



## Problematising environmental victimhood. The *San Cristobal de las Casas* case

Problematizando el victimismo ambiental. El caso de San Cristóbal de las Casas

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### Abstract

This study explores the green criminological category of environmental victimhood in relation to the 'environmental harm' approach so as to offer insight into its underlying complexity. Understanding this complexity is key to shedding light on phenomena of hidden victimisation and tailoring remedial actions to meet victims' needs. The main purpose of the environmental harm approach is to establish responsibility; however, it fails to account for the victims' sometimes complex relations with the factors that are causing them harm. This study highlights such limits by discussing the case of Coca-Cola in *San Cristobal de las Casas* from a green criminological perspective, emphasising the need to holistically understand the process of victimisation. It then argues that the harm approach should encompass both the status of victim and the realm of remedies so as to provide adequate redress mechanisms. Restorative justice could be a valuable path in this regard.

**Keywords:** green criminology; environmental victims; environmental harm; environmental degradation; human rights; right to water; corporate restorative justice.

### Resumen

Este estudio explora la categoría criminológica verde de la victimización medioambiental en relación con el enfoque del "daño del medio ambiente" con el fin de ofrecer una visión de su complejidad subyacente. Comprender esta complejidad resulta clave para arrojar luz sobre los fenómenos de victimización oculta y adaptar las medidas correctivas a las necesidades de las víctimas. El objetivo principal del enfoque del daño del medio ambiente es asumir la responsabilidad; sin embargo, no tiene en cuenta las relaciones, a veces complejas, de las víctimas con los factores que les causan daño. Este estudio pone de relieve estos límites al analizar el caso de Coca-Cola en San Cristóbal de las Casas desde una perspectiva de criminología verde, haciendo hincapié en la necesidad de comprender de manera holística el proceso de victimización. A continuación señala que el enfoque del daño debería abarcar tanto la condición de víctima como el ámbito de los recursos, a fin de proporcionar los mecanismos de reparación adecuados. En este sentido la justicia restaurativa podría ser una vía a tener en cuenta.

**Palabras clave:** Criminología verde; víctima medioambiental; daño ambiental; degradación medioambiental; derechos humanos; derecho al agua; Justicia restaurativa empresarial.

## Introduction

This contribution problematises the green criminological category of (human) environmental victims in relation to the 'environmental harm' approach. Precisely, this work questions the ability of this approach to bring to surface the full spectrum of victims' vulnerabilities. The argument is organised as follows. It first explores the harm-based notion of environmental victimhood in green criminology. It then argues that a narrow understanding of the harm approach could turn into a static representation of victimisation, which risks excluding vulnerabilities that stem from victims' complex interactions with sources of harm. It finally highlights that these shortcomings could impact how remedial actions are tailored to victims, thus carrying the risk of further compounding victimisation. It therefore emphasises the need for adequate mechanisms of justice to meet victims' need and the role that a holistic notion of environmental victimhood should play in this respect. This contribution concludes by suggesting restorative justice as a potential, albeit problematic, solution for understanding and redressing environmental victimhood. The case of fundamental rights, Coca-Cola and the population of San Cristobal de las Casas is used for developing this discussion.

## Environmental victimhood from a green criminological perspective

In the age of global ecological collapse ([Lynch, 2020](#)), green criminology offers new perspectives on environmental issues involving crimes, systemic violence, injustice and victimisation. Specifically, the green criminological way of conceiving of victimhood differs from that of mainstream criminology, which has long trailed behind traditional models of criminal justice by offering legalistic definitions of 'environmental victim' rooted in the binomial association 'victim-crime' ([Williams, 1996](#)). However, green criminology goes further by exposing the limits of criminal justice systems in understanding phenomena of environmental victimisation, frequently marked by scant social representation and awareness ([Hall, 2013](#)). These limits include judicial shortcomings mainly related to time and space ([Skinnider, 2011](#)); the persistence of statistical data on environmental crimes and scant empirical research ([Gottschalk & Tcherni-Buzzeo, 2017](#)); and, at a deeper level, uncertainty concerning what 'environmental crime' is. Precisely, the choice of what *should* be illegal ultimately depends upon social, economic, and cultural factors that shape the political decision to criminalise specific phenomena and, more broadly, the axiological foundations of a given society ([Bouverasse, 2017](#); [Lynch & Stretesky, 2003](#)). Under some societal constructs, certain polluting activities are seen as a necessary evil for the good of society, downgrading structural and systemic violence towards nature when compared to violence occurring at the interpersonal level ([Rivera, 2014](#)). Thus, processes of environmental victimisation often go unrecognized when "lawful but awful" ([Passas, 2005, p. 771](#)) activities, such as the clear-felling of old-growth forests, take place.

The alternative understanding of victimhood in green criminology stems from the empirical observation of the actual and concrete infliction of injury, beyond its definition within the remit of

criminal law, on the premise that law in general is a social construct affected by power structures and interests (Bisschop, 2015). The green criminological perspective thus aims at offering a descriptive as well as a prescriptive understanding of environmental victimisation, i.e. who is a victim and who *ought to be deemed to be* a victim (Brisman & Nigel, 2020; Spapens et al. 2014; White & Heckenberg, 2014).

Green criminologists undertake this task by adopting an interdisciplinary, or inter-sectoral (Hall, 2013), sociological 'harm' approach, decoupled from the legal findings of criminal, administrative or civil liabilities or the binomial crime/victim (Hillyard & Tombs, 2004). This approach captures the social and political roots of certain harmful yet legal behaviours and their factual consequences in the social realm (Nurse, 2017). Following the social harm approach adopted by Hillyard & Tombs (2004), environmental harm could be understood as a criterion that highlights the connections between social dynamics that affect the ecosystems and processes of victimisation, which encompass physical, economic, emotional, psychological, as well as cultural spheres.

When addressing human victims, the existence of environmental harm often depends on two concurring and verifiable factors namely 1) the fact of environmental degradation and 2) human rights violations (Bisschop et al., 2017; Hall, 2013), reflecting the entanglement between the human and the natural dimensions (Porfido, 2021). This criterion thus encompasses 'supra-individual' processes of collective and diffuse victimisation, which are still problematic under traditional criminal justice systems (Gaddi & Puerta, 2022).

### **Unveiling environmental victimhood's complexity**

The category of victimhood in green criminology is far from uniform (Shapland & Hall, 2007). It rather presents a degree of complexity that recognises that victimisation often constitutes a dynamic and evolving process rather than static or discrete 'event' (McGarry & Walklate, 2015). This fluid category is therefore antithetical to notions of 'ideal victims' (Christie, 1986), which would disregard the multifaceted nuances of victimisation phenomena by prioritising one cluster of affected interests over the others. This occurred, for instance, in a case concerning the closure of an aluminium plant in an extractive region in the North-East of England following the prioritisation of environmental concerns over occupational ones. Through field research, Davies (2018) demonstrated that this prioritisation reflected the appropriation of an ideal status of victim from environmental stakeholders, obscuring the other and less attractive side of the matter, that of vulnerabilities caused by job losses. The dilemma 'dying either due to pollution or due to misery' exposes the limits of abstracting victims from real situations. Rather, victims, and particularly environmental victims, are not alike; they are differently exposed to environmental degradation and they react differently (Shapland & Hall, 2007). For this reason, environmental victims should be conceived in terms of 'complexity' and specifically as the result of entangled and overlapping, not necessarily conflicting, interests, including economic well being, health, and aesthetic and cultural values (Natali, 2015).

Understanding environmental victimisation thus requires us to unveil the underlying complexity of real life experiences of vulnerabilities. Whilst a harm-focused approach better serves this aim than traditional legalistic labelling, one should keep in mind that the primary purpose of the notion of harm is to highlight where the responsibilities for victimisation lie among society by focusing on

societal power inequalities (Gibbs et al., 2010; Ruggiero & South, 2010). Therefore, a harm-based victimhood depends on the existence of an external harmful conduct, whether or not it is legally proscribed. This translates into a binary and *a priori* static structure, where the victim is necessarily the result of an external injurious action or omission. Exemplifying, in White's words, the notion of environmental victim implies that "someone or something is being harmed through the conscious or neglectful actions of another" (White, 2011, p. 105). Accordingly, determining 'who is harmed' and 'how' is entangled with the questions of 'who caused it' and 'why' (Stretesky et al., 2014).

This account-based understanding of harm and victimisation, i.e. a person is a victim on account of a harmful behaviour, informs prevalent green criminological avenues. For instance, the state-corporate crime approach explores victimisation stemming from "illegal or socially injurious actions that resulted from one or more institutions of political governance pursuing a goal in direct cooperation with one or more institutions of economic production and distribution" (Kramer et al., 2002, pp. 271-272). Similarly, the green-cultural criminological strand shares with cultural victimology (McGarry & Walklate, 2015) the premise that becoming victims is "never socially neutral" (White, 2011, p. 111). It thus explores victimisation in terms of societal and individualist perceptions of what constitutes harm (Brisman & South, 2012) at times also referred to as 'trauma' (Hall, 2017).

On the one hand, the focus on societal responsibility is fitting to the critical approaches of green criminology to victimisation. On the other hand, the *a priori* structure of harm could frustrate its empirical focus on real life vicissitudes, resulting in a narrow understanding of victimisation processes. Therefore, without denying the need for harmed-based determinations of victimisation, there is reason to question the capability of the harm approach to capture the full spectrum of overlapping vulnerabilities in concrete cases.

## Methodology

In light of the aforementioned theoretical considerations and narrowing the scope of the analysis to human victims only, this topic of environmental victimhood is discussed in relation to the case of the populations of San Cristobal de Las Casas (Mexico), affected by the 'lawful but awful' productive activities carried out in the area by The Coca-Cola Company (TCCC). While TCCC is not the sole actor operating in the area, its economic and historical relevance in Mexico justifies this focus, also considering the greater availability of material addressing this company's activities. This case serves to test the value of harm-based approaches to capturing phenomena of environmental victimisation considered in their real-life experiences of vulnerabilities. This study does not argue that these populations are in fact 'environmental victims', for this would require an empirical assessment that falls beyond this work's scope. It however claims that such population would *arguably* enjoy the status of victims from a harm-based green criminological perspective. Building on this assumption, the work discusses the limits of the harm criterion by focusing on the factual relations between the Coca-Cola beverage and the alleged environmental victims.

These points are discussed by taking a descriptive stance that combines a theoretical with a case-oriented approach. In doing so, it further develops the green criminological category of environmental victimhood by exposing issues descending from a holistic focus on environmental harm. This analysis is mainly based upon the works of legal and green criminological scholars and

on legal instruments. Furthermore, when examining the case-study, the analysis also relies upon information extracted from relevant empirical studies as well as from reports and newspapers reporting describing victims' testimonies, stories and experiences related to the harm. The analysis then takes a prescriptive stance, emphasising the importance of expanding the critical function of the environmental harm criterion within the realm of remedies for victims.

## **Outcome. The controversial role of Coca-Cola**

The *San Cristobal de las Casas* case is characterised by a network of intertwined relations between local communities' cultural practices and neo-liberal commodification of natural resources, in this case, water reservoirs. TCCC entered the Mexican market in the beginning of the 20<sup>th</sup> century. It has operated in the San Cristobal de Las Casas area since 1953, firstly through the Mexican bottling company *San Rival* and then, from the 1980s, through its subsidiary TCCC-FEMSA, both held by TCCC and the monopolistic Mexican bottling company FEMSA (Jordan, 2008).

The history of TCCC-FEMSA in Mexico is deeply entangled with politicians and policies of water privatisation. Presidents such as Ernesto Zedillo, Vicente Fox and Felipe Calderón strengthened the ties between public authorities and Coca-Cola by inserting TCCC-FEMSA's personnel in government's key roles (Jordan, 2008; Page Pliego et al., 2018). As early as 1992, during Carlos Salinas' presidency, article 27 of the Mexican Constitution was reformed to make water privatisation legal. It was however under Vicente Fox (2000-2006) that water privatisation surged. In 2004 Fox - who had worked from 1970 to 1979 for TCCC, becoming the president of its Latin-American division - passed the new Law of National Waters, which authorised the privatisation of the entire system of federally-owned hydraulic infrastructure, including dams, canals, and irrigation ditches, and prioritised the rights of corporations to extract water (Nash, 2007). He strengthened the entanglement between politics and corporate ties by appointing, among others, Mr. Cristobal Jaime Jaquez, FEMSA's former General Director, as National Commissioner for Water. As National Commissioner, he granted TCCC-FEMSA the licence to exploit the San Cristobal de Las Casas' deep groundwater reservoirs for free, without taxation or other fees owed to local municipalities (Blanding, 2010). TCCC-FEMSA established its plants on the slopes of the Huitepec volcano, an area particularly rich in water, as it catches the rains that pours down the valley, supplying the whole community of San Cristobal. The bottling plant is one of the largest in Mexico and is licensed to extract up to 419.7 million of cubic metres of water per year (1.4 million of litres per day)<sup>1</sup>. In 2016, the company was estimated to extract 78.8 % its permitted amount (Pskowski, 2017). TCCC-FEMSA's activity overlaps with two distinct yet entangled social phenomena. On the one hand, it generates social tensions among San Cristobal's local communities; on the other, it has infiltrated the cultural habits of these communities.

As for the first issue, this is connected with the exploitation of the Huitepec aquifer. A number of reports have investigated the link between water scarcity and the corporate commodification of water in Mexico (Informe DHAYS, 2017; Perlmutter, 2022; Sousa, 2015). Other reports have scrutinized TCCC's direct role in drying out the aquifer, causing water shortages (Rosane, 2018; Vigliotti, 2021). TCCC-FEMSA's denials of responsibility have also been contested (MacDonald, 2018). Protesters

<sup>1</sup>Data are from the 'Environmental Justice Atlas' on-line portal, available at <https://ejatlas.org/conflict/extractivismo-de-agua-femsa-coca-cola-chiapas-mexico/?translate=en>.

accuse TCCC-FEMSA of extracting high volumes of water even during periods of drought and complain that populations living in the San Cristobal area have to regularly ration their water use, despite the area being known for its constant downpours and abundant springs. For instance, people belonging to the indigenous town of San Felipe Ecatepec in the San Cristobal department have to walk for two hours to get clean drinking water (Agerholm, 2017).

The scarcity of readily accessible water has several implications. In the first place, it drives the local demand for bottled water and increases its cost. Incidentally, TCCC, Nestle and Danone control more than 60 % of the Mexican market for bottled water, which is one of the largest worldwide (Enciso, 2010). Secondly, soda drinks and particularly Coca-Cola are more readily available, above all in rural areas, and are cheaper than bottled water. This availability affects dietary habits by driving many inhabitants to resort to Coca-Cola for essential hydration (Agerholm, 2017). According to Page Pliego (2013), in San Cristobal de Las Casas, the average resident drinks more than two litres of Coca-Cola daily. In a more recent study, Page Pliego et al. (2018) shows that the sugary drink consumption rate in Chiapas is more than five times higher than the national rate of 150 litres per person per year. According to this study, even very young children are accustomed to drinking carbonated beverages: 3 % of babies under six months and 15 % of children aged one or two regularly drink soft drinks. In a nutshell, Coca-Cola has replaced water in fulfilling many persons' basic needs.

Unsurprisingly, this comes at the cost of their health. By drinking soda, children ingest between 315 and 420 % more than the maximum amount of daily intake of sugars recommended by international organisations (Guéguen, 2022). The consumption of high amounts of sugar is associated with health issues such as diabetes, hypertension, heart disease, dyslipidaemia, pancreatitis, obesity, and liver dysfunction. In Chiapas, diabetes is the second-leading cause of death after heart disease (Page Pliego et al., 2018).

The scarcity of potable water is not the sole cause of over consumption of Coca-Cola and other sugary drinks. This is also grounded in local, particularly rural, communities' cultural habits. Since its establishment in the 1950s, TCCC has made inroads into San Cristobal's communities. Through a combination of market strategies, low prices, political pressure and promises for more jobs and social welfare, TCCC-FEMSA has succeeded in creating an ever-growing demand for its products (Jordan, 2008). However, more complex reasons have underpinned such expansion. The anthropologist Nash (2007) discovered that Coca-Cola's cultural acceptance is linked to the decline of liquor consumption in local traditional religious practices. He highlights that drinking behaviours were deeply-rooted in such practices, as they reproduced relations of subordination existing in societal structures, especially over the indigenous people. However, the increased awareness about the harmful implications of over-using alcohol, including abusive and violent behaviours such as domestic violence, threatened the legitimacy of the rituals themselves. To address this, traditional religious leaders started substituting alcohol with sodas, such as Coca-Cola. In a nutshell, TCCC-FEMSA's commercial strategies have intercepted and exploited, yet not engineered, a deeper process of delegitimising traditional religious practices. This resulted in a cultural shift in consumption from local traditional beverages such as *pozol* and *pox* - the former made from fermented corn dough and the latter being a liquor made of sugar cane, corn, and wheat - to Coca-Cola (Page Pliego et al., 2018).

Nash (2007) witnessed that in 1987 in Amantenango, a municipality in Chiapas, Coca-Cola had

fully substituted traditional drinks in ceremonial practices and religious rituals. It is now widely considered a holy drink and is accordingly used for religious rituals (Rigg, 2013). For instance, in St. John the Baptist church, Coca-Cola bottles are used for decoration and even to perform religious ceremonies, and the church itself is colloquially known as the 'Coca-Cola Church' (Tyler, 2018). "Coca-Cola is sweet, so the spirits will appreciate it, and it also has certain healing properties" said Pascuala, a traditional healer from El Pinar (Tuckman, 2019). Another local resident who believes in the healing properties of carbonated soda, stated "It is considered a holy drink. It helps purify the soul. This is the power of Coca-Cola" (Guéguen, 2022). Paradoxically, yet not surprising, some residents believe that the Coca-Cola has the power to heal the sick (Jenatton & Morales, 2020).

Cultural acceptance has ultimately enhanced the role of Coca-Cola as a social symbol (Page Pliego, 2018) particularly among young people. Jenatton & Morales (2020) carried out interviews among groups of students, showing that the spread of soft drinks, mainly but not only Coca-Cola, is not just because of their properties, as being "tasty", "delicious", "refreshing". They are also associated with a certain vision of wealth and of economic standing: "Sodas are just for spending money. And we want to spend money"; rich people buy sodas "because they have extra money to spare and can spend it". It is noteworthy that this appeal of Coca-Cola and of soda soft drinks more broadly is widespread despite the general awareness of the health implications related to these drinks: "some people die here, with diabetes. Sodas give diabetes" (Jenatton & Morales, 2020, pp. 16-19).

To sum up, the over consumption of Coca-Cola in the San Cristobal area reflects a vicious circle between the need for alternatives to scarce potable water, with health-related collateral effects, and the religious and social-status value attributed to it. Is this interplay significant from a green criminological perspective? If so, to what extent?

## A twofold frame of vulnerabilities

A green criminological perspective is undoubtedly concerned with the harmful consequences stemming from corporate activities of water overexploitation. Precisely, the previous considerations strongly suggest that the *San Cristobal* case is a paradigmatic example of a 'water conflict', that is, a conflict over the privatisation of water resources by corporations with the complicity of local or national authorities (Brisman et al., 2018; Johnson et al., 2016). In this respect, a green criminological harm-based assessment of environmental victimisation, if supported by empirical data, would draw a link between TCCC-FEMCA's exploitation of the Huitepec basin and infringements of local inhabitants' human rights.

In short, the massive extraction of water by TCCC-FEMCA could be directly or indirectly related to the degradation of natural resources necessary for the realization of human rights, in this case water. According to the 2009 UN International Strategy for Disaster Reduction (UNISDR), the term "degradation" could be understood as "the reduction of the capability of the environment to meet social and ecological objectives and needs", that can "alter the frequency and intensity of natural hazards and increase the vulnerability of communities" (emphasis added)<sup>2</sup>. Once such degradation is established, there would be ground to claim the failure of Mexico to duly protect, respect and fulfil

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<sup>2</sup>Available at [https://www.undp.org/sites/g/files/zskgke326/files/migration/ge/GE\\_isdr\\_terminology\\_2009\\_eng.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/ge/GE_isdr_terminology_2009_eng.pdf)

local inhabitants' human rights, specifically the right to health and above all the right to water, as established under Articles 11 and 12 of the UN Covenant of Economic, Social and Cultural Rights (ESCR). As the UN Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 15 'The Right to Water' (E/C.12/2002/11) states "Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights" (§1). In particular, permits granted to TCCC-FEMSA to extract water appear to be inconsistent with the General Comment no. 15's criteria of *availability* and *accessibility* of water, this latter encompassing *physical accessibility*, *economic accessibility*, and *non-discrimination in access* (§12). In 2017, the UN Special Rapporteur on the human rights to safe water and sanitation, Mr. Léo Heller, addressed Mexico with concerns specifically directed at the country's policies of water privatisation (Report no. A/HCR/36/45/Add.2). The aforementioned adverse health impact that has affected the population in San Cristobal would thus constitute an infringement of the right to water by the State and TCCC-FEMSA.

If this were to be proved, the population of San Cristobal would likely fall within the green criminological category of environmental victim, giving rise to the social responsibility of TCCC-FEMSA and Mexico for harms caused, beyond the formal and legalistic violations of domestic laws.

However, as we have seen, Coca-Cola also enjoys cultural and social standing for these 'victimised' populations. Are these cultural aspects relevant for the critical function of the environmental harm criterion, i.e. revealing social responsibilities ingrained within imbalanced power structures? The answer appears to be negative. The studies earlier reported provide us with a complex picture of the interplay between Coca-Cola and the local communities' cultural practices. In the first place, TCCC did not induce the replacement of traditional beverages with Coca-Cola. As shown by the anthropological work of Nash, this shift was justified on the basis of exogenous and independent reasons related to the survival of certain traditional structures of power characterising San Cristobal's rural and indigenous populations, for whom Coca-Cola represented a viable alternative to liqueur, enabling the survival of such structures. At the same time, and this is the second aspect of relevance, TCCC-FEMSA nurtured and fostered this transition with *ad hoc* market strategies and slogans, such as "Comparte una Coca-Cola con Jesús" (literally "drink a Coca-Cola with Jesus") and the name *Jesús* was printed on Coca-Cola cans (Plage Pliego, 2018). Furthermore, Coca-Cola had few competitors to replace alcohol-based beverages given its monopoly in the area, which ties in to the earlier considerations regarding its political influence and its power over water reservoirs.

Therefore, despite the fact that TCCC did not engineer the shift, it nonetheless played a role in it. In this respect, its part in influencing local communities' cultural habits seems to echo [Pierre Bourdieu \(1977\)](#)'s notion of 'symbolic violence', which is a form of social violence exercised without physical force through the dissemination of symbols, such as the Coca-Cola drink, with the aim of imposing the dominant subjects' vision of reality over that of the subjected groups. More specifically, the infiltration of local communities' habits runs alongside the legitimisation of TCCC-FEMSA's operations in the area and ultimately of the national policies of water privatisation. Nevertheless, TCCC did not create what Bourdieu calls 'habitus', i.e. the dominant structure of power that determines social practices, lives and worldviews. The practices in question were rooted in



religious traditions, which pre-existed the arrival of TCCC in the area in the 1950s and for which liqueur had a symbolic meaning, as Nash's research explains. Whether the replacement of alcohol with Coca-Cola implied a replacement of previous structures of power with new ones, i.e. those associated with FEMSA, is a question that falls beyond the scope of this analysis.

The main point is that this cultural dimension reflects a second layer of vulnerability that could be expressed in terms of 'epistemic injustice' (Forti et al., 2018). 'Epistemic injustice' here indicates the concerned communities' lack of awareness of the fact that the harms they have suffered stem from structural disempowerment vis-à-vis the dominant groups or corporations. Precisely, San Cristobal's populations are embedded in a cultural relation with the harmful factor, i.e. Coca-Cola, rooted in a convergence of pre-existing traditions and corporate commercial strategies. This relation is detrimental for communities for it fosters the consumption of Coca-Cola, which, on the one side, worsens their health outcomes and, on the other, justifies a situation in which it is consumed due to scarcity of water drained by TCCC-FEMSA corporations themselves. These communities' vulnerability rests in their lack of perception of the harmful nature of one of the constituting factors of their cultural identity, i.e. Coca-Cola, which aggravates the imbalance of power between the corporation and the affected communities. The case thus confirms that environmental victimhood is the sum of overlapping interests, narratives, and ultimately vulnerabilities. A strict use of an environmental harm approach would risk neglecting the relevance of these cultural dimensions, in violation of its promise to shed light on the structural power imbalances underpinning victimisation.

## Discussion

The considerations above highlight the potential as well as the limitations of the green criminological notion of environmental victim. From a formal legal perspective, San Cristobal's populations could not be considered as 'victims', as there is no infringement of a penal statute. Conversely, from the lenses of green criminology, one could argue that they are indeed victims by identifying clusters of vulnerabilities, such as health-related ones, entrenched into the imbalanced power structures underpinning the corporate exploitation of the area's water.

However, when it comes to addressing this multifaceted victimisation, the binary environmental harm approach does not seem apt to fully encompass the relations between Coca-Cola and the affected communities. Precisely, these interactions do not unfold in the sense of a 'suffered harm' or 'trauma', as there would be in the event of clear interferences in the victims' juridical spheres, eg. through the violent suppression of traditional rituals or the destruction of artefacts or sites of cultural significance, like a river or a graveyard. Even if one wanted to argue that there has been a process of 'symbolic violence', the above considerations show that the local communities have actively and voluntarily ingrained Coca-Cola within their cultural practices. In fact, Coca-Cola is endowed with social value in the San Cristobal area.

This is where the aforementioned shortcomings might surface. Harm-based approaches to victimisation emphasize the significance of certain behaviours from the victims' perspective, for instance its aesthetic, cultural, economic and physical meaning. However, as stated above, these approaches primarily focus on exposing the responsibilities behind these behaviours, rather than their factual interplay with the victimisation processes they trigger. What follows is that in the

concrete of the circumstances the victim could establish a complex pattern of interactions with the harmful factors at stake, the implications of which could exceed the narrow notion of victimhood constrained within the understanding of 'harmed' or 'traumatised' person. In other words, trauma and harm could coexist with innumerable other examples of vulnerabilities in a way that is unique to each victimisation process. Therefore, efforts to establish responsibility for harm should not exclude a holistic assessment of other aspects, such as the significance that the victims attribute to the factors causing harm, including the harm-doer, as well as the related 'symbols', for instance the Coca-Cola beverage. In a nutshell, in order to address this complexity, harm-based approaches should consider both the harm-doer as well as the victims' roles in the aetiology of the harm.

This is not to endorse the conclusions of victim movements, such as *penal victimology*. Rooted in the pioneering work of criminologist [Von Hentig \(1948\)](#), *penal victimology* evolved within mainstream criminology as the study of the relationships and interactions between offender and victim before, during, and after the crime [Drapkin & Viano, 1975](#). Central to these studies is the notion of 'victim precipitations', exploring the role of victims as co-precipitator of the crime ([Fattah, 1992](#)). The distance with this work is twofold. To begin with, the scope of *penal victimology* is narrower than that of green criminology, as it rests within the remit of criminal law, presenting victims as those affected by incidents defined as criminal by law. Secondly, and above all, the notion of co-precipitator provides arguments for blaming victims for their fate ([Van Dijk, 1999](#)). This work does not intend to do so, neither at the theoretical level by redefining the function of the harm criterion, which would downgrade the dominant actors' responsibility for the harm they have caused, nor at the empirical level here examined, by implying the complicity of San Cristobal's population in TCCC-FEMCA's harmful activities.

Quite the opposite, this work's aim is to enhance the notion of environmental victim in green criminology by reaffirming the potential of 'environmental harm' as a tool for exploring social responsibilities, while affirming the need to expand its scope to the relational net between victims and the structures of powers causing harm. In other words, the understanding of environmental victim should shift from victims as mere 'objects' of harmful behaviours to living 'subjects' of a complex and polyhedral harmful process. This is after all coherent with the premise of green criminology: victimisation is a dynamic and evolving process that the victim experiences actively, not passively. Ultimately, it gives weight to the victims' subjective and objective experience informing the factors causing the harm.

If this shift is not made, there is a risk of ignoring those aspects of the victimisation phenomenon that do not comprise a 'violation' of the victims' juridical sphere, even when they are rooted in detrimental power imbalances. In more explicit terms, and with reference to the *San Cristobal* case, by adopting a narrow understanding of victimisation, one would hardly consider the cultural value as well as the social status connected with the use of the Coca-Cola drinks for affected groups of people. These narratives are however fundamental to constructing a meaningful representation of Coca-Cola's value for local populations' cultural identity, as well as the reasons behind the spread of Coca-Cola in the region, besides the corporate's undeniable economic and political power. In short, they qualify the relations between the factor (allegedly) causing harm, i.e. the Coca-Cola beverage, and the (alleged) environmental victims, i.e. San Cristobal communities, in a way that diverges from traditional and static victim-offender representations.

Therefore, a narrow approach to environmental harm that pays little weight to these orders of interactions in the assessment of victimhood would fail to bring to the surface the complexity of victims' experiences. Environmental harm would function as a *filter* for clusters of vulnerabilities when assessing victimisation, sealing off those that are not the result of an external constraint such as the cultural ones in the *San Cristobal* case. Ultimately, this would lead to an idealisation of the victim, i.e. of de-contextualisation of the victimisation phenomenon from the complexity of persons' real-life experiences of suffering, in contrast to the premises of green criminology discussed above. This carries with it the additional risk of turning the underlying appropriation of status into a form of oppression of those for whom the Coca-Cola beverage has a symbolic and cultural value. To avoid this outcome, in addition to the basic questions 'who caused harm?' and 'who suffered harm?', the green criminological notion of victimhood should also prompt questions such as 'what is the significance of that harm for the victim?' and 'does the victim-harm relation necessarily entail contraposition?'

Failure to embrace a dynamic understanding of environmental victimhood and their complexity would also have practical implications. Specifically, a partial representation of the victimisation phenomenon could hamper the capacity of remedies to redress the full spectrum of actual vulnerabilities. The *San Cristobal* case helps us in better framing the problem. If the victimisation discourse omitted to consider the cultural value of Coca-Cola for local communities, this could cause secondary victimisation. This might be the case if top-down public responses were put in place to curb the 'lawful but awful', yet culturally significant, operations of TCCC-FEMSA in the area. While this could be justified under water and health-related human rights, it would also be likely detrimental to local populations' cultural identity, inconsistent with the green criminological foundational ethos to enhance, not surely to undermine, victims' threshold of protection.

In light of these potential shortcomings, the environmental harm approach should fulfil a twofold function. In the first instance, as mentioned earlier, it should provide a basis for evaluating who 'is' and 'ought to be deemed to be' an environmental victim. It is argued that this should embrace a holistic understanding of the victims' role within the victimisation process. However, doing so would be meaningless if proper remedial actions did not follow. Therefore, in the second instance, the green criminological notion of environmental victim should also be a guide when it comes to remedies, i.e. it should represent what remedies the State 'ought to' enforce to meet victims' needs in concrete terms.

This second function requires a related duty upon the State to enforce victim-tailored remedies. Regarding victims *ex crimine*, one can refer to the United Nation 'Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power' (Res. No. 40/34, 1985), which affirms the right of victims to an adequate response to their needs (Articles 6, 14-17). Within the European Union legal framework, Article 22 of the Directive 2012/29/EU 'Victim Directive' is of significance as it deals with "individual assessment of victims to identify specific protection needs". Beyond the criminal field, the jurisprudence of several human rights courts provides guidance in this sense. For instance, the European Court of Human Rights (ECtHR) notably states that "the Convention is intended to guarantee not rights that are theoretical or illusory but practical and effective" (e.g. *Artico v. Italy*, App. No. 6694/74, 1980, §33). Victimisation should thus be recognised in the concrete circumstances and redressed accordingly. The case-law of the Inter-American Court of Human Rights (IACtHR) reflects an even more remedy-oriented stance. For instance, in the IACtHR *González et al. v. Mexico*

“Cotton Field” Judgment of 16 November 2009, a case concerning multiple and systemic episodes of violence against women perpetrated by non-state actors, the Court was pioneering in ruling that under the Inter-American Convention of Human Rights, Mexico had the obligation to provide victims with gender-sensitive reparations (Sandoval & Rubio-Marin, 2011). Despite some differences, these Courts share an attention to individual human rights in concrete terms, i.e. those of real living social and relational persons rather than abstract and idealised entities. Therefore, these Courts reaffirm the State’s overarching duty of care towards persons within their jurisdiction, such that their laws should be designed to meet their population’s needs, respect their dignity, address their disadvantages and heal relational bonds when broken.

Significantly, this duty also extends to recognising the complexity that informs the sociological notion of environmental victims and ensuring that mechanisms of justice are adequately tailored to their actual vulnerabilities.

### **Concluding remarks. A restorative justice approach?**

Restorative justice offers a promising path in this direction. At the supranational level, restorative justice is defined as any process that enables the active and voluntary participation of those harmed by crime and those responsible for that harm in the resolution of matters arising from the offence (Council of Europe, 2018).

Rooted in a general sentiment of disaffection towards retributive theories of punishment, it promotes a paradigm shift, i.e. a ‘change of lenses’ (Zehr, 2015), in terms of perspective as well as of goals, to address the criminal phenomenon. Traditionally, the criminal law system reaffirms the principle of legality, and thus the primacy of the State over the offender, by sealing off the complexity of real-life conflicts from sentencing. Conversely, restorative justice is about being responsive to the whole spectrum of victims’ needs (White, 2017). Therefore, the actual grounds of vulnerability of persons affected by crime is the core of restorative justice, whose ultimate goal is healing the relational balance broken by the crime, transcending the sheer dichotomy victim-offender (McEvoy & McConnachie, 2012). While criminal law primarily understands responsibility in terms of individual liability for illegal behaviours, restorative justice takes a more holistic perspective, seeking individual as well collective accountability for social harms to human relations. In a nutshell, restorative justice could be understood as a *relational justice of care* (Marshall, 2019).

This paradigm shift is particularly suited to responding to environmental offences. Initially explored for environmental crimes (Preston, 2011) to address the limitations of criminal law in redressing relational harms suffered by ecological communities (Cullinan, 2011, p. 92), restorative justice could extend beyond the realm of penology to govern environmentally disruptive activities in general (Forsyth et al, 2021). Central principles of restorative justice, such as inclusiveness, participation, and meaningful dialogue, could shape the regulatory framework to empower victims to be informed about the harms they have suffered, to hold accountable those responsible, and to become protagonists in shaping remedial solutions that are tailored to their needs. These solutions thus represent qualified forms of reparations, where tangible outcomes are based on a holistic and shared understanding of the meaning of the offences for affected parties.

With this as backdrop, several authors have stressed the affinity between restorative justice

and green criminological discourses on environmental harms, responsibilities and victimisation (Bisschop, 2015; Hall, 2013; Hamilton 2021; Natali, 2015; Pali & Aertsen, 2021; Varona, 2020), including for victims of corporate violence (Forti et al., 2018; Nieto Martín, 2023). Through dialogue, restorative justice confront harms to expose the overlapping and potentially conflicting subjective narratives of victims, aiming to reach a consensual understanding of the meaning of such harms. It thus empowers victims by allowing processes of knowledge creation to address systemic epistemic injustice, i.e. the failure to perceive harms ingrained in societies. In this respect, restorative justice and green criminology share the goal of exposing the multifaceted aetiologies of environmental harms and the societal asymmetries of powers underlying environmental victimhood.

Here lies the potential and the challenge of a restorative approach to the *San Cristobal* case. Unlike more traditional remedial options, it would promote a relational balance between those who suffer from water scarcity and those for whom Coca-Cola holds cultural value. These different aspects of the same victimisation phenomenon interact to reach a shared understanding of the common causes and implications linked to Coca-Cola overconsumption. Evidently, restorative justice account-making solutions are antithetical to 'ideal victim', that is, the attribution of victim status by downgrading, or even excluding, certain layers of vulnerabilities in favour of others, as this simplification would hinder the provision of holistic remedies.

However, redressing harms suffered by local populations in San Cristobal requires a broader discussion about the capacity of restorative justice to transform the power relations underlying TCCC-FEMCA's legally sanctioned exploitation over the Huitepec aquifer. This discussion goes beyond debates between those who advocate for the potential of restorative justice to shape regulatory tool-kits to address corporate harms (Spalding, 2015; Umbreit et al., 2015; Wijdekop, 2019) and those who hold more pessimistic views, emphasising that power imbalances between corporations and local communities could undermine restorative processes (White, 2014; Wright & Tabbert, 2022). Despite the merits of both these positions, restorative justice for corporate harms ultimately requires clarity on the role of the State. In other words, it implies challenging the cultural, socio-economic and political grounds that justify the transfer of sovereign rights from the State to private companies over natural resources, without regard to its social impacts.

This undertaking could lead to a potential paradox. As Braithwaite (2000) explains, restorative justice needs State backing in terms of institutional and regulatory design, funding and adequate structures. Yet could one reasonably expect a State, in our case Mexico, support a restorative process that could expose its role in legitimising socially and environmental harmful corporate activities?

Whatever the answer to this question may be, the harm-based green criminological perspective is certainly of great value in underscoring the social and collective dimensions of environmental victimhood, providing that these are discussed holistically. This entails moving beyond static schemes that could hinder the recognition of the full spectrum of vulnerabilities, which necessarily include those arising from the relationships between those harmed and the factors causing harms.

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