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# Radio Silences: “The Kidnapped Voices” and the Production of Political Memory in Colombia (1994-2018)

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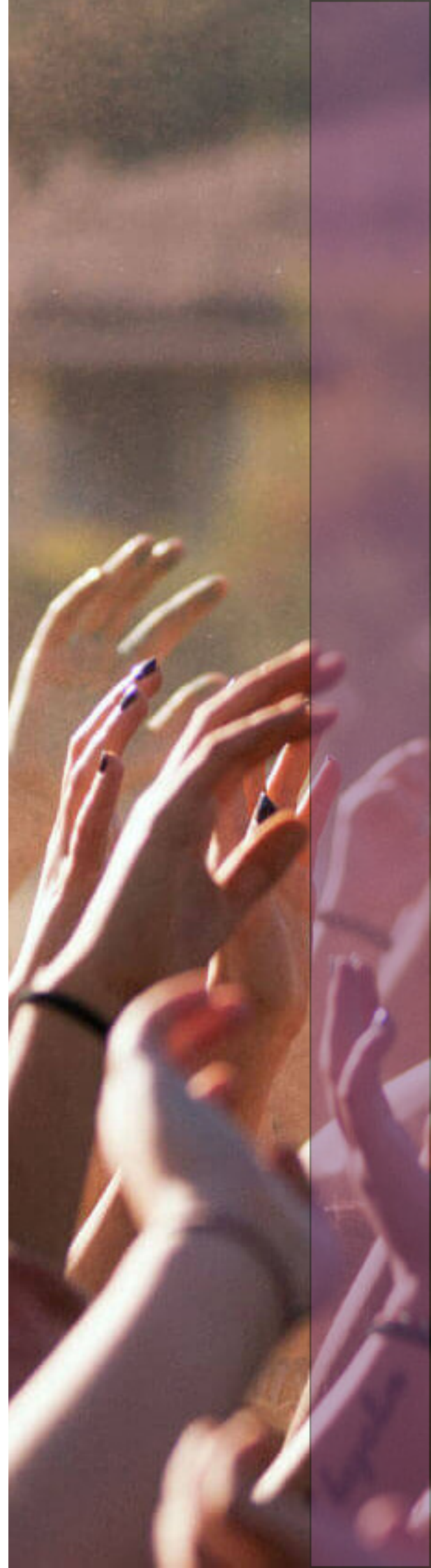
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## Abstract

After being kidnapped by the FARC-EP guerrilla group in 1994, the Colombian war reporter Herbin Hoyos created the radio show *Las Voces del Secuestro* (roughly translated, “the Kidnapped Voices”). For 24 years, the families of those abducted sent out public messages of remembrance each morning, hoping that their loved ones—deep in the jungles of Colombia—would be able to hear the broadcasts from their radios. Although the show ended in 2018, its legacy lives on, not only in the collective memory of many Colombians, but also as an exhibition at the International Red Cross and Red Crescent Museum in Geneva, Switzerland. In this article, I examine this radio program as a *dispositif* of power and knowledge that (re)produces a particular understanding of law, justice, and memory. In particular, this program has been used by far-right actors in Colombia to mobilize against the recent (2016) peace process—and its crown jewel, the Special Jurisdiction for Peace (JEP). As the JEP tackles the question of FARC-EP kidnappings through its macro-case 01, the shadow of *Las Voces* looms large over Colombia’s transitional justice system. In the longest non-international armed conflict in Latin America, even the radio waves have served the continuation of war by other means.

*Keywords: Theory and History of International Law; Science and Technology Studies; Memory & Justice; Transitional Justice; Media and Human Rights; Materiality.*

*The country has lost its memory; they no longer remember the horror that 24,000 families that were part of the [radio] show. Around 20,000 victims of kidnapping returned to freedom, and 4,000 never came back. They disappeared. Neither the government nor the Guerrillas wanted to talk about the kidnapped, they became a nuisance. Only with the [radio] show were we able to break the wall of indifference.<sup>1</sup>*

*Again, radio is constantly figured there as a 'vehicle', 'used' to 'transmit', 'convey', 'spread', and 'disseminate' 'messages', 'ideology', and 'views': a technique, in other words, for the expression and distribution of intentional thought as manifested in the technologized voice. To 'disseminate', after all, from the Latin *seminare*, to sow, means to scatter one's seed widely. The roots of the word 'broadcast' are similarly agricultural.<sup>1</sup>*

## 1. The Humanitarian Adventure: By Way of Introduction

Perched on a hill, overlooking the United Nations Office at Geneva, one can find the towering headquarters of the International Committee of the Red Cross (ICRC). Their current building, originally erected in the late 19<sup>th</sup> century in a neoclassical style to host the *Institut International d'Education La Châtelaine*, has a long history as a venue for the struggles of international institutions to tame the ravages of war through humanitarian aspirations and international norms. Indeed, it was in the basement of *La Châtelaine*—often referred to as the Thudichum school, after its owner—that the International Labor Organization (ILO) had its first base of operations.<sup>1</sup> Immediately before that, in the last two years of the Great War, it had served as a makeshift hospital for French and Belgian prisoners of war (POWs) captured by the German Empire.<sup>2</sup> After the ILO left to a new

<sup>1</sup> Marius Viple, 'Les singulières mais prodigieuses années du BIT' 65 *Message* (2019) 17.

<sup>2</sup> 'Le nouveau siège du Comité international de la Croix-Rouge', *Revue internationale de la Croix-Rouge* 28 (1946) 1026, 1027.

lakeside venue in 1926,<sup>3</sup> the Thudichum was reconverted into the privately-owned *Hôtel Carlton*, housing some of the high-profile visitors who came to the many meetings held at the League of Nations during the interwar period. When war again broke out in 1939, the *Carlton* was again reconverted into a humanitarian site (*endroit*): an orphanage for displaced francophone children, aptly named after the founder of the ICRC, the *Centre Henri Dunant*.<sup>4</sup>

For this reason, it is perhaps unsurprising that the Geneva cantonal and Swiss federal authorities sought to permanently endow the ICRC with this venue in the wake of the Second World War.<sup>5</sup> Ever since, the ICRC has slowly but surely expanded its spatial hold over the hill, providing a lighthouse for Red Cross, Red Crescent, and other national humanitarian societies—like the *Magen David Adom*—across the world. In 1988, it even expanded its operations deep within the hill itself, with the creation of the International Red Cross and Red Crescent Museum. While by 1993 this museum was not yet seen as a fully developed “peace museum,” it truly came into its own after a major renovation in 2011-2013.<sup>6</sup> The current permanent exhibition, “The Humanitarian Adventure,” has been read in museum studies as an attempt to go beyond the typical narrative produced by institutional archives to transform instead a “vast and growing collection into an emotionally touching and engaging story about compassion and timely help to those in need.”<sup>7</sup> The exhibition, not unlike the International Red Cross and Red Crescent

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<sup>3</sup> Daniel Quiroga-Villamarín, ‘Suitable Palaces: Navigating Layers of World Ordering at the Centre William Rappard (1923-2013),’ *Architectural Theory Review* (forthcoming in 2023)); Miriam Bak McKenna, ‘Designing for International Law: The Architecture of International Organizations 1922–1952’, 34 *Leiden Journal of International Law* (2020) 1, 9-13.

<sup>4</sup> See generally Joëlle Kuntz, *Genève, Histoire d’une vocation internationale* (Zoé 2010) 23-42.

<sup>5</sup> Julie Billaud, ‘Masters of Disorder: Rituals of Communication and Monitoring at the International Committee of the Red Cross’ (2020) 28(1) *Social Anthropology*, 96.

<sup>6</sup> Terence Duffy, ‘The Peace Museum Concept’ (1993) 45 *Museum International*, 4–8. Roger Mayou, ‘Prisoners’ Objects: The Collection of the International Red Cross and Red Crescent Museum’ (2016) 98 (903) *International Review of the Red Cross* 749.

<sup>7</sup> Jahangir Selimkhanov, ‘The International Red Cross and Red Crescent Museum’ in Mark O’Neill, Jette Sandahl, and Marlen Mouliou (eds), *Revisiting Museums of Influence: Four Decades of Innovation and Public Quality in European Museums* (Routledge 2021), 168, 168-72.

Movement itself (to which the ICRC belongs), is divided into three main areas: “Defending Human Dignity,” “Restoring Family Links,” and “Reducing Natural Risks.” Each area is curated by a different architect or designer, who was given the enormous task of melding a vast array of materials and documents from different crises into a coherent narrative about universal suffering and humanitarian relief.<sup>8</sup> Each architect or designer, perhaps to highlight the cosmopolitan aspirations of this international institution, hails from a different continent—adding a non-Western perspective to an institution long haunted by its ties to a deeply parochial Calvinist tradition.<sup>9</sup>

Deep inside the museum’s area on “Restoring Family Links,” I was confronted with a memento from my youth. Nestled within the exhibition is a relatively small but still sizeable collection modestly named “Colombia radio.” Designed by the award-winning Burkinabé architect Francis Kéré,<sup>10</sup> the whole subsection on broken family ties brings a panoply of different contexts together to create a common horizon of experiences of forcible family separation. In fact, this separation is a quite literal experience for the visitor, who must traverse a curtain of steel chains to enter the sub-exhibition itself. Inside, one is confronted by the name tags of many prisoners of war (POWs) from the Great ar—documents that bear witness to the long history of the ICRC in the protection of those *hors de combat*. But very quickly, as a visitor, one moves through time and space, reaching other exhibits related to the terrible violence that erupted in Rwanda and the former Yugoslavia at the end of last century. All along the way, the viewer is confronted with the many ways in which armed strife curtails communications and family ties, in tandem with the tireless

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<sup>8</sup> For an internal curatorial perspective, see Mayou (n 8) 749.

<sup>9</sup> John Yves Pinder, 'A Theatrical Critique of Humanitarian Civility in the ICRC Museum' 23 *Research in Drama Education: The Journal of Applied Theatre and Performance* (2018), 483, 487; See further, Boyd van Dijk, *Preparing for War: The Making of the Geneva Conventions* (Oxford University Press 2022); Davide Rodogno, 'Certainty, Compassion and the Ingrained Arrogance of Humanitarians,' in Neville Wylie, Melanie Oppenheimer, and James Crossland (eds), *The Red Cross Movement: Myths, Practices and Turning Points*, (Manchester University Press 2020), 27–44.

<sup>10</sup> For a recent profile, see Robin Pogrebin, 'Pritzker Prize Goes to Architect From West Africa' *The New York Times*, 15 March 2022, <https://www.nytimes.com/2022/03/15/arts/design/pritzker-prize-francis-kere.html>.

efforts of humanitarian actors—the ICRC chief among them—to keep channels of supply and information open even in the direst of times.<sup>11</sup> In his choice of exhibits, materials, and installations, Kéré deliberately wanted to emphasize the “intrinsic link between the family, roots and natural elements [...] as a way to symbolize people’s return to their roots and to nature in times of turmoil and tragedy.”<sup>12</sup> In his view, the “simplicity of the materials and the way they are put together spares visitors from heartless materialism during the difficult search for the missing.”<sup>13</sup>



Image 1: Picture of a subsection of the “restoring family ties” sub-exhibition. Kéré Architecture 2012 ©.<sup>14</sup>

<sup>11</sup> Sönke Kunkel, 'Public History Meets Humanitarian Communication: The Visual Politics and Narratives of Red Cross Museums in Europe and the United States, 1920s to 2010s' (2021) 3(2) *Journal of Humanitarian Affairs* 34, 36-38.

<sup>12</sup> The International Red Cross and Red Crescent Museum, *Press Folder - The Humanitarian Adventure* (ICRC, 2013), 8.

<sup>13</sup> *Ibid.*

<sup>14</sup> I thank the team at Kéré Architecture for their permission to reproduce this image.

I, for one, was brought back to my roots by “Colombia radio.” Basically, this section of the exhibit contains many audio excerpts from a 2010 radio recording, with a small “historical bookmark” card titled “hostage-taking in Colombia” (in French, *arrêt sur histoire, séquestrations en Colombie*). The source was the famous radio show *Las Voces del Secuestro* (roughly translated, “Kidnapped Voices”), created by the war reporter Herbin Hoyos. After a brief period as a hostage of the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP) guerrilla group, Hoyos ran the radio show from 1994 until 2018. During this 24-year period, the families of those abducted sent out public messages of love and remembrance each morning, hoping that their loved ones—deep in the jungles and mountains of Colombia—would be able to hear the broadcasts from their radios. While I was fortunate not to have any close family or friends among those detained, I—like two or three generations of Colombians—still have vivid memories of the many ways in which the radio show served as a background for everyday life during 30 years of internal armed conflict. For better or worse, *Las Voces* curated:

... a national bank of emotions, an oral history of violence and anguish, a discography of voices that resonated through the jungle, an encyclopaedia of cultural memory whose entries range from prayers, diary entries and news items to even salacious gossip about who was having an affair with whom.<sup>15</sup>

## 2. ‘A National Bank of Emotions’: *Las Voces* and the Colombian Armed Conflict

The Colombian war, to be sure, has continued and mutated in different ways since the radio show first started in the 1990s, or since the particular broadcast cited above in the epigraph in footnote 1 was recorded in 2010. But this fact, however, is not entirely apparent to the museumgoer in Geneva. Indeed, by including these recordings in the exhibition, they are taken from the specific time and place in which they were produced.

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<sup>15</sup> Stephen Pax Leonard, 'Voices from the Outside: The Instrumentality of Radio Messages in Colombian Kidnappings' (2019) 69 *Language and Communication* 1, 2.



While the humanitarian framing of the museum allows the Colombian experience to be abstracted into a wider horizon of tales of abuse and suffering, it also detaches these recordings from the particular political struggles and contexts in which they emerged.<sup>16</sup> In this article, drawing from and aiming to contribute to a burgeoning literature on the political economy of humanitarian imaginaries and practices (which highlights relatively unexplored questions related to the institutional channels for the creation and circulation of knowledge),<sup>17</sup> I examine this radio show as a *dispositif* of power and knowledge which (re)produced a particular understanding of memory, suffering, and injustice. By *dispositif*, following the Foucauldian tradition, I refer to an assemblage of heterogenous elements (both concrete and intangible) that enable and constrain human practices and imaginaries.<sup>18</sup> For example, in his work on the birth of the clinic or the prison, Foucault highlighted the interconnection between “discourses and architectures, coercive regulations and scientific propositions, real social effects and invincible utopias” that underpinned what he called the “medical-hospital” or the “juridico-political” complexes in modern Western societies.<sup>19</sup> In this same vein, I am interested in exploring how the materiality of this radio show enabled the dissemination of particular legal discourses about violence and victimhood—with important consequences for Colombia’s contemporary transitional justice process. Indeed, given that these processes for circulating legal knowledge promoted a particular reading of certain legal categories (such as “victim”, “impunity”, or “justice”) for the Colombian non-international conflict, their

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<sup>16</sup> Susan Marks, 'Human Rights and Root Causes' (2011) 74 *The Modern Law Review* 57, 60.

<sup>17</sup> In relation to Colombia, see Alexander L Fattal, *Guerrilla Marketing: Counterinsurgency and Capitalism in Colombia*, Chicago Studies in Practices of Meaning (The University of Chicago Press 2018); With regard to international criminal law, see Christine Schwöbel-Patel, *Marketing Global Justice: The Political Economy of International Criminal Law*, Cambridge Studies in International and Comparative Law (Cambridge University Press 2021), 17.

<sup>18</sup> Michel Foucault, 'The Confession of the Flesh' in Colin Gordon (ed) *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977*, (Pantheon Books 1980), 194, 194. See further Alain Pottage, 'Review: Foucault's Law by Ben Golder and Peter Fitzpatrick' (2011) 74 *The Modern Law Review* 159, 164.

<sup>19</sup> Michel Foucault, 'The Incorporation of the Hospital into Modern Technology', in Jeremy W Crampton and Stuart Elden (eds), *Space, Knowledge and Power: Foucault and Geography*, (Routledge 2007), 141; See also Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Alan Sheridan tr, Vintage Books 1977); Michel Foucault, *The Birth of the Clinic: An Archaeology of Medical Perception* (Alan Sheridan tr, Routledge 1991).

operation should be a valid concern for international legal scholarship. They offer, for better or worse, an example of how a “vernacular” understanding of international law, human rights law, and international humanitarian law came into being in a fraught political atmosphere.<sup>20</sup>

With this in mind, I am particularly concerned in this article with how these radio broadcasts have been used by far-right political actors (such as Hoyos himself) in Colombia to mobilize the anti-impunity principle—the idea that criminal law should be used to prosecute and punish those who abuse human rights—against the recent (2016) peace process—and its crown jewel, the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz* or JEP).<sup>21</sup> After a long process of negotiation between the Colombian government and the aforementioned FARC-EP guerrilla organization (which involved a failed referendum and the extensive involvement of international experts and funders), the country adopted an innovative transitional justice model. This system, named the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition (*SIVJRN* in Spanish) brings together different transitional justice mechanisms (such as

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<sup>20</sup> Jacob Katz Cogan, ‘A History of International Law in the Vernacular’ (2020) 22 *Journal of the History of International Law* 205.

<sup>21</sup> Camilo Ramírez-Gutiérrez and Daniel R. Quiroga-Villamarín, ‘Shredded’ (2022) 20 *Journal of International Criminal Justice* 139, 145-46. Following a helpful point raised by one of the reviewers, I would like to clarify my use of ‘far right’ in this context. As I’ve explained in more detail elsewhere, I refer to far-right ‘illiberal’ movements to make reference to a rising trend of social and political organizations that have been on the rise throughout the world (and, in particular in the core countries of the world-system since 2016) to challenge what they see was the unjust consensus of a post-1989 political settlement. This includes (but is not limited to) religious fundamentalists, men’s rights activists, racial or ethnonationalist supremacists, neofascist political parties, or irredentist nationalists. See Daniel Quiroga-Villamarín, ‘From Speaking Truth to Power to Speaking Power’s Truth: Transnational Judicial Activism in an Increasingly Illiberal World’ in Lena Riemer and others (eds), *Cynical International Law? Abuse and Circumvention in Public International and European Law* (Springer 2020) 111, 112. For different views of this same problem in international legal scholarship, see Martti Koskeniemi, *International Law and the Far Right: Reflections on Law and Cynicism* (TMC Asser Press 2019); Taylor Woodcock, Antoine Duval, & Dimitri Van Den Meerssche, ‘I Want to Put the Social Question Back on the Table’—An Interview with Anne Orford, *OpinioJuris*, November 27, 2019, <https://opiniojuris.org/2019/11/27/i-want-to-put-the-social-question-back-on-the-table-an-interview-with-anne-orford/>. Above all, I avoid the label of “populist”—which I do not find very helpful either analytically or politically. On the notion of a 1989 “Neoliberal Political Order”, see Gary Gerstle, *The Rise and Fall of the Neoliberal Order: America and the World in the Free Market Era* (Oxford University Press 2022).

a Truth Commission and an ambitious administrative reparation program) to create the foundations for a lasting peace after decades of armed strife.<sup>22</sup> At the center of this system sits the JEP, a special transitional tribunal with a mandate to adjudicate the most egregious violations of human rights law and international humanitarian law—on the basis of both Colombian domestic law and international law.<sup>23</sup> To fulfil this daunting task, the JEP will have to engage with the “national bank” of collective memories produced by decades of violence—under the careful gaze of the International Criminal Court or the Inter-American Court of Human Rights, given the highly ‘juridified’ and ‘judicialized’ nature of the Colombian transitional process.<sup>24</sup>

This is especially true for the JEP’s engagement with the thorny question of the FARC-EP’s widespread practices of kidnapping. Even before the Tribunal opened its investigation of these practices with its macro-case 01, the shadow of Hoyos’ *Las Voces del Secuestro* loomed large over Colombia’s transitional justice process. For this reason, the JEP will be obliged to engage with the thick layer of legal meaning that was created by this show in the Colombian collective imagination.<sup>25</sup> For, in a country deeply scared by the effects of these kidnappings, this radio show galvanized the claims of those who thought the JEP—and the peace process more broadly—was nothing but a sham that would guarantee the impunity of former guerrilla perpetrators to the detriment of their

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<sup>22</sup> Onur Bakiner, ‘The Comprehensive System of Truth, Justice, Reparation, and Non-Repetition: Precedents and Prospects’ in Jacqueline H R DeMeritt, James Meernik, and Mauricio Uribe-López (eds) *As War Ends: What Colombia Can Tell Us About the Sustainability of Peace and Transitional Justice*, (Cambridge University Press 2019) 230.

<sup>23</sup> For an overview, see Camilo Ramírez-Gutiérrez and Daniel Quiroga-Villamarín, (n 23). See also Emiliano J Buis and Camilo Ramírez-Gutiérrez (eds), *El Derecho Internacional Humanitario En La Jurisdicción Especial Para La Paz de Colombia - Volumen I* (Tirant lo Blanch 2021).

<sup>24</sup> David Landau, ‘The Causes and Consequences of a Judicialized Peace Process in Colombia,’ (2020) 18 *International Journal of Constitutional Law* : 1303. See also René Urueña, ‘Playing with Fire: International Criminal Law, Transitional Justice, and the Implementation of the Colombian Peace Agreement’, *AJIL Unbound* 110 (2016) 364.

<sup>25</sup> For an overview in English, see Marcela Giraldo Muñoz and Jose Serralvo, ‘International Humanitarian Law in Colombia: Going a Step beyond The Law’, (2019) 101 (912) *International Review of the Red Cross* 1117, 1145-46. See also Yoav Kapshuk, ‘Transitional Justice in the Israeli–Palestinian Negotiations: What Can Be Learned From the Colombian Case?’, 14 *Journal of Peacebuilding & Development* 73.

victims. With this in mind, in this article I trace the ways in which this radio show engaged the anti-impunity principle in international law to agitate against the 2016 peace agreement. In other words, I argue that in the longest non-international armed conflict in Latin America, even the radio waves served the continuation of war by other means. My aim, to be sure, is not to criticize the radio program, or indeed its presentation at the Red Cross Museum, as much as to *politicize* and *contextualize* it—to bring make concrete the rather abstract promises of its “humanitarian adventures.” In other words, I suggest that the content of the radio broadcasts cannot be placed above politics, in the realm of humanitarian neutrality.<sup>26</sup> Instead, I foreground how this show has been actively used by political actors, especially those on the far right, in the battle for the “field of memory.”<sup>27</sup> The seemingly intangible nature of radio and the humanitarian aspirations of this particular show should not lead us to mistakenly take it for an instance of “heartless materialism”—to paraphrase Kéré’s description of his exhibition. For, just as history is not an impartial umpire in human power struggles,<sup>28</sup> the *Kidnapped Voices* were also entangled in the strategies of the political far right in Colombia. As such, its humanitarian lens captured a partial and arguably narrow understanding of Colombia’s internal armed conflict, which highlighted a series of practices (kidnapping or hostage-taking) of a particular group (far-left guerrillas, like the FARC-EP) while disregarding or downplaying other forms of political violence—such as the forced displacements and massacres perpetrated by right-wing counterinsurgent or parastate groups.

To advance this argument, I first provide an overview of the history of this radio show. I then focus on the ways in which the show engaged with the categories and institutions of

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<sup>26</sup> This point might seem obvious to certain readers, but I argue that this line of argument has not been raised against *Las Voces*, which truly occupies a privileged place in the Colombian collective imaginary.

<sup>27</sup> Mark Freeman and Iván Orozco Abad, *Negotiating Transitional Justice: Firsthand Lessons from Colombia and Beyond* (Cambridge University Press 2020) 115.

<sup>28</sup> Joan Wallach Scott, *On the Judgment of History* (Columbia University Press 2020). xii-xiii. See further Daniel Quiroga-Villamarín, ‘Friendly Fire: The Politics and Elective Affinities of *International Law and the Politics of History*,’ *Global Intellectual History* (2023).

what Ruti Teitel has termed "humanity's law."<sup>29</sup> In particular, I highlight how the program was actively "translating" this notion into the Colombia public sphere precisely at a time in which what Orozco called the "humanitarian consciousness" was gaining increasing salience in, and beyond, Colombia.<sup>30</sup> I highlight how humanitarian discourses have been used for illiberal purposes and objectives that often run counter to the aspirations of Geneva's humanitarian organizations.<sup>31</sup> Finally, I conclude with some comments on materiality and the political economy of remembrance.

### 3. "For Freedom and Against the Atrocities of Terrorism:" Hoyos in his Political Context

"Wars are won in the field of information," Herbin Hoyos proudly declared in a 2011 interview in a student newspaper of the *Universidad Católica de Pereira*.<sup>32</sup> He would know—as in this interview he claimed long experience in war reporting, not only in Colombia but also in the Balkans, Iraq, and Chechnya. Hoyos also backs up his claim by referring to his expertise in questions related to human rights, international humanitarian law, conflict resolution, and antiterrorist strategies—subject areas which are allegedly covered by his personal library.<sup>33</sup> While all journalistic activity entails some degree of risk, Hoyos decided to embrace the extra challenges that arise in situations of war. He justifies this by his sense of duty and his values, which pushed him to come to terms with the

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<sup>29</sup> Ruti G Teitel, *Humanity's Law* (Oxford University Press 2011).

<sup>30</sup> Iván Orozco Abad, *Sobre Los Límites de La Conciencia Humanitaria: Dilemas de La Paz y La Justicia en América Latina* (Editorial Temis 2005); Pablo Kalmanovitz, 'Entre el deber de protección y la necesidad militar: oscilaciones del discurso humanitario en Colombia, 1991-2016', *Latin American Law Review* (2018) 33.

<sup>31</sup> Quiroga-Villamarín (n 23) 111-33.

<sup>32</sup> Lisseth Marín Corrales, 'La Guerra Se Gana En El Escenario de La Información' *Expresión*, 2011, [https://repositorio.ucp.edu.co/bitstream/10785/301/1/la\\_guerra.pdf](https://repositorio.ucp.edu.co/bitstream/10785/301/1/la_guerra.pdf). For another hagiographical interview, see Isabel López Giraldo, 'Herbin Hoyos: "Cantar Las Verdades Me Puso Contra Todos, Incluso Contra Uribe"' *El Espectador*, February 25 2021, <https://www.elespectador.com/el-magazin-cultural/herbin-hoyos-cantar-las-verdades-me-puso-contra-todos-incluso-contra-uribe-article/>.

<sup>33</sup> Marín Corrales (n 34).

sacrifices that this task might entail.<sup>34</sup> The image of Hoyos that appears in this 2011 interview, just as in his radio show at the humanitarian museum in Geneva, is that of an impartial and expert observer—untouched by the morass of factional political strife.

But this image of Hoyos is only tenable if one divorces him from the concrete constellation of factors that led to the emergence of his show in the first place. Against this, I suggest we should understand his project in the context of the reorganization of the media establishment that occurred during the rule of Álvaro Uribe Vélez (2002-2010) in the first decade or so of the millennium.<sup>35</sup> Rather than seeing Hoyos as a lone entrepreneur or a journalistic "great man,"<sup>36</sup> I reconstruct his project in the framework of a broader reconfiguration of the Colombian right and far right during a period marked by anxiety at the rise of the left-leaning political parties across the rest of the continent (often referred to as a "pink tide" in Latin American studies )<sup>37</sup> and the right's disappointment with previous—and often "forgotten"—peace negotiations.<sup>38</sup> In that sense, *Las Voces* should be understood as a part in a broader system, which resonated with the Uribe government's strategy to remake the Colombian "social constitutional state" (*estado social de derecho*) into a "State of Opinion" (*Estado de Opinión*) in the pursuit of the doctrine of "democratic security."<sup>39</sup> This refers to Uribe Vélez' "law and order" approach that placed "security concerns" as a cornerstone for Colombia's fragile democratic order.

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<sup>34</sup> Ibid.

<sup>35</sup> Fabio López de La Roche, *Las ficciones del poder: patriotismo, medios de comunicación y reorientación afectiva de los colombianos bajo Uribe Vélez (2002–2010)*, Biblioteca IEPRI 25 años (Universidad Nacional de Colombia 2014); Fabio López de la Roche, 'Derechas Delirantes, Medios de Comunicación y Posverdad' (2020) *Desde El Jardín de Freud* 453, 459.

<sup>36</sup> See, for instance, 'Adiós a Herbin Hoyos, "La Voz de Los Secuestrados" Semana Noticias', Revista Semana, February 24 2021, <https://www.youtube.com/watch?v=-9lEXmbQHAM>.

<sup>37</sup> Peadar Kirby, 'Probing the Significance of Latin America's "Pink Tide"' (2010) Eduardo Silva et al (eds) 89 *European Review of Latin American and Caribbean Studies* 127.

<sup>38</sup> Robert A. Karl, *Forgotten Peace: Reform, Violence, and the Making of Contemporary Colombia* (University of California Press 2017). See also Ramírez-Gutiérrez and Quiroga-Villamarín (n 23) 145-53.

<sup>39</sup> On the former, see Mario Montoya Brand, 'Estado Social de Derecho, "Estado Comunitario" y "Estado de Opinión": La Redefinición Del Estado En Los Discursos Del Presidente Álvaro Uribe Vélez', (2010) 67 *Estudios de Derecho* 253. On the latter, Josefina A Echavarría, in *Security In Colombia: Writing Political Identities in the Democratic Security Policy* (Manchester University Press 2014).

To be sure, Hoyos began broadcasting his program well before the arrival of Uribe to power in 2002. As he himself relates, the show came out of a promise he gave to other victims of FARC kidnapping practice when he was also taken hostage back in 1994.<sup>40</sup> During his time in the jungles and mountains, he realized that the far-left guerrilla group gave each of those it kidnapped a modest survival kit, which included at least, a radio, a toothbrush and toothpaste, and a rain poncho.<sup>41</sup> When he was freed by the Colombian army, Hoyos fulfilled his oath to his fellow kidnappees and set up the first radio show created specifically to raise consciousness of the plight of those who had been kidnapped. The allure of the show lay in its capacity not only to engage with ordinary Colombian civilians, but also in its ability to reach (through the radios in the personal kits provided by the FARC) those who had been kidnapped themselves—reaching, in a way, places in which the Colombian state and armed forces could not even dream of penetrating.<sup>42</sup>

This focus on kidnapping, as opposed to a more holistic understanding of violence, is important because in the Colombian armed conflict, certain types of violence have been employed more frequently by particular actors.<sup>43</sup> For instance, the 2013 report of the Colombian National Center of Historical Memory (CNMH<sup>44</sup>) "Enough: Memories of War and Dignity in Colombia" concludes that roughly 90.6% of kidnapping operations were carried out by left-wing guerrillas, whereas only 9.4% were carried out by right-wing

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<sup>40</sup> Marín Corrales, 'La Guerra Se Gana En El Escenario de La Información' (n 34). To be sure, Hoyos' program also engaged with those kidnapped by other far-left guerrilla groups, such as the Marxist-Catholic *Ejército de Liberación Nacional (ELN)*. However, due to the relative marginality of other far-left guerrillas vis-à-vis the FARC, most of those kidnapped in the armed conflict were taken by the FARC.

<sup>41</sup> Ibid.

<sup>42</sup> Centro Nacional de Memoria Histórica, *Una sociedad secuestrada* (Primera edición, Centro Nacional de Memoria Histórica 2013), 199; Stephen Pax Leonard, 'Doing Things with Voices: Colombian 'Kidnap Radio' and the Sound of God', (2020) 28 *Social Anthropology* 914.

<sup>43</sup> For an introduction in English, see Kim Cragin and Bruce Hoffman, 'Violence in Colombia', in *Arms Trafficking and Colombia* (RAND Corporation 2003), 3. On the left-wing guerrillas, see 4-6, on the paramilitaries, see 6-7.

<sup>44</sup> In Spanish, *Centro Nacional de Memoria Histórica*.

paramilitary groups.<sup>45</sup> A similar figure holds true for armed attacks on civilian lives and property (in breach of international humanitarian law). Extra-judicial killings (under international human rights law), on the other hand, were carried out by armed actors from across the political spectrum, with around 33% credited to right-wing paramilitaries, 19% to left-wing guerrillas, and 16% to state actors.<sup>46</sup> However, nearly 60% of all massacres (which were instance of massive cases of extrajudicial killings) were committed by right-wing paramilitaries, with only 17% allocated to the guerrillas and 8% to the Colombian security apparatus.<sup>47</sup> These forms of violence are, by and large, also connected to particular sets of victims: while far-left kidnapers targeted mostly urban and rural elites to finance their activities,<sup>48</sup> far-right paramilitary massacres and extrajudicial killings were linked to practices of forced displacement and land-grabbing.<sup>49</sup> These patterns of violence have, by and large, been confirmed by the recent findings of the Colombian Commission for the Clarification of Truth, Coexistence, and Non-Repetition (CEV). This institution which was—like the JEP—created as part of the Havana Peace framework,<sup>50</sup> issued its final report in the summer of 2022.<sup>51</sup> In this regard, the technical annex on the statistics of the conflict commissioned by the JEP, the CEV, and the civil society organization Human Rights Data Analysis Group concluded that “there is evidence that the paramilitaries were primarily responsible for forced disappearances and homicides, while

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<sup>45</sup> Centro Nacional de Memoria Histórica, ‘Secuestros - Estadísticas Del Conflicto Armado En Colombia’, 2013, <https://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/estadisticas.html>.

<sup>46</sup> Centro Nacional de Memoria Histórica, ‘Asesinatos Selectivos - Estadísticas Del Conflicto Armado En Colombia’, 2013, <https://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/estadisticas.html>.

<sup>47</sup> Centro Nacional de Memoria Histórica, ‘Masacres - Estadísticas Del Conflicto Armado En Colombia’, 2013, <https://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/estadisticas.html>.

<sup>48</sup> Danielle Gilbert, ‘The Logic of Kidnapping in Civil War: Evidence from Colombia’, (2022) *American Political Science Review* 1, 8 (noting that, despite the lack of evidence, roughly half of the cases of kidnapping were directed against company managers and vice presidents).

<sup>49</sup> Jennifer Vargas Reina, ‘Coalitions for Land Grabbing in Wartime: State, Paramilitaries and Elites in Colombia’, (2022) 49 *Journal of Peasant Studies* 288.

<sup>50</sup> Gabriel Velez, ‘Teaching Truth in Transitional Justice’, (2021) 23(1) *Health and Human Rights* 91, 95.

<sup>51</sup> The 10 volumes of this massive report can be accessed at <https://www.comisiondelaverdad.co> An important difference between the 2013 and the 2022 reports is that the recent intervention does not distinguish between massacres and homicides. While this makes it relatively harder to understand the particularities of the patterns of paramilitary violence, for the purposes of my argument on kidnapping this is of relatively minor importance.



the FARC were the main culprits of kidnapping and the recruitment of boys, girls, and teenagers.”<sup>52</sup> To be sure, while these exact figures are debatable—and indeed, are being debated right now by the Colombian transitional justice institutions—it is difficult to deny that by the 1990s, the “war of massacres” had become the preferred form of violence of the far-right paramilitaries,<sup>53</sup> while the far-left guerrillas had opted for systematic practices of kidnapping.<sup>54</sup> This is especially true for the Marxist FARC-EP guerrilla organization, which is estimated to have committed more kidnapping operations than those credited to the paramilitaries and the Catholic-Marxist guerrilla ELN (National Liberation Army) put together (see graph below).

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<sup>52</sup> 'Informe Metodológico Del Proyecto Conjunto JEP-CEV-HRDAG de Integración de Datos y Estimación Estadística', 18 August 2022, <https://hrdag.org/wp-content/uploads/2022/08/20220818-fase4-informe-corrected.pdf>. 17. I thank Valentina Roza-Ángel for her willingness to discuss these figures with me. My argument does not reflect her views or those of her current or former employers.

<sup>53</sup> Freeman and Orozco Abad (n 29) 98.

<sup>54</sup> Gilbert (n 50) 8-12.

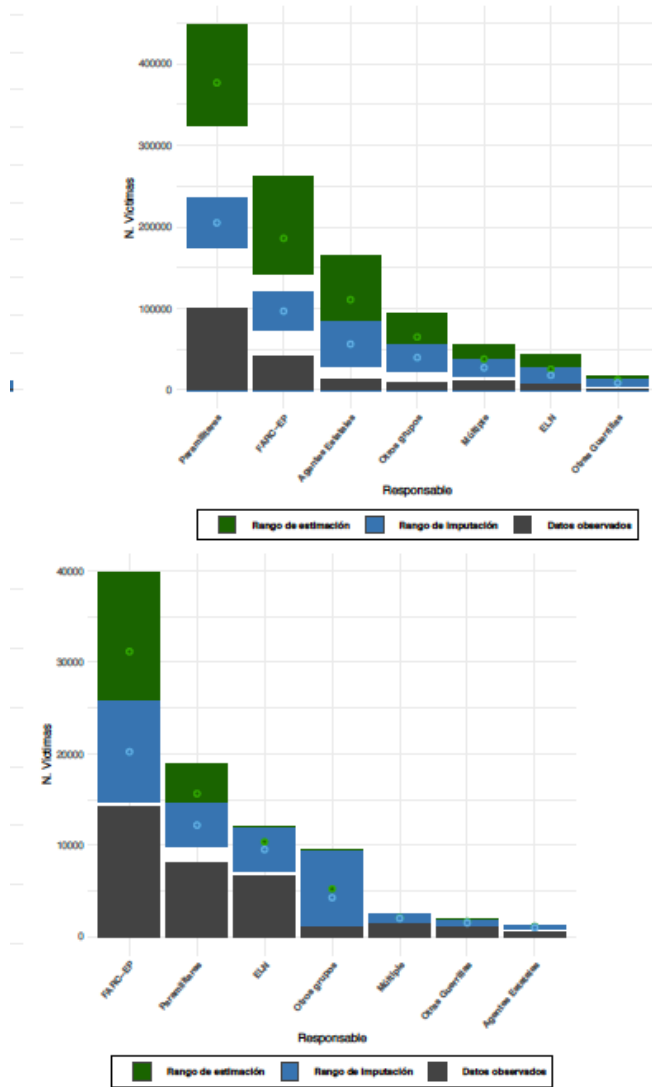


Image II: Statistical estimates that correlate instances of violence with the groups that committed them. Above: homicides. Below: kidnappings (in Spanish). JEP-CEV-HRDAG 2022 ©.<sup>55</sup>

While left-wing guerrillas had experimented with some high-profile cases of kidnapping in the 1970s, these practices only became widespread in the 1990s. Prieto even identifies a “massification” of kidnapping between 1996 and 2010, drawing again on the figures provided by the CNMH.<sup>56</sup> In fact, the emergence of the right-wing paramilitaries is often

<sup>55</sup> Taken from ‘Informe Metodológico Del Proyecto Conjunto JEP-CEV-HRDAG de Integración de Datos y Estimación Estadística’, 17 (n 54).

<sup>56</sup> David Ramírez Prieto, ‘El Testimonio al Revés: Las Narrativas Del Secuestro En Colombia o La Parodia Del Género Testimonial (1998-2013)’, (2018) 47 *Chasqui* 256, 256. See also Centro Nacional de Memoria Histórica (n 44).

credited to the exasperation of elite families and emerging drug traffickers with the kidnapping of their family members; among these right-wing paramilitary groups, the group “Death to Kidnappers” (*Muerte a Secuestradores MAS*) was the most significant.<sup>57</sup> It was in this context that Gabriel García Márquez penned his non-fiction work *News of a Kidnapping*, which Hoyos and Jorge González-Jácome have read as a reflection on legality, violence, and hostage-taking in this tense period of Colombian history.<sup>58</sup> But the 1990s were a decade also marked by the exacerbation of other forms of violence. For this reason, a focus on kidnapping—and not on the emergence of other forms of violence (such as massacres) or other armed actors (such as drug traffickers or right-wing paramilitaries)—shows that the framing adopted by *Las Voces* highlighted certain aspects of the Colombian conflict, while downplaying others.<sup>59</sup> Of course, my point here is not that Hoyos should have covered all human rights violations equally, which would have been truly impossible.<sup>60</sup> Nor I am arguing that any actor that agitated against kidnapping was necessarily pursuing a right-wing agenda—indeed, I cite Gabriel García Márquez (whose left-leaning politics pushed him towards a long exile in Mexico<sup>61</sup>) as a good example of

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<sup>57</sup> Caterina Heyck Puyana, ‘El Secuestro en Colombia’, in *Derecho Internacional, Acuerdo Humanitario y Resolución Pacífica Del Secuestro* (Editorial Universidad del Rosario 2011), 41, 46; Andrés López Restrepo and Álvaro Guizado, ‘From Smugglers To Warlords: Twentieth Century Colombian Drug Traffickers’, (2003) 28 (56) *Canadian Journal of Latin American and Caribbean Studies* 249, 265.

<sup>58</sup> Gabriel García Márquez, *Noticia de un secuestro* (Vintage Español 2011). Originally published in 1996. See further Héctor Hoyos and Jorge González-Jácome, ‘The War on Drugs between Exception and Legitimacy: García Márquez’s *News of a Kidnapping*’, (2022) *Law & Literature* 1. No relation to Herbin Hoyos (to the best of my knowledge).

<sup>59</sup> Although I have not counted how many of the radio broadcasts were aimed at those kidnapped by the FARC vis-à-vis those kidnapped by the ELN or the paramilitaries, it is telling that all of the victims that Hoyos highlighted in his interventions at the Colombian Congress or in his retrospective publications were victims of the FARC. See Centro Democrático Comunidad Oficial, ‘Interv.de Herbin Hoyos/ Plenaria de Senado Sobre Debate de Refrendación de Los Acuerdos de La Habana’, YouTube, 29 November 2016, <https://www.youtube.com/watch?v=IhjbXkG5Ahl>. See also Marta Ruiz, eds., ‘Hermano para Siempre,’ in *Crónicas: Premio Nacional de Paz* (FESCOL 2010), 187–89, 194–97. He was rightly seen as a leader of the anti-FARC victim movement.

<sup>60</sup> Although one must also note that a broader and holistically-oriented approach to all forms of violent actors was indeed deployed by the CNMH and other human rights organizations. The right-wing bias of *Las Voces* is also clear if one compares it with the more left-leaning contemporary program *La Noche de la Libertad* (the Night of Freedom), run by Antonio José Caballero. See Centro Nacional de Memoria Histórica (n 44) 200.

<sup>61</sup> ‘Left-Wing Writer Flees Bogota for Mexico City’, *The New York Times*, 27 March 1981, <https://www.nytimes.com/1981/03/27/world/left-wing-writer-flees-bogota-for-mexico-city.html>.

how different sectors of Colombian society came to rally against kidnapping during these turbulent years.<sup>62</sup> Rather, I am seeking to highlight that claims of victimhood are never neutral, as every denunciation carries an implicit hierarchization of the many ways in which violence is inflicted at an individual or structural level.<sup>63</sup>

This exasperation with the far-left guerrillas (and with the FARC in particular) reached its highest point in the wake of the failed peace process of 1999-2002—colloquially known as the “el Cagúan process.”<sup>64</sup> Since the early 1980s, almost all of Colombia’s Presidents had attempted to negotiate peace with the left-wing guerrilla groups, with varying degrees of success. While the demobilization of the left-leaning Movimiento 19 de April (M19) under President Virgilio Barco (1986-1990) gave the country high hopes for a political solution to its armed strife, the failure of the “Cagúan” process left a profound sense of distrust of the guerrillas among the Colombian establishment. During this process, led by the administration of Andrés Pastrana (1998-2002), the FARC were allowed to roam freely within a 42,000 km<sup>2</sup> demilitarized zone for almost three years while the negotiations unfolded.<sup>65</sup> The slow progress at the negotiation table and the FARC’s extensive deployment within the zone led many Colombians to doubt the FARC’s commitment to a political settlement. A highly symbolic instance of this is the so-called el Cagúan empty chair (*silla vacía*) incident: as the top guerrilla leader had opted not to go in person to the opening of the negotiations, President Pastrana was forced to sit awkwardly beside an empty chair.<sup>66</sup> After a series of disappointments, Pastrana declared the peace process a failure and in 2002 ordered the armed forces to bomb the demilitarized zone. Shortly afterwards, the FARC kidnapped a right-wing presidential candidate, Ingrid Betancourt,

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<sup>62</sup> I thank one of the reviewers for her or his comments in relation to this.

<sup>63</sup> Makau Mutua, ‘Savages, Victims, and Saviors: The Metaphor of Human Rights’, 1 *Harvard International Law Journal* (2001) 201.

<sup>64</sup> See generally Harvey F Kline, *Chronicle of a Failure Foretold: The Peace Process of Colombian President Andrés Pastrana* (University of Alabama Press 2007).

<sup>65</sup> Renata Segura and Delphine Mechoulan, ‘Historical Background and Past Peace Processes’ in *Made in Havana: How Colombia and the FARC Decided to End the War* (International Peace Institute 2017), 5, 6.

<sup>66</sup> Kline(n 66) 120.

who had ventured into the former demilitarized zone.<sup>67</sup> The image that emerged from 2002 was that the FARC had tricked the Colombian establishment into giving them a three-year truce that allowed them to seriously prepare for a military takeover of power, financed by the surpluses generated by kidnapping and drug-trafficking. As the door for peace negotiations closed, Pastrana addressed the nation to tell citizens that he called on "the Archangel Saint Michael [to] protect us" from what would come next.<sup>68</sup>

In lieu of divine intervention, Colombia got instead the landslide election of Álvaro Uribe Vélez, who would rule for two terms between 2002 to 2010—overturning along the way the constitutional prohibition on presidential re-election.<sup>69</sup> While Uribe was formerly tied to the center-right Liberal Party (*Partido Liberal*), his platform had effectively broken the hegemony of the traditional two-party Colombian system to create instead a broad consensus around his "neo-populist" law-and-order-approach.<sup>70</sup> A central part of this vision was that the only legitimate conclusion to Colombia's armed conflict was the military annihilation of the FARC on the battlefield—which was then called the "military option" (as opposed to a "political" solution).<sup>71</sup> In this vein, the Uribe administration pursued a two-pronged strategy to end the armed conflict: on the one hand, it sought to negotiate a lenient demobilization process with the right-wing paramilitaries through the

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<sup>67</sup> Eduardo Posada-Carbó, 'Language and Politics: On the Colombian "Establishment"' (2007) 42(2) *Latin American Research Review*: 111, 125.

<sup>68</sup> (n 66) 120.

<sup>69</sup> See generally Harvey F Kline, *Showing Teeth to the Dragons: State-Building by Colombian President Álvaro Uribe Vélez, 2002-2006* (University of Alabama Press 2009); Harvey F Kline, *Fighting Monsters in the Abyss: The Second Administration of Colombian President Álvaro Uribe Vélez, 2006-2010* (The University of Alabama Press 2015). On re-election, see Manuel José Cepeda Espinosa and David E Landau, *Colombian Constitutional Law: Leading Cases* (Oxford University Press 2017) 130.

<sup>70</sup> John C Dugas, 'The Emergence of Neopopulism in Colombia? The Case of Álvaro Uribe' (2003), 24(6) *Third World Quarterly*, 1117. See also Jennifer S Holmes and Sheila Amin Gutiérrez de Piñeres, 'Party System Decline in Colombia: A Subnational Examination of Presidential and Senate Elections from 1994 to 2006' (2012) 8(2) *Democracy and Security* 175.

<sup>71</sup> Gregory J Lobo, 'Spectacular "Nationalism" in Modern Colombia: Mediating Commitment to the Military Option' (2016) 10(3) *Media, War and Conflict* 261.

so-called "Justice and Peace Process" enacted via Law 975 of 2005.<sup>72</sup> At the same time, the Uribe administration pursued a series of aggressive military operations against the left-wing guerrillas, which were accompanied by a series of media operations that sought to justify the legitimacy and legality of state violence against these groups. Marketing and mass media were crucial parts of this strategy—the Uribe Administration and its allies actively deployed communication strategies to demobilize and demoralize the far-left guerrillas into entrepreneurs and consumers, while at the same glorifying counterinsurgent "freedom fighters."<sup>73</sup>

While the creation of *Las Voces* by Hoyos predated this strategy by some years (1994), it only gained the salience it had in Colombian politics during the Uribe era (2002-2010). In this period, it became part of a broader constellation through which journalists and media operators adjusted to the expectations of the Uribe war-related vision of "democratic security."<sup>74</sup> In the same vein, the Uribe government mobilized the notion of "terrorism" to brand the guerrilla groups as actors that were beyond the reach of the law—as such, placing them outside of the purview of the protections of the laws of war and international humanitarian law.<sup>75</sup> In this aim, Uribe found a key ally in Hoyos—who had

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<sup>72</sup> Kai Ambos, *The Colombian Peace Process and the Principle of Complementarity of the International Criminal Court: An Inductive, Situation-Based Approach* (Springer 2010); Francisco Gutiérrez, *Clientelistic Warfare Paramilitaries and the State in Colombia (1982–2007)* (Peter Lang 2019). On the leniency of these measures towards the right-wing *paras*, see Daron Acemoglu, James A Robinson, and Rafael J Santos, 'The Monopoly of Violence: Evidence from Colombia' (2013) 11 *Journal of the European Economic Association* 5. See fn. 3 at 7.

<sup>73</sup> Fattal (n 19).

<sup>74</sup> See generally Yeny Serrano, 'Le Conflit Armé En Colombie Dans Les Journaux Télévisés Nationaux', (2011) 97 *Mots* 117; Alexandra García-Marrugo, 'What's in a Name? The Representation of Illegal Actors in the Internal Conflict in the Colombian Press', (2013) 24 *Discourse and Society*, 421; María T Ronderos, *Guerras Recicladadas. Una Historia Periodística Del Paramilitarismo En Colombia* (Aguilar 2014); Manfredo Koessl, *Violencia y Habitus. Paramilitarismo En Colombia* (Siglo del Hombre 2014); Yeny Serrano, 'Naming the Combatants of the Colombian Armed Conflict in News Broadcasts: The Discursive Positioning of Journalists', (2016) 19(1) *Palabra Clave* 57. However, it is important to note that Uribe did not come out of the blue in 2001. At the time when the radio show was founded, Uribe was the Governor of the Department of Antioquia.

<sup>75</sup> Jason Hagen, 'Uribe's People: Civilians and the Colombian Conflict', 4(1) *Georgetown Journal of International Affairs* (2003) 65. Uribe even managed to convince the US to include the FARC-EP in its official list of terrorist organizations and individuals. See US Department of State, 'Executive Order 13224', <https://www.state.gov/executive-order-13224/>

been writing about “terrorism” in Colombia and abroad since the late 1990s.<sup>76</sup> Not in vain did Uribe explicitly cite the importance of this radio show in his 2012 memoirs—which sought to provide a retrospective justification for the increased militarization of the armed conflict that occurred under his mandate.<sup>77</sup> A salient example of this was the most spectacular military operation carried out to rescue kidnapping victims from the FARC (the so-called *Operación Jaque* to liberate presidential candidate Ingrid Betancourt), made possible through a deliberate abuse of ICRC insignia in a case of “permissible perfidy” which caused outrage in Geneva and beyond.<sup>78</sup> It is telling that as soon Betancourt was liberated, she praised the important role Hoyos and his radio show had played during her time in the jungle.<sup>79</sup>

In all the above, I have argued that *Las Voces* cannot be read only as a humanitarian platform which sought to raise consciousness of the plight of those who had been kidnapped. It was certainly that, but it was also a part in a wider system through which the Colombian state waged its war against the FARC: a strategy which combined military operations, legal justifications, and mass media interventions. If the law can sometimes lead to the continuation of war “by other means,” the same is true for the radio waves.<sup>80</sup> It was not a coincidence that during the same years in which the radio show raised consciousness about the plight of those who had been kidnapped, the government adopted a heavy-handed military strategy that denied any sort of protection to FARC-EP

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<sup>76</sup> Most of these early essays were collected and published in Herbin Hoyos Medina, *Las guerras del terrorismo* (Quintero Editores 2000).

<sup>77</sup> Álvaro Uribe Vélez, *No hay causa perdida: memorias* (Celebra 2012), 21-22.

<sup>78</sup> J. C. Dehn, 'Permissible Perfidy?: Analysing the Colombian Hostage Rescue, the Capture of Rebel Leaders and the World's Reaction' (2008), 6 (4) *Journal of International Criminal Justice* 627. On this occasion, the Colombian armed forces used the emblem of the Red Cross and the words “Comité International Genève” as they approached enemy combatants. See further Ramírez-Gutiérrez and Quiroga-Villamarín (n 23), 142-143.

<sup>79</sup> REDACCIÓN EL TIEMPO 'Conmovedor Mensaje de Ingrid Betancourt Tras La Muerte de Herbin Hoyos', *El Tiempo*, 25 February 2021, <https://www.eltiempo.com/cultura/gente/ingrid-ingrid-betancourt-y-el-mensaje-tras-la-muerte-de-herbin-hoyos-569457>.

<sup>80</sup> David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton University Press 2005); David Kennedy, *Of War and Law* (Princeton University Press 2006), 13, 163.

"terrorists." Indeed, during these years, Uribe even denied the existence of a non-international armed conflict.<sup>81</sup>

In sum, Hoyos and his program—not unlike Uribe (whose father had died in a botched kidnapping attempt in 1982<sup>82</sup>)—was very much a product of the anxieties of a rising far right exasperated by the far-left kidnappings of the 1990s. I am not suggesting that either of these figures are easily reducible unto each other: Hoyos did not "create" Uribe, but nor did Uribe's platform exist in isolation from Hoyos. My argument here is analogous to the historiographical debate on the relation between Uribe and the paramilitaries.<sup>83</sup> Instead of asking whether Uribe created the paramilitaries or vice versa, I think we should see this period as one marked by the creation of lasting far-right coalitions between armed groups, political figures, and media operators—without imputing a determinant role to any of these actors. Hoyos wasn't a "puppet" of higher powers, but he wasn't a lone rider either. He acted within a particular political context of "structured contingency"<sup>84</sup> to pursue a political agenda which required him to mobilize his cultural capital in exchange for patronage or leverage.<sup>85</sup> Through its use of legal categories (such as "justice", "victims," or "rights," this agenda outlived Hoyos and his radio show—with important consequences for Colombia's transitional institutions.

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<sup>81</sup> El Espectador, 'Uribe Da 10 Razones Para No Hablar de Conflicto Armado', 7 May 2011, 10, <https://www.elespectador.com/politica/uribe-da-10-razones-para-no-hablar-de-conflicto-armado-articulo-268116/>.

<sup>82</sup> Peter Vincent, 'The Best Deal for Colombia', *The New York Times*, 28 August 2016, <https://www.nytimes.com/2016/08/29/opinion/the-best-deal-for-colombia.html>.

<sup>83</sup> John C Dugas, 'Paramilitaries and the Economic Origins of Armed Conflict in Colombia' (2012) 47 *Latin American Research Review* 205.

<sup>84</sup> Samuel Moyn, 'From Situated Freedom to Plausible Worlds' in Kevin Jon Heller and Ingo Venzke (eds), *Contingency in International Law: On the Possibility of Different Legal Histories* (Oxford University Press 2021) 517.

<sup>85</sup> This was especially clear in relation to the anti-JEP referendum proposed by Hoyos and supported by Uribe, which we will see with more detail below. See further Adriaan Alsema, 'Uribistas' Seek Referendum to "Abolish" Colombia's War Crimes Tribunal and "Revoke High Courts"', *Colombia Reports*, 14 June 2019, <https://colombiareports.com/uribistas-seek-referendum-to-abolish-war-crimes-tribunal-and-revoke-high-courts/>. It is also worth noting that Uribe's party (*Centro Democrático*) invited Hoyos to intervene at the Colombian Congress on their behalf against the 2016 peace process. See (n 61).



#### 4. “Whoever Invokes Humanity Wants to Cheat:”<sup>86</sup> On the Political Uses of the Legal Categories of “Humanity’s Law”

Legal categories linked to the plight of the victims of kidnapping were actively mobilized by Hoyos and *Las Voces*, especially as the Uribe administration found itself increasingly on the defensive in the last years of his regime. For instance, Hoyos was one of the central actors who called for the mass mobilization of “a million voices against the FARC” (*un millón de voces contra las FARC*) in 2008,<sup>87</sup> seeking to justify another constitutional reform to allow Uribe to serve a third term. The alternative, Uribe and his supporters claimed, was a constitutional catastrophe (*hecatombe*) which would result in the victory of the far-left guerrillas and the collapse of the institutional order. As mentioned above, while Uribe had been able to reform the Constitution once for his first re-election, now his camp wanted to pass a grass-roots referendum to allow a further constitutional reform so “that whoever has held the office of President for two terms can be elected for a third.”<sup>88</sup> This process started in 2008 with a campaign of mass mobilization (through the collection of signatures) in favor of the referendum and the elevation of this proposal into a law in 2009.<sup>89</sup> While this process was eventually cut short when the Colombian Constitutional Court ruled it unconstitutional in 2010,<sup>90</sup> for the purposes of my argument what matters is that Hoyos actively mobilized his radio show and political capital in favor of Uribe’s agenda.<sup>91</sup> Moreover, his position was not shared by all of the kidnapping victims associations. Some family members of those who had been kidnapped and more left-leaning victims groups opposed the mobilization, arguing that it was more invested in

<sup>86</sup> Carl Schmitt, *The Concept of the Political*, expanded ed. (University of Chicago Press 2007) 54.

<sup>87</sup> López Giraldo (n 34). See also Centro Nacional de Memoria Histórica (n 44) 214.

<sup>88</sup> Of course, given that so far Uribe had been the only President who had amended the constitution to allow for re-election, he was also the only one who could be re-elected under the terms of this proposal. It was a tailor-made re-election provision.

<sup>89</sup> Law 1354 of 2009. Declared unconstitutional by the Colombian Constitutional Court in its ruling C-141 of 2010. For an overview of this complicated process, see Cepeda Espinosa and Landau, *Colombian Constitutional Law* (n 71) 340-69.

<sup>90</sup> *Ibid.*

<sup>91</sup> López de la Roche (n 37) 460.

demonizing the FARC than in negotiating the release of victims of kidnapping. In fact, these mobilizations clashed with the efforts of other humanitarian actors that had sought to engage with the FARC’s overtures for “humanitarian exchange”—a euphemism for a process through which the Colombian army released FARC combatants in exchange for the liberation of kidnapping victims.<sup>92</sup> Hoyos and the Uribe administration, however, pushed for the military liberation of the victims—a strategy which was viewed with some skepticism by family members due to the high risks these operations entailed for those who had been kidnapped.<sup>93</sup>

But the real turning point for Hoyos and his program—and for the Colombian right in general—in terms of their usage of international legal categories came a couple of years later, once the right found itself out of power.<sup>94</sup> After the Colombian Constitutional Court blocked Uribe’s election to a third term in 2010,<sup>95</sup> the Colombian far right placed their faith in Uribe’s former Minister of Defense, Juan Manuel Santos. The latter was elected President in 2010 with Uribe’s backing and under the colors of his political party—named

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<sup>92</sup> Alex Fattal, 'Hostile Remixes on YouTube: A New Constraint on pro-FARC Counterpublics in Colombia' (2014) 41 *American Ethnologist* 320, 327.

As one of the reviewers aptly noted, I am not addressing the complex legal question of whether the FARC were legally entitled to deprive actors of their liberty pursuant to international humanitarian law and international law. In this article, I am not particularly interested in arguing in favor or against of a “correct” interpretation of the law in this regard. Instead, I examine what role a certain legal category plays in a particular political context. While I agree with the reviewer that much work remains to be done in relation to the legality of kidnapping, hostage-taking, or detention by rebel groups, I do not wish to provide in this article what Schlag called “air law”: that is, when scholars attempt to play the air guitar *as if* they were judges. See Pierre Schlag, 'Spam Jurisprudence, Air Law, and the Rank Anxiety of Nothing Happening (A Report on the State of the Art)' (2009) 97 *The Georgetown Law Journal* 803, 812-813. For recent literature on these questions, see instead Buis and Ramírez-Gutiérrez, *El Derecho Internacional Humanitario En La Jurisdicción Especial Para La Paz de Colombia - Volumen I* (n 25); Ezequiel Heffes, *Detention by Non-State Armed Groups under International Law* (Cambridge University Press 2022).

<sup>93</sup> Ana Caterina Heyck Puyana, 'Análisis Del Acuerdo Humanitario Como Alternativa de Negociación Para Lograr La Libertad de Los Secuestrados Políticos En Colombia' (2009) 2 *Revista de Paz y Conflictos* 82.

<sup>94</sup> It was also around this time that Hoyos left Colombia due to threats against him by the far-left guerrillas he was denouncing on his radio show. See Adriana Hurtado, 'La FIP Deplora Que El Periodista Colombiano Herbin Hoyos Sea Forzado al Exilio', *Federación Colombiana de Periodistas*, October 15 2009, <https://fecolper.com.co/la-fip-deplora-que-el-periodista-colombiano-herbin-hoyos-sea-forzado-al-exilio/>.

<sup>95</sup> Laura Gamboa, 'Opposition at the Margins: Strategies against the Erosion of Democracy in Colombia and Venezuela' (2017) 49 *Comparative Politics* 457, 459.

the “U: Party of Unity,” which in practice really stood for the “U” in Uribe. But Santos proved to be an unruly puppet, and slowly but surely came to be seen as a traitor to the hardline Uribista tradition.<sup>96</sup> Indeed, within a couple of years, Santos surprised actors across the political spectrum by turning from an exemplary Minister of Defense committed to “the military option” and “democratic security” to a President who in 2012 reopened negotiations with the FARC.<sup>97</sup> As Hoyos himself admitted, while the news of the peace process at first seemed to offer hope for the liberation of those who had been kidnapped, he and other far-right actors increasingly started to see the Santos process as a capitulation to the FARC, which would guarantee the *impunity* of their kidnapping operations.<sup>98</sup> His radio show became an important tribune for this agenda—in which the law played a central role. For instance, in 2016 he used his show to denounce the peace process as one in which “the government made humanitarian concessions without any guarantees”— and as such were promoting impunity<sup>99</sup>— And, in 2020 he even denounced pro-peace lawyers as pro-FARC and pro-impunity puppets—an act for which he was challenged in a domestic defamation suit and for which he was ordered to issue a public retraction.<sup>100</sup>

Anti-impunity, as Alviar and Engle have argued, became—perhaps surprisingly—a central banner in the agenda of Hoyos and other far-right actors as they became

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<sup>96</sup> See, for instance, Franck Emmanuel Marre, 'FARC's Facade and Other Major Obstacles to a Genuine Peace in Colombia', 6 (6) (2014) *Counter Terrorist Trends and Analyses*) 4.

<sup>97</sup> Carlo Nasi and Angelika Rettberg, 'Colombia's Farewell to Civil War' in I. William Zartman (ed) *How Negotiations End* (Cambridge University Press 2019), 62. See also Harvey F Kline, *Between the Sword and the Wall: The Santos Peace Negotiations with the Revolutionary Armed Forces of Colombia* (The University of Alabama Press 2020).

<sup>98</sup> As mentioned above, Hoyos accepted to speak on behalf of Uribe's party, using their platform in the Colombian Senate to convince Colombians that the plight of the kidnapped voices should move voters to bury the peace agreement. See Centro Democrático Comunidad Oficial (n 61).

<sup>99</sup> Priscila Romero, 'Estamos de Acuerdo Con La Paz, Pero No Con La Impunidad y Los Acuerdos' *Notimundo*, August 29 2016, <https://notimundo.com.ec/estamos-de-acuerdo-con-la-paz-pero-no-con-la-impunidad-y-los-acuerdos/>.

<sup>100</sup> 'Periodista Herbin Hoyos Deberá Retractarse Por Vincular a Algunos Abogados Con Las Farc' *El Espectador*, October 23 2020, <https://www.elespectador.com/judicial/periodista-herbin-hoyos-debera-retractarse-por-vincular-a-algunos-abogados-con-las-farc-article/>.

disgruntled with the Santos administration and its peace process.<sup>101</sup> I say “surprisingly” because for a long period, Uribe and his allies had themselves been accused of fostering impunity, not those who were raising the accusations.<sup>102</sup> Indeed, concerns related to the promotion of impunity had long been raised by human rights organizations and left-leaning grass-roots activists against Uribe’s process of “Justice and Peace” with the right-wing paramilitaries in 2005.<sup>103</sup> In a game of “inverted mirrors,” far-right actors now found themselves brandishing allegations of impunity against the Santos-FARC peace process.<sup>104</sup> As Hoyos himself noted in an interview, the peace process led to his “radicalization,” as he became convinced that the process would “cover up” (*tapar*) the crimes of the FARC—and their heinous practices of kidnapping in particular—to the detriment of the rights of victims.<sup>105</sup> At this point, Hoyos and his allies realized that they could use the discourse of international humanitarian law for their own far-right political agenda, which was quite different from the seemingly progressive and liberal aims of the “humanitarian consciousness.”<sup>106</sup> If the new FARC peace process was one which was not only thoroughly “juridified”<sup>107</sup> but also “judicialized,”<sup>108</sup> then the far right stood much to gain if it managed to mobilize these concepts for their illiberal purposes.<sup>109</sup> It is important to note that “impunity” is a legal category, and not merely a moral one. As Simpson noted,

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<sup>101</sup> Helena Alviar García and Karen Engle, 'The Distributive Politics of Impunity and Anti-Impunity: Lessons from Four Decades of Colombian Peace Negotiations' in Karen L Engle, Zinaida Miller, and Dennis Davis (eds) *Anti-Impunity and the Human Rights Agenda* (Cambridge University Press 2016), 216. See also Manuel Iturralde, 'Colombian Transitional Justice and the Political Economy of the Anti-Impunity Transnational Legal Order' in Gregory Shaffer and Ely Aaronson (eds), *Transnational Legal Ordering of Criminal Justice* (Cambridge University Press 2020), 234.

<sup>102</sup> Ramírez-Gutiérrez and Quiroga-Villamarín (n 23).

<sup>103</sup> Human Rights Watch, *World Report 2005*, 202-208; Amnesty International, 'Colombia: The Justice and Peace Law Will Benefit Human Rights Abusers', December 9, 2005, <https://www.amnesty.org/en/wp-content/uploads/2021/08/amr230302005en.pdf>.

<sup>104</sup> Freeman and Orozco Abad (n 29) 96.

<sup>105</sup> López Giraldo (n 34).

<sup>106</sup> Ramírez-Gutiérrez and Quiroga-Villamarín (n 23).

<sup>107</sup> Gerry J Simpson, *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity 2007).

<sup>108</sup> David Landau, 'The Causes and Consequences of a Judicialized Peace Process in Colombia' (2020) 18 (4) *International Journal of Constitutional Law* 1303. See also René Urueña, 'Prosecutorial Politics: The ICC's Influence in Colombian Peace Processes, 2003-2017' (2017) 111 *The American Journal of International Law* 104.

<sup>109</sup> Quiroga-Villamarín (n 23).

arguing that a war or legal institution is immoral or inconvenient is quite distinct from saying that it is *illegal* under international law.<sup>110</sup> This entails a call not to politics as usual but mobilizes a set of higher values rooted in a core of common commitments to Ruti Teitel’s “humanity’s law.”<sup>111</sup> For this reason, I am not necessarily interested in providing a “right interpretation” of the anti-impunity principle in international law (nor in clarifying under which circumstances FARC detention would be legal or illegal), but in examining the malleability of this legal doctrine for all sorts of political purposes.<sup>112</sup>

This fact was not lost on Hoyos and *Las Voces*, as they set their eyes on the Special Jurisdiction for Peace (JEP<sup>113</sup>), the special transitory judicial mechanism created by the Santos-FARC peace process in chapter 5 of the Habana Peace Agreement.<sup>114</sup> As I’ve explained in more detail elsewhere, in the 2012 Habana process—in contrast to the 2005 paramilitary demobilization process—“compliance with international standards [on the rights of victims] took center stage.”<sup>115</sup> For this reason, the Habana negotiators (with plenty of advice from international experts) created an “integrated system of Truth, Justice, Reparation, and Non-Repetition,” of which the JEP was the crown jewel. This Special Jurisdiction was tasked with the implementation of a regime of alternative, non-prison-based punishments for those found guilty of abuses. Confident of the technical soundness of the agreement, the Santos administration decided to hold a nationwide plebiscite so that Colombians could ratify what had been negotiated between the government and the FARC.<sup>116</sup>

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<sup>110</sup> Simpson (n 109).

<sup>111</sup> Teitel (n 31).

<sup>112</sup> On the malleability of this principle in the Colombian context, see (n 103), Or Iturralde (n 103).

<sup>113</sup> *Jurisdicción Especial para la Paz* (n 25).

<sup>114</sup> On the structure and history of the JEP, see Hector Olasolo and Joel M F Ramirez Mendoza, 'The Colombian Integrated System of Truth, Justice, Reparation and Non-Repetition' (2017) 15 *Journal of International Criminal Justice* 1011; Marta Valiñas, 'The Colombian Special Jurisdiction for Peace: A Few Issues for Consideration When Investigating and Adjudicating Sexual and Gender-based Crimes' (2020) 18 *Journal of International Criminal Justice* 449; Ramírez-Gutiérrez and Quiroga-Villamarín (n 23).

<sup>115</sup> Ramírez-Gutiérrez and Quiroga-Villamarín (n 23) 151.

<sup>116</sup> Freeman and Orozco Abad, *Negotiating Transitional Justice* (n 29) 103.

To everyone’s surprise, the peace accord was rejected by a slim majority of voters in 2017: “Colombian citizens did not widely support the peace agreement, partly due to the influence of Uribe, who mobilized his Democratic Center party against the agreement, ultimately quashing a referendum to ratify it.”<sup>117</sup> But to those following *Las Voces*, this should not have been a surprise. In fact, Hoyos and the radio program had long rallied against the JEP.<sup>118</sup> In particular, Hoyos raised claims that it offered impunity to FARC operatives and neglected the rights of their victims, arguing that the JEP was incompatible with domestic and international law.<sup>119</sup> While the far right pursued a misinformation campaign that used a variety of tropes (from anxieties related to gender and sexuality to concerns about economic redistribution),<sup>120</sup> the *impunity* of FARC members for their kidnappings was a crucial element of their repertoire. In 2019, Hoyos went as far as proposing a nationwide referendum to abolish the JEP—a measure that was ultimately unsuccessful but was widely supported by the Uribe camp.<sup>121</sup> In an interview Hoyos gave to another university newspaper, he declared that his proposal was being put forward by a “federation” of “10 million victims” that wished to prevent the submission of the Colombian judiciary to “bandits.”<sup>122</sup> On his Twitter account, Hoyos denounced those who defended the JEP as motivated by self-interest: defenders of the FARC either had “their women working there [*tiene la mujer allá metida*],” had “personal and political ties to the

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<sup>117</sup> Ashley Ehasz, 'Political Reincorporation of Female FARC-EP Ex-Combatants: The Creation of Victims, Heroes, and Threats' (2020)13 (2) *Cornell International Affairs Review* 4, 39–93, 13.

<sup>118</sup> Alsema (n 87).

<sup>119</sup> International Crisis Group, 'Implementation and Its Effect on Political Support' In the Shadow of “No” (International Crisis Group 2017); See footnote 66 at n 18.

<sup>120</sup> Andrei Gomez-Suarez, 'Peace Process Pedagogy: Lessons from the No-Vote Victory in the Colombian Peace Referendum' (2017) 53 *Comparative Education* 462; Anna O Pechenkina and Laura Gamboa, 'Who Undermines the Peace at the Ballot Box? The Case of Colombia' (2019) *Terrorism and Political Violence*, 1–21; Julieta Lemaitre, 'Transitional Justice and the Challenges of a Feminist Peace' (2020) 18 *International Journal of Constitutional Law* 455; Andrei Gomez-Suarez, 'A Short History of Anti-Communist Violence in Colombia (1930–2018): Rupture with the Past or Rebranding?' in Christian Gerlach and Clemens Six (eds) *The Palgrave Handbook of Anti-Communist Persecutions*, (Springer 2020), 383.

<sup>121</sup> Alsema, (n 87).

<sup>122</sup> Jaime Alberto Carvajal Díaz, 'Federación de Víctimas Propone Derogar La JEP Buscando Más de 10 Millones de Firmas' *Uniminuto Radio*, June 14, 2019, <https://www.uniminutoradio.com.co/buscamos-reemplazar-la-jep-recogiendo-mas-de-10-millones-de-firmas-herbin-hoyos-promotor-referendo/>.

corrupt judiciary,” or were pro-FARC left-wingers [*mamertos*] who had no respect for the country [*no le duele el país*].<sup>123</sup>

While this attempt to abolish the JEP was ultimately unsuccessful,<sup>124</sup> the crusade led by Hoyos and his followers outlived the end of the *Las Voces* radio program in 2019—and even Hoyos himself, who died of Covid-19-related complications in 2021. His death was promptly followed by a shower of obituaries from the Colombian establishment and those involved in the Uribe anti-FARC constellation—from the US Embassy in Colombia to Uribe himself and many other of his followers.<sup>125</sup> But not even Hoyos’ death prevented him from challenging the JEP one last time. When the JEP earlier that year issued an administrative writ (in Spanish, *auto*) that opened one of its landmark criminal investigations on the taking of hostages by former FARC guerrillas,<sup>126</sup> instead of investigating every individual violation of human rights and international humanitarian law, the JEP grouped together a series of “macro-cases” (*macrocaso*) that sought to make

<sup>123</sup> Herbin Hoyos, ‘A la @JEP\_Colombia no se defiende gratis’ 17 February 2019, <https://twitter.com/herbinhoyos/status/1097311864852226048?s=20&t=kAe5oIA9HncLfJptna7O4A>.

<sup>124</sup> Another journalist concluded that, even if unsuccessful, the anti-JEP referendum was ultimately very successful as a “political campaign by other means” in favor of the Uribista camp. See Juan Esteban Lewin, ‘El Referendo Contra La JEP No Saldrá, Pero Servirá Para Hacer Campaña’ La Silla Vacía, June 18 2019, <https://www.lasillavacia.com/historias/silla-nacional/el-referendo-contra-la-jep-no-saldrá-pero-servirá-para-hacer-campaña/>.

<sup>125</sup> US Embassy Bogotá, 23 February 2021 <https://twitter.com/usembassybogota/status/1364332577520238599>; Álvaro Uribe Vélez, 23 February 2021 [https://twitter.com/AlvaroUribeVel/status/1364330068290502664?ref\\_src=twsrc%5Etfw](https://twitter.com/AlvaroUribeVel/status/1364330068290502664?ref_src=twsrc%5Etfw); Iván Duque, 23 February 2021 [https://twitter.com/IvanDuque/status/1364325108224032770?ref\\_src=twsrc%5Etfw](https://twitter.com/IvanDuque/status/1364325108224032770?ref_src=twsrc%5Etfw) (among many others).

<sup>126</sup> Special Jurisdiction for Peace. Chamber for Acknowledgment of Truth, Responsibility, and Determination of Facts and Conduct. Case 001, writ (*auto*) 019 of 26 January 2021, <https://www.jep.gov.co/Sala-de-Prensa/Documents/CASO%2001%20TOMA%20DE%20REHENES/Auto%20No.%2019%20de%202021.pdf?csf=1&e=16bYs0>.

To be sure, I am not claiming that Hoyos was the reason why the JEP adopted this case. I agree with one of the reviewers who aptly noted this was over-determined. I just show that Hoyos’ lifelong work at *Las Voces* necessarily became an important “national bank of emotions” for the JEP’s landscape, especially given that records from the program were submitted as part of the contributions from civil society organizations for the Tribunal’s records. For an overview in English, see Rodeemos el Diálogo, ‘Transitional Justice Snapshot 18 Auto 019: The JEP Attributes Responsibility for the First Time’ March 2021, <https://uk.rodeemosdialogo.org/2021/03/auto-019-the-jep-attributes-responsibility-for-the-first-time/>.

sense of structural patterns of violence. Due to the widespread nature of the FARC’s kidnapping practices, the first “macro-case” was devoted to hostage-taking—no doubt, in part, because of decades of consciousness-raising efforts by actors like Hoyos, among others.<sup>127</sup> In this writ, the JEP noted that it had added to its pile of evidence a report prepared by Hoyos on January 10, 2020 titled “Las Voces del Secuestro”.<sup>128</sup> The report compiled information on 104 high-profile instances of kidnapping, with the purpose of giving “voice to the experiences of victims and family members.”<sup>129</sup> Unsurprisingly, the documentary evidence was accompanied by a hefty annex of audio files from the radio program. Even after its formal closure, echoes of *Las Voces* thus continue to reverberate in the ways that both everyday Colombians and transitional justice operators interpret the anti-impunity principle in relation to FARC-EP kidnapping operations.

Just as Uribe-aligned actors had found with regard to anti-impunity rhetoric, Hoyos himself came to realize that even he could use the JEP’s commitment to humanitarian law to pursue his anti-FARC political goals.<sup>130</sup> The project of *Las Voces*, born in the anxieties of the 1990s, had now come full circle as an integral part of the Uribista backlash against the Habana peace process in the 2020s. Now, instead of shying away from international humanitarian law and human rights law—as the far-right camp had done during the decades in which it denied the existence of a non-international armed conflict and the application of international law—Hoyos realized he could use the anti-impunity principle to his advantage. Even if Hoyos had been ultimately unable to defeat his political enemies through the abolishment of the JEP, he could now join them! And, because of the JEP’s extensive mandate to apply international human rights and international humanitarian law and to abide by the anti-impunity principle (which, as I mentioned, would be carefully monitored by international institutions), he had plenty of leeway to use these

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<sup>127</sup> For an introduction to the early jurisprudence of the JEP (in Spanish), see Buis and Ramírez-Gutiérrez (n 25), In English, see (n 27).

<sup>128</sup> Ibid., para 52 at 20.

<sup>129</sup> Ibid.

<sup>130</sup> Teitel, *Humanity’s Law* (n 31).



“liberal” legal categories for illiberal purposes.<sup>131</sup> A telling way in which this “national bank of emotions” has been mobilized has been to question the JEP’s decision to refer to these practices of kidnapping as “illegal detentions” (*retención ilegal*).<sup>132</sup> With this move, the JEP was recognizing that—pursuant to international humanitarian law—there might be cases of *legal* detentions by a non-state actor in the framework of a non-international armed conflict.<sup>133</sup> This, of course, went against the narrative of “lawless terrorist kidnapping”—which is why the Hoyos and other actors close to *Las Voces* created the Twitter hashtag #NoEsRetenciónEsSecuestro (*#ItIsNotADetentionItIsKidnapping*) to contest the use of these legal categories and reframe the JEP’s approach to the case.<sup>134</sup>

## 5. Concluding Remarks: Following “Humanity’s Money”

One could say that, in a certain sense, both the radio waves and the humanitarian aspirations of “humanity’s law” share a certain “unbearable lightness of being.”<sup>135</sup> Due to their seeming immateriality and their ability to pierce through spatial barriers, it is tempting to think of radio waves as free-floating. However, as historians of sound and radio would remind us, such “immaterial” characteristics exist only due to the interplay of a series of very material technologies and infrastructures which allow for the movement of sound

<sup>131</sup> Quiroga-Villamarín (n 23) 111-33.

<sup>132</sup> For an analysis, in Spanish, see Ezequiel Heffes and Juan Francisco Padin, 'Un Análisis de La Definición de La Privación Grave de La Libertad En El Conflicto Armado En Colombia. Resolución Sai-Suba-Aoi-014-2019', in *El Derecho Internacional Humanitario En La Jurisdicción Especial Para La Paz de Colombia - Volumen I* (n 25) 199–224.

<sup>133</sup> See further Andrew Clapham, 'Detention by Armed Groups under International Law' (2017) 93 *International Law Studies* 1; Frédéric Mégret, 'Detention by Non-State Armed Groups in NIACs: IHL, International Human Rights Law and the Question of the Right Authority' in Ezequiel Heffes, Marcos D Kotlik, and Manuel J Ventura (eds), *International Humanitarian Law and Non-State Actors*, (TMC Asser Press 2020), 169; Heffes (n 94).

<sup>134</sup> Lupe Gómez Grisales, 'Herbin Hoyos Desenmascaró Criminales de Lesa Humanidad y dio Voz a las Víctimas, mientras otros periodistas decían 'retención' al secuestro, abrían microfones a farianos impunes' 24 February 2021, <https://mobile.twitter.com/lupeins/status/1364736310527819783>

<sup>135</sup> I am here loosely following 340—who, in turn, refers to Milan Kundera, *The Unbearable Lightness of Being* (Harper 2009).

through time and space.<sup>136</sup> Their “lightness” is merely incidental—a fact that was clear to the many legal operators that have sought to regulate the radio waves in both the domestic and international spheres since the early 20<sup>th</sup> century.<sup>137</sup> As such, an interrogation of the material histories of these technologies allows us to understand better their political and distributive attributes—they show us who stood to “win” or “lose” from the unleashing of the radio waves.<sup>138</sup> The same is true, of course, for the contested body of imaginaries and practices we understand as “humanitarianism” and “humanity’s law.” While the allure of humanitarianism lies in its ability to anchor itself in claims of humanity that go beyond factional strife, this seemingly “immaterial” argument can only exist in practice through the operation of the “heartless materialism” of concrete political constellations.<sup>139</sup>

In this article, I have questioned the separation of the moral substance of the “humanitarian adventure” of *Las Voces del Secuestro* from the specific political context in which this project emerged in turn-of-the-millennium Colombia. Instead of seeing this radio program as an impartial and neutral campaign that tends to the suffering of victims

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<sup>136</sup> Kate Lacey, 'Listening Back: Materiality, Mediatization, and Method in Radio History', in Mia Lindgren and Jason Loviglio (eds) *The Routledge Companion to Radio and Podcast Studies*, (Abingdon: Routledge 2022), 30.

<sup>137</sup> Björnstjern Baade, 'Fake News and International Law' (2018) 29 *European Journal of International Law* 1357; Carolyn N. Biloft, *A Violent Peace: Media, Truth, and Power at the League of Nations* (The University of Chicago Press 2021) 1-16. See also Daniel Quiroga-Villamarín, (forthcoming) 'The Spirit of the Dead Weighs Heavily on the Technology of the Living': Transport, Communication, and Technology in the Short Twentieth Century and its Cold War(s) in Sundhya Pahuja, Gerry Simpson, & Matthew Craven with Caitlin Murphy (eds.), *The Cambridge History of International Law – Volume XI: International Law during the Cold War (1945-1990)* (Cambridge University Press 2023).

<sup>138</sup> Daniel Quiroga-Villamarín, 'Beyond Texts? Towards a Material Turn in the Theory and History of International Law' (2021) 23 *Journal of the History of International Law*, 466. To be sure, there are many ways to understand what a “material history” can or should look like. In this sense, see Daniel Quiroga-Villamarín, 'Domains of Objects, Rituals of Truth: Mapping Intersections between International Legal History and the New Materialisms' (2020) 8 *International Politics Reviews* 129.

<sup>139</sup> While I do not claim that all “humanitarian” organizations are necessarily as partisan as *Las Voces*, I hope my argument in relation to them sheds light on what Leebaw has called the “politics of impartial activism.” See Bronwyn Leebaw, 'The Politics of Impartial Activism: Humanitarianism and Human Rights' (2007) 5 *Perspectives on Politics* 223. See further Rodogno, 'Certainty, Compassion and the Ingrained Arrogance of Humanitarians', (n 11). I thank one of the reviewers for his or her suggestions in relation to this.

of kidnapping and their families (as portrayed in the museum exhibition cited above), I have suggested that it responds to a very particular political vision of the Colombian armed conflict, which has important distributive consequences. This is not to say that this program is not valuable or important. More than questioning the substantive content of the radio show, I am interested in dispelling its claims to neutrality.<sup>140</sup> Instead of judging its content, I am interested in exploring its entanglement with questions of political economy, factional strife, and the distribution of resources.<sup>141</sup> For there is more than what meets the eye of the casual observer to “radio Colombia” at the International Red Cross and Red Crescent Museum. Even in this installation, we hear echoes of the persistence of the far right in Colombia and beyond. The exhibition is not a monument to the past but a very concrete intervention in the present—with political implications for the future. And, as Walter Benjamin reminded us, “if the enemy wins [...] *even the dead* will not be safe.”<sup>142</sup> In Colombia and elsewhere, “this enemy has not ceased to be victorious.”<sup>143</sup>

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<sup>140</sup> I am inspired here by Anne Orford, *International Law and the Politics of History* (Cambridge University Press 2021). It is important to note that Hoyos always claimed that his initiatives—such as the radio show or the anti-JEP referendum—never had a “political color” (*tinte político*). See, for instance, Facebook post by *Ciudadanos por Colombia*, 6 February 2020. [https://www.facebook.com/ColombiaSinImpunidad/photos/a.1668832109878863/2809387319156664/?page\\_id=0&eav=AfbtWuyPAM\\_XTtvKkFgZvyvdtqfJ0QfTkIVDX26RvYwLM9hSbYUrBj7f6N32JHf0zas](https://www.facebook.com/ColombiaSinImpunidad/photos/a.1668832109878863/2809387319156664/?page_id=0&eav=AfbtWuyPAM_XTtvKkFgZvyvdtqfJ0QfTkIVDX26RvYwLM9hSbYUrBj7f6N32JHf0zas) In the secondary literature, it is not uncommon to find references to Hoyos’ “commitment to the humanitarian cause of those kidnapped” (*comprometido con la causa humanitaria de los secuestrados*); Ruiz (n 61) 187.

<sup>141</sup> Helena Alviar García, 'Transitional Justice and Property: Inextricably Linked' (2021) 17 *Annual Review of Law and Social Science* 227.

<sup>142</sup> Walter Benjamin, 'Theses on the Philosophy of History' in Hannah Arendt, trans. Harry Zohn (eds) *Illuminations: Essays and Reflections*, (Mariner Books, Houghton Mifflin Harcourt 2019), 253, 255. Italics in the original.

<sup>143</sup> *Ibid.*

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