2017.

Source: IBGE (2012, 2020)

Vieira-Filho, J. E. R. "100 years of agricultural census in Brazil" *Política Agrícola Magazine*, year XXIX, n.1, Jan/Feb/Mar 2020, p 133-135.

In Brazil, there are extremely favorable points that show sustainability in agricultural production, but there are other points that compromise the sustainability narrative.

Reduce deforestation and maintain or increase agricultural production

Deforestation did not start today. Historical reports indicate that already in the year 1600, the Atlantic Forest was deforested in an extension of 100 km inland. The cause of this was the search for Brazilian wood, which was exported to the Indies. Then with the various economic cycles, deforestation increased in the country ensuring the sugar cane cycle, coffee cycle, with less impact the rubber cycle, and finally in the 70s, with policies of interiorization of the country, the conquest of the cerrado emerged.

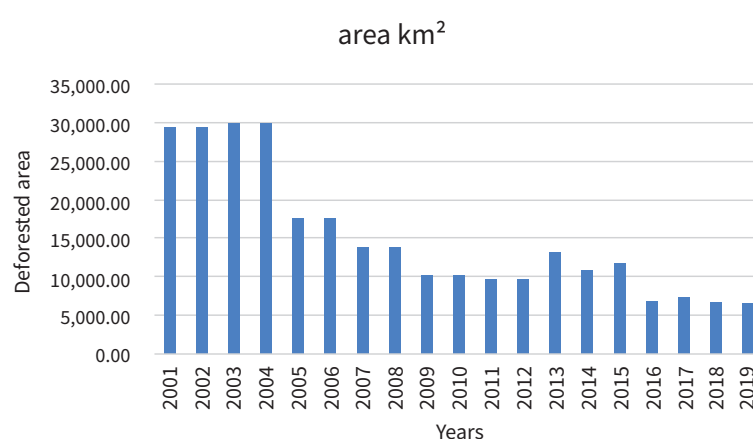


Figure 2. Opening of the Brazilian Cerrado between the years 2000 to 2019.

The expansion of the agricultural frontier into the Brazilian cerrado allowed the production of more than 236 million tons of grain to be achieved, making Brazil the second largest food exporter in the world. From 1992, with ECO-92, more attention was directed to environmental sustainability, and the expansionist proposal, or growth of area for agriculture is questioned. Even in this aspect, the growth of Brazilian agriculture has favorable characteristics. Among the most illustrative indicators

of the recent trajectory of Brazilian agriculture are production numbers and productivity indexes. Between 1975 and 2017, grain production, which was 38 million tons, grew more than sixfold, reaching 236 million, while the planted area only doubled. The greatest growth in production compared to the area can be seen through the evolution of the average yield (kilograms per hectare) of rice, beans, corn, soybeans and wheat crops, in the period from 1975 to 2017. We highlight the yield increases of 346% for wheat, 317% for rice and 270% for corn. Soybeans and beans practically doubled the yield during this period.

On the other hand, the pressure against deforestation has and continues to grow, mainly due to greenhouse gas emissions, which are especially responsible for global warming. In the most recent case the focus is on the Amazon. However, with the levels of production and productivity achieved today, the conversion of degraded or unproductive land makes it clear that there is no need to clear the Amazon to increase agricultural production. The most widespread number in the sector is that with the productivity levels that Brazil has today, it is possible to double agricultural production with sustainable technological bases and conversion of land for agricultural and livestock production. The deforestation rate in the Amazon continues to increase, and intensifies the non-tariff barriers that hinder the export of Brazilian products. We need to reverse that. Is it possible?

The adoption of tropical agricultural technology clearly shows that it is possible. Since 2011, with the creation of the ABC program, low carbon agriculture, it is possible to change the productive model, with production integration, which in addition to reducing greenhouse gas emissions, increases production and intensifies land use.

The ABC Plan includes a set of technologies – direct planting system (SPD), recovery of degraded pastures (RPD), crop-livestock-forest integration (iLPF), biological nitrogen fixation (FBN), planted forests (FP), treatment of animal waste (TDA) – allows for investment in productive systems, to enhance productivity, reduce emissions and promote adaptation to the challenges of climate change.

The recovery of degraded pastures (RPD), allows to improve the support capacity of pastures, increase productivity and, with proper management, promote production over several years. Technically well-managed pastures allow for greater productivity per hectare, in addition to fattening and slaughtering animals in less time, emitting fewer gases by enteric fermentation. The iLPF, in turn, improves soil fertility due to the integration between pastures-trees-grains. Reducing the amount of degraded areas in agriculture and livestock and intensifying production following good agricultural practices are opportunities to promote Brazilian agriculture. The potential to foster the adoption at scale of good agricultural practices and incorporate new technologies that allow more to be produced, optimize land use, reduce emissions, adapt the productive systems and communicate these indicators are central to the sustainable development of Brazilian agriculture. In addition, the conservation and restoration of native vegetation in the context of the Forest Code.

Water safety

The Forest Code makes it clear that permanent protection areas, or water resources, must be recovered. These areas are largely responsible for maintaining water supply in urban centers and protecting rivers. In a survey carried out by the Ministry of the Environment in 2016, together with Embrapa

and the Brazilian foundation for sustainable development, it was concluded that the environmental liability of water applications is 12 million hectares, as illustrated in Figure 3, for the Cerrado and Atlantic Forest biomes. More than 4000 municipalities were analyzed. The guarantee of water use will depend on the regeneration of these areas. The existing funds are linked to the ABC program. Recently ANA (Brazilian Water Agency) published a paper on water consumption in Brazil. At least 50% of Brazilian municipalities have water treatment problems. This discussion is old and has been stretching for the last 20 years. But the most important thing is that despite the slow solutions, the concern increases, and here we have several examples: the Cantareira crisis that resulted in a serious problem of water supply in the city, in the state of São Paulo several medium-sized cities have already adopted the cister system for water use. In Rio Grande do Sul, in 2020, a major drought (which already happened in previous years) also caused water shortages. Diagnoses of regions that may have conflict of water use for irrigation in Brazil, have been made and continue to be made. In the case of Cantareira, it is necessary to replant more than thirty-six thousand hectares of permanent protection areas, to ensure a minimum water supply, erosion reduction, better infiltration, etc

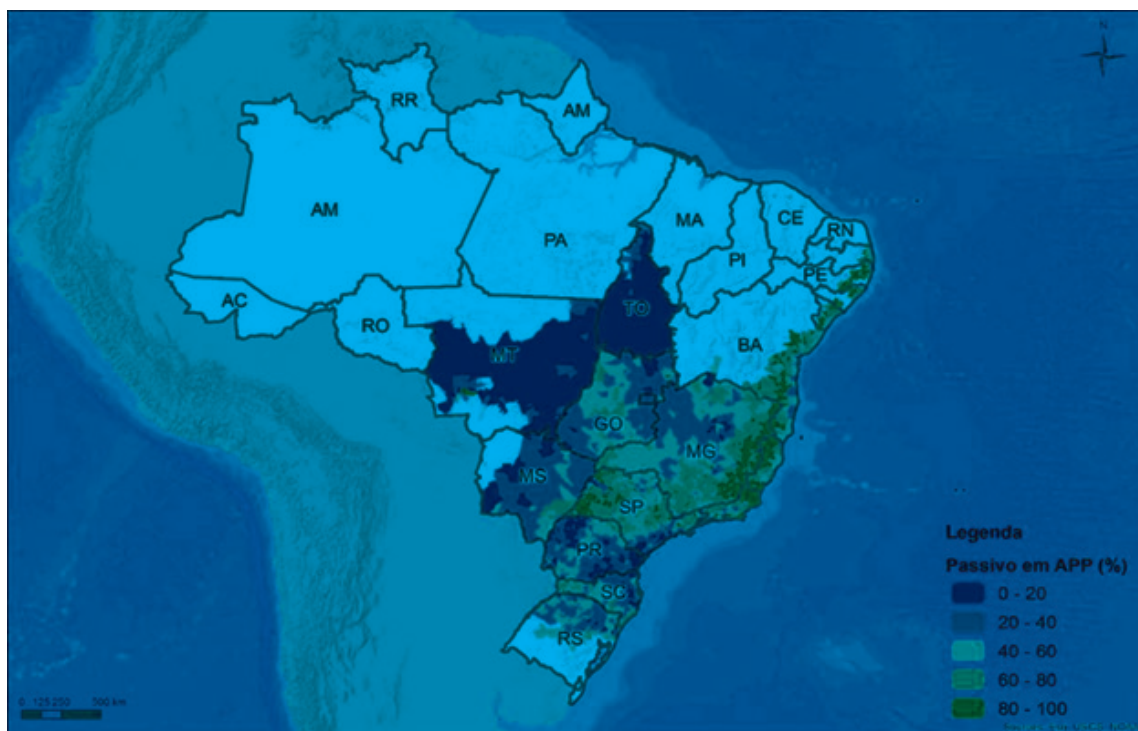


Figure 3. Environmental liability of water applications in the Cerrado and Atlantic Forest. Source: FBDS 2016

Future trends point to increased temperature, reduced rainfall in much of Brazil, except in the Paraná River Basin, increased Evapotranspiration and consequently increased water deficiency. INPE studies indicate that by the year 2050, the probability of temperature rising by 2 degrees centigrade is 100%. So in addition to having to adapt to climate change, it will be necessary to prevent water shortages. Studies of the ratio of rain, flow and soils are urgent and should have greater capillarity. In the scale of the Basin it is not enough. It is necessary to reach the scale of the micro basin. Therefore reforestation of permanent protection areas with water, detailed studies of rain/flow/soils, establishment of future climate scenarios, are fundamental to avoid a collapse in water use. In addition to being aware of the new resolution of irrigation financing with CO2 emission reduction practice, which will be included in ABC agriculture. The best example we have comes from the state

of Paraná, with the Cultivating Good Water project. It reaches a million people and more than forty municipalities, bringing water for the population and for agricultural production.

If we can reduce deforestation and maintain the water supply in Brazil by regenerating our forests, adopt integrated agricultural production practices, reduce inequality in the agricultural sector, we will be moving quickly towards more sustainable agricultural production. Laws, programs and resources that Brazil has.

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Restorative justice methods in conflicts related to environmental crimes

Grazia Mannozi e Viola Molteni

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1. Towards a non-hegemonic but relational and environmental humanism

If we look back at the history of the legal thought in Western Societies, from the end of the Second World War on, two major topics have emerged: the protection of human rights and the origin of restorative justice.

The recognition of human rights finds its roots in history and, in particular, in the experiencing of injustice, especially the tragic and irreparable case of the Shoah (Bobbio). Beyond a universal ideal of justice or “good life”, conventional documents acknowledged human rights created throughout history: just think about the Universal Declaration of Human Rights, approved by the United Nations General Assembly in 1948. Thus, we can say that human rights have been formalized following a top-down process.

Restorative justice, on the contrary, was created following a bottom-up process, namely as a result of the concrete experiences of conflict management and mediation (Mannozi & Lodigiani, 2017). Conflict handling models based on communication and stratification of good practices have generated, according to a process of generalizing abstraction, a paradigm known as restorative justice. Both these movements of thought are of intrinsic revolutionary significance: the first one is aimed at acknowledging and protecting unalienable human rights beginning with human dignity (Engelhart, 2018); the second one is aimed at safeguarding victims of crimes and, more generally, all the parties affected by a conflict and it is also aimed at repairing the harm, or rather the offense as a whole and not just its economic value, caused.

In Europe, human rights and restorative justice have been acknowledged and promoted by supra-national acts and documents, having different binding degrees. At least three documents of fundamental importance should be recalled: with regard to human rights protection, the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in 1950, introducing rights which can be asserted before the European Court of Human Rights; with regard to Restorative Justice, the two main documents are Directive 2012/29/UE, establishing minimum standards on the protection of victims of crime, and the Council of Europe’s Recommendation CM/Rec(2018)8, concerning restorative justice in criminal matters.

The acknowledgment of human rights and the origin of restorative justice are centred on the human being, who is considered a recipient of rights, legal prerogatives, guarantees and forms of support and assistance which need to be carefully adjusted to the vulnerability level of people.

Given this legal background with the human being as its centre, a pivotal question, which can no longer be postponed and is crucial for development and sustainability, emerges: can environmental protection, which is also linked to resources exploitation and climate change (United Nations, 2015), be reviewed in light of inalienable human rights and, especially, in light of restorative justice potential?

Let us start with a reflection on linguistics. What do we mean by “environment” and, above all, which kind of relationship can be imagined between the environment and the human being?

In Latin and Anglo-Saxon languages, “environment” is, etymologically speaking, all that is around something. In Italian, German, English, Spanish and Portuguese, “environment” is all that is around something which is placed in the centre. The linguistic analysis shows a kind of relationship which identifies the environment as something which surrounds the human being, who holds a central position. Yet, the term “human” finds its root in the Latin term “humus” which means “soil”, and which also shapes the term humility. The human being is thus part of the soil. Furthermore, in Italian, the same term (“Terra”) indicates both the ground (soil) and the planet (Earth).

Which kind of relationship does the centrality of the human being convey?

A hegemonic relationship, which, to date, has entailed power, exploitation, abuse, or even destruction? Or does promoted hegemony lead to an error of perspective? A conception which should rather be given back to history?

This shall be our starting point: we need to take steps from a rational critique of the relationship between the centre (the human being and his hegemonic interests) and the periphery (the environment), which should no longer be considered as such.

The major contribution given by European Humanism and, in particular, the Italian Renaissance, to the centrality of the human being and his dignity should now be carried over to the environment, in order to shift from a hegemonic relationship to one of equality, which implies protection, prevention, care, being concerned with change.

Therefore, we need a renewed conception of Humanism, which promotes the acknowledgment of an inalienable dignity to the environment, whose protection shall not be seen as simply instrumental to the life and the needs or the (supposed) wellbeing of the human being. In short: we need to shift from the old anthropocentrism to a relational and environmental anthropology.

2. The crucial need to adopt an environmental care perspective

Going beyond a hegemonic conception of the relationship human being/environment and rather approaching a new relational anthropology – as Pope Francesco, in his encyclical “Laudato si”

(Bergoglio, 2015) suggested – we can reflect on the role of restorative justice in environmental crimes and in the management of environmental conflicts.

If we try to explain the meaning of the lexeme “restorative justice”, we notice that the result is much more than the sum of the two terms. “Restorative” is the pivotal term. It is so powerful that it provides the term “justice” with a new meaning. Indeed, the restorative perspective overcomes managing the outcomes of bilateral conflicts or acts of unilateral violence based – as occurs in the criminal justice system – fundamentally on retaliation, on “doubling the evil” (Donini, 2013), on the violence of sanctions depriving rights. Following the tradition of the Old Testament, to the evil of the crime must be added the evil of the penalty. Being a justice that promotes healing (Van Ness, 1997), restorative justice works constructively, inclusively and generatively on the destructive or tearing effects of a conflict or crime.

However, restorative justice, as indicated in supranational sources and scientific literature needs to be re-focused in order to match the challenges posed by environmental crimes. We shall use the term “Green restorative justice” to indicate that we are talking about restorative justice as a para-digm to be adapted to the criminological, cultural, and socio-economic characteristics of environmental crimes. Thus, firstly, the “healing” perspective, which is typical of the restorative approach, could be conceived in three macro-areas: (i) knowledge and research, eco-literacy (Capra & Mattei, 2017), and dialogue with local communities; (ii) respectfulness to the environment, balancing interests and safeguarding the commons; (iii) prevention, criminal repression and restoration.

At this stage, it is important to reflect not on the specific methods to be used in environmental matters, but rather on what we can learn from restorative justice as a paradigm, a conflict handling approach and – according to Howard Zehr (2019) – as a way of life .

To learn from restorative justice how to look at violence, conflict, victims’ needs, the possibility for the perpetrator to compensate; to learn a new language, made up of non-violent communication (Rosenberg, 2015), of words with a performative value (Austin, 1962), of silences giving way to emotional resonance of words, and above all of attentive, active and empathic listening.

Keeping in mind Howard Zehr’s catchy metaphor, only after “changing the lenses” can we think about analysing the potential and limits of restorative justice with respect to conflicts and crimes in environmental matters.

3. Theoretical and practical contributions of restorative justice in environmental matters

In environmental matters, restorative justice might give a meaningful support in:

- a) giving a (stronger) voice to victims;
- b) identifying the stakeholders;
- c) recognising needs;
- d) encouraging responsibility;
- e) promoting reparation;
- f) adopting a healing perspective.

We will briefly analyse the points below.

a) First of all, applying RJ to environmental matters offers the opportunity to give victims a stronger voice (Recommendation CM/Rec 2018(8)). The main challenge in environmental crimes lies in the identification of the victims, who may not be aware of their own victimisation (Varona, 2019). Since victims are defined by the law, restorative justice must interact with the justice systems, although the criminological perspective – we are thinking about green criminology (Wijdekop & Van Hoek, 2019) – suggests that the category of environmental victims may actually be broader than that of individuals or groups identified by criminal norms (Braithwaite, Forsyth & Cleland, 2019). Following a criminological perspective, linkages between environmental crimes and gender violence should also be considered. A study issued by the International Union for Conservation of Nature [IUCN] (Castañeda Camey, Sabater, Owren & Emmett Boyer, 2020), in fact, shows that environmental conflicts represent a “fertile soil” for discrimination and inequalities, which are known to be driving forces of gender-based violence. Among restorative justice methods, the “circles” might be very useful in promoting, already at an early stage of the conflict, at least self-awareness and eco-literacy.

b) Environmental matters also include violence perpetrated by the law against minorities. Capra and Mattei (2017) believe this kind of violence is terrifying and claim that the legal system should foster sustainable communities: social, cultural and physical contexts where all needs, including the ones of future generations, can be satisfied. Moreover, they believe that “sustainability” is no individual property: it belongs to a net of relations and it involves the entire community. Being a form of relational justice (Burnside & Baker, 1994), restorative justice is able to provide proper listening spaces where both human and non-human stakeholders can be identified. The abilities of the facilitators might help in correcting the power imbalance of the parties, enhancing chances that everyone is heard.

c) Interests and needs of the victims and the communities affected by a crime are not only material. According to restorative justice literature, it is possible to imagine a pyramid of victims’ needs (Bergen et al., 2018) which recalls the Maslow’s hierarchy of needs (Maslow, 1954). Victims of environmental crimes or disasters, pollution, natural resource depletion, deforestation, loss of biodiversity have needs which are linked not only to material loss, but also to both physical and emotional consequences. Restorative justice, as it deals with people’s emotions, according to literature and supranational indications (Eu Directive 2012/29 and Recommendation Cm/Rec 2018(8)), may offer a more interesting and complete interpretation of victims’ needs than the one provided by criminal justice, focused on material redress. As Capra and Mattei (2017) noticed, “the ecologic configuration of legality cannot be abstract and imposed top-down but will emerge from people’s concrete needs and all the diverse experiences of “common actions” already existing” (pp. 224-225).

d) Responsibility is a key-issue. In this regard, the differences between criminal justice and restorative justice are more than evident. From the criminal justice perspective, responsibility is past-oriented: it is tied to the seriousness of the crime, in order to find the deserved, proportional sentence. From the perspective of restorative justice, responsibility is only motivated by the past criminal conduct, but it is future-oriented, and thus potentially generative of reparation. In the restorative paradigm, responsibility has also a visible, ethical dimension. It consists of much more than legal liability as it is promoted and encouraged by the encounter with the other. It is not a liability “coming from

above”, enforced through a judge’s ruling but a responsibility that develops by listening to the other. In particular, according to Lèvinas (Lèvinas, 1984), it is the encounter with the face of the “other” that moves the individual toward the assumption of responsibility.

e) The assumption of responsibility is the pre-condition for reparation: only those who come to feel responsible for (because of) something and towards someone or something can feel the moral need to implement a gesture of reparation. But, when it comes to the environmental crimes, reparation may be very difficult, or even impossible; In any case, focusing on harm instead of focusing on blame could promote concrete actions of eco-projects aiming at repairing the communities (Wijdekop & Van Hoek, 2019). Fighting eco-illiteracy and promoting eco-projects could restore communities and promote participation (Capra & Mattei, 2017).

f) Finally, we can say that the added value of restorative justice lies in promoting a perspective of care in a European and international framework. This implies encouraging the listening to individuals, minorities or groups; it implies improving relations within communities affected by environmental crimes so that, by communicating, they can better understand their needs and raise their voice (Wijdekop & Van Hoek, 2019). A care perspective by definition requires the promotion of social participation of eco-literate communities (Capra & Mattei, 2017).

A care perspective has sustainability at heart, which is, first and foremost, an ethical matter, and only then it becomes a technical one (Mancini, 2015).

4. Which methods for a green restorative justice?

Moving from the theoretical approach to that of restorative methods that can be used profitably in the context of environmental crimes is not easy.

Supranational sources in the field of restorative justice list various instruments related to restorative justice, underlining the flexibility of the methods, to be adapted to the type of conflicts as well as to local cultures. The 2020 United Nations Handbook, in particular, distinguishes between “restorative programmes” and “quasi-restorative programmes” depending on the degree of the victims’ participation.

When speaking of environmental crimes, the classical victim-offender mediation meets feasibility limits (Mazzucato, 2016). Arguments against the use of victim-offender mediation in the resolution on environmental conflicts should be considered. The most significant ones are the absence of a flesh-and-blood victim and the “representation issue”: who should represent non-human or un-identified stakeholders in a mediation encounter?

Circles could be the most advisable method for significant reasons: (i) it could solve the “invisibility problem” given that storytelling makes stakeholders emerge; (ii) it encourages a democratic method of dialogue and promotes awareness and emphatic listening, thus enhancing reparation and trust; (iii) through circles, widespread victims could have the chance to tell their stories and to express the multiple impacts of environmental crimes (material damage, identity diseases, negative emotion and trust disruption) in a dialogical way (Mazzucato, 2016; Wright, 2020).

In general, the circle process requires four important stages, that must be prepared by a facilitator:

1) determining whether the specific case is suitable for a circle process; 2) preparing the parties that will be involved in the circle; 3) seeking a consensual agreement in the circle; 4) providing follow-up and ensuring the offender adheres to the agreement. The circle can be used not only to address and resolve conflicts but also at a different and, in some respects, prodromal and preparatory level for conflict management.

At a more general level, eco-literacy and eco-projects (Mattei, 2017) can be supported by restorative justice methods which include community in a dialogue-driven setting. But even the latest emerging reality – like the Restorative Cities – could promote education in Restorative Justice also from the environmental and sustainability perspective (Braithwaite, Forsyth & Cleland 2019).

5. Conclusions

The protection of the environment is a centre-stage topic and challenge of our present times (UN 2030 Agenda for Sustainable Development). The fate of humanity itself depends on it.

To address the issue of environmental crimes we must be aware that they can be transnational in nature and have multiple connections (organised crimes, corporate crimes, corruption, even at the stage of the so-called “state capture”, labour exploitation, gender-based violence) that make them severely dangerous at a local and global level. This means that it is necessary to wisely leverage criminal repression and international cooperation, at least in relation to the most harmful or dangerous crimes, often hardly visible and characterised by a significant dark number.

However, we must also be aware that resorting to the criminal justice system alone may not be sufficient. The criminal justice system offers mainly punitive responses which do not necessarily provide lasting prevention effects and mainly give voice, visibility and support to the victims, who may be recipients of forms of reparation limited to redress only for damages proven. Furthermore, it is unlikely that, during the trial, an institutional entity can adequately represent interests that do not belong to individuals because they refer to the environment, nature, and landscape, which are to be shared with the future generations. Moreover, it is difficult to quantify the environmental damage because we do not always know the extent of the damage in the medium and long term.

Within the limits of the burden of proof, the trial is the place where guilt and punishment may emerge clearly; insufficient use is made of compensation (redress) for damage and environmental reparation or restoration.

Restorative justice is not “the” solution but may support the perspective of environmental healing by enhancing awareness (through eco-literacy), responsibility (through storytelling and dialogue) and community representation (through appropriate engagements). Restorative justice, if properly adopted and implemented, can make people aware of victimisation, offer inclusive conflict handling methods, promote individual and corporate responsibility and encourage reparation, including and even more so when it operates in connection with the criminal justice system (according to a complementary perspective) (Mannozi & Lodigiani, 2017; Braithwaite, 2002).

Restorative justice has the great advantage of being able to make the link between legal norms and ethics visible again. Such link is to be reconstructed, in environmental matters, in the perspective of a “new Humanism” waiving the hegemonic role of man over the environment to adopt, conversely, a perspective of care. Through restorative justice, the challenges at naturalistic, landscape, urban, socio-economical, normative and ethical levels, that come from environmental crimes, may finally find less unsatisfactory answers.

Restorative justice scholars and practitioners, in the environmental field, have a role similar to that of the “pioneer plants” – such as birch –, which grew up on very difficult soils, i.e. after a forest fire or a volcanic eruption. Pioneer plants prepare the soil to let more demanding trees grow up. So pioneer plants do silently the most humble, difficult but important task in the ecosystem. They promote change and rebirth (Zovi, 2018).

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Restorative justice, peacebuilding and sustainable development

Josineide Gadelha Pamplona Medeiros

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This text, as well as the others that make up this collection, is the result of oral communication and the debates that took place during the 1st International Seminar on Restorative Justice and the Environment: Stimulating Dialogues on Environmental Issues, held in a virtual environment between August 06 and 07, 2020. The presentations were converted into a book that deals with a theme whose discussion is increasingly pressing today: the relationship between restorative justice and the environment. In the next pages, there is a contribution to the approach of said theme that explores the articulation between restorative justice, peacebuilding and sustainable development. First of all, it is necessary to situate my place of speech: I write this text in the condition of a judge of state law, linked to the Court of Justice of Pará (TJPA), who has gathered practical experiences in restorative justice in the last 10 years, especially in the region of Santarém – medium city that constitutes one of the most important urban centers of eastern Amazon, in the state of Pará –, where I worked in a jurisdictional unit with assignments in the area of youth and childhood; and also as a researcher of the post-grad program in Society, Nature and Development, area of Environmental Sciences, Federal University of Western Pará (UFOPA). In this way, I share the dual status of someone who practices and researches restorative justice, with interests in its relationship with Sustainable Development in the Amazon and the socio-environmental problems.

Unlike the external image that currently permeates the representations of the Amazon – that is, as a great repository of biodiversity, “lung of the world”, reserve of spirituality in regards to the relationship between humanity and nature, example of environmental sustainability (which it does not cease to be, although it does not come down just that!)- , the Amazon region is a mosaic of conflicts, not necessarily in a negative sense, although these often present destructive manifestations. It is a region characterized by contexts of high political-economic, sociocultural and environmental complexity, involving actors belonging to different ethnic-racial groups, intercultural relations, territorial disputes and natural resources – often marked by violence, in its direct, institutional, structural, cultural and historical expressions – as well as divergent world views about the relationship between human beings, natural spaces and other entities that are in it. It is with reference to Amazonian contexts and their complexity that we aim to discuss, in the following pages, the conditions for the possibility of experiences of restorative justice to meet aspects of the notion of sustainable development, according to the vision of the Sustainable Development Goals (SDG) of the United Nations 2030 Agenda, which established the international standards for the development, including eco-

conomic growth, environmental protection, social justice, and peacebuilding, seeking the well-being of individuals and groups of people, the quality of life for present and future generations, as well as to the well-being of humans and the natural world, and the prevention of all forms of violence.

In an increasingly expanded way, conceptions and practices of restorative justice have been disseminated in a great diversity of social spaces, both institutional and non-institutional, on the national and international scene. While each of these experiences will contribute to prevent and address conflict related situations in the acts of infringement committed by the young, the crimes committed by consenting adults in private, and other forms of violence, that is, the behaviors that are actually or potentially harmful, in varied settings, with the use of the restorative approaches to the treatment of the conflicts, social and environmental (including issues of land and land use), according to a preliminary research now in development for some, it can be considered quite unique in the eastern Amazon as seen in the works of Nirson Medeiros da Silva Neto, and Maike Kumaruara that are part of this collection of articles, all of which provide us with a picture of the huge challenges of peacebuilding, and to experience social-environmental justice in the amazon region, especially in the current situation.

As we all know, the notion of sustainable development involves different aspects, with developments spanning various sectors. In this brief article, however, I want to give attention only to the dimensions of sustainability present in the 2030 Agenda, which includes four lines. The first is aimed at eradicating poverty and hunger, in all its forms and manifestations, so that human beings can realize their potentials, live with dignity and equality, in healthy environments. The second reveals concerns about environmental degradation, touching on aspects such as sustainable consumption and production, national resource management and climate change measures. The third relates to economic issues, so as to guarantee everyone a prosperous life full of achievements, but through the consortium between material progress and harmony of humanity with nature. And the fourth concerns the promotion of peaceful, fair, inclusive societies free from fear and violence. Restorative justice has a direct relationship with the latter, especially with its materialization through SDG 16 and its respective goals, which of course must be understood in a systemic and integrated way with the other Sustainable Development Goals and with the set of goals that make up the 2030 Agenda. SDG 16 is related to peace, justice and the effectiveness of institutions, aiming to “promote peaceful and inclusive societies for Sustainable Development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (UN, 2015).

In addition to the UN 2030 Agenda, but without neglecting its outstanding contribution, development can be defined as growth, expansion of human and material capital, capacities and resources over time (Stauffer, 2017). In whatever expression, it presents social, economic and environmental consequences that can positively and/or negatively affect a certain or determinable set of actors. It often destructively affects people and groups in vulnerable positions, not infrequently through forms of violence, threats and violations of human dignity, as well as changes in social territories and the natural environment. Development processes that are intended to be sustainable, therefore, need to be sensitive to conflict, harm and injustice (Stauffer, 2017; Arjoud et al., 2017), either through prevention measures and peaceful resistance “before the dam breaks”, according to the image used by Benjamin Almasi in an article that can be found in this book, or through material and/or symbolic repair of the damage effectively caused. Restorative justice is one of the possibilities to deal with

these consequences and, as far as possible, build strategies aimed at getting things right, correcting situations that destructively affect people, communities and the environment.

In this sense, restorative justice is part of the set of strategies of what we can call the peacebuilding field. According to Lisa Schirch (2019, p. 09), peacebuilding is understood as the strategic coordination of actions that seek to “prevent, reduce, transform and help people recover from all forms of violence”, empowering individuals, groups and communities, stimulating the development of resilience to traumatic events and strengthening relationships at different levels. In other words, peacebuilding means the social construction of harmonious relationships and fair social structures that serve to mitigate destructive conflicts and violence (Stauffer, 2017). Within this field, restorative justice has the purpose of providing an inclusive, collaborative and participatory Justice experience, based on the identification of obligations and the sharing of responsibilities related to the treatment of conflicts, the prevention and handling of violence and the reparation of damages, stimulating individual and collective responsibility in building a society capable of promoting safety and care to its members (Elliott, 2018).

Restorative justice, if not understood only as a social technology for the administration of inter-subjective conflicts involving damage, can be a way to deal with situations of socio-environmental conflict that we observe in the Brazilian Amazon and elsewhere, which should not be summed up to certain harmful incidents that violate the environment, because these harmful facts currently underlie a long history of violations and traumatic events before, producing clashes and animosities that cross generations, causing damage and sequelae for an extensive number of actors, both human and non-human. They are examples of the clash of historical and up to date with new incidents of harm that will affect indigenous peoples, the remnant of work communities and traditional and other people in the forest who are struggling on a daily basis to be respected in their cultures and ways of living and producing, identity, territory and the environment in which they find themselves, in the face of actions by agents of the State, and of the advance of the frontier economy through infrastructure projects (construction of power dams, roads, railways, ports, military bases and industrial centres) and the enterprises of the mining and extraction of timber, with extensive cattle raising, intensive agriculture, fishing, trade, real estate speculation, and tourism under the bases of sustainable development.

In order to be consistent with the complexity of the confrontations found in the socio-environmental sphere, we believe that an expanded approach of restorative justice is necessary^[1], in which concerns with justice transcend merely inter-subjective relations (between victims and offenders or between parties in conflict), reaching concerns with social and environmental justice, in addition to the treatment of collective and historical traumas. That is, a more comprehensive understanding of restorative justice seeks the transformation of conflictive patterns based on institutional, structural and cultural violence, as well as those rooted in past events – such as colonization, enslavement of blacks, genocide, ethnocide and deterritorialization of indigenous peoples and traditional communities –, mostly long standing, but still today continue to produce destructive repercussions and updates, generating sequelae for present and future generations. Moreover, only an expanded vision of restorative justice is able to potentiate the holistic perception inherent in the world views that inspire the restorative way of imagining, practicing and living justice, which take into account ecological issues related to the search for good living between humanity and the other entities that

integrate nature. Although these cosmological bases are not always evident in the discourses of those who work daily with restorative justice, they are foundations for different restorative methodologies, such as peace-making circles, which are inspired by Indigenous conceptions and practices with deep relationships with the natural world (Pranis, Stuart & Wedge, 2003), translated in Latin American terms into the ideal of *buen vivir* or *vivir bien*, which in native languages is designated by expressions such as *sumak kawsay* (in Kichwa), *suma qamana* (in Aymara) or *nhande-reko* (in Guarani) (Acosta, 2016).

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[1] we have shared the expression expanded approach of restorative justice with other authors, such as Nirson Medeiros da Silva Neto, Petronella Boonen and João Salm. This is a manner of designating a way of understanding restorative justice that understands it beyond a conflict resolution technology, perceiving it as a way of imagining, practicing and living Justice, which extends over time, being therefore seen in the short, medium and long term, and not limited to an immediate experience of justice and focused on a particular incident.

Restorative justice for the peoples and communities of the Amazon: an account of a black indian from Lower Tapajós

Maíke Kumaruara

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First of all, I want to thank you for the opportunity to be here speaking at this important seminar that extends a network of solidarity at a time when our peoples are under a violent attack. We have been living in a genocidal war for over 500 years. This epidemic has become another instrument of death for our peoples and of increasing social inequality here in the Amazon, which is already so far from the centers of Brazil and the world. But we are people of resistance, we are blacks and indians who stubbornly exist, because we have roots and that is practically a mantra for all of us. I received a writing guidance. I even made a script to read. I will read some parts and not others. I apologize to the translators because it is also important to listen to what comes from the spiritual world, what comes from our guides. I like to talk like that because we are always getting that guidance and that is important to us.

I wanted to talk a little about my place, the Amazon, specifically the western region of Pará. I am the great-grandson of a quilombola from Fátima do Itaquí, a quilombo that was between Saracura and Arapemã, right in front of the city, that ceased to exist because of the advance of the Amazon River and the phenomenon of fallen lands. I say this to present a bit of the geography of the quilombos of Santarém. Here in Santarém we have a farm that had a lot of slaves, the Taperinha Farm. Nirson and I[2] had the opportunity to work there. From this farm a network of quilombola communities was extended, that goes from Santarém to the waterfalls of the Trombetas River. So, it is important to highlight that Santarém is a city surrounded by quilombos. I really like to say that in front of the Baron – the house of the Baron of Santarém is in front of the city – there is the quilombo de Saracura, located on the other side of the river, to this day making its parties and celebrating freedom and resistance.

From my mother, I am the grandson of indigenous Kumaruara from the Tapajós. We are in this battle of self-care, of self-knowledge, of the rescue of our ancestry. I wanted to state beforehand that restorative justice is a great oar, which makes our return journey faster, let's say. Restorative justice gives us instruments to rescue values and tell our story. I already consider myself an old black man and like to tell stories. I'll quickly tell some. The instruments of restorative justice – the object of the center, the history that connects us – are directly related to this journey of return and it is important to say so.

Today we work with almost 8 thousand indigenous people in the lower Tapajós. Most of the 14 territories do not have demarcated lands. This represents a fragility for us, which has to do with our security and our survival. On the other hand, we understand that the rescue of our identity, our ancestry, and especially our protagonism as agents of history give us legitimacy to say what we are. We often say that it was always the western white who said what we were and what we were not; who decreed with laws and documents that we no longer existed. We have been identified, generically, as *tapuios*, as *caboclos*.

From 1988, with the possibility of a plural country, ethnic plurality, the redemption of rights, we began with more force this return home, which in the academic world we call *ethnogenesis*. And this trip makes us today self-identify as indigenous. The same story of whitening has been tried with the *quilombolas*. The *quilombolas* close to Santarém were once called blacks of the ranch, smelly blacks, blacks from the lake. This, in the anthropological reports on the *quilombos* of Santarém, is very incisive, it is very strong. Until they came to self-identify as *quilombolas*, which represents strength and identity. This journey back home – of which restorative justice is a part, as well as nonviolent communication, helping to take care of ourselves – it is not peaceful. It is to cross the Tapajós River with a lot of wind, it is to cross a rough river, because we have encountered many enemies in the course of our journey.

We have communities here that are divided between indigenous and non-indigenous, *quilombolas* and non-*quilombolas*, especially from the Santarém plateau. As Nirson, my friend, said, Santarém is the last frontier of the Amazon, a frontier of soybeans. The communities of the Santarém plateau, indians and *quilombolas*, represent a barrier against the advancement of agribusiness. So, there are those who understand that it is necessary to disqualify our identity, our ancestry, using the old argument that in Brazil everyone is *mestizo*, everyone is mixed, there are no longer any indians, the indigenous died in the nineteenth century; there are no *quilombolas*, *quilombolas* are not black enough, they are already mixed with whites. This is a perverse strategy to gain access to the lands. We have many communities where indigenous leaders are threatened with death. Schools are pressured to stop being indigenous, or to stop being *quilombolas*. And restorative justice, in addition to being this oar to return, also means the possibility of unity, of cohesion of these communities, so that they do not lose their strength, especially in the face of a history of so much violence to which we were subjected during the terrible process of colonization. We believe that this story is yet to be told.

No one knows exactly what the rescue troops were, the just wars, in the context of colonization. What would be the just war against an unarmed people, who did not know western war techniques or forms of defense against bacteriological diseases? We have no idea of what it was like in an *aldeamento*. Some historians already make a relationship between the *aldeamento* and the Nazi concentration camp. The process of colonization and enslavement of blacks and Indigenous people in the Amazon was a reference for the Holocaust provoked by the Nazis. We have not yet been able to tell this story. The next stage is self-knowledge, the quest to tell our own story. Identity and law, as I have been talking about, are our main instruments today in the war that we are fighting to secure the land and ensure our survival. Restorative justice, with its nonviolent communication, welcomes us.

We all – we observe this when we talk to our leaders – have suffered unprecedented violence since childhood, the famous beating, “*peia*”, as we call it here. And we know that, even in the face of so

much violence, the lesson was learned through dialogue. This was a learning that we obtained in a training for union leaders and social movement leaders on community restorative justice. What do I mean by that? It is that dialogue is in our DNA, it is present in our imagination, it is present in our memory. I could give numerous examples of the formation of our circles, wonderful examples of the construction of values, the choice of objects that represent the identity of the community or even important speeches, but I wanted to highlight this way back, where we stop being people of the site, people of the community, and become Indigenous and quilombolas. I wanted to highlight the relationship that restorative justice can establish, a buberian relationship of the Me-You[3]. This relationship occurs mainly in the post-circle. And it presents a huge task for all of us. That is why it is very important to speak at this seminar, because we count on your power, we count on the influence and the network that you have and can build even more, so that we can train more facilitators and multipliers of restorative justice from the communities themselves.

This relationship that Nirson and I had from the Clinic [4] is strong because I am from here; it is different from someone who is not from here, or someone who does not have a relationship with the people here. It is not just enough for you to make an intervention, organize a circle and go to your place of safety. We need people who are committed and rooted in communities. I say this because the post-circle, which we rarely talk about, has been very striking in our history. I'm going to tell some stories here that represent that. Nirson and I made an intervention in an Indigenous community, which is divided between indigenous and non-indigenous, located on the Arapiuns river. In this community, an indigenous youth assaulted, quarreled, offended a 14-year-old. The victim's family invaded the indigenous man's house, assaulted him, had a fight, had violence, made his grandmother faint. The white leadership of the community gave 24 hours for him to leave the community. The indigenous people triggered the Public Prosecutor's Office, which in turn triggered the Restorative Justice Clinic and we made a pre-circle and went to make an intervention in the community. It was a very interesting, very exciting moment. The indigenous was an orphan, had no history of family co-existence. I could relate the encounter, from a constellation practice, right in the center of the circle, that Nirson promoted between the two families, who forgave each other. But I wanted to highlight the post-circle when some Indigenous leaders came with us and said like this: "At that moment I really wanted to feel the emotion that you are feeling!" This brings us directly to nonviolent communication – sensations, emotions and feelings-because this community is so marked by conflict, by racism, by aggression, that they got a moment of peace with "this thing that you did there in the center". A relationship was established so strong that even today, when we meet, we talk about this circle.

I could also highlight an intervention in the quilombo of Murumurutuba in which an old man, who was not quilombola, had a cattle crossing and did not let the breeders cross with the animals through his land. He was introduced to me and to Nirson as an uncompromising, grumpy, half-hearted gentleman, as the people here in the Amazon say – depending on the moon he gets crazier or not, and aggressive. It even made us a little fearful of approaching him. As we approached, we found an old man who needed affection and attention. We

managed to make an intervention with him at a time when the circle was sabotaged. We arranged a circle with friendly parties. When the time came for the intervention, there was a gentleman who had a death row with him, and we were afraid that the gentleman was armed and it was very

tense, but we believed in self-composition and made the circle. At the end of the circle, this gentleman, who was listened to – there was a qualified listening of him – was so happy that he could not stop laughing. I had never witnessed so much happiness in him. He even bought soda and cookies. During a community assembly, he was accepted as a quilombola, even to the detriment of the president of the community association, who did not want him to receive the document to retire and the community gave it. So we got him included, as our Indigenous leadership says, “with this restorative justice thing.”

I’ll finish my speech here. I think we might have another opportunity to exchange those experiences. I wanted to highlight another very important post-circle to finish. We made a circle in an indigenous school on the Santarém plateau where there were conflicts between indigenous and non-indigenous, indigenous and non-indigenous students, indigenous and non-indigenous parents. The school’s principal needed the sponsorship of soybean producers and ended up being against the indigenous people, generating distrust and many conflicts. We made a circle and asked people to tell their stories. These stories showed much more elements of peace and elements they had in common than disagreements. In this circle a gentleman approached me and said that he could not read. He loved to talk. When his turn came to speak, he asked if he could draw and put in the center of the circle what he thought would resolve conflicts. He designed a party and told us that party and joy are the things that most unify people. If we celebrated more, we’d fight less. And in the end he thanked me and said that he could not read or write and was very ashamed of it, but then and there he felt included.

We talked to the caciques (indigenous leaders) and shortly after an anthropologist wrote an article saying that there were no indigenous and quilombolas in this region because everything was mixed. They were very worried and called me to talk because they believed that the anthropologist was right, because they had lighter skin, because they had more whitened indians, let’s say so. We made a welcoming circle. I told them that this region of the plateau was marked by a white colonization. When the American Civil War ended, white slave families came to this region and they used the slaves. [5] Black people tell us that one of the children of one of these families raped a black woman who worked in their house. This girl became pregnant and had the child, evidently of whiter skin because she was the victim of the rape of an American. In the logic that we have here in the Amazon, this traditional family, which historically uses the work of indigenous people and quilombolas almost as slavery even after slavery – I mean domestic work –, would never assume the child of a black woman. The quilombola community welcomed this child. This child has the lightest skin and has been welcomed in all its ancestry and spirituality.

I would say to them, “No one...” Oh, guys, sorry for the excitement! [Pause with tears in my eyes] I am thrilled because my grandmother, all my grandmother’s sisters – and this is the story of my companion’s family as an indigenous – All worked in family homes here in Santarém and all suffered all kinds of violence, all kinds of abuse. Wake up at 5 in the morning, wash clothes, cook, take care of children until 10 in the evening. Unfortunately it is a reality. And I

was saying to my relatives that no one, no one can say that this child is not a quilombola, or that the indigenous who has the lightest skin is not indigenous. What defines our identity, our ancestry, our welcoming, our relationship with the land are our roots. As I told you, we have roots! That’s why

we exist to this day. That's my contribution. Thank you very much for the opportunity and we will continue these tasks that are very important for the construction of another world that is not that end of world that we are living.

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Notes

1. Speech delivered at the I International Seminar on Restorative Justice and the Environment: Stimulating Dialogues on Environmental Issues, transcribed and adapted for this collection of articles.
 2. Reference to Nirson Medeiros da Silva Neto, whose presentation preceded that of Maike Kumaruara in the seminar, and who has an article in this collection (N.E.).
 3. Reference to the famous philosopher of dialogue, Martin Buber (N. E.).
 4. Mention to the Restorative Justice Clinic of the Amazon (CJUÁ), an organization that is part of the Federal University of Western Pará (UFOPA) (N.E.).
 5. Use here refers to situations of sexual abuse of black women during the period of slavery in Brazil (N. E.).
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Restorative justice and socio-environmental conflicts in the Brazilian Amazon

Nirson Medeiros da Silva Neto

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This text was originally conceived in the format of an oral communication that was presented during the 1st International Seminar on Restorative Justice and the Environment: Stimulating Dialogues on Environmental Issues, held in August 2020, in which two fervent themes were brought to discussion in the contemporaneity of modern societies, especially in the Western world but not limited only to it, namely, restorative justice and socio-environmental issues. I remember the first conversations about the realization of this event that took place in the city of Salvador, Bahia, after a provocative conference by Professor João Salm, in December 2019, on the occasion of the II seminar on the National Policy of Restorative Justice organized by the Management Committee of this public policy carried out within the Judiciary, coordinated by the National Council of Justice (CNJ). The conference explored the correlation between restorative justice and the environment, a debate that was already pressing and has become even more necessary today, given the health, social and economic crisis introduced this year and the weakening of Brazilian environmental policy due to political and marketing factors in Brazil. It was with immense satisfaction that I watched those informal conversations, prior to the covid-19 pandemic, turn into a grandiose event that now takes the form of a book[1].

The panel, which was developed in this text is based on restorative justice and social and environmental conflicts in the Brazilian Amazon, which also has the participation of Maíke Kumaruara, black indian (how he designates himself), with outstanding performance along with the black and indigenous movements in the Lower Tapajós river, state of Pará, which is out of my directing course at the master's degree in the Science of Society, from the Federal University of Western Pará (UFOPA), developing research on restorative justice in rural communities in the municipality of Santarém, PA. To address the topic, I understood, at that moment, it was essential to make an introduction to the two central axes of the panel, which I reproduce in the lines below. Initially, it is important to remember that restorative justice is not just a new technology, and social problem-solving, but in a way, to imagine, play, and live out the righteousness that is based on the experience of the encounter between victims, offenders, and members of the community, with the participation of the family members, state officials, and other interested parties) that is designed to address situations of conflict, and promoting the accountability of living that are the cause of the damage, repair, and healing to the victims as well as the empowerment of communities and the restoration of healthy living. Restorative justice is not focused on the law, but on the people, groups and relationships affected, including non-human beings in certain cases, i.e. animals, plants, forests, rivers, waterfalls,

etc., which are usually treated as the environment in an anthropocentric view of nature, which commonly also represents them as resources, objects, instruments for the fulfillment of human desires and needs.

Understood in an expanded way, as I have come to understand it lately[2], restorative justice must take care of dimensions of justice that extrapolate the sphere of intersubjective relationships, achieving the prevention and constructive transformation of structural, institutional, cultural and historical violence, without which we will have an experience of partial and fragmented Justice, reduced only to a harmful event that, however, presents behind it a complex set of previous violence and trauma. The socio-environmental conflicts in the Amazon are an example of this. They are rarely limited to a mere injurious incident. On the contrary, they are often related to a long history of violations and conflicts involving individuals and groups with distinct perspectives of interpretation of the relationship between humanity, natural spaces and the beings that inhabit them (human and non-human, biotic and abiotic, material and spiritual). Typically, they touch on sensitive issues such as identities, ethnic-racial relations, traditional territories, access, control and use of land and Natural Resources, gender issues, among others, which have already led (and continue to lead) several actors to violent clashes and deaths. To understand the socio-environmental conflicts in the Brazilian Amazon region, therefore, it requires a re-telling stories[3] and we refer to the latter part of pre-colonial indigenous peoples have been-and are still being violently dispossessed of their identity, culture and territory, many of whom are currently living proceedings for the redemption of their land, the reference identity and culture, going to the enslavement of black people, and their resistance to oppression, and the formation of the society, which became a symbol of the fight in the contemporary anti-racism; going through the cycles for the rubber and Brazil nuts, which have attracted enormous population for the Amazon region, which they came to be in the labor force in the rubber estates and plantations, and in the relations of production, which we consider to be akin to slavery, and it also drove emancipatory movements, and came to the government's policies of occupation and economic exploitation of the Amazon region, which was inaugurated with the era of the dictatorship, civil-military-post-1964 and up to the present day and stay up to date in different formats generating the variety of conflicts and damage to the people in the different groups, the environment and the beings that inhabit it.

For a long time, the Amazon has been populating the national and international imagination as an el dorado, either for conducting business and maximizing profits, or as a repository of biodiversity and natural resources that could save not only the capital economic system, but humanity from its abusive and predatory relationship with nature started from the industrial revolution in the nineteenth century and which continues to expand into natural spaces still little explored. The Amazon region, in the present day, remains seen as a frontier of capital, as a locus that can guarantee a survival to the ideal of unlimited economic growth, as a land of work and business, as a reserve of resources to be exploited (forest, mineral, water, human, cognitive, etc.), at a time when we are progressively observing the risks of the over-flowering of nature and the need to harmonize development with environmental conservation, social justice and the reduction of violence rates related to the economic model and way of life that have characterized modernity.

In this delicate scenario, I have believed that restorative justice has a role to play, which I will briefly talk about from my experience.

As an anthropologist and coordinator of the Restorative Justice Clinic of the Amazon (CJUÁ), an organization belonging to a university located in the west of the state of Pará, for about a decade and a half I dealt with cases of socio-environmental conflict in the Brazilian Amazon. Since 2014, however, I have been using theoretical-practical references of restorative justice to face conflictive situations involving traditional peoples and communities (Indigenous Peoples, quilombola communities, chestnut producers, family farmers and other forest peoples), most related to disputes over land, natural resources and territories, identity assertions, ethnic-racial relations, although there are also cases about issues associated with childhood and youth and infractions. Almost all of the situations treated, directly or indirectly, have some relationship with economic activities that expand to the region, such as agricultural monocultures (especially soybeans, corn and eucalyptus), timber extraction (legal and illegal), extensive livestock, mining, commercial fishing and predatory collection of Natural Resources. More often than not, I observe that local peoples and communities engaged in socio-environmental conflicts find themselves in the “eye of the storm” of economic pressures that aim to transform traditionally occupied and environmentally conserved areas into business lands due to the presence, way of life and production of native populations.

One of the key things to avoid, that the nature is still preserved in the Brazilian Amazon are aggressively converted into a commodity, to the satisfaction of economic interests, is the creation, implementation, and maintenance of the units and the conservation of the environment as well as the recognition, demarcation, and titling of the lands occupied by the indigenous peoples and traditional communities, in accordance with the rules of land tenure, existing in the Brazilian legislation (indigenous lands, territories, maroon, conservation of the full protection and sustainable development projects in the settlement agroextractivists, and so on.). These strategies remove from the market lands and natural spaces that are currently targeted as the object of desire of economic actors who are not committed or even concerned with a development model that can be legitimately designated as sustainable. This, of course, generates historical conflicts or sharp clashes between traditional peoples and communities and those who locally lead business strategies in the Amazon that, in most cases, count on governmental support, which has expanded in recent years due to the advancement of ideologies that combine economic liberalism, moral conservatism and militarization of the political field, including the government.

The ministry of justice is found here, as can be seen, to be a breeding ground for challenge to the testing of concepts, principles, values, and methods, due to the complexity of the conflict with which we are dealing with the existence of power relations between the actors involved, and the history of the confrontations, the level of violence that has characterized the nature of the collective group of these situations of conflict (which affect the interests of the society on a local, national, and global), and the fact that you’re playing on the theme responsive, including the economic issues that are on the agenda for the debate on the development of the country and on the international agenda. In our experience, to face such complexity, we have chosen paths that bring us closer to the community space, the people and groups that integrate it, imbuing in the strong sense of community that is inherent in the theories and practices of restorative justice

as a strategy to deal with the difficulties of applying restorative conceptions and procedures in contexts involving socio-environmental conflicts in the Amazon region. For this reason, we have invested more in the treatment of internal conflicts of the communities in order to strengthen them and face the

shattering of the sense of unity regularly provoked by the political-economic pressures that surround them and use the old maxim denounced by Paulo Freire (1987): divide to dominate, which means the rupture with the possibilities of dialogue and the community capacity for mutual understanding.

Of course, this strategy does not solve what may be the greatest challenges in the treatment of the socio-environmental conflicts in the Brazilian Amazon since the reference of the ministry of justice, which are the following: (1) how to promote it properly, liability turns on the cause of the damage, and they are great growers, business owners, or corporate groups, often supported by the actors involved in the policy process; (2) how to create a safe and secure environment for all the victims, usually people, local communities, and, except for the beings that are not human) feel free to find yourself with an antagonistic histories, which have experienced different situations of domestic violence; and (3) when and how to engage with the members of the state agencies, stakeholders, and civil society in the process of the construction of the solutions, and the actions that promote the repair, healing and prevention of further incidents. These are just some of the most delicate topics that need to be considered in uses of restorative justice in socio-environmental issues in the Amazon region. For them, no doubt, we do not have and maybe one day we will have all the answers. However, if the discussion presented here has managed to raise some questions and reflections that, in some way, have inspired the desire to seek answers or formulate new questions, I believe that it will have adequately fulfilled the role for which they were thought.

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Notes

1. The conference and the dialogues that followed it also resulted in the elaboration of an article, to be published soon, entitled “Restorative justice: a substantive, intergenerational and ecological approach in the Amazon region of Brazil”, by João Salm, Nirson Medeiros da Silva Neto and Josineide Gadelha Pamplona Medeiros (2020).
2. The term expanded approach to restorative justice, which I have been using to designate the way I currently understand restorative justice, is due to interactions and conversations with Petronella Boonen, a Luxembourgish scholar, based in Brazil, linked to the Center for Human Rights and Popular Education of Campo Limpo (CDHEP), São Paulo, who have offered precious contributions to the theory and practice of restorative justice in the Brazilian context.
3. In English, re-story has correspondence with restore, as noted by Professor Howard Zehr (2008) in an article that relates the theories and practices of restorative justice to the fields of peacebuilding and narrative reconstruction.

A proposal for environmental restorative justice to repair the relationships that adorn the Pantanal biome

Raquel Domingues do Amaral

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1 Introduction

The article addresses the possibility of reparation of historical injustices from the relational view of restorative justice, demonstrating that it is possible to construct a criterion of justice outside the Aristotelian model of retribution and compensation and, therefore, focused on the future.

Initially, it will focus on historical injustice, consisting in the usurpation of indigenous lands, and it will consider a concept of reparation by Jeremy Waldron (1992) alternative to the aristocratic conception of retributive justice. In this sense, we will address the report of Meredith Gibbs (2009) on the experience of restoring the relations of the state of New Zealand with the Maori people through the partial return of their usurped territories in the eighteenth century, in which the Waitangi Court has tried these conflicts not with a focus on reparation of the right of property, but with the aim of restoring the dignity and identity of the Maori people.

In the following it brings the concrete case of the deterritorialization suffered by the Indigenous Guatós and riparian communities that inhabit the pantanal, demonstrating the interrelationship of this historical injustice perpetrated against them with the current degradation of the Pantanal biome by burning, loss of biodiversity and silting of rivers.

The article positions a lens on the specific case of the traditional Riverside Community of Barra do São Lourenço that, in addition to the loss of territories, has suffered restrictions in its freedom of movement along the Paraguay River, as well as in the right to fish for subsistence, a fact that compromises its food security and the dignity of the human person. In this line of reasoning, we will bring the report of the conflict between the said Community and preservationist NGOs that have private properties on the site, as well as with the Brazilian state, because the traditional community is within the buffer zone of the Pantanal Matogrossense National Park (PNPM), whose management plan strictly restricts its freedom and subsistence.

It will also address the difficulties and the failure of attempts to resolve the conflict through the judicial process and will present a proposal to repair the relations of the community with the other characters and entities that star in the conflict in the light of the principles of Restorative Justice and

ecocentric vision of deep ecology offered by the Earth Charter.

The research undertaken uses the deductive method, through a qualitative approach, to produce in-depth information on the subject; as for nature, it is an applied research, since it aims to generate knowledge on Environmental Law for practical application, aimed at solving specific issues; and, according to the procedure, it is a bibliographic research, through the review of scientific works and articles by national and foreign authors, as well as documentary, due to the review of

2. Is it possible to apply restorative justice to resolve historical injustices of Indigenous and traditional peoples?

First, it is necessary to understand what is a historical injustice. Jeremy Waldron, in dealing with the relations of white settlers with the indigenous peoples of Australia, New Zealand and North America, discusses the concept and legal contours of historical injustice and the means of redress.

What would be the legal relevance of making a judgment on a certain morally unjust fact that occurred 150 years ago, for example?

Waldron (1992) explains that, although judgments are normative and have a prescriptive language that intends to guide choices forward, it is important to judge historical facts, since these reverberate beyond the particular events that are their direct object. When a particular fact that occurred 150 years ago and is currently considered unjust is currently judged, it is not aimed at an irreducible particularity of the factual situation; the judgment provides that these facts can no longer occur. For example, if the specific fact, which occurred 150 years ago, involved breaking promises or taking advantage of one's good faith, the condemnation of this attitude today creates a parameter to also condemn similar attitudes of violation of good faith, which occurred in the present.

In addition, the author points out that the historical memory of injustices is very important, considering that it is related to the concepts of identity and contingency. Those who suffer an injustice retain a genuine feeling that similar events could no longer occur and, precisely because of this preventive character, injustices cannot be forgotten. The memory of an injustice "is important for communities, families, tribes, nations and parties; that is, human entities that often exist for much longer than the individual man or woman. To neglect the historical record is to violate this identity of the community itself." (WALDRON, 1992).

The forgetting of a historical injustice is never empty; it is always filled by the self-satisfaction of those who have benefited from the unjust acts of their ancestors, in which a belief is created, albeit very restrained, that their good fortune is due to their ethnic, racial, political or family origin. Otherwise, for the offspring of those who have suffered injustice, there may be persistent and intergenerational suffering that will culminate in the acceptance of a narrative of self-deprecation told by the offspring of their tormentors in an explicit or subtle way, through implicit biases (WALDRON, 1992).

Waldron weaves a counter-factual approach to repair and raises the following questions: What can correct an injustice? How is it possible to reverse the past? When injustice occurred several generations ago, is it impossible to heal and repair the direct and original victims who remained in the past?

The damage caused to a person or community group reverberates to the future, even the human being, individually, lives in part for the good of his posterity and makes plans, not only for himself, but also for future generations. Communities can survive for much longer periods than individuals; an unfair fact that affects a community, an ethnic group, can reverberate for generations and influence the present. Thus, one of the fundamental aspects of an unjust fact that has happened in the past is the verification of how much it affects the life of the community in the present. There is an undeniable connection between past unjust facts that have hurt the detained group and the current lives of their descendants. Although one cannot change the unjust action itself that occurred centuries ago, it is possible to interfere today in the moral course of its consequences (1992).

The present reality would certainly be different if injustice had not occurred. The reparation can change the actuality, so that it is as close as possible to what would have been achieved, if the unjust fact had not occurred. Waldron (1992) explains that the approach in comment is proposed by Robert Nozick, in his report on a rectification principle, which would be based on estimates of “subjunctive information” about what would have occurred if injustice had not been perpetrated. Thus, a counterfactual scenario is drawn to be realized in the present.

Waldron (1992) notes that the problem of Nozick’s (1974) theory is the difficulty of reconstructing *se if*, with a degree of certainty, the scenario of what would have occurred had the unjust event not been undertaken. To a certain extent it is possible to establish a causal chain based on natural laws, starting from an initial condition; however, there are contingent factors, such as free will, that can change the course of the facts. Waldron (1992) ponders that one can even undertake counterfactual reasoning about the possible choices of a person, about how he will exercise his freedom, but what would morally legitimize the best prediction on the subject, if everything remains in the field of speculation?

For Waldron (1992), the theory of the rectification principle of Nozick (1974) presents the inconvenience of dealing with issues, such as expropriations of indigenous lands, an isolated act of injustice in the past, and the difficulty arises. Waldron (1992) presents an additional solution: an expropriation of indigenous territories in the past is not an act of Injustice left in the past, on the contrary, an injustice that persists and perpetuates itself in the prevailing legal system. As long as there is no return of the expropriated land to the community that suffered the deprivation unjustly, the injustice will persist in time and will be renewed daily, with each successive generation. This is a more effective model of rectification of injustices, because it does not involve any counterfactual speculation; the reparation in this latter model is simply to return the land to the person or group from whom it was taken and, therefore, put an end to the continued expropriation (Waldron, 1992).

When faced with historical injustices that occurred through the withdrawal of lands traditionally occupied by the indigenous, it is observed that the lands were not taken away only from the generation of Indians that was closed in the past injustice; the lands were taken from a tribe, a nation or a community, entities that endure to the very beginning of time, despite the deaths of their members individually. The lasting entity holds the right to reparation (Waldron, 1992).

In considering the historical injustice of the expropriation of indigenous territories, it must be taken into account that reparation does not only involve the restoration of the right of property, but also

refers to something deeper, to the restoration of the identity and dignity of the community, since the bond of indigenous peoples with their territories is something that goes far beyond the conception of the right of property conceived in modernity.

In this line, Meredith Gibbs (2009) proposes the use of restorative justice to redress the historical injustice of expropriation of indigenous peoples' territories. At the beginning, we raise the difficulties already mentioned about repairing a historical injustice and mention the proposal of Waldron (1992) previously analyzed, adding, on the basis of Janna Thompson (2002), the role of reparation as reconciliation.

Thompson (2002), when dealing with the principles of restorative justice, points out that these principles propose, above all, the return of resources to usurped persons or groups. The author also emphasizes the need for reconciliation; that is, the victims and perpetrators of injustice should, as far as possible, be returned to the state in which they were before the injustice was committed. Thompson points out that the aristotelian concept of Reparative Justice is retrograde, since reparation means the return to the situation before injustice is committed; however, when it comes to historical injustices this possibility does not exist, given that the restoration of former property resources will simply enter the patrimonial sphere of people of the current generation who are innocent. Therefore, perhaps even the descendants of historical injustice do not want a return to the former state, because there is a likelihood that the community no longer craves a return to that state for their lives or that they currently need. In this way, reparation should consider the current interests and circumstances of the descendants of the original victims and the perpetrators.

Thompson (2002) proposes a repair of relationships, which means taking into consideration the interests and conditions existing today to remove obstacles caused by historical injustice to the good relationship of the groups involved. The author proposes, therefore, a change in Aristotle's concept of reparative justice to a reconciling approach, and explains that this interpellation is similar to a change from a retributive version of punishment to another view that is more centered on the future horizon, as a deterrent to similar injustices. The reconciliatory system of Restorative Justice proposed by Thompson (2002) gives greater weight and relevance to current needs and relationships to overcome the effects of injustice and mend relationships. Gibbs (2009) notes that the approaches of Waldron (1992) and Thompson (2002) are not mutually exclusive, they only highlight different aspects of restorative justice.

When pondering about restorative justice, first of all, it is necessary to clarify what or who should be restored. Most of the historical injustices perpetrated against Indigenous Peoples involve the expropriation of traditional territories and resources (Gibbs, 2009); contemporary reparation consists of the return of unjustly expropriated lands, so a restorative approach to restorative justice consists of requiring that lands taken from groups of Indigenous Peoples be returned. When it comes to the demand for the return of lands traditionally occupied by Indigenous people, the idea of restoration gains an even stronger outline, in view of the "integral role" (Gibbs, 2009) that land plays in the indigenous worldview.

It is observed that, by focusing the reparation only on the restoration of all the lands unjustifiably taken from the original peoples in the past, there will be an acute practical and theoretical ques-

tion of an inescapable character. Gibbs (2009) warns that restorative justice in this situation should not only consider justice in the past; it should consider justice in the present because reparation is performed at present. A first aspect suggested by Gibbs (2009) is the difficulty of a substantive tout court reparation, through the return of territories, since many of the areas are effectively deserted and polluted, so that they no longer present traditional value for the indigenous people. Another aspect emphasized is the fact that contemporary reparation implies the allocation of current resources; therefore, it is necessary to undertake a moral and political justification of this allocation of resources. Gibbs (2009) recalls the weighting of Waldron (1992), that the simple return of large tracts of land that were expropriated from the indigenous, without taking into account the interest of settlers working on these lands today, can lead thousands of people to extreme poverty.

Many settlers who live in these lands currently have no other places of belonging, because they have definitively lost the link that once existed with the places of living of their ancestors. In this perception, Waldron (1992) discards the possibility of a total reparation of indigenous lands that were unjustly expropriated in the past.

Gibbs (2009), in accepting the weighting of Waldron (1992), argues that land is of fundamental importance for Indigenous culture; without a restitution of an extension of land that allows Indigenous peoples to fully live their identity, it is impossible to think of Restorative Justice. The author also points out that in dealing with historical injustice involving expropriation of territories of Indigenous Peoples, what is at stake is not the reparation of the right of property; at this point, the author cites the following excerpt from the Taranaki report: Kaupapa tuatahi, of the Waitangi Tribunal :

People who lose their mistakes to a foreign culture run the additional risk of loss of identity and social and cultural commitment. This could not have been more apparent than in the confiscation of Maori land, where the effect was not only to acquire land, but to take control of the people, to effect social reordering. Loss, therefore, should be assessed not only in terms of individual deprivation and personal suffering, but in terms of compromise of the group's social and economic capacity, the general distortion of their physical and spiritual well-being, and the effects arising from subsequent patterns of living (WAITANGI TRIBUNAL, 1996, p.134 apud GIBBS , 2009, p. 49).

After search, on the difficulties, both practical and theoretical, in the recovery of the loss of the indigenous peoples caused by the injustices of the historical process of colonization, and Gibbs (2009) proposed a model of recovery based on the teachings of the Zehr (2002), quoting the following passage from his book: "If I had to put it on restorative justice, in one word, I would choose respect: respect for everyone, even those who are different from us, even for those who seem to be our enemies." (2002, p. 36 apud GIBBS, 2009, p .50).

Based on the idea of respect, Gibbs (2009) supports not only the reparation of the right of ownership, but the restoration of dignity and respect, considering that the great historical injustice perpetrated against Indigenous peoples, through the usurpation of their territories extends over time, affecting the core of Indigenous identity. Therefore, restoration consists not only in the return of territories, but also in the allocation of sufficient resources to ensure the cultural survival of these peoples. Gibbs (2009) cites, as an example, the application of restorative justice in the settlement process of New Zealand's Waitangi Treaty, whose focus for the temporary reparation of the Maori

people did not focus on the restoration of all Maori lands and resources that were expropriated in the past. The emphasis was placed on restoring elements of Maori culture and identity: tribal mana (power), rangatiratanga (chiefdom), and turangawaewae (a place to stay) (GIBBs, 2009, p.58).

In practical terms, this case meant the restoration of the tribal economic base, the return of important territories and other cultural compensations, rather than the full return of territories. Gibbs (2009) clarifies that the vital purpose of the Waitangi Treaty of New Zealand was to lay new foundations for an ongoing relationship between the Maori people and the state of New Zealand. The author points out that the most important point of the reparation process in comment refers to The Restitution of tribal Mana (leadership) and the identity of the Maori people themselves, as a condition for initiating reconciliation with the New Zealand state and healing, constructed from the perspective of the victims of historical injustice.

From the perspective of Restorative Justice, Gibbs (2009) holds that not only the dignity of victims but must be restored in reparative processes, but also the honor of the offender, in this case the state, which is a condition for a lasting reconciliation that produces a lasting healing. In this regard, it is emphasized that this part of the process is similar to the application of restorative justice in the criminal sphere, in which the offender must recognize his crime, assume responsibility and make reparation, in order to rehabilitate himself to play a new role in the community. Likewise, the State must recognize the historical injustice against Indigenous Peoples, take responsibility and make reparation.

Gibbs (2009) stresses the relevance, in this context, of the apology by the offending state, noting that, although some authors understand that the apology has no practical value, it considers the symbolism of this attitude crucial, because it consists of the assumption of guilt and the public demonstration that it will take responsibility. In the case where it involved the reparation of the Maori people by the state of New Zealand, the apology was carried out in the settlements legislation, in extensive preambles that recounted the history of the injustice that the agreement aimed to repair.

Gibbs (2009) points out that, in addition to the principles of restorative justice emphasizing reconciliation between aggressors and victims, they propose to restore tribal dignity and offer cultural survival, enabling the recognition in the broader social context of Indigenous worldviews. The author cites the example of New Zealand, when it instituted the Waitangi Tribunal, which includes members of the Maori people. The Waitangi Tribunal was established to make judgments on situations in which the crown of New Zealand, which was the government of the colonial era, allegedly committed violations against the Treaty of Waitangi. Its jurisdiction reverts to the signature of the treaty, in 1840, to the present day, whose hearings are held in Marae, a traditional meeting place of the Maori tribe. These judgments do not apply the legal rules established by positive law (Gibbs, 2009).

Gibbs (2009) explains that during the hearings of the Waitangi Tribunal, Maori accounts are made of their losses in the past and that they still reverberate to the present, putting them at a profound disadvantage. The representatives of the state publicly acknowledge the historical injustice and its consequences today. The hearings have had a powerful healing character, since the recognition of guilt and the assumption of responsibility by the State is the beginning of the process of restoring tribal dignity and healing. Gibbs (2009) notes, however, that the similarities of the Waitangi Tribunal's

judgments with the principles of restorative justice go only so far, as The New Zealand government, in practice, has minimized its financial liability. Another problem is the fact that the court's decisions are not binding, which is denoting the inequality of bargaining power between state and indigenous groups.

Finally, Gibbs (2004) concludes that the application of restorative justice to redress historical injustices “may result in two contributions to maximize justice and Reconciliation: first, by reorienting indigenous claims to their lands in the restoration of respect and tribal dignity, rather than restricting themselves to the restoration of property rights, and second, by recognizing the broader social relations in which such conflicts arise.” (GIBBS, 2004, p. 54).

To this vision of Gibbs (2009), it is proposed to add the need to analyze the harmed relations of Indigenous people with the state in a broader context, also taking into account aspects of environmental justice, in view of the existing intersection between the cultural integrity of indigenous peoples with ecological integrity (WESTRA, 2008).

3. The intersection between the cultural integrity of the traditional Pantanal peoples and the ecological integrity of the Pantanal

Oliveira and Milheira (2020), in a work that analyzes the ethnoarchaeology of Guatós landfills in the Pantanal, explain that, from the sixteenth century, the Guatós, Guaxarapós and Paiguás came to be known as the canoeiro (boatman) Indians. In fact, Cabeza de Vaca (1987), in his reports, reports have found the Paiguás, of Guaicuru origin, in the region of Porto Candelária, south of the Pantanal, the Guaxarapós, also of the Guaicuru language family, and, in the vicinity of Puerto de Lo Reys, the Guatós, of the Macro-jê language family.

The Spanish explorer describes with greater richness of detail one of the canoe ethnicities, but does not explain which of the three he was referring to; however, by making a more accurate reading of his account, following the dynamics of the expedition and the cultural characteristics of these ethnicities, it is possible to conclude that the description refers to the Guatós. In fact, it relates the way of life of canoeiros Indians living in the Paraguay River to the north, with a more peaceful trait, dedicated to family duties, manual labor and agriculture. The Paiguás, besides inhabiting the South, were bellicose, which eliminates the hypothesis of the description referring to them. The Guaxarapós had already been cited by Cabeza de Vaca, considering that the indigenous people described in more detail were found after the expedition to have said goodbye to the raccoons and to have gone up the river, with good winds, for a whole day, which shows that they were different canoeiros from the Guaxarapós.

As can be seen, Cabeza De Vaca's rich description of the indigenous canoeiro refers to the Guatós, the resilient canoeiro, who have bequeathed the knowledge of their ancestry and their worldview to the traditional Riverside peoples of the Pantanal, maintaining their way of life to this day.

According to Cabeza de Vaca's accounts, the Guatós did not organize themselves in villages, but in a nuclear way, with their families spread across the vast territory meandered by the Paraguay River towards the north. The families inhabited one place in the flood and another in the drought. Their dwellings were temporary shelters and permanent houses, built along the Paraguay River, accord-

ing to the seasonality of the floods; they built landfills, called marabohó in their native language, to shelter their relatives during the flood period (OLIVEIRA; MILHEIRA, 2020); they cultivated plantations of cassava, corn and other cereals; they fed on fruits, honey, leaves, fish and alligator meat; and they also.

When discussing the guató cosmology, Oliveira and Milheira (2020) report that the Guatós narrate having learned to make their landfills with a mythological people that they call Tchubés or Matchubés and that, in an attitude of reciprocity, the Guatós taught them the art of canoeing. Building and living on the embankments is a special way of life, which the Guatós have bequeathed to the traditional Riverside peoples over generations. They are built with great ingenuity, so that the most prominent part is safe from the floods of the Paraguay River; the edges are trimmed with acuri palms (*Attalea phalerata*) to protect the construction of the embankments from the force of the waters. In addition, the embankment also serves as protection against the Worm, a mythical snake, very large, dark and similar to an old canoe, which reveals itself on full moon nights to attack the fishermen.

The Myth of the worm still survives in the imagination of the riverine marshes. For Almeida e Silva (2012), this experience with the supernatural, with myths, enchanted animals, such as the water jaguar, the water horse and the water bug, is very strong in the cosmology of the riverside communities of the Pantanal. Silva, Abdo and Nunes (1995) explain that these supernatural myths, such as the water bug, also known as The Worm, are mechanisms of great relevance in the regulation and regulation of fishing in the Pantanal ecosystem. Artisanal professional fishing, mainly from *tuvira* (*Gymnotus cf. carapo*), currently involves around 70% of the members of the communities (SIQUEIRA; SILVA; SILVA, 2018).

The field research carried out by Siqueira, Silva e Silva (2018) in the traditional community of Barra do São Lourenço, sub-region of the Pantanal of Paraguay, in Mato Grosso do Sul, points out that, throughout the region, there live about 400 riverine people, with family nuclei organized in five traditional communities: Barra do São Lourenço, Paraguay Mirim, São Francisco, Porto Amolar and a smaller nucleus in the region of Porto Chané. They report, from ethnographic and archaeological studies of Ribeiro (2005) and Oliveira E Milheira (2007), that the communities are culturally shaped by the worldview of the indigenous people of the Guató ethnic group, former inhabitants of the Serra do Amolar region.

The situation of this community is an example of the struggle of the traditional River peoples of the Pantanal for the respect of the state and society to their territorial right. According to the reports of Siqueira, Silva e Silva (2018), after the establishment of the National Park of the Pantanal Matogrossense, the river peoples had their territorial right shaken by the restriction to fishing, the collection of baits, wood and straw for the cover of their homes. The norms of institution of this integral conservation unit did not take into account the traditional communities that already lived on the site as part of the biodiversity of the ecosystem and alienated them from the use of these territories, which were occupied by their Guatós ancestors before the colonization of Brazil.

The long process of deterritorialization of the traditional Pantanal Peoples, which began in the nineteenth century, after the war of the Triple Alliance, and intensified with the expansion of livestock in the Pantanal (RIBEIRO, 2005), has weakened, above all, the identity of these peoples, which was

shaped by the pulse of the waters and, therefore, violates the principle of the dignity of the human person, which also reverberates on the norms of ecological protection. Moreover, it cannot be forgotten that the cultural and biological integrity of traditional communities is intertwined with the very preservation of the ecosystem. In fact, the traditional science seized by the streamers of their past, by the tradition of orality, is of extreme relevance for the management of environmental resources in a sustainable way and, thus, necessary to achieve the ecological balance of the Marsh ecosystem.

Principle 22 of the Rio Declaration recognizes that Indigenous Peoples play a key role” in environmental management and development because of their traditional knowledge and practices. States should recognize and provide support because of their identity, culture and interests and ensure that they participate effectively in achieving sustainable development.”

Although principle 22 of the Rio Declaration refers to Indigenous people and their local communities, the protective norm also covers traditional populations. Westra (2008) explains that the cultural integrity of the original peoples is also protected by Article 8, the Convention on biodiversity, as well as the United Nations Convention to Combat Desertification in Countries with Severe Droughts and Desertification. In the context of domestic law, the Brazilian Constitution of 1988, in anticipation of these norms of international law, had effectively elevated the cultural integrity of the indigenous peoples to the level of fundamental law, in its article 231. This protection was subsequently extended by Decree No. 6.040/2007, to cover all the populations considered traditional, due to their special relationship with the land.

The essence of traditionalism lies in the nature of the bond that Indigenous peoples and traditional populations maintain with ecosystems. It is a relationship based on natural laws that, however, are not confused with the modern notion of natural Law, which is based on human reason. The natural laws followed by traditional populations are similar to those referred to in the doctrine of Domitius Ulpiano, in the *Corpus Juris Civilis* (170-228 AD), for whom the natural laws are those that nature taught to all animals; that is, they are the rules of reproduction, perpetuation, affiliation, the education of offspring and everything that concerns the good living of the human being as a member of nature (WESTRA, 2008).

Ulpiano admitted the existence of a natural law, which deals with the relations of human and non-human living beings with nature, and thus recognized a biological dimension of human beings, which submits them to the laws of nature, also to other beings. Ulpiano's doctrine of natural Law recalls that “we are co-natural with all that is alive” (WESTRA, 2008, P.69, our own translation), because we are biological beings.

The understanding of natural laws conceived in antiquity was abandoned by the ontologic Thomistic dualism, which prevailed in the Middle Ages and Cartesian modernity with more intensity, separating matter from form, the nature of culture, the human being from the biosphere. Nevertheless, indigenous peoples and traditional populations inherited from their ancestral culture the understanding that there are natural laws, which govern their relations and coexistence with nature. Thus, respect for these natural laws, which are usually followed and passed word of mouth by successive generations, is part of their identity. In his cosmology, there is a heuristic of fear, acquired by the practical experience of his ancestors, in the sense that the violation of natural laws compromises

his own biological integrity.

For Indigenous peoples and traditional populations, respect for natural laws is not an option, but an essential condition for their flowering and perpetuation for their future generations. The guiding thread of this heuristic of fear and reverence for natural life permeates generations and consolidates an intergenerational ecological responsibility that eurocentric legal culture is unaware of. The effectiveness of this natural norm is entwined in this visceral relationship with the territory; the Earth is the womb that generates, nourishes and perpetuates, and there is no possibility to meditate outside it.

Thus, protection of the environment cannot be thought of without taking into account the cultural and biological interests of these peoples, as an extension of the principle of the dignity of the human person. Any proposal for environmental governance that disregards the cultural and biological integrity of indigenous peoples and traditional populations bluntly violates the principle of the dignity of the human person and must be rejected for material unconstitutionality.

In fact, traditional riverine populations are part of the Pantanal ecosystem, their presence and their knowledge are fundamental for the maintenance of biodiversity. It cannot be forgotten, however, that the Constitution of the Republic of 1988 enshrined the “socio-environmental state of law” (SARLET; FENSTERSEIFER, 2014, p.78), whose axiological axis is the principle of the dignity of the human person. Thus, the idea of preservation associated with the exclusion of the human being to form uninhabited forest parks does not conform to the domestic legal system, which enshrines socio-environmental sustainability as a result of the principle of the dignity of the human person. The conservation of biodiversity should be based on a holistic vision, which takes into account the human being as an integral part of biomes and traditional knowledge as efficient entropic reducers for the construction of sustainability.

4. The report of the case of the Riverside Community of Barra de São Lourenço

The Riverside Community of Barra do São Lourenço lives around the so-called Impact Zone of the Pantanal Matogrossense National Park (PNPM), established by Decree No. 86,392, of September 24, 1981, comprising a site of 135,000.00 hectares, as an integral protection area.

The Management Plan of the Pantanal Matogrossense National Park was prepared by the Brazilian Institute of the environment and Renewable Resources (IBAMA), in partnership with the Environmental Conservation Institute The Nature Conservancy (TNC). In its original form, was published in 2004, this will be the standard document, established a buffer Zone in the PNPM, which covers the Counties of Poconé, and in Cáceres, Mato Grosso and Corumbá, Mato Grosso do Sul state, with the following wording: “it is in the vicinity of a protected area, where the human activities are subject to regulations and constraints, with the objective of minimizing the negative impact on the unit”(BRASIL, 2003, p. 352).

According to the normative act of institution, in this buffer zone, at first, there would be no possibility for subsistence artisanal professional fishing by the traditional populations of the surroundings; however, this restriction has caused serious difficulties for the traditional community of Barra do

São Lourenço, considering that it has substantially decreased its fishing area. In 2019, to comply with the court decision issued by the Court of Corumbá, still in 2017, the ICMBio periodically changed the Management Plan of the Pantanal Matogrossense National Park, to add an exception in Ordinance No. 633 of 25 October 2019, in the following terms:

Exceptions to the above rule, the artisanal professional fishing practiced by members of the traditional community of Barra do São Lourenço, previously registered by ICMBio, con-forma specifications and permissions below:

- Downstream from Boca do Diabo to Boca do Bigueirinho and downstream from the mouth of the Cuiabá/São Lourenço River to the mouth of the Moquém River; - in the Cuiabá/São Lourenço River, upstream from Boca da Baía do Burro, from 1000 meters from the mouth, and downstream from Morro do Caracará to the mouth, on the Paraguay River.

- It is allowed to collect baits, in the stretch between the Right Bank of the Cuiabá/ São Lourenço River and the Bank of the Baía do Morro, downstream of the Morro do Caracará.

The fishing permits described above are conditional on the implementation of the fisheries monitoring program carried out by ICMBio in partnership with the community of Barra de São Lourenço. According to the evaluation of the monitoring results, the standards may be changed in order to ensure the sustainable use of fishing resources in the ZA (BRAZIL-ICMBio-ordinance n. 633, of October 25, 2019).

This change in the management plan is the result of the work of the Federal Public Prosecutor's Office, in a Civil Inquiry, instituted in 2013, to investigate the encirclement suffered by riverine residents in their right of mobility through traditionally occupied territories, as well as the restriction on access to the resources necessary for their subsistence.

In 2015, a pre-procedural conciliation hearing was held by the Federal Court, in partnership with the National Council of Justice (CNJ), within the scope of the citizenship expedition project, of the Association of federal judges of Brazil (AJUFE), for the construction of an agreement on these conflicting interests. At the time, the negotiations of an agreement between the Chico Mendes Institute for Biodiversity Conservation (ICMbio) and the Ribeirinhos were built, through the participation of the Federal Public Prosecutor's Office, whose objective was to amend the Management Plan (Annex II).

Faced with the non-implementation of the negotiations, in 2016, the Federal Public Prosecutor's office sued the public Civil action (ACP) No. 0001260-64.2016.4.03.6004 to ensure the subsistence and food security of this community. In 2017, an injunction was granted by the Federal Court of First Instance

- Federal Court of Corumbá, determining the revision of the management plan through the assessment and consideration of the traditional knowledge of the Riverside Community of Barra do São Lourenço. To comply with the decision, in 2019, the ICMBio Ordinance No. 633/2019, which amended the wording of the management plan, adding an exception to the prohibitive rule of fishing in the buffer zone, to authorize, under some conditions, artisanal professional fishing by the members of the community of Barra do São Lourenço; however, in view of the constraints imposed in said Ordinance, in practical terms, the community continued without the effective protection of the right to enjoy their ancestral territories.

On November 27, 2019, after the hearing of community members, the court of First Instance of the Federal Court of Corumbá granted an injunction to extend the authorization for fishing and the collection of baits in the region, which is on the banks of the Paraguay and São Lourenço rivers, in the Buffer Zone of the Pantanal Matogrossense National Park (- PNPM). The decision used in its foundations the studies of EMBRAPA-Pantanal in the sense that the fishing activities and former gatherers of the traditional community would not compromise the natural resources of the place; meanwhile, the said decision was the object of appeal and no longer survives today.

In addition to the strong restrictions provided for in the Management Plan in the buffer zone of the Pantanal Matogrossense National Park, the community of Barra do São Lourenço faces other limitations to its territorial right by landowners in the Serra do Amolar region. In this sense, Siqueira et al. (2018) report that, in 1995, a conflict began between the riverbanks of the traditional community of Barra do São Lourenço and the American Non-Governmental Organization (NGO) The Nature Conservancy, which bought the area of the former extensive cattle ranching farms, Acurizal, Penha and Rumo Oeste, properties that total 55 thousand hectares. The aforementioned non-governmental organization (NGOs) transferred the 55 thousand hectares acquired in the region to a Brazilian NGO, the foundation for life support in the tropics (ECOTROPICA), whose territory was transformed in 1997 into a private Natural Heritage Reserve (RPPN).

According to the reports of the river residents of the traditional community of Barra do São Lourenço made in an Open Letter (Annex I) and during the pre-procedural conciliation hearing, still in 1995, the expulsion of the traditional families who lived in the Acurizal region began. Corroborating these reports, Siqueira et al. (2018) clarify that conflicts have intensified in the areas of particular reserves that overlap the traditional territories of the riparian people of that community. The private reserves were organized into an entity entitled “Protection Network” and began to monitor and supervise the biweekly movement of riverine fishermen in the surroundings, with reports of explicit intimidation of riverine fishermen and prohibition of fishing in the bays and corixos of the Paraguay River (SIQUEIRA et al., 2018).



Figure 1: Residents of Barra do São Lourenço – pre-procedural conciliation hearing - May 18, 2015

The records by Siqueira et al. (2018) on the deterritorialization of the traditional community of Barra do São Lourenço are corroborated by the open letter of this Community (Annex I), whose text narrates the expulsion of families, when they still lived in a landfill, which they believe was built by their Guató ancestors, in the region of the former acurizal farm, acquired by the NGO The Nature Conservancy and transferred to ECOTROPICA. In this letter, the river dwellers narrate the pilgrimage of the community in search of territory:

In the old days we each lived in a corner. Some lived in the tip of the hill, others lived in Zé Dias, Caracara, Figueira, all in this region, places that are today within the environmental reserves. Subsequently, the IBAMA Reserve was created and we were ordered to leave. Some riverine residents stayed on the Bank of the Paraguay River in the Acurizal region, today a RPPM, and later were also expelled from this place. They set fire to our houses. This happened in 1995. As there was no more place, we came here to the island. (...) We arrived here on the island at the end of 1995 and started to live on fishing and bait. Still in 1995, Dona Gislaíne, who headed the Ecotropics, and her team came here on the island and said that we could no longer fish and bait, because they would make a management plan. That the time to make the management plan would be five years and that, in this period, we could not fish and bait. So we asked her where we would get the fish for our survival, she said we had to do our own thing. No income alternative was offered to our community (Annex I).

The above document has been brought to the attention of the National Council of Justice (CNJ) and of the Federal Regional Court of the Third Region, which is authorized in the scope of the project, the Dispatch of the population, organized by the Association of Federal Judges-AJUFE, to carry out a due process Hearing, Pre-procedure, which was attended by the Prosecutor general's office, the office of the Public Defender of the Union, the Secretariat of the Patrimony of the Union (SPU), Instituto Chico Mendes de Conservação da Biodiversidade (ICMBio), the Brazilian Pantanal the Federal University of Mato Grosso do Sul-UFMS IT, at the Federal University of Rio de Janeiro (rio de JANEIRO), the Program of the Post-Graduation in Geography, The Federal Police Department, the non-governmental organizations ECOA – Ecologia e Ação, the Ecotropic Foundation, the Acaia Institute and the Homem Pantaneiro Institute. The hearing aimed to build an agreement between preservationist NGOs, ICMBio and the traditional Riverside Community of Barra do São Lourenço to achieve the balance between the need for Biodiversity Conservation in the Impact Zone of the Pantanal Matogrossense National Park and the right of the community to fish, and collect leaves, fruits to ensure their subsistence within this area. The recognition by non-governmental preservationist organizations by the ICMBio of the traditional community's right to enjoy their ancestral territories was also the subject of conciliation.

Were recorded in the minutes of said hearing (Annex II) the statements of several members of that traditional population and also the then Chief of the guató ethnic group, Mr. Severo Ferreira and his wife Dalva Ferreira, whose testimonies confirm the close connection of the traditional community of Barra do São Lourenço with Guató ancestry, see:



Figure 2: pre-procedural conciliation hearing – testimony of Chief Severo Ferreira – 18-05-2015

The people here present are my family and I feel in my skin what they are going through in this place. I would like the authorities to know that we have lived in this place for a long time, that many of our ancestors are buried in this place. That the authorities can respect and support us to give the right to riverine people. They may respect the riverbanks and not expel them from the land where they live. That the people who live here are from Aleia Guató, all descendants who were born in this stretch and do not want to leave here. That they want to continue on the edge of the river fishing, working and living quietly in this place. That we can not go to the city to beg, steal, kill, for our place is on the river. (Extracted from Chief Severo speech on the attached minutes of the hearing)

The wife of Chief Severo, Dalva Ferreira, also spoke in the same direction:

I am the Chief's wife and I feel comfortable in this place too. The people who live here are originally from this place and have the right to take from here their livelihood, with fishing and crafts. Here everyone lives in harmony and I ask that you support them so that they can live here. No one has the right to enter the person's home and take them off for having bought the place. No one has a right to remove the original people from this place. We Indigenous people know how to preserve and conserve what belongs to us. The Guató's (sic) are the true canoeiros of the Pantanal. I ask for the help of all those present to let the people of this land live in peace. (Mrs. Dalva speech from the attached minutes)

Among the speeches of the various members of the community of Barra do São Lourenço that appear in the minutes, the speech of Mrs. Leonora is denoting the worldview and the difficulties of the traditional community of Barra do São Lourenço:

The community was in need of a court to know our community. I was born on the Bank of the Paraguay River, married here, I have 8 children and 8 grandchildren. I just ask that we are all the same, the same roof that covers you, covers all of us. We just need a place for us to live. Many houses here were raised from stilts. Many freedoms have been taken from us and we do not understand where our coexistence as human beings is. You have possessions in the urban area,

properties. Here there is no company, where our people will work except the river. What if all this ends? Where will they put the river peoples? How will it be? I am a fisherman, I live here, I was born here, my most (sic) lived here and I am in the region to honor the community. Where are we going to plant a vegetable garden to eat? Where are we going to plant corn, cassava, sugarcane? In the old days there was a lot of abundance. Nature itself devastates nature and there is no more space to plant on the island. Since they want to preserve nature, they also want to preserve the people who has lived here for thousands of years. I just want respect, freedom and dignity. We need another place to fish and survive. (Speech by Leonora extracted from the attached minutes).

The dramatic accounts of the ribeirinhos open letter and their testimonies refer to the sieges that occurred in the eighteenth century, in Europe, with the advent of the “enclousure”, the name that was given to the process of confinement and usurpation of common lands; that is, that they were worked and enjoyed by peasant communities under a cooperative regime. The fields, which were inalienable, were delimited and closed with the expulsion of the peasants who inhabited them since time immemorial, to formalize the Institute of private property, with the legal contours that are known today. Entire communities were evicted from their lands, their members were physically removed through eviction, transportation and expropriation. Some peasants, who previously worked on these common lands, which turned into private property, were hired by the new owners; others migrated to the cities (Graham, 2011).

Siege laws in eighteenth-century England were justified in progress, which could only be achieved and measured by the improvement of nature (Graham, 2011). Ironically, the expropriation of the common territories of the traditional Pantanal populations, in the so-called postmodernity, occurs under the pretext of preserving nature. The adoption, albeit tacit, of Hardin’s (1968) doctrine of the Commons, which advocates the exclusion of the human being from the use of the Commons in the name of the preservation of nature, reproduces, on the contrary, the same injustice of the law of enclousure, which was edited to satisfy the voracity of the nascent capitalism, thirsty for progress, and which eventually led the planet to the anthropogenic crisis. Now, on the pretext of curbing progress, the traditional peoples are again alienated from their territories, as if they were to blame for the global environmental crisis.

If, then, at the dawn of the modern era, the expropriation of the lands, with their transfer to the powerful, to have been made in the name of progress, now in the ownership of large areas of private persons, by means of the removal of native populations, and the transformation of territory in the Private Reserve of Natural Heritage (RPPN), there is an under-the seductive discourse of the preservation of the environment; however, it remains a modern way to justify the injustice in the history of dispossession of people from the slavery of the indians.

The appropriation by the state or by individuals of the territories traditionally occupied by river communities transcends the sphere of the right of property, in order to reverberate in the rights of the person, by deconstructing the identity of the subject and his community. The Riverside populations, who inhabit the banks of the Paraguay River in the region of Corumbá to the Insua island, are descendants of the indigenous people of the Guató ethnic group, a fact confirmed by the Guató Chief, Severo Ferreira, at the hearing held by the Federal Justice of the Third Region and the National Council of Justice, in 2015, in Barra do São Lourenço.

The recognition of the Guató ancestry of the Barra do São Lourenço community by Cacique Severo is corroborated by the following excerpt from the Management Plan of the Chico Mendes Institute for Biodiversity Conservation:

As already mentioned, linguistically the Guató are linked to the Macro-Jê branch, with very own cultural characteristics. According to reports, only the older ones have mastered the language of origin and have some resistance to using it. This resistance is due to memories of times of persecution, when being identified as Guató meant risk of life. Historically, the Guató were a very large population when the Platinum Basin was discovered and have been established in the Pantanal region for at least 500 years. During the contact carried out in the village Uberaba were shown objects that provide evidence of prehistoric occupation in the region. The history of this group's most intense contact with society dates back to the nineteenth century and, according to some records of the National Indian Foundation (Funai), the Guató participated, alongside the Brazilian Army, in the Paraguayan War. According to reports collected during the field research, it was from the beginning of the twentieth century that the Guató were forced, to survive, to abandon their traditional territory, which became occupied by cattle farms. This situation eventually led them to the periphery of the nearby cities: Corumbá and Cáceres, making them salaried and/or underemployed. In this process, of the Guató Indians who remained on the banks of the rivers, some went to work on cattle farms and few maintained the traditional ties on the banks of the main rivers. This situation led to the recognition by the Brazilian government of this indigenous group as an endangered group around the 1970s. In reality this occurred due to the lack of demographic information about the Guató, which was corrected from the action of Salesian missionaries who dedicated themselves to reorganizing the group and to forward the claim for the possession of the Ínsua island.” (ICMBio, 2003, p. 47). (highlighted by us)

As can be seen, the deterritorialization of the traditional Pantanal peoples has reached their identity, which was forged by the water cycle and, consequently, hurts the principle of the dignity of the human person, which also radiates on the norms of ecological protection.

In recent years, the leaders of the riparian communities, the Secretariat of heritage of the Union (SPU), the Federal Public Prosecutor's office and the non - governmental organization ECOA-Ecology and action work for the progressive reterritorialization of traditional riverine peoples pantaneiros, through the use of the Term of Authorization of Sustainable Use (TAUS).

Although the authorization of sustainable use is a great advance in the process of reclamation of territories of traditional riverside communities, it does not prove sufficient to guarantee the biological and cultural integrity of the communities. The traditional riverside communities of the Pantanal have strong Guató ancestry, so that it is part of their culture not only the organization of their family nuclei sparsely in their territories, but also the free movement in their canoes by the Paraguay River.

Therefore, the preparation by the Chico Mendes Institute for Biodiversity Conservation (ICMBio) of a management plan for subsistence fishing and plant gatherers, through the effective participation and consideration of the traditional knowledge of the riverine people, who descend from the Guató, as the ICMBIO admits verbatim in the management framework of the Matogrossense Pantanal National Park, is a condition for the full collective flowering of traditional riverine commu-

nities, which are in the vicinity of the Pantanal National Park.

5. A proposal for reparation for the community of Barra do São Lourenço in light of the principles of restorative justice

Given the reported inadequacy of the judicial process in the reparation of the historical injustice suffered by the traditional community of Barra do São Lourenço, this work proposes reparation through the principles of Restorative Justice.

The proposal of restorative justice that is intended to be built, starts from the premise that there is an intersectionality between the ecological integrity of the Pantanal biome and the cultural and identity integrity of the traditional and indigenous peoples who inhabit the Pantanal. In this way, a repair project for the region, should be ample to cover all the various relationships that are intertwined with the complexity of the following: (i) the relations of the State with that of the traditional communities and indigenous people; (ii) the relationship between the private owners of the land and the business of the holidays, with traditional communities and indigenous people; (iii) the relationship between the members of traditional communities and indigenous peoples; (iv) the relationship between the members of traditional communities and indigenous peoples, and of the living beings of the system, and (v) the relationship between the State and of the living beings that are not human, that are part of the Brazilian Amazon, including that of the Paraguay River; and (vi) the relationship between the owners of private property to the State and the business, and the living non-human beings who live in these communities, biotic, including the Paraguay River.

The historical injustice that is intended to repair in this case has hurt the Indigenous and traditional Riverside peoples, as members of a larger community, also inhabited by animals, birds, plants, rivers and all the diversity of elements of the biome. This vision is based on an ecocentric understanding, which recognizes the intrinsic value of each living being and, therefore, identifies the existence of relations between all these human and non-human living beings. The biome is a relational tangle of several lives on a homeostatic journey for full flowering, and all of the lives are interconnected, so that the illness of relations causes the imbalance and degradation of the entire biotic community.

The ecocentric and relational vision is based on the Earth Charter, which instituted a new ethics of universal responsibility based on the ethics of the Earth, by Aldo Leopold (1968), and on Integral Ecology developed from the studies of Thomas Berry (2011) and Leonardo Boff (2004). Berry (2011, p.91) advocates that “the universe is a communion of subjects, not a collection of objects.”(our translation). The depth of this statement represents a real shift in the view of the Earth and its human and non-human inhabitants, a turn from the anthropocentric and utilitarian paradigm to an ecocentric and relational view.

Berry (2011) and Boff (2004) observe that the change of posture to a deep ecology requires the recognition of subjectivity and interrelationship between the human being and other non-human living beings. From this vision emerges a new ethics, a new justice that, in addition to potentiating intergenerational solidarity, in the sense of respecting the future of those who have not yet been born, must promote interspecies solidarity, from the recognition of moral status to non-human living beings, beings that exist before humans and for millions of years without humans. They are also

holders of the right to the present and the future (BOFF, 2004, p. 22).

This work aims to present a vision of ecological restoration based on the practice of moral repair proposed by Ben Almassi (2017), whose scope is to seek the reparation of the historical injustice that injured the rights not only of human beings, but of all members of the biotic community of the Pantanal, since all are interrelated. Almassi (2017), when dealing with ecological restorative justice, is based on the work of Margaret Walker (2010 apud Almassi, 2017) who proposes “moral reparation” as an alternative to compensatory models of Justice, which use the criterion of retributive justice to punish. In Walker’s proposal (2001 apud Almassi, 2017) adopted by Almassi (2017), the focus of reparation is on restoring relationship conditions; that is, “restoring or creating trust and hope in a shared sense of value and responsibility” (WALKER, 2006A, P.28 apud ALMASSI, 2017).

Almassi (2017) highlights that Walker (2006a apud ALMASSI, 2017) emphasizes the relevance of restoring the relationship of victims with the perpetrators of the illicit. Responsibility for reparation is extended to cover not only the individuals directly involved, but also the wider community. The conception of reparation, founded on restorative justice, is different from Aristotelian forms of justice based on retribution or compensation.

Almassi (2017) explains, based on Ross (2006), that one cannot forget in reparative practice the fundamental distinction between compensation and restoration. Financial compensation is typical of the Institute of mediation, whose perspective is centered on things; that is, mediation seeks only financial compensation for the repair of a material damage. In contrast, the focus of restorative justice is damage in the sphere of relationships, the repair of material damage is peripheral and consequential.

Still based on Walker (2010, p. 15; cf. Walker 2006a), Almassi (2017) clarifies that the aim of restorative justice is the moral reparation of the victims of errors, which occurs through communication through the recognition of irregularities and the assumption of responsibility and, therefore, for the recognition of the moral position of the victims in their communities. In this way, restorative justice is not retrograde, its gaze is focused on “the creation of a viable future, either for a certain relationship or for a community as a whole.” (ALMASSI, 2017, p. 22).

Almassi (2017) proposes restorative justice as a form of reparation of the relationship of the human being with the environment, which goes beyond the concept of compensation defended in environmental ethics by Paul Taylor (2006). The author explains that reparation only on the basis of the idea of restitution has shortcomings, in view of the fact that treating an amount of evil as something that can be compensated financially is dangerous, since it can induce a certain complacency in the sense that “everything has been accounted for, in a final moral reckoning” (ALMASSI, 2017, p.24). In fact, according to Almassi (2017), the treatment of the issue, only in terms of economic restitution, does not correct the historical injustice in its entirety, since it excludes from the concept of reparation other relevant values, such as dignity, identity and ecological and cultural integrity.

The emphasis on restorative justice is different from a merely compensatory practice, since it pays attention to the moral quality of the relations involved, with the recognition of the injustice perpetrated, and the assumption of responsibility, which renews the principle of trust, which must be at the base of all relations existing in the biome between humans and non-humans, between the state

and humans, the state and non-humans. In this context, the recognition of the importance of the knowledge of the traditional populations that inhabit the biome emerges as one of the aspects of restorative ecological justice. Almassi points out that “restoration projects seen and executed as aspects of environmental moral repair may be less prone to attitudes of arrogance or domination” (2017, p. 26). Overcoming arrogance, the desire to colonize to dominate can only be achieved when one accepts to see the world through the ontological windows of the other, which has been the victim of the historical injustice that is intended to heal.

In the restoration process, it is essential to identify the damage in the relationships between victims and transgressors. Almassi notes that “framing restorations in these terms requires taking victims and relationships seriously with regard to the history of domination and destruction of the Environment” (2017, p. 29); he warns, however, of the challenge of recognizing the victim, his circumstances, his specific context, without incurring a generalized language of victimization, which presents the serious risk of not empowering people affected by injustice. The victim-centered restorative justice proposal, adopted by Almassi (2017), is based on Walker’s teaching (2006a), in which reparation must consider the experiences, points of view and expectations of victims for the elaboration of restorative practices. Restoration must take place considering the perspective and time of the victim, whether human or non-human. In the specific case of ecosystems, one must take into account their homeostatic healing processes, so that one cannot force the acceleration of an ecological flowering. When dealing with human victims, one should also not hasten the restoration of trust or forgiveness. It is in this sense that restorative justice should focus on the victim’s perspective.

Almassi further raises the following question: “the restoration of morally damaged relationships due to environmental injustices and wrongful acts must always be an objective for Restorative Justice?” (ALMASSI, 2017, p. 35). The author responds, noting that restoration will not always be possible, and that the rupture of the relationship can be sustained in at least two hypotheses:

- i) there are cases where the perpetrators of injustice are willing to acknowledge their mistakes and renew trustworthiness, but the victims have legitimate reasons to withhold forgiveness or trust;
- ii) there are situations where the relationship is so abusive and unhealthy, that environmental injustice and transgressions are very serious, so that the attempt of the repentant perpetrators to restore reliability is in itself inappropriate. (ALMASSI, 2017, p. 35); however, the author points out that relational ruptures in very specific cases are not shown to be misaligned from the ethics of care of Walker (2006), considering that the rupture of the relationship may be necessary as a measure of care.

Almassi’s (2017) proposal of a multirational model of moral reparation, built from the broadening of Margaret Walker’s theory, whose reparation involves the recognition of acts of environmental degradation, the assumption of responsibility for the construction of repaired practices from the perspective of the victim, with the renewal of the bonds of trust, dialogues perfectly with the eco-centric and interrelational conception of biome, as a living web of interconnected relations, and is apt to underlie a project of the various relationships that intertwine to make up the Pantanal biome.

This work seeks to open a space at the intersection of two historical injustices: the injustice suffered

by indigenous peoples and traditional Riverine People deprived of their territories; and the ecological injustice suffered by the pantaneiro biome, with burning, loss of biodiversity and siltation of rivers. These injustices are interrelated and must be cured together by building a holistic Restorative Justice Project in the terms proposed by Almassi (2017) and Gibbs (2009), to which three more premises are added:

1) the recognition of the fundamentality of the territory for the culture and expression of the Indigenous Guató people and the traditional riverine pantaneiros emerges as a condition for the repair of the biome itself. In this sense, one should take into account the traditional knowledge of these peoples, their ontology, in the construction of environmental restorative practices, within an ecocentric and relational vision, based on respect for all human and non-human living beings and for the ecosystem itself, especially for the Paraguay River, which is the center of the Pantanal watershed, where all relations must be governed by a common law: the water cycle.

2) in addition to starting from the ecocentric premise of recognition of intrinsic value to all living beings that integrate the biotic community and the ecosystem itself, propose a repair within a holistic and systemic vision that considers natural laws. To this end, we propose a reflection on the concept of environmental restoration taking into account The Theory of Arthur Koestler, who, from the holon theory, offers an organization of life in a staggered and relational hierarchy, which is composed by the whole and the parts. Koestler (1969) used the metaphor of the Roman god Janus, a two-faced deity, who unfolds his gaze in the past and in the future, representing the whole and the part. When Koestler (1969) speaks in part it does not refer to the fragment, but to the subtotal, a small piece that, although smaller, keeps all the characteristics of the whole. The human being who traditionally integrates a biotic community a holon, while being a whole resulting from the sum of atoms that organize into organelles, cells, tissues, and organs, is also the subtotal in the broader relational community of forests, rivers, ecosystem, throughout the biosphere, and the universe beyond. For this reason, Koestler (1969) uses the god Janus, the two-faced deity, to metaphorize his holon. Janus has two faces, one that looks inside the whole that needs to self-affirm itself as individuality, another that looks at the whole of which it is a part, with which it is in a continuous relationship of collaboration. What affects the whole, affects the part and vice versa. The whole the sum of the infinite relationships intertwined in the service of the emerging force of life.

3) Finally, the dialectical monism of Cirne-Lima (2012), which overcomes the modern dichotomies subject/object, nature/culture and promotes a reconciliation between the conceptual symbolic order that sustains political and legal institutions with the natural world, with the biosphere, is proposed as an ontological basis for the moral reparation of the relations that integrate the whole and the sub-whole and these among themselves. For Cirne-Lima

Life is an organism, which is the name we give to the hierarchical harmony of the existing relations between the various parts that constitute a living being. In addition to the laws of Physics and chemistry, one must think of something else, namely the organization, that which orders the relations between the parties. And as by definition, the living being is what reproduces itself, to understand life, we have to consider as a central structure that form of organization that reproduces itself, that is, that organizes itself, which is, in itself, self-organization.” (CIRNE-LIMA, 2012, p. 160).

The ontology of Cirne-Lima's life, from a monistic Root, is adequate to support a project of moral restoration of ill relations, which led not only to the degradation of the ecological integrity of the Pantanal, but also to the degradation of the cultural integrity, dignity and identity of human beings who traditionally make up this great biotic community.

6. Final considerations

Borrowing the metaphor of the god Janus, the two-faced deity who garrisoned the Roman Pantheon, the relational Restorative Justice proposed here must have two looks: one at the past, where historical injustices were perpetrated; and another, at the future, where exactly the possibility of restoration resides.

The past restorative look must rest on the return of a significant part of the land to the Guató's Indigenous people, who need larger territories than the Ínsua island, where they are currently villages, considering that these indigenous people are canoeiros and lack the freedom to move and provide for their livelihood at the rhythm of the pulse of the waters.

In the same sense, there should be the demarcation of more Terms of Sustainable Use Authorization (TAUS) for the riparians, who are descendants of the Guató and live according to the culture inherited from their ancestors. In addition, the right to artisanal fishing for Indigenous Guató's and riverine communities should be restored, even within the buffer zone of the Pantanal Matogrossense National Park, since the right was withdrawn without taking into consideration

the interweaving of the concepts of ecological integrity and cultural integrity of the peoples who traditionally inhabit ecosystems.

The future look of restoration aims at the horizon of relational healing by the practices of restorative justice by the conversational models available, especially circles, in which animals, plants and the ecosystem should also be included and represented. Circles are a virtuous ancestral model of treating the deepest wounds of the community and have the advantage of promoting the place of speech and empowerment of victims in the face of their offenders. This tool of peaceful communication can promote the recognition of error, the collective assumption of responsibilities and, above all, the reconciliation of those involved, for whom the restorative opportunity arises to establish the foundations of a moral and political engagement guided by respect, coherence and harmony.

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Restorative Justice and the Environment: restoring senses

Egberto de A. Penido

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“The Rio Doce, which we, the Krenak, call Watu, our grandfather, is a person, not a resource, as economists say. It is not something that anyone can appropriate; it is a part of our construction as a collective that inhabits a specific place, where we have been gradually confined by the government so that we can live and reproduce our forms of organization (with all this external pressure).” (Krenak, p. 40, 2019).

“In the forest, ecology is us, humans. But they are also, as much as we are, the xapiri, the animals, the trees, the rivers, the fish, the sky, the rain, the wind and the sun! It is all that has come into existence in the forest, far from the whites; all that still has no fence. The words of ecology are our ancient words, those that Omama (the yanomami Demiurge) gave to our ancestors.” (Kopenawa, p. 480, 2010).

Analyzing the relationship between restorative justice and the environment, particularly how the former can contribute to the preservation, restoration and enhancement of the environment is vital. Perhaps saying that it is urgent is little to scale the urgency of the actions that need to be done in terms of restorative justice in the face of its transformative and restorative power in relation to the Environment. These actions must be sought every day, in every act of responsibility of each person; but they must also be carried out institutional and community actions that contribute to the formation of an effective ecojuridical system, a “green justice” or an Ecojustice, that materialize harmonic dynamic balances at the service of life, in the face of the sad and immeasurable escalation of devastation that the planet (as a single entity and as an ethos for every living being it intensifies in a seemingly endless geometric progression, or with an end already announced, but which can and should still be avoided.

And to enter this analysis, in the small space that this article allows, it is important at least to observe (although it is uncomfortable and painful) how much an epistemological conception of law consubstantiated in a Cartesian and mechanistic view of the world, which has been pre-pondering in the West in postmodernity, has contributed to the state of environmental imbalance.

To realize that the legal dimension has been contributing directly and/or indirectly to a state of imbalance can also have effects for the restoration of environmental balance, as long as it is re-signi-

fied from the worldview that structures it.

The importance that the legal dimension has in the Constitution of an ecological paradigm has been exposed, with deep ownership, by the Italian jurist Ugo Mattei and the physicist Fritjof Capra:

“(...) the theory of Western law has contributed significantly to the modern medical worldview; since modernity was responsible for the materialist orientation and gatherers mentality of the Industrial Age, which is at the root of the ecological, social and economic crisis that affects us globally today, both scientists and jurists must share some responsibility for the current situation of the world.” (Capra and Mattei, p. 10, 2015). “The very essence of this paradigm shift is a fundamental shift in metaphors: stop seeing the world as a machine and move on to seeing it as a network of ecological communities. Moreover, the science of Ecology has already shown us that nature sustains the network of life through a set of generative and non-extractive ecological principles.” (Capra and Mattei, p. 11, 2015).

Such thinkers, long attentive to the breakdown of the environmental situation, maintain the imperative to build a legal order of ecological character, disconnecting the right of power and violence, conferring sovereignty to the community and making property more creative and generative.

Like them, several other thinkers have pointed out the need to revise the conception of the world that bases and is sustained by the prevailing legal paradigm in the West (if it is possible to make such generalization), which ends, in the medium and long term, disconnecting the human being from his internal and external nature and consequently reinforcing “the human domination of nature”, “turning it into a thing”, seeing it as a machine, from a “reductionist idea of a single legal order”, and, in this way, directly and indirectly feedback relational and social inequalities.

As we already had the opportunity to state:

“(...) it is urgent to think of justice in a non-Cartesian way; or, taking advantage of the ideas of Niklas Luhmann, it is urgent to think of justice without the theoretical concepts inherited from the enlightenment, since they are not valid to describe the contemporary society, much more complex and differentiated (without prejudice to recognizing and maintaining the historical achievements achieved by Enlightenment humanism).

And in doing so, it is inevitable to have as an epistemological premise the interdisciplinarity, especially the spiritual perspective – as we will see later.

Indeed, it is clear that all the three aspects mentioned above, determining the deviation from the Law, for the purpose of realization of justice, and are the product of the dominant paradigm in western society in the last century, it was predominantly materialistic-mechanistic-reductionist, which was important in a particular historical period, but, on the other hand, it has left us alienated from the rest of the vast expanse of the universe, and on entering, only in a material universe, no sense, no sense, no purpose or intent, without the anchor.

As Roberto Crema points out: “the triumph of reason generated scientific rationalism. We disso-

ciated the subjective from the objective, making the ideal of objectivity prevail. The emphasis on quantification led to the loss of qualitative-value dimension. The mystery has been reduced to the commensurable. Science has decoupled itself from mysticism, philosophy, ethics and aesthetics, poetry and, to a certain extent, life itself. Finally, 'the spirit began to degenerate into intellect', in Jung's denunciation." (CREMA, 1989, p. 23).

Herry Thoreau accurately expressed the incompleteness of knowledge from an exclusively scientific view: "I, twenty miles away, see a crimson cloud on the horizon. You tell me it's a mass of vapor that absorbs all the other rays and reflects the red, but this has nothing to do with it. What kind of science is this that enriches understanding, but steals the imagination? If we knew all things only mechanically, would we really know anything?" (Zajonc, 1995, p. 158).

(...)

If the "crisis of the Law" reveals the failure of the model to the then current, to the new insights of science have pointed to the emergence of a new paradigm, which has the characteristics of the perception of the dematerialization of matter (ex: a matter more as a process than a thing), the impermanence of the (empty quantum, the presence of a consciousness of life and intelligence, which are present in the fabric of the universe as a whole); and that of the interconnection.

(...)

The way we relate to each other and to nature depends on our concepts about nature and about life -- and these concepts are significantly influenced by science. Theories and concepts of science are not only a source of technology, but also a source of meaning and value. If we believe that nature is a lifeless mechanism, we also come to believe that we have the right to treat it the way we want. But what if, for example, nature - the universe itself - is not inert matter or lifeless machine? But what if people are not complex machines and are not separated from each other and their environment, but deeply - though subtly - connected? What if the entire cosmos leaps as creative energy of self-organization, constantly evolving? We would naturally be one, without even realizing it.

What the new paradigm covers is the vision of our original union with the cosmos. Nature reveals itself as a complex web of relationship between the various parts of a unified whole.

It is legitimate to conclude that the new perceptions coming from the fundamental sciences point out that the entire universe functions based on laws of harmony and balance; or otherwise: through Justice. Justice would not be just a moral virtue or an ethical norm, but a cosmic standard; the way of being of the universe, which comes from the very fabric of creation. In this way, we could say that the environmental collapse we are suffering is cosmic justice responding to human injustice. There is no rigid determinism. There is room for freedom so that we can exercise our free will, but within the harmony existing in the very fabric of the universe. (Bingen, 1945).

The perception made possible by the various fields of science, that we are not dealing with the ultimate reality, is leading some scientists in these areas to seek an integration of the scientific vision with the vision of religious traditions. In turn, it is inevitable, that once altered, the perception on reality, the notions of Law and justice also change, as well as the way justice is administered.

Thus, having observed the emergence of the new paradigm, resulting from the new perceptions of

reality, it is at least naive, as already said, to deny that there will be no direct and indirect reflection in the way of perceiving the right, justice and the way of achieving social balance.

It is important, therefore, that the science of law allows itself to dialogue with the vision of spiritual traditions, assuming the leading role in its field of study of the contributions that this dialogue can entail in the way in which Justice value is given effectiveness.”(Penido, p .571/573, 2006)

And complementing what had already been written, it is therefore important that the right dialogue, be inseparable and be shaped in tune with the notion of interdependencies of all things, of deep respect for the loving essence of the human being, of connection with life in all its forms and of respect for the mystery of the world.

And for this transition to an “eco-juridical” paradigm, of respect for the environment, Restorative Justice has much to contribute, especially restorative justice that has been developed in many environments in Brazil[1], which deals with the phenomenon of violence in its entirety, considering not only the individual relational aspects, but also the community, institutional and social aspects that contribute to the emergence, establishing flows and procedures that take care of these dimensions and promote paradigm changes[2].

A restorative justice that is not reduced to a methodology or a set of techniques[3] but is done within a perspective of a culture of nonviolence[4] and, consequently, of social transformation, in a systemic, inter and multidisciplinary way, seeking restorative actions not only in forensic environments, but in the community, in organized civil society and in partnership with other institutions.

We know that the concept of restorative justice is an open concept and this has been a positive and at the same time challenging aspect in the management of its implementation. Positive, because it is not made as a “cake recipe”, cultural, social, institutional, etc. aspects should be considered. of the locus where it will be implemented. On the other hand, the challenge is faced with the circumstance that, being an open concept, they are improperly called restorative practices only a little more “humanizing”, even if inserted in rational logics that perpetuate “power over the other” and not “power with the other”.

“Restorative justice” is a radically libertarian concept and so transformative that it cannot be crystallized into a definition and is made open. But one cannot lose sight of the fact that it is a concept conceived within a holistic, complex and systemic paradigm, with diverse and deep ancestral roots.

Thus, its “conceptualization”, rather than rationalized, must be “felt” in an experiential way, providing, for those affected by conflict and violence situations, processes of awareness and thus providing the construction of meanings and meanings that increase the chances of being woven networks of harmonious coexistence between human beings and their environments, with everything that makes these ethos alive and pulsating.

Not for another reason, such elements are present in the definition of Restorative Justice contained in Article 1 of Resolution No. 225/2016 of the National Council of Justice, seeking to res-skip the purpose of awareness through its practices in relation to the relational, institutional and social factors

that generate conflict and violence situations, and seek their overcoming and transformation[5].

When we think of the relationship between restorative justice and the environment, we are thinking of a libertarian and consciousness-raising restorative justice in the transformative amplitude already punctuated anteriorly.

If we are really committed to the construction of an “ecojuridic” paradigm, let us also live up to the ancestral knowledge that allows restorative justice to inspire changes in the prevailing legal system in the West and that we can remain aligned with The Matrix, or rather, with the ancestral matrices and worldviews of countless peoples and communities that inspired and inspire non-anthropocentric restorative justice, in deep respect for the loving essence of the human being, of connection with life in all its forms, including non-human ones, and of respect for the mystery of the world.

In the complexity of relations that exist in environmental conflicts, it is important to implement a restorative justice in its power and not only limited to the mere administration of conflicts without restoration of the ecological legal dimension effectively transformative.

It is also important, when talking about an ecological paradigm, that each human being treats his or her internal ecology ethically, on a daily basis, committed to nature and not only in the face of external socio-environmental conflicts.

The implementation of the eco-juridical paradigm presupposes processes of individual and collective transformation, through nonviolent, creative and conscious actions, of deep respect for oneself, the other and the environment.

Perhaps in this way, by the way of restorative justice one can contribute so that heaven does not occur, as warned by David Kopenawa:

“The forest is alive. She’ll only die if the white people insist on destroying her. If they succeed, the rivers will disappear under the Earth, the ground will crumble, the trees will wither and the stones will crack in the heat. The parched earth will be empty and silent. The xapiri spirits, who descend from the mountains to play in the forest in their mirrors, will flee far away. Their parents, the shamans, will no longer be able to call them and make them dance to protect us. They will not be able to scare away the epidemic fumes that devour us. They will no longer be able to contain the evil beings, who will turn the forest into chaos. Then we will die, one after the other, both the whites and us. All Shamans will end up dying. When there is no more of them alive to sustain heaven, it will collapse.” (Davi Kopenawa, p. 6, 2010).

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Notes

1. Nowadays it becomes necessary to understand, when we speak of “restorative justice”, which restorative justice we are talking about, in the face of the trivialization and/or diversity of actions that are being practiced under this name.
2. Resolution No. 225/2016, of the National Council of Justice.
3. “Reducing restorative justice to a methodology is to diminish its transformative, conscientious and libertarian essence, in addition to allowing it (as a method) to be co-opted by the political, institutional or legal system in which it is inserted. As Professor Elizabeth M points out. Elliott in his referential work “safety and care – restorative justice and salutary societies:” (...) I have learned that the problems run deeper than an imperfect Criminal justice system, and that our work needs to start in our relationship with each other and with the world and, more importantly, with ourselves.”. And further: “restorative justice concerns us, how we are in the world in our daily lives, how we face the problems we face, and how we respond. Its basis is the belief that we cannot achieve something good in a bad way - never.” (Penido, p. 84, 2016)
4. “For this reason, thinking about restorative justice and the format or method of its implementation should be done within the perspective of a culture of Peace, a culture of responsibility and coexistence, which considers Justice in the relationship with the other, with the environment where we are inserted and with ourselves. For this reason, the need to promote restorative justice was highlighted in the encounter of the conflict resolution and transformation technique (among so many existing today, such as the circular process); with institutional change and social articulation; and, also, with the internal revisiting in a conscious way of ourselves. That is: to appropriate the conflict resolution/transformation technique, but take care of the external environment (also with technique) and the internal environment (also with technique).”(Penido, 2010).
5. Article 1 of Resolution No. 225/2016 of the National Council of Justice: “Restorative Justice is constituted as an orderly and systemic set of principles, methods, techniques and activities that seeks to raise awareness about the institutional and social factors motivated by conflicts and violence, and through which conflicts that generate harm, concrete or abstract, are solved in a structured way (...)”

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Restorative Justice: connection, responsibility and care for humans and the Environment

Marcelo Nalesso Salmaso

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For thousands of years, human beings have lived in harmonic symbiosis with the environment, as parts of a web of relations with the material elements of nature, and also with those immaterial and ethereal, these which, for many peoples, established the connections of the palpable elements in an interrelational whole .

With the advent of the Enlightenment and anthropocentric vision the cartesian-mechanistic paradigm, which began in Galileo Galilei, is developed and systematized by René Descartes, goes through Francis Bacon to contribute to the elaboration of the scientific methodology, and is consolidated by Isaac Newton.

Quite succinctly, cartesian-mechanistic thinking is guided by the idea that systems, from living organisms as well as communities and the planet, are structured as a set of objects and function as machines, being possible to fully understand the system from the understanding of its smaller constituent parts, individually and considered in isolation.

At the same time, the idea of an observant human subject emerges (thinking) neutral and exempt, which observes, from the outside, the natural object (extensive thing) for the purpose of understanding its functioning. The observer, here, does not see themselves as part of nature, but rather as an external subject, which they intend to understand for the purposes of control and domination.

There is an obsession for objectivity in this process of observation and understanding of natural objects, especially through consequential mathematical rules, in order to move away from everything that was considered from the order of the subjective, such as feelings, senses, art, aesthetics, quality, consciousness, values, ethics .

Thus, a way of seeing the world comes to light (cartesian-mechanistic paradigm) in which the human being, as an observant subject and endowed with intellect, is no longer understood as part of the environment and connected with it, but, rather, an external agent, who seeks the understanding of nature, in the most objective way possible, for the purposes of domination, with no ethical limit.

As psychiatrist R. points out. D. Lang: “We had to destroy the world in theory before we could destroy it in practice” . And, as community leader Mike Kumaruara argues in this work, there was the

disqualification of ancestry and its symbiotic relationship with the Environment .

One cannot deny that cartesian-mechanistic thinking and its corollaries greatly contributed to the advancement of science and technological progress of mankind. However, by guiding social structures and coexistence, it brought delicate and often disastrous issues that must be and are being rethought.

So because such a way of understanding the world and dealing with its issues was the basis of support and direction for the structuring of societies guided by the guidelines of individualism, utilitarianism, consumerism and exclusion, which promote competition, domination, the annihilation of others, hate speech, war.

In such social systems, the human being, naturally complex and multifaceted , is reduced to the signifiers of wealth and power that allow the consumption of goods and exercise of power over others, in hierarchical structures and domination, ideas that are often directly linked to each other.

And, thus, inserted in such a structure of coexistence, a large part of human beings are subjected to violence, not only to those of a physical and psychic order, but also to structural and cultural violence especially those who are part of minorities, unable to access resources and services that, in theory, should be available to all, which puts a good portion of the population outside the sphere of ensuring well-being and generates for many people the feeling of social non-belonging, a context that presents itself as a promoter of violent behaviors.

Without prejudice, such a paradigm also reflects in the field of economic thinking and its practical consequences, with significantly damaging impacts on the Environment. This is because the economic theories that move, as a rule, the global economic and financial systems, are guided by cartesian-mechanistic thinking and propose that the economies of the countries grow unlimited and continuously to generate wealth, under the promise that the well-being of the population is achieved, as a consequence.

However, it is not possible for the economies of all countries to grow indefinitely and in perpetuity, since natural resources, the basis of production, are limited. Moreover, basic human needs are finite, so that people do not need so many goods for the satisfaction of what is necessary for reasonable well-being.

And how can economies grow, then, continuously if human needs, and therefore consumption, are limited? So comes the action of marketing, which encourages the acquisition of what is superfluous as something absolutely necessary, encouraging frenetic consumption and unrestrained production, with gigantic and irreversible damage to the environment .

Along those lines, according to professor Nirson Medeiros da Silva Neto, the Amazon rainforest is seen as the “Eldorado” for unlimited and predatory extraction of its natural resources and business growth, which subjects local communities to conflicts and violence .

So warns Ailton Krenak, in verbis:

What I have learned over these decades is that everyone needs to awaken, because if for a while it was us, the indigenous peoples, who were threatened with rupture or the extinction of the senses

of our lives, today we are all faced with the imminence of the Earth not supporting our demand. As the yanomami shaman Davi Kopenawa said, the world believes that everything is merchandise to the point of projecting on it everything we are able to experience .

Therefore “we are living a dramatic moment for the Environment” .

What happens is that, since the end of the nineteenth century, perceptions and ideas that first emerged in the scope of organism Biology and quantum physics, have collapsed the foundations of the old cartesian-mechanistic paradigm and from there was born a new paradigm, known as holistic and ecological, which removes the focus from the individually considered parts and places it on relationships. The world is no longer seen from the working grouped parts as a “machine”, but as a total network.

The human being comes to be understood and understood, not as that external observer and dominator, but as a part of the web of relations in which the systems are constituted, in turn constituted in the form of systems within systems, as if in each node of the web there was another web and so on .

The arrival of this new paradigm, which has been strengthening over the last century, generates counter-movements on the part of the current system, but, without prejudice, also brings transformation movements in all fields , as Restorative Justice, which, on the one hand, emerges from it, and, on the other, seeks to implement it through its action.

Therefore, the objective of Restorative Justice is to promote the construction of societies in which relations are guided by the relational logic of care, in which each one feels and is responsible for himself, for the other and for the Environment, that is, instituting the idea of co-responsibility, cooperation and a power with the others, in order to set aside this power about the others, which is the cause of so much dissatisfaction and, therefore, violence .

And these guidelines of individual and collective responsibilities, as well as care, proper to Restorative Justice, designed on the environment, are the basis of the idea of a green Restorative Justice , which invites people involved in environmental issues to a simultaneous concern with the elements dedicated to economic development, as well as social development and conservation of the Environment, towards sustainable development .

From this premise, it is important to emphasize that restorative justice is not limited to a special method aimed at conflict resolution – despite having a role of them, such as, for example, the peace-building circle/circular process – , because it has as its main focus the change of the paradigms of social coexistence, through a series of actions, in the relational, institutional and social spheres, coordinated and interconnected by the common principles of human values, understanding, reflection, individual responsibility and collective co-responsibility, the treatment of damage, the meeting of needs, the strengthening of the community and peace .

In these terms, Restorative Justice seeks the rescue of the just and the ethical in social relations and, therefore, it is fundamental that the policy and restorative justice projects are developed pela

community, in community, with the community and for the community – understanding the concept of community in a broad sense – in order that the implementation of restorative justice is the result of a collective construction, aimed at the greater ends of the transformation of the structures of human relations in society, and not exclusively to the goals of a particular institution or a group of people to the detriment of others.

Restorative Justice is therefore the hostess who receives people from the most varied social contexts of the community, with its different worldviews, which, based on dialogue and guided by the founding and guiding restorative principles, build paths of coexistence reasonable to all and that tend to non-exclusion.

In the words of Mike Kumaruara :

And restorative justice (...) also means the possibility of unity, of cohesion of these communities, so that they do not lose their strength, especially in the face of a history of so much violence to which we were subjected during the terrible process of colonization.

So in the necessary and urgent search for sustainable development, Restorative Justice has a central role because of the connection it promotes, through dialogue, not only responding reactively to conflicts, with the repair of damages and the construction of new paths, but also seeking the transformation of the logic of coexistence within that context, so that, from there, it is possible to build a sustainable society.

Egberto de Almeida Penido Adds, in an article in this work, that:

If we are really committed to the construction of an “ecojuridic” paradigm, let us also live up to the ancestral knowledge that allows Restorative Justice to inspire changes in the prevailing legal system in the West and that we can remain aligned with the matrix, or rather, with the ancestral matrices and worldviews of numerous peoples and communities that inspired and inspire non-anthropocentric restorative justice, in with the notion of interdependencies of all things, of deep respect for the loving essence of the human being, of connection with life in all its forms, including non-human ones, and of respect for the mystery of the world.

This is how the new is strengthened, that is, the new ideas of a new paradigm, but a new one that takes root in the ancestry and connections of human beings with their roots, with nature and with the Earth for the full enjoyment of “well living”, and, as pleonastic as it may seem, but it is not, the reconnection of the human being with their deepest humanity, taking them back – with the permission of the ancestral peoples – to the korá.

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Notes:

1. Egberto de Almeida Penido highlighted this integration of human beings, in the past, to the natural and ethereal elements, in a community whole, in the lecture given in the First International Seminar on Restorative Justice and the Environment, held in a virtual environment on August 06 and 07, 2020, by the Association of Brazilian Magistrates (AMB) and the Association of Federal Judges of Brazil (AJUFE). Cf., still, the last note of this article, which brings the explanation of the term *korá* by the renowned indigenous leader and written Kaká Werá.
2. Grazia Manozzi and Viola Molteni reflect on the anthropocentric worldview in MANOZZI, Grazia & MOLTENI, Viola. Restorative justice methods in conflicts related to environmental crimes, in this work, Chapter XX.
3. CAPRA, Fritjof & LUISI, Pier Luigi. The systemic view of life: a unified conception and its philosophical, political, social and economic implications. São Paulo: Cultrix, 2014, pp. 43-71.
4. Ditto, p. 45.
5. Cf. in Chapter XX of this work, KUMARUARA, Mike. Restorative justice for the Peoples and communities of the Amazon: an account of a black indian from the lower Tapajós.
6. SALM, João; KAYINGO, Gerald & HASS, Virginia MacCoy. Creating a Culture of Restorative Justice. In KAYINGO, Gerald & HASS, Virginia MacCoy (editors). The Health Professions Educator: a practical guide for new and established faculty. Springer Publishing Company, LLC: New York, 2017.
7. Cf. JAREZ R., Xesús. Educate for peace in difficult times. São Paulo: Editora Palas-Athena, 2004, pp. 31 to 39.
8. CAPRA, Fritjof & LUISI, Pier Luigi. Op. cit., pp. 72 to 87. In the same direction, the exhibitions of professors Roberto Rodrigues, Eduardo Assad and Zysman Neiman in the First International Seminar on Restorative Justice and the Environment, held in a virtual environment on August 06 and 07, 2020, by the Association of Brazilian Magistrates (AMB) and the Association of Federal Judges of Brazil (AJUFE).
9. SILVA NETO, Nirson Medeiros da. Restorative Justice and Socio-environmental Conflicts in the Brazilian Amazon, in this work, Chapter XX.
10. KRENAK, Ailton. Ideas to Postpone the End of the World. São Paulo: Companhia das Letras, 2019, p. 45.
11. Words of Zysman Neiman in the lecture given in the First International Seminar on Restorative Justice and the Environment, held in a virtual environment on August 06 and 07, 2020, by the Brazilian Magistrates Association (AMB) and the Association of Federal Judges of Brazil (AJUFE).
12. CAPRA, Fritjof & LUISI, Pier Luigi. Op. cit., pp. 93 to 116.
13. Cf. PERINI, Chiara. Individuals, communities and the environment: Restorative Justice as na inclusive structure, in this work, Chapter XX.
14. Cf. ELLIOT, Elizabeth. Safety and care: Restorative Justice and healthy societies. São Paulo: Palas-Athena; Brasília: ABRAMINJ, 2018.
15. MANOZZI, Grazia & MOLTENI, Viola. Op. cit.
16. Judge Josineide Gadelha Pamplona Medeiros develops the idea of Restorative Justice aiming at sustainable development as in MEDEIROS, Josineide Gadelha Pamplona. Restorative justice, Peacebuilding and Sustainable Development, in this work, Chapter XX.
17. Cf. PRANIS, Kay. Circular processes. São Paulo: Editora Palas Athena, 2010.
18. On principles of Restorative Justice, cf. SALM, João; KAYINGO, Gerald & HASS, Virginia MacCoy. Creating a Culture of Restorative Justice. In KAYINGO, Gerald & HASS, Virginia MacCoy (editors). Op.

cit., pp. 359 to 368.

19. Throughout the text, the concept of “community” is used in a broad meaning, considered to be the set of people who make up the institutions, public and private, and those of civil society, who act and relate in the most varied spheres of social coexistence and propose to build paths of coexistence that are reasonable to all and seek not to exclude. The Judiciary and its judges are a part of the community and therefore they are a part of the construction of Restorative Justice. In Brazil, the Judiciary is often the one that leads the proposal to implement Restorative Justice to the localities, which is commendable. However, the judge must, in this case, articulate himself with the other institutions and with organized civil society, so that, gradually, the community base of Restorative Justice is structured and this takes root as a local policy of the whole society.

20. SALMASO, Marcelo Nalesso. Restorative Justice and its Relationship with Mediation and Conciliation: fraternal paths and self identities. In LAGRASTA, Valeria Ferioli & ÁVILA, Henrique de Almeida. National Judicial Policy for Adequate Treatment of Conflicts of Interest - 10 Years after CNJ Resolution No. 125/2010. São Paulo: Instituto Paulista de Magistrados (IPAM), 2020, pp. 389 to 408.

21. The care that is sought is in the sense that Restorative Justice is not co-opted by power structures and, paradoxically, begins to act for objectives inconsistent with those that are of its essence and that do not meet its principles. In these terms, when Restorative Justice is implemented exclusively by an organ or an institution, without inter-institutional, intersectoral and community articulations and participations, it tends to meet the institutional objectives of this entity that maintains and manages it, only offering it a new method of conflict resolution. And so it loses its potential for social transformation, as it keeps doing “more of the same thing” under a new guise. A further step in co-opting and degradation occurs when restorative justice and its practices are co-opted, by an institution or by groups of people who unite based on exclusionary ideologies, and are used to dominate people and maintain power structures, expanding structural violence. This can happen when, for example, restorative justice practices are used as true judgments or when institutional actions or institutes are classified as “restorative” essentially punitive, but a little softer, saying that there is some restorative “degree” or “focus” or seeking to “cast” Restorative Justice in a single and rigid national or international normative model. On such warnings and paradoxes, cf. PAVLICH, George. *Governing Paradoxes of Restorative Justice*. New York, USA and Oxon, Canada: Routledge-Cavendish, 2007.

22. George Pavlich, in his article “What are the dangers as well as the promises of community involvement?”, inspired by the ideas of the philosopher Jacques Derrida, conceives this abstract formulation of the concept of community for Restorative Justice from the idea of the host (PAVLICH, George. What are the dangers as well as the promises of community involvement? In TOEWS, Barb and Zehr, Howard (editors). *Critical Issues in Restorative Justice*. Criminal Justice Press, 2004, pp. 173 to 183).

23. Cf. KUMARUARA, Maike. Op. cit.

24. PENIDO, Egberto de Almeida. Restorative Justice and the Environment: restoring senses, in this work, Chapter XX.

25. Cf. KUMARUARA, Maike. Op. cit.

26. The renowned indigenous leader and writer Kaka Werá, in his lecture delivered in the Third International Seminar of Restorative Justice of São Paulo: origins, paths and possibilities, held on March 08 and 09, 2018, at the São Paulo School of Magistracy, explained the concept of *korá* as follows: “So I wanted to talk from the point of view of a tradition called Tupi, which is our tradition here, which leads us to establish this practice of justice, and what is this justice for this local wisdom, for

this Tupi one. It starts from an idea, which is present in other peoples also not Tupi, which is called in the Tupi language as *korá*. *Korá* in the Tupi language is a word that at the same time means “Center” and “circle”, and that within this idea, this principle *korá*, that it is this word that means “Center” and “circle”, there is a belief that every person, every human being, regardless of their tribe, their people, becomes an integral person, integral, a balanced person, if they keep themselves on this axis of their *korá* from your center and your circle. And that the four great conflicts of a community happen when you leave that *korá*, from this center, from this circle. (...) in Tupi tradition as in the tradition of the Americas, the community includes some kingdoms other than the human kingdom. To have community, it is necessary to consider the community of the plant kingdom, the community of the mineral kingdom, the community of the animal kingdom, and the community of the human kingdom. It is the four legs, the four legs that form the community in the physical world, in the material world, in the world that we can perceive with our external eyes. But in the indigenous tradition it is still considered that this community of the physical world, which must include the place where we live, with its kingdoms, it is only the tip of the iceberg, it is only the space that anchors a previous community that sustains us, and this community that sustains us is immaterial. (...) This immaterial community is structured precisely from what was brought here and we translate as values. It is the values that structure the immaterial community. (...) There is a third point that sustains this community of values that is an intangible center that we call “great mystery”. In the Tupi language we call it *nhamandú* which means the “unnamable”, which we can’t name, which we can’t measure, so we call it “the great mystery”, and this “great mystery”, although we can not name, even speak with total clarity about it, we can understand, understand, by a quality by which he presents himself, which is a quality inherent in everything that exists, that in Tupi is called *mborayu*, which is a difficult word, but which in the Portuguese language everyone knows, which is “love” (*amor*). So the community has a vertical alignment, love, values, and the four foot structure, of the four realms of the material world. With that we have a community. In these dimensions, from Tupi tradition, this community forms a “Korah”, forms a circle...”. Available in: https://www.nucleomedia.com.br/get_webcast.asp?id=38811

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